

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2013 - * 005	Amendment No. (req. for Amendments *)
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Filing by BATS Exchange
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/> Section 806(e)(2) <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend Interpretation and Policy .02 to Rule 11.8 related to the BATS Exchange, Inc. Competitive Liquidity Provider Program.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Anders Last Name * Franzon

Title * VP, Associate General Counsel

E-mail * afranzon@batstrading.com

Telephone * (913) 815-7154 Fax (913) 815-7119

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 01/18/2013 VP, Associate General Counsel

By Anders Franzon

(Name *)

Anders Franzon,

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend Interpretation and Policy .02 to Rule 11.8, entitled “Competitive Liquidity Provider Program.”

(a) The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange approved this proposed rule change on January 18, 2013. This action constitutes requisite approval under the Exchange’s By-Laws. No other action is necessary for the filing of this proposal.

Questions regarding this rule filing may be directed to Eric Swanson, Senior Vice President and General Counsel of the Exchange at (913) 815-7000.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

(a) Purpose

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.³ More recently, the Exchange received approval to operate a program that is designed to incentivize certain market makers registered with the Exchange as Competitive Liquidity Providers (“CLPs”) to enhance liquidity on the Exchange in Exchange-listed securities (the “Competitive Liquidity Provider Program” or “CLP Program”).⁴ The Program seeks to establish a venue for the execution of retail orders with greater price competition and transparency than existing execution arrangements. The Exchange subsequently adopted financial incentives for the CLP Program⁵ and thereafter amended certain financial incentives for the CLP Program.⁶

The purpose of this filing is to modify Interpretation and Policy .02 of Rule 11.8 regarding certain details around the implementation of the CLP Program. Specifically, the Exchange proposes to: (1) expand the time during which the Exchange will calculate Size Event Tests (“SETs”) to between 9:25 a.m. and 4:05 p.m.; (2) calculate SETs separately for bids and offers; (3) provide separate daily rebates based on the greatest number of winning bid SETs and winning offer SETs; (4) increase the minimum quote to have a winning SET to five round lots; (5) require a CLP to also quote at least one round lot at or within 1.2% of the CLP’s bid or offer in order to have a winning SET during

³ See Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

⁴ See Securities Exchange Act Release No. 66307 (February 2, 2012), 77 FR 6608 (February 8, 2012) (SR-BATS-2011-051).

⁵ See Securities Exchange Act Release No. 66427 (February 21, 2012), 77 FR 11608 (February 27, 2012) (SR-BATS-2012-011).

⁶ See Securities Exchange Act Release No. 67854 (September 13, 2012), 77 FR 58198 (September 19, 2012) (SR-BATS-2012-036).

Regular Trading Hours;⁷ and (6) change the system for allocating the daily rebate to the CLPs with the highest and second highest winning SETs from a set percentage to a pro rata basis.

Extending the Time of the CLP Program

The Exchange is proposing to expand the time during which SETs are calculated on the Exchange. Currently, the Exchange calculates SETs at least once per second, but only during Regular Trading Hours. This Exchange proposes to expand the time during which SETs are calculated to include the period five minutes before the beginning of Regular Trading Hours and five minutes after Regular Trading Hours, or 9:25 a.m. to 4:05 p.m. The Exchange is proposing this change in order to encourage CLPs to enter aggressively priced orders immediately prior to, during, and immediately after both Opening Auctions⁸ and Closing Auctions⁹ in BATS listed securities.

Calculating SETs Separately for Bids and Offers

The Exchange also proposes to calculate SETs and provide rebates separately for bids and offers. Currently, the Exchange calculates and determines the winner(s) of each SET by adding together the total number of bid shares that a CLP is quoting at the NBB and the number of offer shares that the CLP is quoting at the NBO (the “Combined Shares”). The Exchange then determines the SET winner based on the highest total Combined Shares.

⁷ Regular Trading Hours is defined in BATS Rule 1.5(w).

⁸ The process for Opening Auctions in BATS listed securities is described in BATS Rule 11.23(b).

⁹ The process for Closing Auctions in BATS listed securities is described in BATS Rule 11.23(c).

This proposal intends to amend Interpretation and Policy .02(g) of Rule 11.8 so that the Exchange calculates SETs separately for bids and offers. As proposed, the Exchange would evaluate a CLP's bid quotes and offer quotes separately, meaning that the CLP or CLPs with the greatest aggregate size at the NBB will be considered to have a winning bid SET and the CLP or CLPs with the greatest aggregate size at the NBO will be considered to have a winning offer SET. No CLPs would be considered to have a winning SET for having the greatest aggregate size at the NBB and NBO combined.

Minimum Quote Size Requirement

The Exchange is proposing to increase the minimum quote size requirement to be eligible to have a winning SET during Regular Trading Hours. Currently, the Exchange only requires that a CLP's orders are for at least one round lot. Specifically, this proposal to amend sub-paragraph (g)(4) of Interpretation and Policy .02 to Rule 11.8 is intended to increase the minimum quote size requirement to five round lots (usually 500 shares) for a CLP to have a winning bid or offer SET. The Exchange is proposing this change to encourage CLPs to provide additional liquidity at the NBBO in BATS listed securities.

Contra-Side Quoting Requirement

The Exchange also proposes that a CLP be required to quote at least one round lot at or within 1.2% of the CLP's bid or offer in order to have a winning SET during Regular Trading Hours. Currently, outside of daily and monthly quoting requirements, the Exchange does not have any quoting requirements for CLPs. More specifically, the Exchange does not currently have any contra-side quoting requirements that a CLP must meet in order to be considered to have a winning SET.

This proposal to add sub-paragraph (g)(5) to Interpretation and Policy .02 to Rule 11.8 is intended to require that, in order to have a winning bid SET or winning offer SET during Regular Trading Hours, a CLP must have a bid or offer on the contra-side at a price at or within 1.2% of the CLP's winning offer or bid, respectively. For example, as proposed, in order for a CLP to have a winning bid SET for a 500 share bid priced at \$10.00, the CLP must, at the time of the SET, also have at least one round lot offer for between \$10.00 and \$10.12. For a CLP to have a winning offer SET for a 500 share offer priced at \$10.00, the CLP must, at the time of the SET, also have at least one round lot bid priced between \$9.88 and \$10.00. The Exchange is proposing this amendment in order to require CLPs to provide liquidity on both sides of the market in order to be considered to have a winning bid or offer SET. The Exchange is proposing to have this requirement apply only to SETs during Regular Trading Hours in order to mitigate exposure due to potentially high volatility in pricing that occurs outside of Regular Trading Hours.

Providing Daily Financial Rebates Separately for Bid SETs and Offer SETs

The Exchange proposes to provide separate daily rebates based on the greatest number of winning bid SETs and winning offer SETs. Currently, the one or two CLPs (depending on the type of security) with the greatest number of winning SETs (subject to other requirements, not relevant for the purposes of this proposed change) win a set percentage of a single daily rebate. The Exchange is proposing, in conjunction with the above proposed change to calculate SETs separately for bids and offers, to amend Interpretation and Policy .02 (g)(1)(A) and (k)(1) of Rule 11.8 to provide daily financial

rebates to CLPs based on which CLP or CLPs have the greatest number of winning bid SETs and, separately, winning offer SETs.

Allocation of Daily Financial Rebates

The Exchange is also proposing to amend the way that it allocates daily financial rebates to CLPs. Currently, for all CLP eligible securities with the exception of Tier II securities,¹⁰ the Exchange allocates daily financial rebates on an 80/20 basis in which the eligible CLP with the highest number of winning SETs receives 80% of the daily financial rebate and the eligible CLP with the second highest number of winning SETs receives 20% of the daily financial rebate.¹¹ Frequently, the Exchange has found that the CLP with the most or second most winning SETs will realize that they are so far in front of the next CLP and/or so far behind the CLP in front of them that they no longer have incentive to continue to provide aggressive quotes.

In order to incentivize CLPs to continue to quote aggressively throughout the day, the Exchange is proposing to amend paragraph (k)(1) of Interpretation and Policy .02 to Rule 11.8 to allocate daily financial rebates to CLPs on a pro rata basis. Specifically, the Exchange is proposing to determine the two CLPs that receive the daily financial rebates on the same basis, however, rather than receiving a pre-set percentage of the financial rebate, the CLPs will split the financial rebate based on the number of each CLP's

¹⁰ As defined in BATS Rule 14.9.

¹¹ It is worth noting that the Exchange currently does not distinguish between bid SETs and offer SETs and awards the daily financial rebates to CLPs based only on the total number of winning SETs (whether on an 80/20 basis or, as under Tier II, 100% to a single CLP). As described above, the Exchange is proposing to calculate both winning bid SETs and winning offer SETs and, as such, is also proposing to provide separate and independent financial rebates to CLPs for bid SETs and offer SETs.

winning SETs as a percentage of total winning SETs between the two winning CLPs. For instance, where CLP1 has 6,000 winning SETs, CLP2 has 4,000 winning SETS, and CLP3 has 3,000 winning SETs, currently, the Exchange would award 80% to CLP1 and 20% to CLP2, based on the set percentages. However, as proposed, CLP1 would be allocated 60% of the financial rebate $[6,000/(6000+4000)]$ and CLP2 would be allocated 40% of the financial rebate $[4,000/(6,000+4,000)]$. The Exchange is not proposing to reallocate the daily financial rebates for Tier II securities.

(b) Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹² In particular, the proposal is consistent with Section 6(b)(5) of the Act,¹³ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the proposal will benefit market participants by incentivizing increased participation in the Opening and Closing Auction by expanding the time during which the Exchange will conduct SETs, thus improving the price discovery process. The Exchange also believes that the proposal will promote tighter spreads for all market participants by separately calculating SETs and providing rebates for bids and offers rather than combined bids and offers, which will incentivize CLPs to quote more aggressively on both the bid and offer. Further, the Exchange believes that the proposal will promote

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

tighter spreads by requiring that CLPs quote at least one round lot at or within 1.2% of a bid or offer in order to have a winning SET during Regular Trading Hours. In addition to creating tighter spreads, the Exchange further believes that the proposal is consistent with the Act because it will help to increase liquidity at the NBBO by increasing the minimum quote size from one round lot to five round lots. Finally, the Exchange believes that the proposed pro-rata structure will incentivize CLPs to quote aggressively on a continuous basis throughout each trading day.

4. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The Exchange believes that the proposal will merely improve the incentives and, in turn, the results, of its CLP Program. The Exchange believes that the proposed changes will enhance competition amongst participants in the CLP Program.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Not applicable.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange requests that the Commission approve the proposed rule change on an accelerated basis pursuant to Section 19(b)(2) of the Act.¹⁴ This proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any burden on competition. The Exchange does not believe that this filing

¹⁴ 15 U.S.C. 78s(b)(2).

presents any novel issues or proposes provisions that are unique or unproven. The Exchange believes that good cause for accelerated effectiveness of the proposed rule changes exists in light of the fact that the proposed changes are intended to enhance the quality of the quotations made available pursuant to the CLP Program by making more stringent certain requirements of the CLP Program. Accordingly, the Exchange would like to make such improvements as soon as possible, preferably on or before March 1, 2013. Based on the foregoing, the Exchange respectfully requests approval of the proposal on an accelerated basis.

8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1: Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibit 2 – 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-BATS-2013-005)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change to Modify the Competitive Liquidity Provider Program.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 18, 2013, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Interpretation and Policy .02 to Rule 11.8, entitled “Competitive Liquidity Provider Program.”

The text of the proposed rule change is available at the Exchange’s website at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.³ More recently, the Exchange received approval to operate a program that is designed to incentivize certain market makers registered with the Exchange as Competitive Liquidity Providers ("CLPs") to enhance liquidity on the Exchange in Exchange-listed securities (the "Competitive Liquidity Provider Program" or "CLP Program").⁴ The Program seeks to establish a venue for the execution of retail orders with greater price competition and transparency than existing execution arrangements. The Exchange subsequently adopted financial incentives for the CLP Program⁵ and thereafter amended certain financial incentives for the CLP Program.⁶

The purpose of this filing is to modify Interpretation and Policy .02 of Rule 11.8 regarding certain details around the implementation of the CLP Program. Specifically, the Exchange proposes to: (1) expand the time during which the Exchange will calculate

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⁵ See Securities Exchange Act Release No. 66427 (February 21, 2012), 77 FR 11608 (February 27, 2012) (SR-BATS-2012-011).

⁶ See Securities Exchange Act Release No. 67854 (September 13, 2012), 77 FR 58198 (September 19, 2012) (SR-BATS-2012-036).

Size Event Tests (“SETs”) to between 9:25 a.m. and 4:05 p.m.; (2) calculate SETs separately for bids and offers; (3) provide separate daily rebates based on the greatest number of winning bid SETs and winning offer SETs; (4) increase the minimum quote to have a winning SET to five round lots; (5) require a CLP to also quote at least one round lot at or within 1.2% of the CLP’s bid or offer in order to have a winning SET during Regular Trading Hours;⁷ and (6) change the system for allocating the daily rebate to the CLPs with the highest and second highest winning SETs from a set percentage to a pro rata basis.

Extending the Time of the CLP Program

The Exchange is proposing to expand the time during which SETs are calculated on the Exchange. Currently, the Exchange calculates SETs at least once per second, but only during Regular Trading Hours. This Exchange proposes to expand the time during which SETs are calculated to include the period five minutes before the beginning of Regular Trading Hours and five minutes after Regular Trading Hours, or 9:25 a.m. to 4:05 p.m. The Exchange is proposing this change in order to encourage CLPs to enter aggressively priced orders immediately prior to, during, and immediately after both Opening Auctions⁸ and Closing Auctions⁹ in BATS listed securities.

Calculating SETs Separately for Bids and Offers

⁷ Regular Trading Hours is defined in BATS Rule 1.5(w).

⁸ The process for Opening Auctions in BATS listed securities is described in BATS Rule 11.23(b).

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The Exchange also proposes to calculate SETs and provide rebates separately for bids and offers. Currently, the Exchange calculates and determines the winner(s) of each SET by adding together the total number of bid shares that a CLP is quoting at the NBB and the number of offer shares that the CLP is quoting at the NBO (the “Combined Shares”). The Exchange then determines the SET winner based on the highest total Combined Shares.

This proposal intends to amend Interpretation and Policy .02(g) of Rule 11.8 so that the Exchange calculates SETs separately for bids and offers. As proposed, the Exchange would evaluate a CLP’s bid quotes and offer quotes separately, meaning that the CLP or CLPs with the greatest aggregate size at the NBB will be considered to have a winning bid SET and the CLP or CLPs with the greatest aggregate size at the NBO will be considered to have a winning offer SET. No CLPs would be considered to have a winning SET for having the greatest aggregate size at the NBB and NBO combined.

Minimum Quote Size Requirement

The Exchange is proposing to increase the minimum quote size requirement to be eligible to have a winning SET during Regular Trading Hours. Currently, the Exchange only requires that a CLP’s orders are for at least one round lot. Specifically, this proposal to amend sub-paragraph (g)(4) of Interpretation and Policy .02 to Rule 11.8 is intended to increase the minimum quote size requirement to five round lots (usually 500 shares) for a CLP to have a winning bid or offer SET. The Exchange is proposing this change to encourage CLPs to provide additional liquidity at the NBBO in BATS listed securities.

Contra-Side Quoting Requirement

The Exchange also proposes that a CLP be required to quote at least one round lot at or within 1.2% of the CLP's bid or offer in order to have a winning SET during Regular Trading Hours. Currently, outside of daily and monthly quoting requirements, the Exchange does not have any quoting requirements for CLPs. More specifically, the Exchange does not currently have any contra-side quoting requirements that a CLP must meet in order to be considered to have a winning SET.

This proposal to add sub-paragraph (g)(5) to Interpretation and Policy .02 to Rule 11.8 is intended to require that, in order to have a winning bid SET or winning offer SET during Regular Trading Hours, a CLP must have a bid or offer on the contra-side at a price at or within 1.2% of the CLP's winning offer or bid, respectively. For example, as proposed, in order for a CLP to have a winning bid SET for a 500 share bid priced at \$10.00, the CLP must, at the time of the SET, also have at least one round lot offer for between \$10.00 and \$10.12. For a CLP to have a winning offer SET for a 500 share offer priced at \$10.00, the CLP must, at the time of the SET, also have at least one round lot bid priced between \$9.88 and \$10.00. The Exchange is proposing this amendment in order to require CLPs to provide liquidity on both sides of the market in order to be considered to have a winning bid or offer SET. The Exchange is proposing to have this requirement apply only to SETs during Regular Trading Hours in order to mitigate exposure due to potentially high volatility in pricing that occurs outside of Regular Trading Hours.

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The Exchange proposes to provide separate daily rebates based on the greatest number of winning bid SETs and winning offer SETs. Currently, the one or two CLPs

(depending on the type of security) with the greatest number of winning SETs (subject to other requirements, not relevant for the purposes of this proposed change) win a set percentage of a single daily rebate. The Exchange is proposing, in conjunction with the above proposed change to calculate SETs separately for bids and offers, to amend Interpretation and Policy .02 (g)(1)(A) and (k)(1) of Rule 11.8 to provide daily financial rebates to CLPs based on which CLP or CLPs have the greatest number of winning bid SETs and, separately, winning offer SETs.

Allocation of Daily Financial Rebates

The Exchange is also proposing to amend the way that it allocates daily financial rebates to CLPs. Currently, for all CLP eligible securities with the exception of Tier II securities,¹⁰ the Exchange allocates daily financial rebates on an 80/20 basis in which the eligible CLP with the highest number of winning SETs receives 80% of the daily financial rebate and the eligible CLP with the second highest number of winning SETs receives 20% of the daily financial rebate.¹¹ Frequently, the Exchange has found that the CLP with the most or second most winning SETs will realize that they are so far in front of the next CLP and/or so far behind the CLP in front of them that they no longer have incentive to continue to provide aggressive quotes.

¹⁰ As defined in BATS Rule 14.9.

¹¹ It is worth noting that the Exchange currently does not distinguish between bid SETs and offer SETs and awards the daily financial rebates to CLPs based only on the total number of winning SETs (whether on an 80/20 basis or, as under Tier II, 100% to a single CLP). As described above, the Exchange is proposing to calculate both winning bid SETs and winning offer SETs and, as such, is also proposing to provide separate and independent financial rebates to CLPs for bid SETs and offer SETs.

In order to incentivize CLPs to continue to quote aggressively throughout the day, the Exchange is proposing to amend paragraph (k)(1) of Interpretation and Policy .02 to Rule 11.8 to allocate daily financial rebates to CLPs on a pro rata basis. Specifically, the Exchange is proposing to determine the two CLPs that receive the daily financial rebates on the same basis, however, rather than receiving a pre-set percentage of the financial rebate, the CLPs will split the financial rebate based on the number of each CLP's winning SETs as a percentage of total winning SETs between the two winning CLPs. For instance, where CLP1 has 6,000 winning SETs, CLP2 has 4,000 winning SETS, and CLP3 has 3,000 winning SETs, currently, the Exchange would award 80% to CLP1 and 20% to CLP2, based on the set percentages. However, as proposed, CLP1 would be allocated 60% of the financial rebate $[6,000/(6000+4000)]$ and CLP2 would be allocated 40% of the financial rebate $[4,000/(6,000+4,000)]$. The Exchange is not proposing to reallocate the daily financial rebates for Tier II securities.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹² In particular, the proposal is consistent with Section 6(b)(5) of the Act,¹³ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the proposal will benefit market participants by incentivizing increased

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

participation in the Opening and Closing Auction by expanding the time during which the Exchange will conduct SETs, thus improving the price discovery process. The Exchange also believes that the proposal will promote tighter spreads for all market participants by separately calculating SETs and providing rebates for bids and offers rather than combined bids and offers, which will incentivize CLPs to quote more aggressively on both the bid and offer. Further, the Exchange believes that the proposal will promote tighter spreads by requiring that CLPs quote at least one round lot at or within 1.2% of a bid or offer in order to have a winning SET during Regular Trading Hours. In addition to creating tighter spreads, the Exchange further believes that the proposal is consistent with the Act because it will help to increase liquidity at the NBBO by increasing the minimum quote size from one round lot to five round lots. Finally, the Exchange believes that the proposed pro-rata structure will incentivize CLPs to quote aggressively on a continuous basis throughout each trading day.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The Exchange believes that the proposal will merely improve the incentives and, in turn, the results, of its CLP Program. The Exchange believes that the proposed changes will enhance competition amongst participants in the CLP Program.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BATS-2013-005 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-BATS-2013-005. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website

(<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BATS-2013-005 and should be submitted on or before [_____21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

Rules of BATS Exchange, Inc.

CHAPTER XI. TRADING RULES

Rule 11.8. Obligations of Market Makers

(a)–(e) (No changes.)

Interpretations and Policies

.01 (No changes.)

.02 Competitive Liquidity Provider Program

(a)–(f) (No changes.)

(g) *CLP Quoting Requirements.*

(1) The Exchange will measure the performance of a CLP in assigned securities by calculating Size Event Tests (“SETs”) [during Regular Trading Hours] between 9:25 a.m. and 4:05 p.m. on every day on which the Exchange is open for business. The Exchange will measure each CLP’s quoted size, excluding odd lots, at the NBB and NBO at least once per second to determine SETs. The CLP with the greatest aggregate size at the NBB [and NBO] at each SET (a “Bid SET”) will be considered to have a [“]winning Bid SET[.”] (a “Winning Bid SET”). Separately, the CLP with the greatest aggregate size at the NBO at each SET (an “Offer SET”) will be considered to have a winning Offer SET (a “Winning Offer SET”).

(A) Daily Quoting Requirement. A CLP must have Winning Bid SETs or Winning Offer SETs equal to at least 10% of the [winning]total Bid SETs or total Offer SETs, respectively, on any trading day in order meet its daily quoting requirement and to be eligible for the daily rebates (each such CLP an “Eligible CLP”) for a security, as described in sub-paragraph (k)(1). Eligible CLPs will be ranked according to the number of [w] Winning Bid SETs and Winning Offer SETs each trading day, and only the Eligible CLP or Eligible CLPs ranked number one, and in some cases as described in paragraph (k)(1), the Eligible CLP ranked number two, in each of the Winning Bid SETs and Winning Offer SETs will receive the daily rebate.

(B) (No changes.)

(2)-(3) (No changes.)

(4) The CLP shall not be subject to any minimum or maximum quoting size requirement in assigned securities apart from the requirement that an order be for at least one round lot; however, the CLP must be quoting, at a minimum, the number of shares in five round lots (usually 500 shares), excluding odd lots, at the NBB or NBO at the time of a SET in order to have a Winning Bid SET or Winning Offer SET, respectively. The CLP quoting requirements will be measured by utilizing the unique identifiers that the Member has identified for CLP trading activity.

(5) In order for a CLP to have a Winning Bid SET during Regular Trading Hours, the CLP must also be quoting at least a displayed round lot offer, excluding odd lots, at a price at or within 1.2% of the CLP's bid at the time of the SET. For a CLP to have a Winning Offer SET during Regular Trading Hours, the CLP must also be quoting at least a displayed round lot bid, excluding odd lots, at a price at or within 1.2% of the CLP's offer at the time of the SET.

(h)-(i) (No changes.)

(j) *Non-Regulatory Penalties.*

(1) If a CLP fails to meet the CLP quoting requirements set forth in paragraph (g), the following non-regulatory penalties may be imposed by the Exchange:

(A) If, [during Regular Trading Hours]between 9:25 a.m. and 4:05 p.m. on any day on which the Exchange is open for business, fails to meet its daily quoting requirement as set forth in sub-paragraph (g)(1)(A) above by failing to have at least 10% of the winning SETs for that trading day, the CLP will not be eligible to receive a financial rebate for that day's quoting activity in that particular assigned security in accordance with sub-paragraph (k)(1); and

(B) (No changes.)

(2)-(3) (No changes.)

(k) *Financial Incentives for CLPs*

(1) *Daily Rebates.* Eligible CLPs, as defined in sub-paragraph (g)(1)(A) above, shall compete for [a single]daily financial rebates_ based on each day's quoting activity as follows:

Class of Security	Amount of Total Daily Rebate	Allocation of Daily Rebate*
Tier I Securities Listed on the Exchange Pursuant to Rule 14.8 for Six Months Commencing from the Date of Initial Listing on the Exchange	\$500 per day: <u>\$250 for bid SETs and \$250 for offer SETs</u>	[80% (\$400) to]CLPs with highest and second highest number of [w]Winning Bid SETs** <u>will split daily financial rebates on a pro rata basis, based on the combined sum of their Winning Bid SETs;</u> CLPs with highest and second highest number of <u>Winning Offer SETs will split daily financial rebates on a pro rata basis, based on the combined sum of their Winning Offer SETs</u> [20% (\$100) to CLP with second highest number of winning SETs]
Tier I Securities Listed on the Exchange Pursuant to Rule 14.8 for Remaining Time Subject to CLP Program	\$250 per day: <u>\$125 for bid SETs and \$125 for offer SETs</u>	[80% (\$200) to]CLPs with highest and second highest number of [w]Winning Bid SETs <u>will split daily financial rebates on a pro rata basis, based on the combined sum of their Winning Bid SETs;</u> CLPs with highest and second highest number of <u>Winning Offer SETs will split daily financial rebates on a pro rata basis, based on the combined sum of their Winning Offer SETs</u> [20% (\$50) to CLP with second highest number of winning SETs]
Tier II Securities Listed on the Exchange Pursuant to Rule 14.9	\$100 per day: <u>\$50 for bid SETs and \$50 for offer SETs</u>	100% to CLP with highest number of winning <u>bid SETs;</u> 100% to CLP with <u>highest number of winning offer SETs</u>
ETPs Listed Pursuant to Rule 14.11	\$250 per day: <u>\$125 for bid SETs and \$125 for</u>	[80% (\$400) to]CLPs with highest and second highest

	<u>offer SETs</u>	number of [w]Winning Bid SETs will split daily financial rebates on a pro rata basis, based on the combined sum of their Winning Bid SETs; CLPs with highest and second highest number of Winning Offer SETs will split daily financial rebates on a pro rata basis, based on the combined sum of their Winning Offer SETs [20% (\$50) to CLP with second highest number of winning SETs]
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* In the event only one CLP is eligible for the daily rebate, 100% of such rebate will be provided to such CLP. In the event that multiple CLPs have an equal number of winning SETs, the CLP with the highest executed volume in the security will be awarded the applicable daily rebate.

** Size Event Tests, or SETs, are defined in paragraph (g) above.
