

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 21	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2013 - * 050 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 type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input type="text"/>			Rule <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 checked="" 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 modify BATS Equities rules to remove references to the BATS market maker quoter and BATS' TCP FAST PITCH data feed.

**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@bats.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 09/12/2013 By Anders Franzon (Name \*) VP, Associate General Counsel

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.

Persona Not Validated - 1364234628553,

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 \***

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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 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**

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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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to eliminate reference to a Market Maker order functionality in Rule 11.8(e) that has now been retired by the Exchange. The Exchange is also proposing to eliminate reference to BATS’ TCP FAST PITCH, which is a data product that has also been discontinued by the Exchange.

(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 proposed rule filing was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on November 10, 2009. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. 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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

(a) Purpose

**Proposed Change to Rule 11.8**

**Background**

On August 29, 2012, the Commission approved the Exchange's proposed rule change to adopt a new Market Maker Peg Order functionality that was designed to replace the automated functionality (commonly referred to as the Market Maker Quoter) provided to Market Makers in Rule 11.8(e).<sup>3</sup> The Exchange originally adopted Rule 11.8(e) as part of an effort to address issues uncovered by the aberrant trading that occurred on May 6, 2010.<sup>4</sup> The Market Maker Quoter functionality was designed to help Market Makers meet the enhanced obligations imposed on them post May 6, 2010<sup>5</sup> and avoid execution of Market Maker "stub quotes" in instances of aberrant trading.<sup>6</sup>

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<sup>3</sup> Securities Exchange Act Release No. 67756 (Aug. 29, 2012), 77 FR 54633 (Sept. 5, 2012) (SR-BATS-2012-026).

<sup>4</sup> Securities Exchange Act Release No. 63255 (Nov. 5, 2010), 75 FR 69484 (Nov. 12, 2010) (SR-BATS-2010-025).

<sup>5</sup> Id.

<sup>6</sup> For each issue in which a market maker was registered, the Market Maker Quoter functionality optionally created a quotation for display to comply with market making obligations. Compliant displayed quotations were thereafter allowed to rest and were not adjusted unless the relationship between the quotation and its related national best bid or national best offer, as appropriate, either: (a) shrank to a specified number of percentage points away from the Designated Percentage towards the then current national best bid or national best offer, which number of percentage points was determined and published in a circular distributed to Members from time to time; or (b) expanded to within 0.5% of the applicable percentage necessary to trigger an individual stock trading pause, whereupon such bid or offer was cancelled and re-entered at the Designated Percentage away from the then current national best bid and national best offer, or if no national best bid or national best offer, at the Designated Percentage away from the last reported sale from the responsible single plan processor. Quotations independently entered

Although the Market Maker Quoter was successful in allowing Exchange Market Makers to meet their enhanced obligations and in avoiding the deleterious effect on the markets caused by “stub quote” executions, the functionality presented difficulties to Market Makers in meeting their obligations under Rule 15c3-5 under the Act (the “Market Access Rule”)<sup>7</sup> and Regulation SHO.<sup>8</sup>

The Exchange introduced the Market Maker Peg Order to simplify Market Maker compliance with the requirements of the Market Access Rule and Regulation SHO. The Market Maker Peg Order allows Market Makers to control the origination of their orders, as required by the Market Access Rule, while also allowing Market Makers to make marking and locate determinations prior to order entry, as required by Regulation SHO. As such, Market Makers are fully able to comply with the requirements of the Market Access Rule and Regulation SHO, as they would when placing any order, while also meeting their Exchange market making obligations.

#### **Retirement of the Market Maker Quoter**

At the time of Market Maker Peg Order rule filing and in the subsequent filing to amend the Market Maker Peg Order, the Exchange noted its intention to continue offering the Market Maker Quoter functionality for a three-month period after the implementation of the Market Maker Peg Order to afford Market Makers the opportunity

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by market makers were allowed to move freely towards the national best bid or national best offer, as appropriate, for potential execution. In the event of an execution against a quote generated pursuant to the Market Maker Quoter functionality, the Market Maker’s quote was refreshed on the executed side of the market at the applicable Designated Percentage away from the then national best bid (offer), or if no national best bid (offer), the last reported sale. See Rule 11.8(e).

<sup>7</sup> 17 CFR 240.15c3-5.

<sup>8</sup> 17 CFR 242.200–242.204.

to gradually transition away from the previous functionality.<sup>9</sup> Accordingly, the Exchange did not believe it appropriate to eliminate the language authorizing the Market Maker Quoter functionality immediately upon the Market Maker Peg Order's effectiveness. However, as of June 24, 2013, the Exchange decommissioned the Market Maker Quoter functionality pursuant to its transition plan. Thus, the Exchange is now proposing to delete Rule 11.8(e), which authorizes the functionality, and hold the rule number in reserve.

### **Proposed Change to Rule 11.22**

The Exchange is also proposing to delete reference to TCP FAST PITCH in Rule 11.22(b) because, as is made clear in the rule text of Rule 11.22, this data product was discontinued on August 1, 2011. Therefore, reference to the product within Exchange rules no longer serves any legitimate purpose.

#### (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.<sup>10</sup> Specifically, the proposal is consistent with Section 6(b)(5) of the Act,<sup>11</sup> which requires exchange rules to 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, and, in general, protect investors and the public interest. The Exchange believes that the

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<sup>9</sup> See Securities Exchange Act Release No. 67381 (July 10, 2012), 77 FR 41829, 41843 (July 16, 2012) (SR-BATS-2012-026); Securities Exchange Act Release No. 69310 (Apr. 4, 2013), 78 FR 21447 (Apr. 10, 2013) (SR-BATS-2013-022).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

proposed rule changes fulfill these requirements because they delete references to a functionality and a data product that are now retired, thereby eliminating any investor uncertainty related to the status of this functionality and data product. Moreover, in relation to the elimination of references to the Market Maker Quoter functionality and as noted in the Exchange's Market Maker Peg Order filing, the transition period during which both the Market Maker Quoter functionality and the Market Maker Peg Order were operational was designed to minimize the potential market impact caused by the implementation of the new order type.<sup>12</sup> The Exchange believes that deleting reference to the Market Maker Quoter functionality is now appropriate and in furtherance of the public interest given the passage of time since the Market Maker Peg Order became effective and the Market Maker Quoter was decommissioned.<sup>13</sup>

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

BATS believes the proposal is consistent with Section 6(b)(8) of the Act<sup>14</sup> in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes will remove references to a functionality and a data product that have already been retired. Moreover, with regard to deletion of references to the Market Maker Quoter, the Exchange does not believe removing reference to the retired functionality will have any impact on the current competitive environment given the fact that the Market Maker Quoter's replacement, the Market Maker Peg Order, has been effective and operational for many

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<sup>12</sup> See Securities Exchange Act Release No. 67381 (July 10, 2012), 77 FR 41829 (July 16, 2012) (SR-BATS-2012-026).

<sup>13</sup> See *id.*; see also Securities Exchange Act Release No. 69310 (Apr. 4, 2013), 78 FR 21447 (Apr. 10, 2013) (SR-BATS-2013-022).

<sup>14</sup> 15 U.S.C. 78f(b)(8).

months. The Exchange also notes that deletion of the reference to TCP FAST PITCH will align BATS Exchange Rules with BATS Y-Exchange Rules as the related provision in the BATS Y-Exchange Rule Book has already been deleted.<sup>15</sup> Therefore, the Exchange does not believe these changes will have any effect on competition.

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 has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>17</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.<sup>18</sup>

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<sup>15</sup> See Securities Exchange Act Release No. 69891 (June 28, 2013), 78 FR 40529 (July 5, 2013) (SR-BYX-2013-022).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4.

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).



Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>19</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>20</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>21</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>22</sup> Waiver of this requirement, specified in Rule 19b-4(f)(6),<sup>23</sup> will allow the Exchange to quickly remove language in its rules that serves no purpose and may confuse investors while it remains in effect. By waiving the operative delay, the Exchange can avoid potential market confusion caused by delaying the implementation of the proposed rule changes. Accordingly, the Exchange believes that waiving the operative delay is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

Not applicable.

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<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> Id.

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-2013-050)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Eliminate References to Obsolete Functionality.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 12, 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 Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 filed a proposal to eliminate reference to a Market Maker order functionality in Rule 11.8(e) that has now been retired by the Exchange. The Exchange is also proposing to eliminate reference to BATS’ TCP FAST PITCH, which is a data product that has also been discontinued by the Exchange.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

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 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

**Proposed Change to Rule 11.8**

**Background**

On August 29, 2012, the Commission approved the Exchange's proposed rule change to adopt a new Market Maker Peg Order functionality that was designed to replace the automated functionality (commonly referred to as the Market Maker Quoter) provided to Market Makers in Rule 11.8(e).<sup>5</sup> The Exchange originally adopted Rule 11.8(e) as part of an effort to address issues uncovered by the aberrant trading that occurred on May 6, 2010.<sup>6</sup> The Market Maker Quoter functionality was designed to help

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<sup>5</sup> Securities Exchange Act Release No. 67756 (Aug. 29, 2012), 77 FR 54633 (Sept. 5, 2012) (SR-BATS-2012-026).

<sup>6</sup> Securities Exchange Act Release No. 63255 (Nov. 5, 2010), 75 FR 69484 (Nov. 12, 2010) (SR-BATS-2010-025).

Market Makers meet the enhanced obligations imposed on them post May 6, 2010<sup>7</sup> and avoid execution of Market Maker “stub quotes” in instances of aberrant trading.<sup>8</sup>

Although the Market Maker Quoter was successful in allowing Exchange Market Makers to meet their enhanced obligations and in avoiding the deleterious effect on the markets caused by “stub quote” executions, the functionality presented difficulties to Market Makers in meeting their obligations under Rule 15c3-5 under the Act (the “Market Access Rule”)<sup>9</sup> and Regulation SHO.<sup>10</sup>

The Exchange introduced the Market Maker Peg Order to simplify Market Maker compliance with the requirements of the Market Access Rule and Regulation SHO. The Market Maker Peg Order allows Market Makers to control the origination of their orders,

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<sup>7</sup> Id.

<sup>8</sup> For each issue in which a market maker was registered, the Market Maker Quoter functionality optionally created a quotation for display to comply with market making obligations. Compliant displayed quotations were thereafter allowed to rest and were not adjusted unless the relationship between the quotation and its related national best bid or national best offer, as appropriate, either: (a) shrank to a specified number of percentage points away from the Designated Percentage towards the then current national best bid or national best offer, which number of percentage points was determined and published in a circular distributed to Members from time to time; or (b) expanded to within 0.5% of the applicable percentage necessary to trigger an individual stock trading pause, whereupon such bid or offer was cancelled and re-entered at the Designated Percentage away from the then current national best bid and national best offer, or if no national best bid or national best offer, at the Designated Percentage away from the last reported sale from the responsible single plan processor. Quotations independently entered by market makers were allowed to move freely towards the national best bid or national best offer, as appropriate, for potential execution. In the event of an execution against a quote generated pursuant to the Market Maker Quoter functionality, the Market Maker’s quote was refreshed on the executed side of the market at the applicable Designated Percentage away from the then national best bid (offer), or if no national best bid (offer), the last reported sale. See Rule 11.8(e).

<sup>9</sup> 17 CFR 240.15c3-5.

<sup>10</sup> 17 CFR 242.200–242.204.

as required by the Market Access Rule, while also allowing Market Makers to make marking and locate determinations prior to order entry, as required by Regulation SHO. As such, Market Makers are fully able to comply with the requirements of the Market Access Rule and Regulation SHO, as they would when placing any order, while also meeting their Exchange market making obligations.

### **Retirement of the Market Maker Quoter**

At the time of Market Maker Peg Order rule filing and in the subsequent filing to amend the Market Maker Peg Order, the Exchange noted its intention to continue offering the Market Maker Quoter functionality for a three-month period after the implementation of the Market Maker Peg Order to afford Market Makers the opportunity to gradually transition away from the previous functionality.<sup>11</sup> Accordingly, the Exchange did not believe it appropriate to eliminate the language authorizing the Market Maker Quoter functionality immediately upon the Market Maker Peg Order's effectiveness. However, as of June 24, 2013, the Exchange decommissioned the Market Maker Quoter functionality pursuant to its transition plan. Thus, the Exchange is now proposing to delete Rule 11.8(e), which authorizes the functionality, and hold the rule number in reserve.

### **Proposed Change to Rule 11.22**

The Exchange is also proposing to delete reference to TCP FAST PITCH in Rule 11.22(b) because, as is made clear in the rule text of Rule 11.22, this data product was

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<sup>11</sup> See Securities Exchange Act Release No. 67381 (July 10, 2012), 77 FR 41829, 41843 (July 16, 2012) (SR-BATS-2012-026); Securities Exchange Act Release No. 69310 (Apr. 4, 2013), 78 FR 21447 (Apr. 10, 2013) (SR-BATS-2013-022).

discontinued on August 1, 2011. Therefore, reference to the product within Exchange rules no longer serves any legitimate purpose.

## 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.<sup>12</sup> Specifically, the proposal is consistent with Section 6(b)(5) of the Act,<sup>13</sup> which requires exchange rules to 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, and, in general, protect investors and the public interest. The Exchange believes that the proposed rule changes fulfill these requirements because they delete references to a functionality and a data product that are now retired, thereby eliminating any investor uncertainty related to the status of this functionality and data product. Moreover, in relation to the elimination of references to the Market Maker Quoter functionality and as noted in the Exchange's Market Maker Peg Order filing, the transition period during which both the Market Maker Quoter functionality and the Market Maker Peg Order were operational was designed to minimize the potential market impact caused by the implementation of the new order type.<sup>14</sup> The Exchange believes that deleting reference to the Market Maker Quoter functionality is now appropriate and in furtherance of the

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<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See Securities Exchange Act Release No. 67381 (July 10, 2012), 77 FR 41829 (July 16, 2012) (SR-BATS-2012-026).

public interest given the passage of time since the Market Maker Peg Order became effective and the Market Maker Quoter was decommissioned.<sup>15</sup>

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

BATS believes the proposal is consistent with Section 6(b)(8) of the Act<sup>16</sup> in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes will remove references to a functionality and a data product that have already been retired. Moreover, with regard to deletion of references to the Market Maker Quoter, the Exchange does not believe removing reference to the retired functionality will have any impact on the current competitive environment given the fact that the Market Maker Quoter's replacement, the Market Maker Peg Order, has been effective and operational for many months. The Exchange also notes that deletion of the reference to TCP FAST PITCH will align BATS Exchange Rules with BATS Y-Exchange Rules as the related provision in the BATS Y-Exchange Rule Book has already been deleted.<sup>17</sup> Therefore, the Exchange does not believe these changes will have any effect on competition.

(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.

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<sup>15</sup> See id.; see also Securities Exchange Act Release No. 69310 (Apr. 4, 2013), 78 FR 21447 (Apr. 10, 2013) (SR-BATS-2013-022).

<sup>16</sup> 15 U.S.C. 78f(b)(8).

<sup>17</sup> See Securities Exchange Act Release No. 69891 (June 28, 2013), 78 FR 40529 (July 5, 2013) (SR-BYX-2013-022).



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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>19</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2013-050 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-2013-050. 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

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f).

(<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-2013-050 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.<sup>20</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

### **Rules of BATS Exchange, Inc.**

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#### CHAPTER XI. TRADING RULES

\* \* \* \* \*

#### Rule 11.8 Obligations of Market Makers

(a)–(d) (No change.)

(e) [The Exchange will, upon request from a Market Maker received prior to 9:00 a.m. (Eastern Time) on a day in which the Exchange is open for business, enter on behalf of such Market Maker a two-sided limit order in each security to which the request applies. Such bids and offers will be entered at the Designated Percentage away from the then current NBB and NBO, or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor. Upon reaching the Defined Limit, a bid or offer entered pursuant to this paragraph will be cancelled and re-entered at the Designated Percentage away from the then current NBB and NBO, or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor. If a bid or offer entered pursuant to this paragraph moves a specified number of percentage points away from the Designated Percentage towards the then current NBB or NBO, which number of percentage points will be determined and published in a circular distributed to Members from time to time, such bid or offer will be cancelled and re-entered at the Designated Percentage away from the then current NBB and NBO, or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor. If a bid or offer entered pursuant to this paragraph is executed, the Exchange will re-enter a new bid or offer at the Designated Percentage away from the then current NBB and NBO, or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor. Bids and offers entered by the Exchange pursuant to this paragraph will be designated as BATS Only Orders pursuant to Rule 11.9(c)(4), will be in the amount of one normal unit of trading each, and will be posted in the BATS Book during Regular Trading Hours unless cancelled by the Market Maker. In the event a Market Maker cancels the quotations entered by the Exchange in accordance with this paragraph, such Market Maker remains responsible for compliance with the requirements of paragraph (d). For purposes of this paragraph (e), the Exchange will apply the Designated Percentage and Defined Limit as set forth in paragraphs (D) and (E) above, subject to the following exception. For all NMS stocks with a price less than \$1 per share that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products, the Exchange will use the Designated Percentage and Defined Limit applicable to NMS stocks equal to or greater than \$1 per share that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products.](Reserved.)

Interpretations and Policies

.01 The current primary listing market individual stock pause trigger percentage, Designated Percentage and Defined Limit described in paragraphs (d)(2)(D) and (d)(2)(E) of this Rule, respectively, are illustrated in the following table.

	Security Type	Pause Trigger Percentage	Designated Percentage	Defined Limit
Regular Trading Hours when stock pause triggers are in effect under the rules of the primary listing market (i.e., between 9:45 a.m. and 3:35 p.m. Eastern Time)	S&P 500® Index, Russell 1000® Index, and pilot list of Exchange Traded Products	10%	8%	9.5%
	Other NMS stocks, priced \$1 and above	30%	28%	29.5%
	Other NMS stocks, priced below \$1	50%	30%[*]	31.5%[*]
Regular Trading Hours when stock pause triggers are not in effect under the rules of the primary listing market (i.e., prior to 9:45 a.m. and after 3:35 p.m. Eastern Time)	S&P 500® Index, Russell 1000® Index, and pilot list of Exchange Traded Products	Not applicable	20%	21.5%
	Other NMS stocks, priced \$1 and above	Not applicable	28%	29.5%

	Other NMS stocks, priced below \$1	Not applicable	30%[*]	31.5%[*]
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[\* The optional process set forth in Rule 11.8(e), through which the Exchange will enter two-sided quotations on behalf of a Market Maker, will apply a Designated Percentage of 28% and a Defined Limit of 29.5% for all other NMS stocks, including other NMS stocks priced below \$1.]

.02 (No change.)

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Rule 11.22. Data Products

The Exchange offers the following data products free of charge, except as otherwise noted in the Exchange’s fee schedule:

(a) (No change.)

(b) [TCP FAST PITCH. TCP FAST PITCH is a compressed data feed that provides depth of book quotations and execution information based on equity orders entered into the System. TCP FAST PITCH will be discontinued effective August 1, 2011.](Reserved.)

(c)–(i) (No change.)

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