

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="22"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2013"/> - * <input type="text" value="058"/>
Amendment No. (req. for Amendments *) <input type="text"/>		

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 checked="" 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 *).

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 * Last Name *
Title *
E-mail *
Telephone * Fax

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 By

(Name *)

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

Add Remove View

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 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 proposed rule change to amend the fee schedule applicable to Members³ and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

(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 change 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 the rule change.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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

(a) Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective November 1, 2013, in order to: (1) modify the fees applicable to executions occurring through certain routing strategies at the Exchange's affiliate, BATS Y-Exchange, Inc. ("BYX"); and (2) modify the way that, for purposes of tiered pricing on the Exchange's equities trading platform ("BATS Equities"), the Exchange calculates ADV, ADAV, and TCV (as such terms are defined below).

Routing Strategies to BYX

BYX currently provides a base rebate of \$0.0001 per share when removing liquidity. To create a direct pass through of the applicable economics of executions at BYX through the Destination Specific,⁴ TRIM (including TRIM2 and TRIM3),⁵ and SLIM⁶ routing strategies, the Exchange proposes to rebate \$0.0001 per share for orders routed through such strategies and executed on BYX, rather than the \$0.0002 per share that it currently rebates for such orders. The Exchange is not proposing any other changes to its routing fees at this time.

Modifications to Definitions Used for Equities Pricing Tiers

The Exchange proposes to modify its fee schedule in order to amend the way that the Exchange calculates rebates for removing liquidity from and fees for adding liquidity to the Exchange. Specifically, the Exchange is proposing to amend the methodology by

⁴ As defined in BATS Rule 11.9(c)(12).

⁵ As defined in BATS Rule 11.13(a)(3)(G).

⁶ As defined in BATS Rule 11.13(a)(3)(H).

which it determines the rebate that it will provide to Members based on the Exchange's tiered pricing structure by excluding from the calculation of ADV⁷, ADAV⁸, and average daily TCV⁹ any day that trading is not available on the Exchange for more than sixty (60) minutes during regular trading hours (i.e., 9:30 a.m. to 4:00 p.m. Eastern Time) but continues on other markets during such time (an "Exchange Outage").

The Exchange currently offers a tiered structure for determining the rebates that Members receive for executions that add liquidity to the Exchange. Under the tiered pricing structure, the Exchange provides different rebates to Members based on a Member's ADV or ADAV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates pursuant to the tiered pricing structure. Rather, as mentioned above, the Exchange is proposing to modify its fee schedule in order to exclude trading activity occurring on any day that the Exchange experiences an Exchange Outage, defined as an outage lasting for more than sixty (60) minutes, from the calculation of ADV, ADAV and average daily TCV. The Exchange believes that including trading activity on days when trading on the Exchange is unavailable for a significant portion of the day can unfairly skew the calculation of ADV,

⁷ As provided in the fee schedule, "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; routed shares are not included in ADV calculation.

⁸ As provided in the fee schedule, "ADAV" means average daily volume calculated as the number of shares added per day on a monthly basis; routed shares are not included in ADV calculation.

⁹ As provided in the fee schedule "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

ADAV and TCV. Thus, the Exchange believes that the most accurate and fair implementation of its tiered pricing structure is to exclude from the calculation of ADV, ADAV and TCV all days where the Exchange experiences an Exchange Outage.

The Exchange believes that eliminating days where the Exchange experiences an Exchange Outage from the definition of ADV, ADAV and TCV, and thereby eliminating that day from the calculation as it relates to rebates and fees based on trading activity on the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV or ADAV as a percentage of average daily TCV and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange.

The Exchange notes that it recently adopted changes to exclude the last Friday of June from the calculation of ADV and average daily TCV.¹⁰ The last day of June is the day that Russell Investments reconstitutes its family of indexes (“Russell Reconstitution”), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Reconstitution.

¹⁰ Securities Exchange Act Release No. 69793 (June 18, 2013), 78 FR 37865 (SR-BATS-2013-034) (notice of filing and immediate effectiveness of proposed rule change to exclude the Russell Reconstitution day from the calculation of ADV and TCV for purposes of BATS Equities tiered pricing). The Exchange notes that while it did not have a definition of ADAV in its fee schedule at the time the Russell Reconstitution exclusion was added, the exclusion does apply to ADAV pursuant to the fee schedule, as amended. See Securities Exchange Act Release No. 70664 (October 11, 2013), 78 FR 68204 (October 22, 2013) (SR-BATS-2013-054) (notice of filing and immediate effectiveness to modify the fees of BATS Exchange, Inc., including the addition of a definition of ADAV).

The Exchange also notes that its affiliate, BYX, recently implemented a similar change to its definitions of ADV and TCV for purposes of BYX tiered pricing.¹¹

(b) Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.¹² Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹³ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that the proposed changes to the Exchange's rebate for TRIM (including TRIM2 and TRIM3), SLIM and Destination Specific Orders executed on BYX are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the rebate applicable to the execution if such routed orders were executed directly by the Member at BYX.

¹¹ Securities Exchange Act Release No. 70666 (October 11, 2013), 78 FR 37865 (October 22, 2013) (SR-BYX-2013-034) (notice of filing and immediate effectiveness of proposed rule change to exclude from the definition of ADV and TCV days that BATS Y-Exchange, Inc. experiences an outage lasting more than 60 minutes).

¹² 15 U.S.C. 78f.

¹³ 15 U.S.C. 78f(b)(4).

With respect to the proposed changes to the tiered pricing structure for removing liquidity from the Exchange and adding liquidity to the Exchange, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates and costs for trading in any month where the Exchange experiences an Exchange Outage on one or more trading days. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the tiered rebates or fees and, moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV or ADAV as a percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV, ADAV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or ADAV as a percentage of average daily TCV with their activity included from days where the Exchange has an Exchange Outage, the proposal will make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV or ADAV as a percentage of average daily TCV. The Exchange also notes that its affiliate, BYX, recently made a similar change.¹⁴

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted, and are equitable and not unfairly discriminatory because they

¹⁴ See supra note 11.

are open to all members on an equal basis and provide higher rebates or lower fees that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by a day of atypical trading behavior which allows Members to predictably calculate what their costs associated with trading activity on the Exchange will be is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at BYX through the TRIM (including TRIM2 and TRIM3), SLIM and Destination Specific Order strategies, the proposed fee change is designed to equal the rebate that a Member would have received if such routed orders would have been executed directly by a Member at BYX. Further, the proposed changes will help to promote intramarket competition by avoiding a penalty to Members for days when trading on the Exchange is unavailable for a significant portion of the day. As stated

above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deemed fee structures to be unreasonable or excessive.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁵ and Rule 19b-4(f)(2) thereunder,¹⁶ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

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-2013-058)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Related to Fees for Use of BATS Exchange, Inc.

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 October 31, 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, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change 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 amend the fee schedule applicable to Members⁵ and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

changes to the fee schedule pursuant to this proposal will be effective upon filing, the proposed changes will become operative on November 1, 2013.

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

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective November 1, 2013, in order to: (1) modify the fees applicable to executions occurring through certain routing strategies at the Exchange's affiliate, BATS Y-Exchange, Inc. ("BYX"); and (2) modify the way that, for purposes of tiered pricing on the Exchange's equities trading platform ("BATS Equities"), the Exchange calculates ADV, ADAV, and TCV (as such terms are defined below).

Routing Strategies to BYX

BYX currently provides a base rebate of \$0.0001 per share when removing liquidity. To create a direct pass through of the applicable economics of executions at

BYX through the Destination Specific,⁶ TRIM (including TRIM2 and TRIM3),⁷ and SLIM⁸ routing strategies, the Exchange proposes to rebate \$0.0001 per share for orders routed through such strategies and executed on BYX, rather than the \$0.0002 per share that it currently rebates for such orders. The Exchange is not proposing any other changes to its routing fees at this time.

Modifications to Definitions Used for Equities Pricing Tiers

The Exchange proposes to modify its fee schedule in order to amend the way that the Exchange calculates rebates for removing liquidity from and fees for adding liquidity to the Exchange. Specifically, the Exchange is proposing to amend the methodology by which it determines the rebate that it will provide to Members based on the Exchange's tiered pricing structure by excluding from the calculation of ADV⁹, ADAV¹⁰, and average daily TCV¹¹ any day that trading is not available on the Exchange for more than sixty (60) minutes during regular trading hours (i.e., 9:30 a.m. to 4:00 p.m. Eastern Time) but continues on other markets during such time (an "Exchange Outage").

⁶ As defined in BATS Rule 11.9(c)(12).

⁷ As defined in BATS Rule 11.13(a)(3)(G).

⁸ As defined in BATS Rule 11.13(a)(3)(H).

⁹ As provided in the fee schedule, "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; routed shares are not included in ADV calculation.

¹⁰ As provided in the fee schedule, "ADAV" means average daily volume calculated as the number of shares added per day on a monthly basis; routed shares are not included in ADV calculation.

¹¹ As provided in the fee schedule "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

The Exchange currently offers a tiered structure for determining the rebates that Members receive for executions that add liquidity to the Exchange. Under the tiered pricing structure, the Exchange provides different rebates to Members based on a Member's ADV or ADAV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates pursuant to the tiered pricing structure. Rather, as mentioned above, the Exchange is proposing to modify its fee schedule in order to exclude trading activity occurring on any day that the Exchange experiences an Exchange Outage, defined as an outage lasting for more than sixty (60) minutes, from the calculation of ADV, ADAV and average daily TCV. The Exchange believes that including trading activity on days when trading on the Exchange is unavailable for a significant portion of the day can unfairly skew the calculation of ADV, ADAV and TCV. Thus, the Exchange believes that the most accurate and fair implementation of its tiered pricing structure is to exclude from the calculation of ADV, ADAV and TCV all days where the Exchange experiences an Exchange Outage.

The Exchange believes that eliminating days where the Exchange experiences an Exchange Outage from the definition of ADV, ADAV and TCV, and thereby eliminating that day from the calculation as it relates to rebates and fees based on trading activity on the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV or ADAV as a percentage of average daily TCV and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange.

The Exchange notes that it recently adopted changes to exclude the last Friday of June from the calculation of ADV and average daily TCV.¹² The last day of June is the day that Russell Investments reconstitutes its family of indexes (“Russell Reconstitution”), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Reconstitution. The Exchange also notes that its affiliate, BYX, recently implemented a similar change to its definitions of ADV and TCV for purposes of BYX tiered pricing.¹³

2. Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.¹⁴ Specifically, the Exchange believes that the proposed rule change is consistent

¹² Securities Exchange Act Release No. 69793 (June 18, 2013), 78 FR 37865 (SR-BATS-2013-034) (notice of filing and immediate effectiveness of proposed rule change to exclude the Russell Reconstitution day from the calculation of ADV and TCV for purposes of BATS Equities tiered pricing). The Exchange notes that while it did not have a definition of ADAV in its fee schedule at the time the Russell Reconstitution exclusion was added, the exclusion does apply to ADAV pursuant to the fee schedule, as amended. See Securities Exchange Act Release No. 70664 (October 11, 2013), 78 FR 68204 (October 22, 2013) (SR-BATS-2013-054) (notice of filing and immediate effectiveness to modify the fees of BATS Exchange, Inc., including the addition of a definition of ADAV).

¹³ Securities Exchange Act Release No. 70666 (October 11, 2013), 78 FR 37865 (October 22, 2013) (SR-BYX-2013-034) (notice of filing and immediate effectiveness of proposed rule change to exclude from the definition of ADV and TCV days that BATS Y-Exchange, Inc. experiences an outage lasting more than 60 minutes).

¹⁴ 15 U.S.C. 78f.

with Section 6(b)(4) of the Act,¹⁵ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that the proposed changes to the Exchange's rebate for TRIM (including TRIM2 and TRIM3), SLIM and Destination Specific Orders executed on BYX are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the rebate applicable to the execution if such routed orders were executed directly by the Member at BYX.

With respect to the proposed changes to the tiered pricing structure for removing liquidity from the Exchange and adding liquidity to the Exchange, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates and costs for trading in any month where the Exchange experiences an Exchange Outage on one or more trading days. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the tiered rebates or fees and, moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV or ADAV as a percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their

¹⁵ 15 U.S.C. 78f(b)(4).

participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV, ADAV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or ADAV as a percentage of average daily TCV with their activity included from days where the Exchange has an Exchange Outage, the proposal will make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV or ADAV as a percentage of average daily TCV. The Exchange also notes that its affiliate, BYX, recently made a similar change.¹⁶

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide higher rebates or lower fees that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by a day of atypical trading behavior which allows Members to predictably calculate what their costs associated with trading activity on the Exchange will be is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and

¹⁶ See supra note 13.

should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at BYX through the TRIM (including TRIM2 and TRIM3), SLIM and Destination Specific Order strategies, the proposed fee change is designed to equal the rebate that a Member would have received if such routed orders would have been executed directly by a Member at BYX. Further, the proposed changes will help to promote intramarket competition by avoiding a penalty to Members for days when trading on the Exchange is unavailable for a significant portion of the day. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deemed fee structures to be unreasonable or excessive.

(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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4 thereunder.¹⁸ 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. Please include File No. SR-BATS-2013-058 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-2013-058. 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

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

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 change 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-2013-058 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.¹⁹

Kevin M. O'Neill
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).

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

BATS BZX Exchange Fee Schedule
Effective [October 1]November 1, 2013

The following is the Schedule of Fees (pursuant to Rule 15.1(a) and (c)) for BATS Exchange, Inc. (“BZX Exchange” or “BZX”). The Schedule of Fees is divided into Equities Pricing, Options Pricing and Physical Connection Charges.

Equities Pricing:

* * * * *

Other Non-Standard Routing Options – Specific Order Types and Securities Priced Below \$1.00

- BZX+ BATS Y-Exchange, Inc. (“BYX Exchange”) Destination Specific Orders (“B2B”):
\$[0.0002]0.0001 rebate per share

* * * * *

TRIM Routing Strategy

* * * * *

- TRIM/TRIM2/TRIM3 orders executed at BYX Exchange: \$[0.0002]0.0001 rebate per share

* * * * *

SLIM Routing Strategy

- SLIM orders executed at BYX Exchange: \$[0.0002]0.0001 rebate per share

* * * * *

¹ “ADAV” means average daily added volume calculated as the number of shares added and “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis, excluding shares added or removed on any day that trading is not available on the Exchange for more than 60 minutes during regular trading hours but continues on other markets during such time (“Exchange Outage”) and on the last Friday in June (the “Russell Reconstitution Day”). Routed shares are not included in ADAV or ADV calculation. With prior notice to the Exchange, a Member may aggregate ADAV or ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member’s Form BD).

² “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding any day that the Exchange experiences an Exchange Outage and the Russell Reconstitution Day.

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