

*Required fields are shown with yellow backgrounds and asterisks.*

Filing by BATS Exchange  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

<b>Exhibit 2 Sent As Paper Document</b>	<b>Exhibit 3 Sent As Paper Document</b>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

**Description**

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

BATS Exchange, Inc. proposed to amend the fees applicable to securities listed on the Exchange pursuant to BATS Rule 14.13.

**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 06/04/2014 VP, Associate General Counsel

By Anders Franzon

(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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

Add Remove View

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 \***

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, 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**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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”),<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 proposed rule change to amend the fees applicable to securities listed on the Exchange pursuant to BATS Rule 14.13. Changes to the Exchange’s fees pursuant to this proposal are 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 February 11, 2014. 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.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Eric Swanson  
EVP, General Counsel  
(913) 815-7000

Anders Franzon  
VP, Associate General Counsel  
(913) 815-7154

---

<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

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,<sup>3</sup> which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products (“ETPs”) on the Exchange.<sup>4</sup> The Exchange proposes to modify Rule 14.13, entitled “Company Listing Fees” to reduce the entry fee for ETPs from \$10,000 to \$5,000 and to introduce new annual fees for ETPs that are not participating in the competitive liquidity provider program under Interpretation and Policy .02 to Rule 11.8 (the “CLP Program”). For ETPs that are participating in the CLP Program, the Exchange proposes that the annual fees continue to be \$35,000.

Currently, Rule 14.13(a)(A)(1)(C) provides that the entry fee for an ETP is \$10,000, a fee that is assessed on the date of listing on the Exchange, except for a \$5,000 non-refundable application fee which must be submitted along with the initial listing application. The Exchange proposes to instead charge a reduced entry fee of \$5,000, which will continue to be non-refundable and due upon submission of the initial listing application. Consistent with current Rule 14.13 the Exchange is not proposing to charge an entry fee for transfer listings.

---

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

<sup>4</sup> See Securities Exchange Act Release No. 72020 (April 25, 2014) 79 FR 24807 (May 1, 2014) (SR-BATS-2012-010).

The Exchange is also proposing to introduce lower annual fees for ETPs.

Currently, Rule 14.13 provides that the issuer of an ETP shall pay an annual fee of \$35,000 for funds initially listed on the Exchange. Rule 14.13 provides that the issuer of an ETP that is a transfer listing shall pay an annual fee of \$15,000. The Exchange is proposing to continue to charge \$35,000 per year to the issuer of an ETP that is participating in the CLP Program. For all issuers of ETPs that are not participating in the CLP Program, including transfer listings, the Exchange proposes to charge the issuer on a quarterly basis based on the ETPs consolidated average daily volume (the “CADV”), as defined below, during the quarter preceding the billing date. Specifically, the Exchange is proposing to charge issuers of ETPs on a quarterly basis as follows:

<i>CADV</i>	<i>Quarterly Fee</i>	<i>Annual Fee</i>
<b>0 – 10,000</b>	\$1,250	\$5,000
<b>10,001 – 40,000</b>	\$2,000	\$8,000
<b>40,001 – 80,000</b>	\$3,000	\$12,000
<b>80,001 – 150,000</b>	\$3,750	\$15,000
<b>150,001 – 400,000</b>	\$4,500	\$18,000
<b>Greater than 400,000</b>	Free	Free

As proposed, CADV is calculated based on the three calendar months preceding the month for which the fees apply, meaning that when calculating the rebates that apply to a particular ETP, the CADV will be based on the three calendar months prior to the current trading month. For example, in calculating the annual fee that will be billable to the issuer of an ETP on the first day of the third quarter, the Exchange will look to the average daily volume reported for the ETP by all exchanges and trade reporting facilities

to a consolidated transaction reporting plan for the second quarter, or April, May, and June. If that ETP was an initial listing on BATS (not a transfer listing from another listing market) and was listed beginning on May 15, the calculation of CADV would include all days from April 1 through May 14 with zero volume for each trading day. For transfer listings, the determination of the annual fees applicable to the ETP in the third quarter will be based on the CADV for the second quarter, regardless of where the ETP was listed during that period.

As noted above, the Exchange proposes to amend Rule 14.13 in order to make clear that the issuer of an ETP that participates in the CLP Program will continued to pay the Exchange an annual fee of \$35,000.

Finally, the Exchange is proposing to correct a typographical error in the rule text. Specifically, the Exchange is proposing to amend the second sub-paragraph “(a)” in Rule 14.13 to “(b)” in order to make the rule more easily understandable.

#### Implementation Date

The Exchange proposes to implement these amendments to its fees on June 2, 2014.

#### (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.<sup>5</sup> Specifically, the Exchange believes that the proposed rule change is consistent with

---

<sup>5</sup> 15 U.S.C. 78f.

Section 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange is proposing a tiered pricing structure for ETPs listed on the Exchange based on CADV that will significantly reduce listing fees for all new issuers, with the potential for free listing, which the Exchange believes are equitable and non-discriminatory because the tiers will be applied equally to all ETPs listed on the Exchange, including transfer listings. The Exchange also believes that continuing to charge \$35,000 annually for ETPs that continue to participate in the CLP Program is equitable and non-discriminatory because the costs associated with operating the CLP Program are significantly higher than the anticipated costs associated with the new lead market maker program (the “LMM Program”), into which newly listed ETPs will be automatically enrolled. Further, ETPs participating in the CLP Program may opt out of the CLP Program at any time in order to participate in the LMM Program and be charged the lower quarterly fees. Similarly, the Exchange believes that, while a transfer listing could possibly be charged a higher annual fee under the proposal (\$18,000 vs. \$15,000), the proposed changes are equitable and non-discriminatory because the pricing will be applied equally to all ETP listings, including transfer listings, and ETP transfer listings may also be eligible for reduced fees. Additionally, as described below, the annual fees are generally based on the cost to the Exchange associated with listing. The Exchange notes that it does not currently have any transfer listings and thus there are no BATS-listed ETPs that are eligible for continued annual fees of \$15,000, as provided in current

---

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

Rule 14.13, meaning that no existing ETP listings will be subject to a change in pricing and that any ETP that transfers to the Exchange in the future will have advanced notice of the proposed pricing.

The Exchange believes that it is equitable, reasonable, and non-discriminatory to charge increased listing fees to ETPs as their CADV increases. Under the LMM Program, the Exchange plans to offer enhanced rebates to any registered lead market maker for executions where such lead market maker has added displayed liquidity in a BATS-listed ETP for which they are designated as lead market maker, provided that they must meet specified quoting requirements in such BATS-listed ETP. The Exchange notes that as part of these enhanced rebates, it is planning to provide gradually *decreasing* rebates as the CADV increases in the BATS-listed ETP. While this may at first seem counterintuitive because the proposed listing fees for ETPs *increase* as the CADV increases, the total costs associated with operating the LMM Program for an ETP generally increase as the CADV increases because there are more shares executed that could potentially receive enhanced rebates. For example, where the Exchange pays a rebate of \$0.0070 per share for a particular ETP with a CADV of 5,000, the Exchange could potentially pay \$35 per day on average in enhanced rebates. Where the Exchange pays enhanced rebates of \$0.0045 per share for an ETP with a CADV of 60,000, even though the Exchange is offering a smaller per share enhanced rebate, the total potential daily exposure (\$270 per day) is significantly larger than the exposure in the ETP with the higher rebate, but smaller CADV. The Exchange notes, however, that there are some benefits associated with having BATS-listed ETPs with higher CADVs that, at a certain point, can more than offset the exposure from increased total rebate payments in such



securities, as further described below. Because the Exchange faces greater exposure in enhanced rebates in ETPs with higher CADVs, the Exchange believes that it is reasonable to charge higher listing fees for ETPs with a higher CADV. Based on the foregoing, the Exchange believes that its proposed tiered pricing structure for the listing of ETPs is a fair and equitable allocation of fees to issuers.

The Exchange also believes that it is equitable, reasonable, and non-discriminatory to provide listings free of charge to ETPs with CADV exceeding 400,000. As a general matter, ETPs that are better known and well-established are frequently more actively traded, liquid securities. The Exchange believes that the benefits to both the Exchange and other Exchange constituents of attracting and retaining such ETPs to list on the Exchange justifies the Exchange waiving the listing fees for these issuers. As it relates to other issuers, the ability of the Exchange to attract well-known, recognizable, and successful ETPs on the Exchange will help the Exchange to establish its status and reputation as a primary listing market. The Exchange's reputation as a primary listing market will, in turn, positively impact all securities that are listed on the Exchange. Further, the Exchange believes that additional revenue generated from the Exchange's auction processes for actively traded ETPs will offset the cost of operating a program for these securities. Because ETPs with higher CADV are likely to generate additional revenue for the Exchange, the Exchange believes it is reasonable to waive fees for ETPs with CADV greater than 400,000. Based on the foregoing, the Exchange believes that providing annual listing free of charge for issuers of ETPs with CADV greater than 400,000 is a fair and equitable allocation of fees to issuers.

The Exchange believes it is reasonable and equitable to assess annual fees on a pro-rated quarterly basis instead of an annual basis based on the listing date of an ETP. In particular, the Exchange believes that quarterly billing in prorated amounts will allow an issuer's bill to more accurately reflect an ETP's current CADV.

The Exchange also believes that lowering the initial listing fee from \$10,000 to \$5,000 for ETPs is reasonable and equitable because it will result in lower initial costs to all ETP issuers.

Finally, the Exchange believes that correcting the typographical error to the numbering of the subparagraphs of Rule 14.13 is reasonable and equitable because it will make the rule text more easily understandable.

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. With respect to the proposed new pricing for the listing of ETPs, the Exchange does not believe that the changes burden competition, but instead, enhance competition, as it is intended to increase the competitiveness of the Exchange's listings program. The Exchange also believes the proposed change would enhance competition because it brings ETP listings prices closer to those currently offered by both Arca and Nasdaq. The proposed changes are generally intended to lower the Exchange's listing fees and make these fees more reflective of an ETP's trading activity, which the Exchange believes will further help it compete against the other listing markets. As such, the proposal is a competitive proposal that is intended to attract additional ETP listings, which will, in turn, benefit the Exchange and all other BATS-listed ETPs.

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 Act<sup>7</sup> and Rule 19b-4(f)(2) thereunder,<sup>8</sup> 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.

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

Not applicable.

---

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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-2014-024)

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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 4, 2014, 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 Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 fees applicable to securities listed on the Exchange pursuant to BATS Rule 14.13. Changes to the Exchange’s fees pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange’s website at

---

<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)(ii).

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

<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

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,<sup>5</sup> which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products ("ETPs") on the Exchange.<sup>6</sup> The Exchange proposes to modify Rule 14.13, entitled "Company Listing Fees" to reduce the entry fee for ETPs from \$10,000 to \$5,000 and to introduce new annual fees for ETPs that are not participating in the competitive liquidity provider program under Interpretation and Policy .02 to Rule 11.8 (the "CLP Program"). For ETPs that are participating in the CLP Program, the Exchange proposes that the annual fees continue to be \$35,000.

---

<sup>5</sup> See Securities Exchange Act Release No. 65225 (August 30, 2011) 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>6</sup> See Securities Exchange Act Release No. 72020 (April 25, 2014) 79 FR 24807 (May 1, 2014) (SR-BATS-2012-010).

Currently, Rule 14.13(a)(A)(1)(C) provides that the entry fee for an ETP is \$10,000, a fee that is assessed on the date of listing on the Exchange, except for a \$5,000 non-refundable application fee which must be submitted along with the initial listing application. The Exchange proposes to instead charge a reduced entry fee of \$5,000, which will continue to be non-refundable and due upon submission of the initial listing application. Consistent with current Rule 14.13 the Exchange is not proposing to charge an entry fee for transfer listings.

The Exchange is also proposing to introduce lower annual fees for ETPs. Currently, Rule 14.13 provides that the issuer of an ETP shall pay an annual fee of \$35,000 for funds initially listed on the Exchange. Rule 14.13 provides that the issuer of an ETP that is a transfer listing shall pay an annual fee of \$15,000. The Exchange is proposing to continue to charge \$35,000 per year to the issuer of an ETP that is participating in the CLP Program. For all issuers of ETPs that are not participating in the CLP Program, including transfer listings, the Exchange proposes to charge the issuer on a quarterly basis based on the ETPs consolidated average daily volume (the “CADV”), as defined below, during the quarter preceding the billing date. Specifically, the Exchange is proposing to charge issuers of ETPs on a quarterly basis as follows:

<i>CADV</i>	<i>Quarterly Fee</i>	<i>Annual Fee</i>
<b>0 – 10,000</b>	\$1,250	\$5,000
<b>10,001 – 40,000</b>	\$2,000	\$8,000
<b>40,001 – 80,000</b>	\$3,000	\$12,000
<b>80,001 – 150,000</b>	\$3,750	\$15,000
<b>150,001 – 400,000</b>	\$4,500	\$18,000

<b>Greater than 400,000</b>	Free	Free
-----------------------------	------	------

As proposed, CADV is calculated based on the three calendar months preceding the month for which the fees apply, meaning that when calculating the rebates that apply to a particular ETP, the CADV will be based on the three calendar months prior to the current trading month. For example, in calculating the annual fee that will be billable to the issuer of an ETP on the first day of the third quarter, the Exchange will look to the average daily volume reported for the ETP by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the second quarter, or April, May, and June. If that ETP was an initial listing on BATS (not a transfer listing from another listing market) and was listed beginning on May 15, the calculation of CADV would include all days from April 1 through May 14 with zero volume for each trading day. For transfer listings, the determination of the annual fees applicable to the ETP in the third quarter will be based on the CADV for the second quarter, regardless of where the ETP was listed during that period.

As noted above, the Exchange proposes to amend Rule 14.13 in order to make clear that the issuer of an ETP that participates in the CLP Program will continued to pay the Exchange an annual fee of \$35,000.

Finally, the Exchange is proposing to correct a typographical error in the rule text. Specifically, the Exchange is proposing to amend the second sub-paragraph “(a)” in Rule 14.13 to “(b)” in order to make the rule more easily understandable.

#### Implementation Date

The Exchange proposes to implement these amendments to its fees on June 2, 2014.



## 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.<sup>7</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,<sup>8</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange is proposing a tiered pricing structure for ETPs listed on the Exchange based on CADV that will significantly reduce listing fees for all new issuers, with the potential for free listing, which the Exchange believes are equitable and non-discriminatory because the tiers will be applied equally to all ETPs listed on the Exchange, including transfer listings. The Exchange also believes that continuing to charge \$35,000 annually for ETPs that continue to participate in the CLP Program is equitable and non-discriminatory because the costs associated with operating the CLP Program are significantly higher than the anticipated costs associated with the new lead market maker program (the “LMM Program”), into which newly listed ETPs will be automatically enrolled. Further, ETPs participating in the CLP Program may opt out of the CLP Program at any time in order to participate in the LMM Program and be charged the lower quarterly fees. Similarly, the Exchange believes that, while a transfer listing could possibly be charged a higher annual fee under the proposal (\$18,000 vs. \$15,000),

---

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4) and (5).

the proposed changes are equitable and non-discriminatory because the pricing will be applied equally to all ETP listings, including transfer listings, and ETP transfer listings may also be eligible for reduced fees. Additionally, as described below, the annual fees are generally based on the cost to the Exchange associated with listing. The Exchange notes that it does not currently have any transfer listings and thus there are no BATS-listed ETPs that are eligible for continued annual fees of \$15,000, as provided in current Rule 14.13, meaning that no existing ETP listings will be subject to a change in pricing and that any ETP that transfers to the Exchange in the future will have advanced notice of the proposed pricing.

The Exchange believes that it is equitable, reasonable, and non-discriminatory to charge increased listing fees to ETPs as their CADV increases. Under the LMM Program, the Exchange plans to offer enhanced rebates to any registered lead market maker for executions where such lead market maker has added displayed liquidity in a BATS-listed ETP for which they are designated as lead market maker, provided that they must meet specified quoting requirements in such BATS-listed ETP. The Exchange notes that as part of these enhanced rebates, it is planning to provide gradually *decreasing* rebates as the CADV increases in the BATS-listed ETP. While this may at first seem counterintuitive because the proposed listing fees for ETPs *increase* as the CADV increases, the total costs associated with operating the LMM Program for an ETP generally increase as the CADV increases because there are more shares executed that could potentially receive enhanced rebates. For example, where the Exchange pays a rebate of \$0.0070 per share for a particular ETP with a CADV of 5,000, the Exchange could potentially pay \$35 per day on average in enhanced rebates. Where the Exchange

pays enhanced rebates of \$0.0045 per share for an ETP with a CADV of 60,000, even though the Exchange is offering a smaller per share enhanced rebate, the total potential daily exposure (\$270 per day) is significantly larger than the exposure in the ETP with the higher rebate, but smaller CADV. The Exchange notes, however, that there are some benefits associated with having BATS-listed ETPs with higher CADVs that, at a certain point, can more than offset the exposure from increased total rebate payments in such securities, as further described below. Because the Exchange faces greater exposure in enhanced rebates in ETPs with higher CADVs, the Exchange believes that it is reasonable to charge higher listing fees for ETPs with a higher CADV. Based on the foregoing, the Exchange believes that its proposed tiered pricing structure for the listing of ETPs is a fair and equitable allocation of fees to issuers.

The Exchange also believes that it is equitable, reasonable, and non-discriminatory to provide listings free of charge to ETPs with CADV exceeding 400,000. As a general matter, ETPs that are better known and well-established are frequently more actively traded, liquid securities. The Exchange believes that the benefits to both the Exchange and other Exchange constituents of attracting and retaining such ETPs to list on the Exchange justifies the Exchange waiving the listing fees for these issuers. As it relates to other issuers, the ability of the Exchange to attract well-known, recognizable, and successful ETPs on the Exchange will help the Exchange to establish its status and reputation as a primary listing market. The Exchange's reputation as a primary listing market will, in turn, positively impact all securities that are listed on the Exchange. Further, the Exchange believes that additional revenue generated from the Exchange's auction processes for actively traded ETPs will offset the cost of operating a program for

these securities. Because ETPs with higher CADV are likely to generate additional revenue for the Exchange, the Exchange believes it is reasonable to waive fees for ETPs with CADV greater than 400,000. Based on the foregoing, the Exchange believes that providing annual listing free of charge for issuers of ETPs with CADV greater than 400,000 is a fair and equitable allocation of fees to issuers.

The Exchange believes it is reasonable and equitable to assess annual fees on a pro-rated quarterly basis instead of an annual basis based on the listing date of an ETP. In particular, the Exchange believes that quarterly billing in prorated amounts will allow an issuer's bill to more accurately reflect an ETP's current CADV.

The Exchange also believes that lowering the initial listing fee from \$10,000 to \$5,000 for ETPs is reasonable and equitable because it will result in lower initial costs to all ETP issuers.

Finally, the Exchange believes that correcting the typographical error to the numbering of the subparagraphs of Rule 14.13 is reasonable and equitable because it will make the rule text more easily understandable.

(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. With respect to the proposed new pricing for the listing of ETPs, the Exchange does not believe that the changes burden competition, but instead, enhance competition, as it is intended to increase the competitiveness of the Exchange's listings program. The Exchange also believes the proposed change would enhance competition because it brings ETP listings prices closer to those currently offered by both Arca and Nasdaq. The proposed changes are generally intended to lower the Exchange's listing

fees and make these fees more reflective of an ETP's trading activity, which the Exchange believes will further help it compete against the other listing markets. As such, the proposal is a competitive proposal that is intended to attract additional ETP listings, which will, in turn, benefit the Exchange and all other BATS-listed ETPs.

(C) 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.

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>9</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>10</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:

---

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f).

- 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-2014-024 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-2014-024. 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 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-2014-024 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>11</sup>

Kevin M. O'Neill  
Deputy Secretary

---

<sup>11</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.

\*\*\*

### CHAPTER XIV. BATS EXCHANGE LISTING RULES

\*\*\*

#### Rule 14.13. Company Listing Fees

(a) (No changes.)

##### [(a)](b) Fees Applicable to Listings

(1) Entry Fee

(A)-(B) (No changes.)

(C) Exchange Traded Products: A Company that submits an application to list any exchange traded product (“ETP”), which term includes all securities set forth in Rule 14.11, shall pay to the Exchange a fee of [\$10,000. This fee will be assessed on the date of listing on the Exchange, except for ]\$5,000 which represents a non-refundable application fee[, and which] that must be submitted with the Company’s application.

(D)-(G) (No changes.)

(2) Annual Fee

(A)-(B) (No changes.)

(C) Exchange Traded Products: The issuer of each class of securities (not otherwise identified in this Rule) that is a domestic or foreign issue listed on the Exchange as an ETP that is currently participating in the Competitive Liquidity Provider Program under Exchange Rule 11.8 Interpretation and Policy .02 (the “CLP Program”) shall pay to the Exchange an annual fee of \$35,000. The issuer of each class of securities (not otherwise identified in this Rule) that is a domestic or foreign issue listed on the Exchange as an ETP that is not currently participating in the CLP Program shall pay to the Exchange an annual fee that is billed in advance on a quarterly basis based on the consolidated average daily volume (“CADV”) of an ETP during the preceding quarter. The CADV used to determine quarterly billing will be calculated as the average daily volume reported for the ETP by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the three calendar months preceding the date on which the fees become due. The quarterly fees are charged as follows:



<i>CADV</i>	<i>Quarterly Fee</i>	<i>Annual Fee</i>
<b>0 – 10,000</b>	\$1,250	\$5,000
<b>10,001 – 40,000</b>	\$2,000	\$8,000
<b>40,001 – 80,000</b>	\$3,000	\$12,000
<b>80,001 – 150,000</b>	\$3,750	\$15,000
<b>150,001 – 400,000</b>	\$4,500	\$18,000
<b>Greater than 400,000</b>	Free	Free

(D)-(E) (No changes.)

(F) In lieu of the fees described in Rules 14.13(b)(2)(A) [through (C)]and (B), the annual fee shall be \$15,000 for each company:

(i)-(ii) (No changes.)

(G) The fees described in this Rule 14.13(b)(2), except for pricing applicable to ETPs as set forth in sub-paragraph (C) above, shall not be applicable with respect to any securities that have had a consolidated average daily volume equal to or greater than 2 million shares per day for the immediately preceding two (2) calendar months.

(H) (No changes.)

\*\*\*\*\*