

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2014 - * 024	Amendment No. (req. for Amendments *)
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Filing by BATS Y-Exchange, Inc.  
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"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

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

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 \*).

Proposed to amend Rule 11.24 to permit Members to designate their retail orders to be identified as retail on the Exchange's Proprietary Data Feeds.

**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 * Christopher	Last Name * Solgan
Title * Regulatory Counsel	
E-mail * csolgan@bats.com	
Telephone * (201) 942-8321	Fax <input type="text"/>

**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 09/17/2014	Regulatory Counsel
By Christopher Solgan	<input style="width: 100%;" type="text"/>
(Name *)	

csolgan@bats.com

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

**Exhibit 1 - Notice of Proposed Rule Change \***

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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

(a) 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 Y-Exchange, Inc. (the “Exchange” or “BYX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Rule 11.24 to permit Users to designate that their Retail Orders<sup>3</sup> submitted under the Exchange’s Retail Price Improvement (“RPI Program”) be identified as Retail on the Exchange’s proprietary data feeds.<sup>4</sup> The proposed rule change is substantially similar to the existing functionality on EDGX Exchange, Inc. (“EDGX”).<sup>5</sup> The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>6</sup> The text of the proposed rule change is attached as Exhibit 5.

(b) Inapplicable.

(c) Inapplicable.

2. Procedures of the Self-Regulatory Organization

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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> A Retail Order is defined as (i) an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person; (ii) is submitted to EDGX by a Member, provided that no change is made to the terms of the order; and (iii) the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 11.24(a)(2).

<sup>4</sup> The Exchanges proprietary data feeds are set forth under Exchange Rule 11.22.

<sup>5</sup> See Footnote 4 of the EDGX fee schedule available at <https://www.directedge.com/Trading/EDGXFeeSchedule.aspx>. See also Securities Exchange Act Release No. 72292 (June 2, 2014), 79 FR 32798 (June 6, 2014) (SR-EDGX-2014-13) (Order Approving Proposed Rule Change to Amend Footnote 4 of the Exchange’s Fee Schedule to Permit Members to Designate their Retail Orders to be Identified as Retail on the EDGX Book Feed).

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

The Exchange submits the proposed rule change pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. Exchange staff will advise the Exchange's Board of Directors of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change and, therefore, the Exchange's internal procedures with respect to the proposed change are complete.

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

Eric Swanson  
Executive Vice President and  
General Counsel  
(913) 815-7000

Chris Solgan  
Regulatory Counsel  
(201) 942-8321

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

(a) Purpose

Earlier this year, the Exchange and its affiliate BATS Exchange, Inc. ("BZX") received approval to effect a merger (the "Merger") of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX and EDGA Exchange, Inc. ("EDGA", and together with BZX, BYX and EDGX, the "BGM Affiliated Exchanges").<sup>7</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to add certain system functionality currently offered by EDGX in order to

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<sup>7</sup> See Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039).

provide a consistent technology offering for users of the BGM Affiliated Exchanges.<sup>8</sup>

Similar to EDGX,<sup>9</sup> the Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange.<sup>10</sup> Under the RPI Program, all Exchange Users<sup>11</sup> are permitted to submit Retail Price Improvement Orders (“RPI Orders”)<sup>12</sup> which are designed to provide potential price improvement for Retail Orders in the form of non-

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<sup>8</sup> The Exchange anticipates that EDGA and BZX will submit proposed rule changes in the future to add a definition for “Retail Order” and to permit members to designate that their Retail Orders be identified as Retail on their respective proprietary data feeds.

<sup>9</sup> Under the EDGX program, eligible EDGX members may qualify for a rebate under the Retail Order Tier included in Footnote 4 of the Exchange’s fee schedule. Footnote 4 of the EDGX fee schedule defines a Retail Order and provides an attestation requirement that Users must complete to send Retail Orders to the Exchange. See Footnote 4 of the Exchange’s Fee Schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx>; Securities Exchange Act Release No. 68310 (November 28, 2012), 77 FR 71860 (December 4, 2012) (SR-EDGX-2012-47) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGX Rule 15.1(a) and (c)); Securities Exchange Act Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Footnote 4 of the Exchange’s Fee Schedule Regarding Retail Orders); *supra* note 5.

<sup>10</sup> See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (“RPI Approval Order”) (SR-BYX-2012-019). See also Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2014) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness to Extend the Pilot Period for the Retail Price Improvement Program); and 72730 (July 31, 2014) (SR-BYX-2014-013) (Notice of Filing and Immediate Effectiveness to Amend Rule 11.24(a)(2) to Include Riskless Principal Orders to the Types of Orders that May Qualify as Retail Orders under the Retail Price Improvement Program).

<sup>11</sup> A “User” is defined “as any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.” BYX Rule 1.5(cc).

<sup>12</sup> A “Retail Price Improvement Order” is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least \$0.001 and that is identified as such. See Rule 11.24(a)(3).

displayed interest that is better than the national best bid that is a Protected Quotation (“Protected NBB”) or the national best offer that is a Protected Quotation (“Protected NBO”, and together with the Protected NBB, the “Protected NBBO”).<sup>13</sup> Exchange Rule 11.24 defines a Retail Order<sup>14</sup> and provides an attestation requirement<sup>15</sup> that Users must complete to send Retail Orders to the Exchange.<sup>16</sup>

Currently, Users may elect that their display-eligible orders entered into the Exchange utilize Attributable Orders<sup>17</sup> to include their market participant identifier (“MPID”) with their published quotations on the Exchange’s proprietary data feeds.

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<sup>13</sup> The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (“NBB”) and national best offer (“NBO”, together with the NBB, the “NBBO”) will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

<sup>14</sup> See supra note 3.

<sup>15</sup> Users must submit a signed written attestation, in a form prescribed by the Exchange, that they have implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the Member as a “Retail Order” comply with the above requirements. See Exchange Rule 11.24(b).

<sup>16</sup> The attestation requirements and definition of Retail Order under Exchange Rule 11.24 are substantially similar to Footnote 4 of the EDGX fee schedule. See Footnote 4 of the Exchange’s Fee Schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx>.

<sup>17</sup> An Attributable Order is defined as, “[a]n order that is designated for display (price and size) including the User’s market participant identifier (‘MPID’).” See Rule 11.9(c)(14).

Under the EDGX program, eligible members may designate that their Retail Orders be identified as Retail on the EDGX book feed.<sup>18</sup> To align functionality with EDGX, the Exchange now proposes to add paragraph (i) to Rule 11.24 to permit Users to designate that their Retail Orders submitted under the Exchange's RPI Program be identified as Retail on the Exchange's proprietary data feeds, rather than by their MPID.<sup>19</sup> Users will still be permitted to designate their Retail Orders by their MPID if they do not choose this optional functionality. The Exchange proposes to allow Users to designate their orders as Retail on an order-by-order basis or by establishing a port setting such that all orders submitted through a specific order entry port are designated as Retail.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>20</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>21</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposal will benefit market participants and help to promote transparency by providing additional information regarding quotations displayed on the Exchange and disseminated via the Exchange's proprietary data feeds.

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<sup>18</sup> See supra note 5.

<sup>19</sup> A Member's decision on whether to identify their Retail Order as Retail under the proposed rule change will not impact that Member's eligibility to qualify as a Retail Member Organization under Rule 11.24.

<sup>20</sup> 15 U.S.C. 78f.

<sup>21</sup> 15 U.S.C. 78f(b)(5).

Specifically, any Member who satisfies the requirement under Rule 11.24(b) that wishes to disclose via the Exchange's proprietary data feeds that their order is a Retail Order will be permitted to do so, and such functionality is substantially similar to that currently offered by EDGX.<sup>22</sup> The proposal also promotes transparency by disseminating additional order information from Users who may otherwise designate their order as non-attributable, and thereby not include their MPID with their published quote on the Exchange's proprietary data feeds.<sup>23</sup> As a result, the proposal will provide Users additional visibility into the types of orders they may interact with when an order is identified as a Retail Order. The Exchange also believes that the proposed rule change is reasonable, equitable and not unfairly discriminatory because it would encourage Users who wish to execute against Retail Orders to send additional orders to the Exchange. Therefore, the Exchange believes the increased liquidity would potentially stimulating further price competition for Retail Orders, deepening the Exchange's liquidity pool, supporting the quality of price discovery, and promoting market transparency.

The Exchange believes that allowing a User to designate orders as Retail on either an order-by-order or on a port-by-port basis is consistent with the Act for the same reasons as the proposal as a whole is consistent with the Act. The Exchange believes that either method of designation results in the same message being received and processed

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<sup>22</sup> See supra note 5.

<sup>23</sup> The Exchange understands that, to date, EDGX has not experienced members who attribute orders by their MPID electing to instead attribute their Retail Orders as Retail on the EDGX book feed. On the contrary, the Exchange understands that EDGX members who previously did not attribute their order have chosen to do so as Retail under the EDGX program. Therefore, the Exchange does not anticipate its Members who currently utilize Attributable Orders to now elect that their Retail Orders be attributed as Retail.

by the Exchange's systems, and thus, merely reflects a detail in connection with the implementation of the optional designation.

The proposed rule change is also generally intended to add certain system functionality currently offered by EDGX in order to provide a consistent technology offering for the Exchange and EDGX. A consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on EDGX. The proposed rule change would also provide Users with access to functionality that may result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users.

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

The Exchange believes its proposed amendments would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendment will not burden intramarket competition because the ability to designate Retail Orders to be identified as Retail on the Exchange's proprietary data feeds, rather than by their MPID, would be open to all Users that wish to send Retail Orders to the Exchange. The Exchange believes the proposed rule change would increase intermarket competition by identifying orders as Retail via the Exchange's proprietary data feeds would enable the Exchange to better compete with other exchanges that offer similar retail order programs.<sup>24</sup> The Exchange believes that the amendment, by increasing the amount of disseminated information regarding Retail

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<sup>24</sup> See New York Stock Exchange, Inc.'s ("NYSE") Rule 107C(j). See also NYSE MKT LLC ("NYSE MKT") Rule 107C(j); NYSE Arca, Inc. ("NYSE Arca") Rule 7.44(j).

Orders, will increase the level of competition around retail executions resulting in better prices for retail investors.

The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the BGM Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it is one of several changes necessary to achieve offering consistent functionality by the BGM Affiliated Exchanges.

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 unsolicited 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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>25</sup> of the Act and Rule 19b-4(f)(6)<sup>26</sup> thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the

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<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f)(6).

Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission 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 of the proposed rule change, or such shorter time as designated by the Commission. 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.<sup>27</sup>

As described above, the Exchange notes that the proposed change is directly based on the rules of EDGX.<sup>28</sup> Based on the foregoing, the proposed rule change does not present any unique issues not previously considered by the Commission, and the Exchange has accordingly designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>29</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>30</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The Exchange believes that waiver of the 30-day operative delay would provide market participants with additional transparency by disseminating additional order information regarding the types of orders they may interact with when an order is identified as a Retail Order in a timelier manner. Waiver of the 30-day operative delay would also immediately encourage market participants to send additional orders to

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<sup>27</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>28</sup> See supra note 5.

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>30</sup> 17 C.F.R. 240.19b-4.

the Exchange, thereby potentially stimulating further price competition for Retail Orders, deepening the Exchange's liquidity pool, supporting the quality of price discovery, and promoting market transparency. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to align its functionality across the BYX and EDGX in a timely manner, thereby simplifying the technology implementation, changes and maintenance by Users of the Exchange that are also participants on EDGX. Importantly, waiver of the operative delay is also consistent with the protection of investors and the public interest because it will allow the Exchange to continue to strive towards a complete technology integration of the BGM Affiliated Exchanges, with gradual roll-outs of new functionality to ensure stability of the System. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest.

At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily 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 Rules of Another Self-Regulatory Organization or of the Commission

This proposed rule change is based on Footnote 4 of the EDGX fee schedule.<sup>31</sup>

On both the Exchange and EDGX, a user may designate a Retail Order to be identified as Retail on the proprietary data feeds either on an order-by-order basis or on a port-by-port basis. Unlike EDGX, however, the Exchange would provide Users who make the

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<sup>31</sup> See supra note 5.

election on a port-by-port basis the ability to elect that an individual Retail Order sent via that port be identified by its MPID or as non-attributable, rather than as Retail. The Exchange understands that EDGX plans to file proposed rule change with the Commission to align its functionality with that of the Exchange.

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 – Form of Notice of Proposed Rule Change for the Federal Register.

Exhibit 5 – Text of the Proposed Rule Change.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BYX-2014-024)

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to amend Rule 11.24 to Permit Members to Designate their Retail Orders to be Identified as Retail on the Exchange's Proprietary Data Feeds

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 \_\_\_\_\_, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") 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 proposed to amend Rule 11.24 to permit Users to designate that their Retail Orders<sup>5</sup> submitted under the Exchange's Retail Price Improvement ("RPI

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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).

<sup>5</sup> A Retail Order is defined as (i) an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person; (ii) is submitted to EDGX by a Member, provided that no change is made to the terms of the order; and (iii) the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 11.24(a)(2).

Program”) be identified as Retail on the Exchange’s proprietary data feeds.<sup>6</sup> The proposed rule change is substantially similar to the existing functionality on EDGX Exchange, Inc. (“EDGX”).<sup>7</sup>

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

Earlier this year, the Exchange and its affiliate BATS Exchange, Inc. (“BZX”) received approval to effect a merger (the “Merger”) of the Exchange’s parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX and EDGA Exchange, Inc. (“EDGA”, and together with BZX, BYX and EDGX,

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<sup>6</sup> The Exchanges proprietary data feeds are set forth under Exchange Rule 11.22.

<sup>7</sup> See Footnote 4 of the EDGX fee schedule [available at http://www.directedge.com/Trading/EDGXFeeSchedule.aspx](http://www.directedge.com/Trading/EDGXFeeSchedule.aspx). See also Securities Exchange Act Release No. 72292 (June 2, 2014), 79 FR 32798 (June 6, 2014) (SR-EDGX-2014-13) (Order Approving Proposed Rule Change to Amend Footnote 4 of the Exchange’s Fee Schedule to Permit Members to Designate their Retail Orders to be Identified as Retail on the EDGX Book Feed).

the “BGM Affiliated Exchanges”).<sup>8</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to add certain system functionality currently offered by EDGX in order to provide a consistent technology offering for users of the BGM Affiliated Exchanges.<sup>9</sup>

Similar to EDGX,<sup>10</sup> the Exchange established the RPI Program in an attempt to

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<sup>8</sup> See Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039).

<sup>9</sup> The Exchange anticipates that EDGA and BZX will submit proposed rule changes in the future to add a definition for “Retail Order” and to permit members to designate that their Retail Orders be identified as Retail on their respective proprietary data feeds.

<sup>10</sup> Under the EDGX program, eligible EDGX members may qualify for a rebate under the Retail Order Tier included in Footnote 4 of the Exchange’s fee schedule. Footnote 4 of the EDGX fee schedule defines a Retail Order and provides an attestation requirement that Users must complete to send Retail Orders to the Exchange. See Footnote 4 of the Exchange’s Fee Schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx>; Securities Exchange Act Release No. 68310 (November 28, 2012), 77 FR 71860 (December 4, 2012) (SR-EDGX-2012-47) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGX Rule 15.1(a) and (c)); Securities Exchange Act Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Footnote 4 of the Exchange’s Fee Schedule Regarding Retail Orders); supra note 7.

attract retail order flow to the Exchange.<sup>11</sup> Under the RPI Program, all Exchange Users<sup>12</sup> are permitted to submit Retail Price Improvement Orders (“RPI Orders”)<sup>13</sup> which are designed to provide potential price improvement for Retail Orders in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation (“Protected NBB”) or the national best offer that is a Protected Quotation (“Protected NBO”, and together with the Protected NBB, the “Protected NBBO”).<sup>14</sup> Exchange Rule

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<sup>11</sup> See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (“RPI Approval Order”) (SR-BYX-2012-019). See also Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2014) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness to Extend the Pilot Period for the Retail Price Improvement Program); and 72730 (July 31, 2014) (SR-BYX-2014-013) (Notice of Filing and Immediate Effectiveness to Amend Rule 11.24(a)(2) to Include Riskless Principal Orders to the Types of Orders that May Qualify as Retail Orders under the Retail Price Improvement Program).

<sup>12</sup> A “User” is defined “as any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.” BYX Rule 1.5(cc).

<sup>13</sup> A “Retail Price Improvement Order” is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least \$0.001 and that is identified as such. See Rule 11.24(a)(3).

<sup>14</sup> The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (“NBB”) and national best offer (“NBO”, together with the NBB, the “NBBO”) will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

11.24 defines a Retail Order<sup>15</sup> and provides an attestation requirement<sup>16</sup> that Users must complete to send Retail Orders to the Exchange.<sup>17</sup>

Currently, Users may elect that their display-eligible orders entered into the Exchange utilize Attributable Orders<sup>18</sup> to include their market participant identifier (“MPID”) with their published quotations on the Exchange’s proprietary data feeds. Under the EDGX program, eligible members may designate that their Retail Orders be identified as Retail on the EDGX book feed.<sup>19</sup> To align functionality with EDGX, the Exchange now proposes to add paragraph (i) to Rule 11.24 to permit Users to designate that their Retail Orders submitted under the Exchange’s RPI Program be identified as Retail on the Exchange’s proprietary data feeds, rather than by their MPID.<sup>20</sup> Users will still be permitted to designate their Retail Orders by their MPID if they do not choose this optional functionality. The Exchange proposes to allow Users to designate their orders as Retail on an order-by-order basis or by establishing a port setting such that all orders

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<sup>15</sup> See supra note 5.

<sup>16</sup> Users must submit a signed written attestation, in a form prescribed by the Exchange, that they have implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the Member as a “Retail Order” comply with the above requirements. See Exchange Rule 11.24(b).

<sup>17</sup> The attestation requirements and definition of Retail Order under Exchange Rule 11.24 are substantially similar to Footnote 4 of the EDGX fee schedule. See Footnote 4 of the Exchange’s Fee Schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx>.

<sup>18</sup> An Attributable Order is defined as, “[a]n order that is designated for display (price and size) including the User’s market participant identifier (‘MPID’).” See Rule 11.9(c)(14).

<sup>19</sup> See supra note 7.

<sup>20</sup> A Member’s decision on whether to identify their Retail Order as Retail under the proposed rule change will not impact that Member’s eligibility to qualify as a Retail Member Organization under Rule 11.24.

submitted through a specific order entry port are designated as Retail.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>21</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>22</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposal will benefit market participants and help to promote transparency by providing additional information regarding quotations displayed on the Exchange and disseminated via the Exchange's proprietary data feeds. Specifically, any Member who satisfies the requirement under Rule 11.24(b) that wishes to disclose via the Exchange's proprietary data feeds that their order is a Retail Order will be permitted to do so, and such functionality is substantially similar to that currently offered by EDGX.<sup>23</sup> The proposal also promotes transparency by disseminating additional order information from Users who may otherwise designate their order as non-attributable, and thereby not include their MPID with their published quote on the Exchange's proprietary data feeds.<sup>24</sup> As a result, the proposal will provide Users

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<sup>21</sup> 15 U.S.C. 78f.

<sup>22</sup> 15 U.S.C. 78f(b)(5).

<sup>23</sup> See supra note 7.

<sup>24</sup> The Exchange understands that, to date, EDGX has not experienced members who attribute orders by their MPID electing to instead attribute their Retail Orders as Retail on the EDGX book feed. On the contrary, the Exchange understands that EDGX members who previously did not attribute their order have chosen to do so as Retail under the EDGX program. Therefore, the Exchange does not anticipate its Members who currently utilize Attributable Orders to now elect that their Retail Orders be attributed as Retail.

additional visibility into the types of orders they may interact with when an order is identified as a Retail Order. The Exchange also believes that the proposed rule change is reasonable, equitable and not unfairly discriminatory because it would encourage Users who wish to execute against Retail Orders to send additional orders to the Exchange. Therefore, the Exchange believes the increased liquidity would potentially stimulating further price competition for Retail Orders, deepening the Exchange's liquidity pool, supporting the quality of price discovery, and promoting market transparency.

The Exchange believes that allowing a User to designate orders as Retail on either an order-by-order or on a port-by-port basis is consistent with the Act for the same reasons as the proposal as a whole is consistent with the Act. The Exchange believes that either method of designation results in the same message being received and processed by the Exchange's systems, and thus, merely reflects a detail in connection with the implementation of the optional designation.

The proposed rule change is also generally intended to add certain system functionality currently offered by EDGX in order to provide a consistent technology offering for the Exchange and EDGX. A consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on EDGX. The proposed rule change would also provide Users with access to functionality that may result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users.

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

The Exchange believes its proposed amendments would not impose any burden

on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendment will not burden intramarket competition because the ability to designate Retail Orders to be identified as Retail on the Exchange's proprietary data feeds, rather than by their MPID, would be open to all Users that wish to send Retail Orders to the Exchange. The Exchange believes the proposed rule change would increase intermarket competition by identifying orders as Retail via the Exchange's proprietary data feeds would enable the Exchange to better compete with other exchanges that offer similar retail order programs.<sup>25</sup> The Exchange believes that the amendment, by increasing the amount of disseminated information regarding Retail Orders, will increase the level of competition around retail executions resulting in better prices for retail investors.

The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the BGM Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it is one of several changes necessary to achieve offering consistent functionality by the BGM Affiliated Exchanges.

(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

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<sup>25</sup> See New York Stock Exchange, Inc.'s ("NYSE") Rule 107C(j). See also NYSE MKT LLC ("NYSE MKT") Rule 107C(j); NYSE Arca, Inc. ("NYSE Arca") Rule 7.44(j).

### Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>26</sup> of the Act and Rule 19b-4(f)(6)<sup>27</sup> thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission 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 of the proposed rule change, or such shorter time as designated by the Commission. 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.<sup>28</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

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<sup>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4(f)(6).

<sup>28</sup> 17 CFR 240.19b-4(f)(6)(iii).

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-BYX-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-BYX-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-BYX-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>29</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>29</sup> 17 CFR 200.30-3(a)(12).

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

**Rules of BATS Y-Exchange, Inc.**

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**CHAPTER XI. TRADING RULES**

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Rule 11.24. Retail Price Improvement Program

(a) - (h) (No changes.)

(i) *Attribution.* A Retail Member Organization may designate a Retail Order to be identified as Retail on the proprietary data feeds under Rule 11.22 either on an order-by-order basis or on a port-by-port basis.

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