

Required fields are shown with yellow backgrounds and asterisks.

Filing by Bats BZX 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"/>
Pilot <input type="checkbox"/>			Rule		
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 *).

The Exchange proposes a rule change to BZX Rule 11.23, Auctions, to amend how the official auction prices are calculated and add additional specificity regarding the handling of RHO orders during an opening auction for a BZX listed security.

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 * Chris Last Name * Solgan
 Title * Assistant General Counsel
 E-mail * csolgan@bats.com
 Telephone * (646) 856-8723 Fax

Signature

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

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

(Title *)
 Assistant General Counsel

Date 11/30/2016
 By Chris Solgan
 (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.

csolgan@bats.com

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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Exchange Rule 11.23, Auctions, to: (i) amend how the official auction prices are calculated and make related changes to the definitions of Indicative Price and Auction Only Price; and (ii) add additional specificity regarding the handling of Regular Hours Only (“RHO”) Orders³ during an Opening Auction for a BZX listed security⁴ by describing situations in which RHO limit orders may be modified prior to the auction and cancelled after an auction. 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.⁵

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ An RHO Order is “[a] limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions for BZX listed securities and the Opening Process for non-BZX-listed securities (as such terms are defined in Rule 11.23 and 11.24). Any portion of a market RHO order will be cancelled immediately following any auction in which it is not executed.” See Exchange Rule 11.9(b)(7).

⁴ A BZX listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange’s Rules and includes both corporate listed securities and Exchange Traded Products (“ETPs”).

⁵ 17 CFR 240.19b-4(f)(6)(iii).

(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

Chris Solgan
Assistant General Counsel
(646) 856-8723

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

a. Purpose

The Exchange proposes to amend Exchange Rule 11.23, Auctions, to: (i) amend how the official auction prices are calculated and make related changes to the definitions of Indicative Price and Auction Only Price; and (ii) add additional specificity regarding the handling of RHO Orders during an Opening Auction for a BZX listed security by describing situations in which RHO limit orders may be modified prior to the auction and cancelled after an auction.

Official Auction Prices, Indicative Price, and Auction Only Price

In general, the price for the Opening, Closing, IPO, Halt, and Volatility Closing auctions is established by determining the price level that maximizes the number of

shares executed.⁶ In determining the auction price, the Exchange takes into account all buy and sell interest at each price level on the Auction Book⁷ and the Continuous Book.⁸ Today, in the event of a volume based tie at multiple price levels, the price of the Opening and Closing auctions will be the price closest to the Volume Based Tie Breaker.⁹ In the event of a volume based tie at multiple price levels for an IPO, Halt, and Volatility Closing auctions, the price closest to the issuing price will be used for IPO Auctions and the price level closest to the final last sale eligible trade will be used for Halt and the Volatility Closing Auctions.

The Exchange proposes to amend Exchange Rules 11.23(b)(2)(B), (c)(2)(B), (d)(2)(D), and (e)(2)(D) to state that the prices of the Opening Auction, Closing Auction, IPO Auction, Halt Auction, and Volatility Closing Auction, respectively, will also occur at a price that not only maximizes the number of shares executed, but also minimizes the total imbalance. In all auctions, the auction price will first be established by determining the price level within the Collar Price Range¹⁰ that maximizes the number of shares executed. In the event of a volume based tie at multiple price levels, the auction price

⁶ See Exchange Rules 11.23(b)(2)(B), (c)(2)(B), (d)(2)(D), and (e)(2)(D).

⁷ See Exchange Rule 11.23(a)(1).

⁸ See Exchange Rule 11.23(a)(7).

⁹ “Volume Based Tie Breaker” is defined as “the midpoint of the NBBO for a particular security where the NBBO is a Valid NBBO. A NBBO is a Valid NBBO where: (i) there is both a NBB and NBO for the security; (ii) the NBBO is not crossed; and (iii) the midpoint of the NBBO is less than the Maximum Percentage away from both the NBB and the NBO. The Maximum Percentage will be determined by the Exchange and will be published in a circular distributed to Members with reasonable advance notice prior to initial implementation and any change thereto. Where the NBBO is not a Valid NBBO, the price of the Final Last Sale Eligible Trade will be used.” See Exchange Rule 11.23(a)(23).

¹⁰ See Exchange Rule 11.23(a)(6).

will be the price level that results in the minimum total imbalance. Lastly, should there be both a volume based tie and a tie in minimum total imbalance at multiple price levels, the auction price of the: (i) Opening and Closing auctions will be the price closest to the Volume Based Tie Breaker; (ii) Halt and Volatility Closing auctions will be the price closest to the final last sale eligible trade; and (iii) IPO auction will be the price closest to the issuing price.

The below examples illustrate how the auction price, Auction Only Price and Indicative Price is selected today and how these prices will be selected under the proposed rule change. This first example illustrates current behavior. Assume that the NBBO is \$24.90 x \$25.10, which means that the Volume Based Tie Breaker is \$25.00.

Total Buy Shares	Buy Shares	Price	Sell Shares	Total Sell Shares	Paired Shares	Imbalance
0		25.05		300	0	-300
500	500	25.01		300	300	200
700	200	25.00	100	300	300	400
1200	500	24.95	200	200	200	1000

In this example, current behavior would dictate that \$25.00 would be selected as the auction price, Auction Only Price, and the Indicative Price, as applicable, because at \$25.00 the maximum number of shares would be executed (300 shares, in a tie with \$25.01) and of the two price levels at which 300 shares would be executed, \$25.00 is closest to the Volume Based Tie Breaker.

Under the same scenario described above, but using the price level that minimizes the total imbalance where there is a tie for the maximum number of shares executed in the auction at multiple price levels instead of the Volume Based Tie Breaker, the price chosen as the auction price, Auction Only Price, and Indicative Price would be \$25.01.

\$25.01 would be used because, as noted above, 300 shares would be executed at both \$25.00 and \$25.01, but the imbalance at \$25.01 is 200 shares while the imbalance at \$25.00 is 400 shares. Stated another way, less executable interest would remain unexecuted at \$25.01 (200 shares) than at \$25.00 (400 shares).

Total Buy Shares	Buy Shares	Price	Sell Shares	Total Sell Shares	Paired Shares	Imbalance
0		25.05		300	0	-300
500	500	25.01		300	300	200
700	200	25.00	100	300	300	400
1200	500	24.95	200	200	200	1000

This third example illustrates the proposed behavior when there is a tie for the maximum number of shares executed in the auction at multiple price levels and a tie in minimum total imbalance within those price levels. In such a situation, the price level closest to the Volume Based Tie Breaker will be used. Under this example, assume that the NBBO is \$24.94 x \$25.16, which means that the Volume Based Tie Breaker is \$25.05.

Total Buy Shares	Buy Shares	Price	Sell Shares	Total Sell Shares	Paired Shares	Imbalance
500	500	25.08		200	200	300
500		25.07		200	200	300
500		25.06		200	200	300
1000	500	25.05		200	200	800
1200	200	25.00		200	200	1000
1700	500	24.95	200	200	200	1500

In this example, there is a tie for the maximum number of shares executed in the auction at 200 shares for every price level from \$24.95 to \$25.08. Looking at the imbalance, there is also a tie at 300 shares at each of \$25.06, \$25.07, and \$25.08. As such, the proposed behavior would look to the Volume Based Tie Breaker to determine

the auction price, Auction Only Price, and Indicative Price. Because the Volume Based Tie Breaker is \$25.05, \$25.06 is selected because it is the closest of \$25.06, \$25.07, and \$25.08 to the Volume Based Tie Breaker.

The Exchange believes the proposed amendments are necessary to ensure that the price selected for the auction is reasonably based on all buying and selling interest for that security and is the price at which the most orders may be matched resulting in the minimal imbalance. Selecting a price that would minimize the imbalance best reflects the value of the security based on the auction's price discovery process because it is the price level where the amount of buy and sell interest is closest to equal. As noted above, minimizing the imbalance at the price levels at which the most shares will execute in the auction will result in the price closest to equilibrium because that price level has the least amount of executable interest that remains unexecuted. As a result, the proposed rule changes should also enhance the Exchange's auction processes resulting in improved price discovery of BZX listed securities.

As a result of the above changes to the determination of the official auction price, the Exchange also proposes to make a related change to the definition of Indicative Price under paragraph (a)(10) of Rule 11.23. Indicative Price is currently defined as the price at which the most shares from the Auction Book and the Continuous Book would match.¹¹ The Indicative Price is disseminated publicly beginning at 8:00 a.m. Eastern Time for an Opening¹² and IPO Auction,¹³ 3:00 p.m. Eastern Time for a Closing

¹¹ See Exchange Rule 11.23(a)(10).

¹² See Exchange Rule 11.23(b)(2)(A).

¹³ See Exchange Rule 11.23(d)(2)(A).

Auction,¹⁴ five (5) minutes prior to the commencement of a Halt Auction,¹⁵ and at the time a security is halted after 3:50 p.m. Eastern Time for a Volatility Closing Auction.¹⁶ The Indicative Price is designed to facilitate price discovery and transparency while helping resolve order imbalances in the time leading up to an auction and the determination of the auction price.

Today, the Exchange will publish the price at which the most shares may be executed as the Indicative Price by taking into account all buy and sell interest at each price level. Like the determination of each of the auction prices discussed above, the Indicative Price reflects the price at which the maximum number of shares may be executed, but may not reflect the price which would result in the minimum total imbalance where there are multiple price levels at which the most shares may be executed. Therefore, like the amendments to the determination of auction prices above, the Exchange proposes to amend the definition of Indicative Price to ensure that the maximum number of shares will ultimately be executed in the auction resulting in the minimum total imbalance. Indicative Price will continue to be defined as “the price at which the most shares from the Auction Book and the Continuous Book would match.” However, the definition of Indicative Price would be expanded to state that in the event of a volume based tie at multiple price levels, the Indicative Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Indicative Price will be the price closest to the Volume Based Tie Breaker.

¹⁴ See Exchange Rule 11.23(c)(2)(A).

¹⁵ See Exchange Rule 11.23(d)(2)(A).

¹⁶ See Exchange Rule 11.23(e)(2)(A).

Lastly, the Exchange also publishes an Auction Only Price, which is the price at which the most shares from the Auction Book would match. Currently, in the event of a volume based tie at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker. Auction Only Price will continue to be defined under Exchange Rule 11.23(a)(2) to state that the Auction Only Price will be the price at which the most shares from the Auction Book would match. However, the definition will be expanded to harmonize the calculation of the Auction Only Price with the above changes. As amended, in the event of a volume based tie at multiple price levels, the Auction Only Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker.

RHO Orders

An RHO Order is “[a] limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions for BZX listed securities and the Opening Process for non-BZX-listed securities (as such terms are defined in Rule 11.23 and 11.24). RHO orders are also Eligible Auction Orders¹⁷ and may participate in the Opening Auction.¹⁸ Any Eligible Auction Orders designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. Any portion of a RHO market order will be cancelled immediately following any auction in

¹⁷ See Exchange Rule 11.23(a)(8).

¹⁸ See id.

which it is not executed.”¹⁹ However, any portion of an RHO limit order that is not executed in the auction will be placed on the Continuous Book at the conclusion of the auction and commencement of Regular Trading Hours (subject to the cancelling of certain RHO limit orders are described below).

In general, Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m.²⁰ The Exchange now proposes to add additional specificity to Rule 11.23(b)(1) regarding how RHO limit orders are handled in the Opening Auction. Specifically, the Exchange proposes to amend Rule 11.23(b)(1)(B) to describe current behavior that allows Members to modify, but not cancel, RHO limit orders designated for the Opening Auction between 9:28 a.m. and 9:30 a.m.²¹

The rule text currently provides that RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. are treated as Late-Limit-On-Open (“LLOO”)²² orders until the Opening Auction has concluded. The Exchange proposes to amend Rule 11.23(b)(1)(B) to state that RHO limit orders that are modified between 9:28 a.m. and 9:30 a.m. will also be treated as LLOO orders until the Opening Auction is concluded. During the Opening Auction, RHO limit orders will be priced in accordance with the operation of LLOO

¹⁹ See Exchange Rule 11.9(b)(7).

²⁰ See Exchange Rule 11.23(b)(1)(B).

²¹ Currently, RHO market orders submitted between 9:28 a.m. and 9:30 a.m. are rejected. See Exchange Rule 11.23(b)(1)(A). Modifications to RHO limit orders between 9:28 a.m. and 9:30 a.m. would not be limited by Exchange Rule 11.9(e)(3) as such orders are not active until the Opening Auction occurs at 9:30 a.m.

²² See Exchange Rule 11.23(a)(12).

orders as described in Rule 11.23(a)(12),²³ subject to the order's limit price. At the conclusion of the Opening Auction, any unexecuted portion of a RHO limit order will be placed on the Continuous Book at its limit price (subject to the cancelling of certain RHO limit orders as described below). The Exchange believes that such treatment is consistent with the existing treatment of RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. which are subject to the pricing restrictions applicable to LLOO orders. However, because, unlike LLOO orders, RHO limit orders will be added to the Continuous Book at the conclusion of the Opening Auction at their limit price, Members should be able to modify such orders between 9:28 a.m. and 9:30 a.m. Such functionality provides Members the price protections necessary to incentivize early entry of orders for participation in the Opening Auction while simultaneously allowing a Member to control an order that will be entered onto the Continuous Book if it is not executed in the Opening Auction.

The Exchange also proposes to describe within Exchange Rule 11.23(b)(1) how RHO orders with a limit price outside of the Collar Price Range are handled. Where the Opening Auction would have occurred at a price level but for such price level being

²³ Under Exchange Rule 11.23(a)(12), LLOO orders are priced as follows: to the extent a LLOO bid or offer received by the Exchange has a limit price that is more aggressive than the NBB or NBO, the price of such bid or offer is adjusted to be equal to the NBB or NBO, respectively, at the time of receipt by the Exchange. Where the NBB or NBO becomes more aggressive, the limit price of the LLOO bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit price will never be adjusted to a less aggressive price. If there is no NBB or NBO, the LLOO bid or offer, respectively, will assume its entered limit price. Notwithstanding the foregoing, a LLOO order entered during the Quote-Only Period of an IPO will be converted to a limit order with a limit price equal to the original User entered limit price and any LLOO orders not executed in their entirety during the IPO Auction will be cancelled upon completion of the IPO Auction.

greater than (less than) the high (low) range of the Collar Price Range (i.e., outside the Collar Price Range), all buy (sell) limit RHO orders with a limit price more aggressive than the BZX Official Opening Price that are not executed in the Opening Auction will be cancelled.

The Collar Price Range is utilized to help limit volatility during the auction process and to reduce the possibility that an auction would occur at a price that would qualify as clearly erroneous under Exchange Rule 11.17(c)(1) and that may result in cancelled executions.²⁴ The process to select the price of an Opening Auction as described above could lead to a price that is outside of the Collar Price Range. In that case, the Exchange will then look to find a price to execute the auction within the Collar Price Range and in accordance with the price selection process set forth above. The Exchange selecting a less aggressive price for the auction within the Collar Price Range can result in the unexecuted RHO limit orders priced more aggressively than the auction price being placed on the Continuous Book upon conclusion of the Opening Auction.

The Exchange believes that it is necessary and appropriate to cancel RHO orders

²⁴ As set forth under Exchange Rule 11.23(a)(6), the “Collar Price Range” is the range from a set percentage below the Collar Midpoint (as defined below) to above the Collar Midpoint, such set percentage being dependent on the value of the Collar Midpoint at the time of the auction, as described below. The Collar Midpoint will be the Volume Based Tie Breaker for all applicable auctions, except for IPO Auctions in ETPs (as defined in Rule 11.8, Interpretation and Policy .02(d)(2)), for which the Collar Midpoint will be the issue price. Specifically, the Collar Price Range will be determined as follows: where the Collar Midpoint is \$25.00 or less, the Collar Price Range shall be the range from 10% below the Collar Midpoint to 10% above the Collar Midpoint; where the Collar Midpoint is greater than \$25.00 but less than or equal to \$50.00, the Collar Price Range shall be the range from 5% below the Collar Midpoint to 5% above the Collar Midpoint; and where the Collar Midpoint is greater than \$50.00, the Collar Price Range shall be the range from 3% below the Collar Midpoint to 3% above the Collar Midpoint.

with a limit price that is more aggressive than the auction price in such circumstances.

Other than RHO limit orders, all Eligible Auction Orders will simply be cancelled if they do not execute in the Opening Auction. RHO limit orders, however, are unique in that they rest on the Auction Book until the conclusion of the Opening Auction, at which point any unexecuted portion is added to the Continuous Book. This could result in unexecuted RHO limit orders priced more aggressively than the auction price to be added to the Continuous Book, immediately applying price pressure in the direction of the price that the Opening Auction would have initially occurred but for the Exchange selecting a price within the Collar Price Range, thereby controverting the purpose of the Collar Price Range. Further, such a set of circumstances would also undermine the value of the price discovery process of the Opening Auction and could result in executions eligible for review as clearly erroneous under Exchange Rule 11.17. The Exchange notes that Members whose RHO limit orders are cancelled because the price of the order is more aggressive than the Collar Price Range may always resubmit such orders at less aggressive prices or after regular trading begins.

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(b) of the Act.²⁵ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,²⁶ because it is designed to promote just and equitable principles of trade, to remove

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(5).

impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will enhance the Exchange's auction processes resulting in improved price discovery of BZX listed securities. Specifically, the Exchange believes amending the calculations of auction prices and the definitions of Indicative Price and Auction Only Price promotes just and equitable principles of trade by ensuring that the maximum number of shares will ultimately be executed in the auction resulting in the minimum total imbalance generally because selecting a price that would minimize the imbalance best reflects the value of the security based on the auction's price discovery process because it is the price level where the amount of buy and sell interest is closest to equal. Further, minimizing the imbalance at the price levels at which the most shares will execute in the auction will result in the price closest to equilibrium because that price level has the least amount of executable interest that remains unexecuted. These proposed amendments are similar to auction price selection process of other exchanges²⁷ and would enhance the price discovery and transparency while helping resolve order imbalances in the time leading up to an auction and the determination of the ultimate auction price.

The Exchange believes allowing Members to modify RHO limit orders between 9:28 a.m. and 9:30 a.m. promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system. Such functionality provides Members the price protections necessary to

²⁷ See e.g., Nasdaq Stock Market LLC ("Nasdaq") Rules 4752(a)(2)(A) and 4752(d)(2) (outlining the selection of the Nasdaq Current Reference Price and auction price).

incentivize early entry of orders for participation in the Opening Auction while simultaneously allowing a Member to control an order that will be entered onto the Continuous Book if it is not executed in the Opening Auction. In addition, the modification of a RHO limit order between 9:28 a.m. and 9:30 a.m. would have no impact on the pricing of the Opening Auction as such order are priced in accordance with the operation of LLOO orders as described in Rule 11.23(a)(12),²⁸ subject to the order's limit price, on the Continuous Book.

The proposal also supports the objectives of perfecting the mechanism of a free and open market and the national market system because not cancelling RHO orders with limit prices more aggressive than the Collar Price Range would result in executions vastly different from the auction price shortly after the regular trading commences. As such, the proposal also protects investors because it would prevent the executions of orders at prices not related to the current market for the security and possibly not in line with the investor's intent at the time they entered the orders prior to the commencement of the auction process. The Exchange believes this undermines the price discovery process of the auction and could result in executions eligible for review as clearly erroneous under Exchange Rule 11.17. The Exchange notes that Members whose RHO limit orders are cancelled because the price of the order is more aggressive than the Collar Price Range may always resubmit such orders at less aggressive prices or after regular trading begins. Therefore, the Exchange believes the proposed rule change promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

²⁸ See supra note 23.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the proposal will promote competition because the Exchange believes the proposal improves and enhances the Exchange's auction processes, thereby attracting additional order flow to the Exchange. The proposed rule change is, in effect, pro-competition as it promotes fair and orderly markets and protects investors through enhanced auction processes.

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

Not applicable.

6. Extension of Time Period for Commission Action

Not applicable.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²⁹ and paragraph (f)(6) of Rule 19b-4 thereunder.³⁰ The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 C.F.R. 240.19b-4.

brief description and text of the proposed rule change, at least five business days prior to the date of filing.³¹

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4³² because it would not significantly affect the protection of investors or the public interest; rather, the proposed rule change will benefit investors by enhancing the Exchange's Auction process and improving price discovery for BZX listed securities. In particular, the Exchange believes amending the definitions of Indicative Price and Auction Only Price as well as the calculations of auction prices does not significantly affect the protection of investors or the public interest because the prices of each of the above currently result in a price that would result in the minimum total imbalance a majority of the time. Nonetheless, the proposed rule change will improve the auctions price discovery process by ensuring that the maximum number of shares will ultimately be executed in the Auction resulting in the minimum total imbalance on a more frequent basis. Selecting a price that would minimize the imbalance does not significantly affect the protection of investors or the public interest; but rather benefits investors because doing so better reflects the value of the security based on the auction's price discovery process by selecting a price level where the amount of buy and sell interest is closest to equal. The proposed amendments to the calculation of auction prices and definitions of Indicative Price and Auction Only Price are also similar to that in place on other exchanges.³³

In addition, amending Rule 11.23(b)(1)(B) to describe how Members are

³¹ 17 C.F.R. 240.19b-4(f)(6)(iii).

³² 17 CFR 240.19b-4(f)(6).

³³ See supra note 27.

permitted to modify their RHO limit orders between 9:28 a.m. and 9:30 a.m. does also not significantly affect the protection of investors or the public interest because it simply updates the rule to reflect current behavior. The proposal also would not significantly affect the protection of investors or the public interest, but rather protects investors because cancelling RHO order with limit prices more aggressive than the Collar Price Range would prevent the executions of orders at prices not related to the current market for the security and possibly not in line with the investor's intent at the time they entered the orders prior to the commencement of the auction process. Each of these changes would will not impose any significant burden on competition for the reasons set forth under Item 4 above. Based on the foregoing, the Exchange has designated this rule filing as "non-controversial" under Section 19(b)(3)(A) of the Act³⁴ and paragraph (f)(6) of Rule 19b-4 thereunder.³⁵

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 notes that system enhancements necessary to implement the proposed rule change may be completed during the operative delay period. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change during the operative delay period, thereby providing investors the benefits of increased control over their RHO limit orders, an enhanced auction process and improved price discovery during the operative delay period.

³⁴ 15 U.S.C. 78s(b)(3)(A).

³⁵ 17 CFR 240.19b-4.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in the Federal Register.

Exhibit 5 – Text of the Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BatsBZX-2016-81)

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to BZX Rule 11.23, Auctions, to Amend How the Official Auction Prices are Calculated and Add Additional Specificity Regarding the Handling of RHO Orders During an Opening Auction for a BZX Listed Security

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on _____, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) 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 Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange filed a proposal to amend Exchange Rule 11.23, Auctions, to: (i) amend how the official auction prices are calculated and make related changes to the definitions of Indicative Price and Auction Only Price; and (ii) add additional specificity

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

regarding the handling of Regular Hours Only (“RHO”) Orders⁵ during an Opening Auction for a BZX listed security⁶ by describing situations in which RHO limit orders may be modified prior to the auction and cancelled after an auction.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend Exchange Rule 11.23, Auctions, to: (i) amend how the official auction prices are calculated and make related changes to the definitions

⁵ An RHO Order is “[a] limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions for BZX listed securities and the Opening Process for non-BZX-listed securities (as such terms are defined in Rule 11.23 and 11.24). Any portion of a market RHO order will be cancelled immediately following any auction in which it is not executed.” See Exchange Rule 11.9(b)(7).

⁶ A BZX listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange’s Rules and includes both corporate listed securities and Exchange Traded Products (“ETPs”).

of Indicative Price and Auction Only Price; and (ii) add additional specificity regarding the handling of RHO Orders during an Opening Auction for a BZX listed security by describing situations in which RHO limit orders may be modified prior to the auction and cancelled after an auction.

Official Auction Prices, Indicative Price, and Auction Only Price

In general, the price for the Opening, Closing, IPO, Halt, and Volatility Closing auctions is established by determining the price level that maximizes the number of shares executed.⁷ In determining the auction price, the Exchange takes into account all buy and sell interest at each price level on the Auction Book⁸ and the Continuous Book.⁹ Today, in the event of a volume based tie at multiple price levels, the price of the Opening and Closing auctions will be the price closest to the Volume Based Tie Breaker.¹⁰ In the event of a volume based tie at multiple price levels for an IPO, Halt, and Volatility Closing auctions, the price closest to the issuing price will be used for IPO Auctions and the price level closest to the final last sale eligible trade will be used for Halt and the Volatility Closing Auctions.

⁷ See Exchange Rules 11.23(b)(2)(B), (c)(2)(B), (d)(2)(D), and (e)(2)(D).

⁸ See Exchange Rule 11.23(a)(1).

⁹ See Exchange Rule 11.23(a)(7).

¹⁰ “Volume Based Tie Breaker” is defined as “the midpoint of the NBBO for a particular security where the NBBO is a Valid NBBO. A NBBO is a Valid NBBO where: (i) there is both a NBB and NBO for the security; (ii) the NBBO is not crossed; and (iii) the midpoint of the NBBO is less than the Maximum Percentage away from both the NBB and the NBO. The Maximum Percentage will be determined by the Exchange and will be published in a circular distributed to Members with reasonable advance notice prior to initial implementation and any change thereto. Where the NBBO is not a Valid NBBO, the price of the Final Last Sale Eligible Trade will be used.” See Exchange Rule 11.23(a)(23).

The Exchange proposes to amend Exchange Rules 11.23(b)(2)(B), (c)(2)(B), (d)(2)(D), and (e)(2)(D) to state that the prices of the Opening Auction, Closing Auction, IPO Auction, Halt Auction, and Volatility Closing Auction, respectively, will also occur at a price that not only maximizes the number of shares executed, but also minimizes the total imbalance. In all auctions, the auction price will first be established by determining the price level within the Collar Price Range¹¹ that maximizes the number of shares executed. In the event of a volume based tie at multiple price levels, the auction price will be the price level that results in the minimum total imbalance. Lastly, should there be both a volume based tie and a tie in minimum total imbalance at multiple price levels, the auction price of the: (i) Opening and Closing auctions will be the price closest to the Volume Based Tie Breaker; (ii) Halt and Volatility Closing auctions will be the price closest to the final last sale eligible trade; and (iii) IPO auction will be the price closest to the issuing price.

The below examples illustrate how the auction price, Auction Only Price and Indicative Price is selected today and how these prices will be selected under the proposed rule change. This first example illustrates current behavior. Assume that the NBBO is \$24.90 x \$25.10, which means that the Volume Based Tie Breaker is \$25.00.

Total Buy Shares	Buy Shares	Price	Sell Shares	Total Sell Shares	Paired Shares	Imbalance
0		25.05		300	0	-300
500	500	25.01		300	300	200
700	200	25.00	100	300	300	400
1200	500	24.95	200	200	200	1000

¹¹ See Exchange Rule 11.23(a)(6).

In this example, current behavior would dictate that \$25.00 would be selected as the auction price, Auction Only Price, and the Indicative Price, as applicable, because at \$25.00 the maximum number of shares would be executed (300 shares, in a tie with \$25.01) and of the two price levels at which 300 shares would be executed, \$25.00 is closest to the Volume Based Tie Breaker.

Under the same scenario described above, but using the price level that minimizes the total imbalance where there is a tie for the maximum number of shares executed in the auction at multiple price levels instead of the Volume Based Tie Breaker, the price chosen as the auction price, Auction Only Price, and Indicative Price would be \$25.01. \$25.01 would be used because, as noted above, 300 shares would be executed at both \$25.00 and \$25.01, but the imbalance at \$25.01 is 200 shares while the imbalance at \$25.00 is 400 shares. Stated another way, less executable interest would remain unexecuted at \$25.01 (200 shares) than at \$25.00 (400 shares).

Total Buy Shares	Buy Shares	Price	Sell Shares	Total Sell Shares	Paired Shares	Imbalance
0		25.05		300	0	-300
500	500	25.01		300	300	200
700	200	25.00	100	300	300	400
1200	500	24.95	200	200	200	1000

This third example illustrates the proposed behavior when there is a tie for the maximum number of shares executed in the auction at multiple price levels and a tie in minimum total imbalance within those price levels. In such a situation, the price level closest to the Volume Based Tie Breaker will be used. Under this example, assume that the NBBO is \$24.94 x \$25.16, which means that the Volume Based Tie Breaker is \$25.05.

Total Buy Shares	Buy Shares	Price	Sell Shares	Total Sell Shares	Paired Shares	Imbalance
500	500	25.08		200	200	300
500		25.07		200	200	300
500		25.06		200	200	300
1000	500	25.05		200	200	800
1200	200	25.00		200	200	1000
1700	500	24.95	200	200	200	1500

In this example, there is a tie for the maximum number of shares executed in the auction at 200 shares for every price level from \$24.95 to \$25.08. Looking at the imbalance, there is also a tie at 300 shares at each of \$25.06, \$25.07, and \$25.08. As such, the proposed behavior would look to the Volume Based Tie Breaker to determine the auction price, Auction Only Price, and Indicative Price. Because the Volume Based Tie Breaker is \$25.05, \$25.06 is selected because it is the closest of \$25.06, \$25.07, and \$25.08 to the Volume Based Tie Breaker.

The Exchange believes the proposed amendments are necessary to ensure that the price selected for the auction is reasonably based on all buying and selling interest for that security and is the price at which the most orders may be matched resulting in the minimal imbalance. Selecting a price that would minimize the imbalance best reflects the value of the security based on the auction's price discovery process because it is the price level where the amount of buy and sell interest is closest to equal. As noted above, minimizing the imbalance at the price levels at which the most shares will execute in the auction will result in the price closest to equilibrium because that price level has the least amount of executable interest that remains unexecuted. As a result, the proposed rule changes should also enhance the Exchange's auction processes resulting in improved price discovery of BZX listed securities.

As a result of the above changes to the determination of the official auction price, the Exchange also proposes to make a related change to the definition of Indicative Price under paragraph (a)(10) of Rule 11.23. Indicative Price is currently defined as the price at which the most shares from the Auction Book and the Continuous Book would match.¹² The Indicative Price is disseminated publicly beginning at 8:00 a.m. Eastern Time for an Opening¹³ and IPO Auction,¹⁴ 3:00 p.m. Eastern Time for a Closing Auction,¹⁵ five (5) minutes prior to the commencement of a Halt Auction,¹⁶ and at the time a security is halted after 3:50 p.m. Eastern Time for a Volatility Closing Auction.¹⁷ The Indicative Price is designed to facilitate price discovery and transparency while helping resolve order imbalances in the time leading up to an auction and the determination of the auction price.

Today, the Exchange will publish the price at which the most shares may be executed as the Indicative Price by taking into account all buy and sell interest at each price level. Like the determination of each of the auction prices discussed above, the Indicative Price reflects the price at which the maximum number of shares may be executed, but may not reflect the price which would result in the minimum total imbalance where there are multiple price levels at which the most shares may be executed. Therefore, like the amendments to the determination of auction prices above,

¹² See Exchange Rule 11.23(a)(10).

¹³ See Exchange Rule 11.23(b)(2)(A).

¹⁴ See Exchange Rule 11.23(d)(2)(A).

¹⁵ See Exchange Rule 11.23(c)(2)(A).

¹⁶ See Exchange Rule 11.23(d)(2)(A).

¹⁷ See Exchange Rule 11.23(e)(2)(A).

the Exchange proposes to amend the definition of Indicative Price to ensure that the maximum number of shares will ultimately be executed in the auction resulting in the minimum total imbalance. Indicative Price will continue to be defined as “the price at which the most shares from the Auction Book and the Continuous Book would match.” However, the definition of Indicative Price would be expanded to state that in the event of a volume based tie at multiple price levels, the Indicative Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Indicative Price will be the price closest to the Volume Based Tie Breaker.

Lastly, the Exchange also publishes an Auction Only Price, which is the price at which the most shares from the Auction Book would match. Currently, in the event of a volume based tie at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker. Auction Only Price will continue to be defined under Exchange Rule 11.23(a)(2) to state that the Auction Only Price will be the price at which the most shares from the Auction Book would match. However, the definition will be expanded to harmonize the calculation of the Auction Only Price with the above changes. As amended, in the event of a volume based tie at multiple price levels, the Auction Only Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker.

RHO Orders

An RHO Order is “[a] limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing

Auction, and IPO/Halt Auctions for BZX listed securities and the Opening Process for non-BZX-listed securities (as such terms are defined in Rule 11.23 and 11.24). RHO orders are also Eligible Auction Orders¹⁸ and may participate in the Opening Auction.¹⁹ Any Eligible Auction Orders designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. Any portion of a RHO market order will be cancelled immediately following any auction in which it is not executed.²⁰ However, any portion of an RHO limit order that is not executed in the auction will be placed on the Continuous Book at the conclusion of the auction and commencement of Regular Trading Hours (subject to the cancelling of certain RHO limit orders are described below).

In general, Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m.²¹ The Exchange now proposes to add additional specificity to Rule 11.23(b)(1) regarding how RHO limit orders are handled in the Opening Auction. Specifically, the Exchange proposes to amend Rule 11.23(b)(1)(B) to describe current behavior that allows Members to modify, but not cancel, RHO limit orders designated for the Opening Auction between 9:28 a.m. and 9:30 a.m.²²

¹⁸ See Exchange Rule 11.23(a)(8).

¹⁹ See id.

²⁰ See Exchange Rule 11.9(b)(7).

²¹ See Exchange Rule 11.23(b)(1)(B).

²² Currently, RHO market orders submitted between 9:28 a.m. and 9:30 a.m. are rejected. See Exchange Rule 11.23(b)(1)(A). Modifications to RHO limit orders between 9:28 a.m. and 9:30 a.m. would not be limited by Exchange Rule

The rule text currently provides that RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. are treated as Late-Limit-On-Open (“LLOO”)²³ orders until the Opening Auction has concluded. The Exchange proposes to amend Rule 11.23(b)(1)(B) to state that RHO limit orders that are modified between 9:28 a.m. and 9:30 a.m. will also be treated as LLOO orders until the Opening Auction is concluded. During the Opening Auction, RHO limit orders will be priced in accordance with the operation of LLOO orders as described in Rule 11.23(a)(12),²⁴ subject to the order’s limit price. At the conclusion of the Opening Auction, any unexecuted portion of a RHO limit order will be placed on the Continuous Book at its limit price (subject to the cancelling of certain RHO limit orders are described below). The Exchange believes that such treatment is consistent with the existing treatment of RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. which are subject to the pricing restrictions applicable to LLOO orders. However, because, unlike LLOO orders, RHO limit orders will be added to the

11.9(e)(3) as such orders are not active until the Opening Auction occurs at 9:30 a.m.

²³ See Exchange Rule 11.23(a)(12).

²⁴ Under Exchange Rule 11.23(a)(12), LLOO orders are priced as follows: to the extent a LLOO bid or offer received by the Exchange has a limit price that is more aggressive than the NBB or NBO, the price of such bid or offer is adjusted to be equal to the NBB or NBO, respectively, at the time of receipt by the Exchange. Where the NBB or NBO becomes more aggressive, the limit price of the LLOO bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit price will never be adjusted to a less aggressive price. If there is no NBB or NBO, the LLOO bid or offer, respectively, will assume its entered limit price. Notwithstanding the foregoing, a LLOO order entered during the Quote-Only Period of an IPO will be converted to a limit order with a limit price equal to the original User entered limit price and any LLOO orders not executed in their entirety during the IPO Auction will be cancelled upon completion of the IPO Auction.

Continuous Book at the conclusion of the Opening Auction at their limit price, Members should be able to modify such orders between 9:28 a.m. and 9:30 a.m. Such functionality provides Members the price protections necessary to incentivize early entry of orders for participation in the Opening Auction while simultaneously allowing a Member to control an order that will be entered onto the Continuous Book if it is not executed in the Opening Auction.

The Exchange also proposes to describe within Exchange Rule 11.23(b)(1) how RHO orders with a limit price outside of the Collar Price Range are handled. Where the Opening Auction would have occurred at a price level but for such price level being greater than (less than) the high (low) range of the Collar Price Range (i.e., outside the Collar Price Range), all buy (sell) limit RHO orders with a limit price more aggressive than the BZX Official Opening Price that are not executed in the Opening Auction will be cancelled.

The Collar Price Range is utilized to help limit volatility during the auction process and to reduce the possibility that an auction would occur at a price that would qualify as clearly erroneous under Exchange Rule 11.17(c)(1) and that may result in cancelled executions.²⁵ The process to select the price of an Opening Auction as

²⁵ As set forth under Exchange Rule 11.23(a)(6), the “Collar Price Range” is the range from a set percentage below the Collar Midpoint (as defined below) to above the Collar Midpoint, such set percentage being dependent on the value of the Collar Midpoint at the time of the auction, as described below. The Collar Midpoint will be the Volume Based Tie Breaker for all applicable auctions, except for IPO Auctions in ETPs (as defined in Rule 11.8, Interpretation and Policy .02(d)(2)), for which the Collar Midpoint will be the issue price. Specifically, the Collar Price Range will be determined as follows: where the Collar Midpoint is \$25.00 or less, the Collar Price Range shall be the range from 10% below the Collar Midpoint to 10% above the Collar Midpoint; where the

described above could lead to a price that is outside of the Collar Price Range. In that case, the Exchange will then look to find a price to execute the auction within the Collar Price Range and in accordance with the price selection process set forth above. The Exchange selecting a less aggressive price for the auction within the Collar Price Range can result in the unexecuted RHO limit orders priced more aggressively than the auction price being placed on the Continuous Book upon conclusion of the Opening Auction.

The Exchange believes that it is necessary and appropriate to cancel RHO orders with a limit price that is more aggressive than the auction price in such circumstances. Other than RHO limit orders, all Eligible Auction Orders will simply be cancelled if they do not execute in the Opening Auction. RHO limit orders, however, are unique in that they rest on the Auction Book until the conclusion of the Opening Auction, at which point any unexecuted portion is added to the Continuous Book. This could result in unexecuted RHO limit orders priced more aggressively than the auction price to be added to the Continuous Book, immediately applying price pressure in the direction of the price that the Opening Auction would have initially occurred but for the Exchange selecting a price within the Collar Price Range, thereby controverting the purpose of the Collar Price Range. Further, such a set of circumstances would also undermine the value of the price discovery process of the Opening Auction and could result in executions eligible for review as clearly erroneous under Exchange Rule 11.17. The Exchange notes that Members whose RHO limit orders are cancelled because the price of the order is more

Collar Midpoint is greater than \$25.00 but less than or equal to \$50.00, the Collar Price Range shall be the range from 5% below the Collar Midpoint to 5% above the Collar Midpoint; and where the Collar Midpoint is greater than \$50.00, the Collar Price Range shall be the range from 3% below the Collar Midpoint to 3% above the Collar Midpoint.

aggressive than the Collar Price Range may always resubmit such orders at less aggressive prices or after regular trading begins.

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(b) of the Act.²⁶ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,²⁷ because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will enhance the Exchange's auction processes resulting in improved price discovery of BZX listed securities. Specifically, the Exchange believes amending the calculations of auction prices and the definitions of Indicative Price and Auction Only Price promotes just and equitable principles of trade by ensuring that the maximum number of shares will ultimately be executed in the auction resulting in the minimum total imbalance generally because selecting a price that would minimize the imbalance best reflects the value of the security based on the auction's price discovery process because it is the price level where the amount of buy and sell interest is closest to equal. Further, minimizing the imbalance at the price levels at which the most shares will execute in the auction will result in the price closest to equilibrium because that price level has the least amount of executable interest that remains unexecuted. These

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(5).

proposed amendments are similar to auction price selection process of other exchanges²⁸ and would enhance the price discovery and transparency while helping resolve order imbalances in the time leading up to an auction and the determination of the ultimate auction price.

The Exchange believes allowing Members to modify RHO limit orders between 9:28 a.m. and 9:30 a.m. promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system. Such functionality provides Members the price protections necessary to incentivize early entry of orders for participation in the Opening Auction while simultaneously allowing a Member to control an order that will be entered onto the Continuous Book if it is not executed in the Opening Auction. In addition, the modification of a RHO limit order between 9:28 a.m. and 9:30 a.m. would have no impact on the pricing of the Opening Auction as such order are priced in accordance with the operation of LLOO orders as described in Rule 11.23(a)(12),²⁹ subject to the order's limit price, on the Continuous Book.

The proposal also supports the objectives of perfecting the mechanism of a free and open market and the national market system because not cancelling RHO orders with limit prices more aggressive than the Collar Price Range would result in executions vastly different from the auction price shortly after the regular trading commences. As such, the proposal also protects investors because it would prevent the executions of

²⁸ See e.g., Nasdaq Stock Market LLC (“Nasdaq”) Rules 4752(a)(2)(A) and 4752(d)(2) (outlining the selection of the Nasdaq Current Reference Price and auction price).

²⁹ See supra note 24.

orders at prices not related to the current market for the security and possibly not in line with the investor's intent at the time they entered the orders prior to the commencement of the auction process. The Exchange believes this undermines the price discovery process of the auction and could result in executions eligible for review as clearly erroneous under Exchange Rule 11.17. The Exchange notes that Members whose RHO limit orders are cancelled because the price of the order is more aggressive than the Collar Price Range may always resubmit such orders at less aggressive prices or after regular trading begins. Therefore, the Exchange believes the proposed rule change promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the proposal will promote competition because the Exchange believes the proposal improves and enhances the Exchange's auction processes, thereby attracting additional order flow to the Exchange. The proposed rule change is, in effect, pro-competition as it promotes fair and orderly markets and protects investors through enhanced auction processes.

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

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

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

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁰ and paragraph (f)(6) of Rule 19b-4 thereunder,³¹ the Exchange has designated this rule filing as non-controversial. The Exchange 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.

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: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Comments may be submitted by any of the following methods:

Electronic Comments:

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4.

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BatsBZX-2016-81 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-BatsBZX-2016-81. 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-BatsBZX-2016-81 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.³²

Robert W. Errett
Deputy Secretary

³² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

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Rule 11.23. Auctions

(a) Definitions

(1) (No change).

(2) The term “Auction Only Price” shall mean the price at which the most shares from the Auction Book would match. In the event of a volume based tie at multiple price levels, the Auction Only Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker.

(3) – (9) (No change).

(10) The term “Indicative Price” shall mean the price at which the most shares from the Auction Book and the Continuous Book would match. In the event of a volume based tie at multiple price levels, the Indicative Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Indicative Price will be the price closest to the Volume Based Tie Breaker.

(11) – (23) (No change).

(b) *Opening Auction*

(1) Order Entry and Cancellation Before Opening Auction

(A) Users may submit orders to the Exchange as set forth in Rule 11.1. Any Eligible Auction Orders designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. Users may submit LOO and MOO orders until 9:28 a.m., at which point any additional LOO and MOO orders submitted to the Exchange will be rejected. RHO market orders will also be rejected between 9:28 a.m. and 9:30 a.m. Users may submit LLOO orders between 9:28 a.m. and 9:30 a.m. Any LLOO orders submitted before 9:28 a.m. or after 9:30 a.m. will be rejected. RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. will be treated as LLOO orders until the Opening Auction has concluded.

(B) Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m. except that RHO limit orders designated for the Opening Auction may be modified, but not

cancelled, between 9:28 a.m. and 9:30 a.m. Any such RHO limit orders modified between 9:28 a.m. and 9:30 a.m. will be treated as LLOO orders until the Opening Auction has concluded.

(C) Orders eligible for execution in the Early Trading Session or Pre-Opening Session may be cancelled or modified at any time prior to execution.

(2) Opening Auction Process. The Exchange will conduct an Opening Auction for all BZX listed securities.

(A) (No change).

(B) Determination of BZX Official Opening Price. The Opening Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Opening Auction. In the event of a volume based tie at multiple price levels, the Opening Auction price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Opening Auction price will be the price closest to the Volume Based Tie Breaker. The Opening Auction price will be the BZX Official Opening Price. In the event that there is no Opening Auction for an issue, the BZX Official Opening Price will be the price of the Final Last Sale Eligible Trade, which will be the previous BZX Official Closing Price.

(C) (No change).

(3) Transition to Regular Trading Hours

(A) (No change).

(B) RHO order shares that are not executed in the Opening Auction will be added to the Continuous Book at the conclusion of the Opening Auction, subject to the User's instructions. However, where the Opening Auction would have occurred at a price level but for such price level being greater than (less than) the high (low) range of the Collar Price Range, all buy (sell) limit RHO orders with a limit price more aggressive than the BZX Official Opening Price that are not executed in the Opening Auction will be cancelled.

(C) (No change).

(c) *Closing Auction*

(1) (No change).

(2) Closing Auction Process. The Exchange will conduct a Closing Auction for all BZX listed securities.

(A) (No change).

(B) Determination of BZX Official Closing Price. The Closing Auction price will be established by determining the price level within the Collar Price Range that maximizes the number of shares executed between the Continuous Book and Auction Book in the Closing Auction. In the event of a volume based tie at multiple price levels, the Closing Auction price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Closing Auction price will be the price closest to the Volume Based Tie Breaker. The Closing Auction price will be the BZX Official Closing Price. In the event that there is no Closing Auction for an issue, the BZX Official Closing Price will be the price of the Final Last Sale Eligible Trade.

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(d) *IPO and Halt Auctions.* For trading in a BZX listed security in an initial public offering (an “IPO”) or following a trading halt in that security, the Exchange will conduct an IPO or Halt Auction, as described below.

(1) (No change).

(2) IPO and Halt Auction Process.

(A) – (C) (No change).

(D) Determination of BZX IPO and Halt Auction Price. Orders will be executed at the price that maximizes the number of shares executed in the auction. For ETPs, orders will be executed at the price level within the Collar Price Range that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level that results in the minimum total imbalance will be used. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the price level closest to the issuing price will be used for IPO Auctions and the price level closest to the Final Last Sale Eligible Trade will be used for Halt Auctions. The IPO Auction price will be BZX Official IPO Opening Price.

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(e) *Volatility Closing Auction.* Where a security is halted between 3:50 p.m. and 4:00 p.m. pursuant to Rule 11.18 or the Quote-Only Period of a Halt Auction for a security halted before 3:50 p.m. pursuant to Rule 11.18 would otherwise be extended by the Exchange after 3:50 p.m., no Closing Auction or Halt Auction for the security will occur. Instead, the Exchange will conduct a Volatility Closing Auction at 4:00 p.m. as described below.

(1) (No change).

(2) Volatility Closing Auction Process.

(A) (No change).

(B) Determination of Closing Price. Orders will be executed at the price level within the Collar Price Range that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level that results in the minimum total imbalance will be used. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the price level closest to the Final Last Sale Eligible Trade will be used for Volatility Closing Auctions. The Volatility Closing Auction price will be the BZX Official Closing Price.

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(f) – (i) (No change).

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