

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 20	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2017 - * 13	Amendment No. (req. for Amendments *)
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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"/>
			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 checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	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 amend its Option Regulatory Fees as they relate to the equity options platform.

**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 <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 02/08/2017	Assistant General Counsel
By Chris Solgan	<input 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 \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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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 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 BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the fee schedule applicable to Members<sup>3</sup> and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c) to amend its Options Regulatory Fee (“ORF”).

The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

Eric Swanson

Chris Solgan

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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 Member is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

EVP, General Counsel  
(913) 815-7000

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 modify the fee schedule applicable to the Exchange's options platform ("BZX Options") to amend the rate of its ORF.<sup>4</sup> Currently, the Exchange charges an ORF in the amount of \$0.0010 per contract side. The Exchange proposes to decrease the amount of ORF to \$0.0009 per contract side.<sup>5</sup> The proposed change to ORF should continue to balance the Exchange's regulatory expenses against the anticipated revenue.

The per-contract ORF is assessed by the Exchange on each Member for all options transactions executed and cleared, or simply cleared, by the Member, that are

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<sup>4</sup> The Exchange also proposes to insert a colon after the title "Options Regulatory Fee".

<sup>5</sup> The Exchange notes that it previously proposed to decrease its ORF of \$0.0008 per contract in August 2016 and to assess ORF to each Member and non-Member for all options transactions cleared by OCC in the "customer" range, regardless of the exchange on which the transaction occurred. See Securities Exchange Act Release No. 78453 (August 1, 2016), 81 FR 51954 (August 5, 2016) (SR-BatsBZX-2016-42). The Exchange then filed to delay the implementation of SR-BatsBZX-2016-42 until February 1, 2017. See Securities Exchange Act Release No. 78746 (September 1, 2016), 81 FR 62225 (September 8, 2016) (SR-BatsBZX-2016-52). The Commission later issued an order suspending and SR-BatsBZX-2016-42 and instituted proceedings to determine whether to approve or disapprove the proposed rule change asking whether the "a sufficient regulatory nexus exists between the Exchange and a non-Member to justify imposition of the ORF on such non-Member." See Securities Exchange Act Release No. 78849 (September 15, 2016), 81 FR 64960 (September 21, 2016). On January 10, 2017, the Exchange withdrew SR-Bats-BZX-2016-42. The Exchange also proposes in this filing to remove text from its fee schedule adopted by SR-BatsBZX-2016-52 which delayed the implementation of SR-BatsBZX-2016-42 until February 1, 2017.

cleared by OCC in the “customer” range, regardless of the exchange on which the transaction occurs. The ORF is collected indirectly from Members through their clearing firms by OCC on behalf of the Exchange. The ORF is also charged for transactions that are not executed by a Member but are ultimately cleared by a Member. Thus, in the case where a non-Member executes a transaction and a Member clears the transaction, the ORF is assessed to the Member who clears the transaction. Similarly, in the case where a Member executes a transaction and another Member clears the transaction, the ORF is assessed to the Member who clears the transaction.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members’ customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange’s other regulatory fees and fines, will continue to cover a material portion, but not all, of the Exchange’s regulatory costs.<sup>6</sup>

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange’s total regulatory costs. The Exchange expects to monitor its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing

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<sup>6</sup> The Exchange notes that its regulatory responsibilities with respect to compliance with options sales practice rules has been allocated to the Financial Industry Regulatory Authority, Inc. (“FINRA”) under a 17d-2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation.

to the Commission. The Exchange will continue to notify Members of adjustments to the ORF at least 30 calendar days prior to the effective date of the change.<sup>7</sup>

Implementation Date

The Exchange proposes to implement changes to the ORF immediately.<sup>8</sup>

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.<sup>9</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>10</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

The Exchange believes the decreased ORF is equitable and not unfairly discriminatory because it would be objectively allocated to Members in that it would be

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<sup>7</sup> The Exchange announced the proposed changes to ORF on December 30, 2016. See Bats Options Exchange Regulatory Fee Schedule Update Effective February 1, 2017 available at [http://cdn.batstrading.com/resources/fee\\_schedule/2017/Bats-Options-Exchange-Regulatory-Fee-Schedule-Update-Effective-February-1-2017.pdf](http://cdn.batstrading.com/resources/fee_schedule/2017/Bats-Options-Exchange-Regulatory-Fee-Schedule-Update-Effective-February-1-2017.pdf).

<sup>8</sup> The Exchange originally filed the proposed rule change on January 30, 2017. (SR-BatsBZX-2017-02). On February 8, 2017, the Exchange withdrew SR-BatsBZX-2017-02 and submitted this filing.

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

charged to all Members on all their transactions that clear as customer transactions at the OCC. The Exchange believes that decreasing the ORF is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory revenue collected by the Exchange. The Exchange believes that the proposed adjustment noted herein will serve to continue to balance the Exchange's regulatory revenue against its anticipated regulatory costs. In addition, the Exchange believes the amount of the ORF is reasonable as it is significantly lower than ORFs charged by other exchanges. By way of comparison, MIAX charges an ORF of \$0.0045 per contract side,<sup>11</sup> and both NYSE Arca and NYSE Amex charge an ORF of \$0.0055 per contract side.<sup>12</sup> The CBOE charges an ORF of \$0.0081 per contract.<sup>13</sup>

The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the decreased level of the fee is

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<sup>11</sup> See MIAX fee schedule available at [http://www.miaxoptions.com/sites/default/files/MIAX\\_Options\\_Fee\\_Schedule\\_06012016.pdf](http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_06012016.pdf) (dated January 1, 2017).

<sup>12</sup> See NYSE Arca Options fee schedule available at [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf) (dated January 1, 2017); and NYSE Amex fee schedule available at [https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE\\_Amex\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf) (dated January 1, 2017).

<sup>13</sup> See CBOE fee schedule available at [http://www.cboe.com/framed/pdf/framed.aspx?content=/publish/feeschedule/CBOEFeeSchedule.pdf&section=SEC\\_RESOURCES&title=CBOE%20Fee%20Schedule](http://www.cboe.com/framed/pdf/framed.aspx?content=/publish/feeschedule/CBOEFeeSchedule.pdf&section=SEC_RESOURCES&title=CBOE%20Fee%20Schedule) (dated January 3, 2017).

reasonable and appropriate.

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. The ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The decreased ORF continues to also be comparable to ORFs charged by other options 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 written comments from members or other interested parties.

6. Extension of Time Period for Commission Action



Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>14</sup> and Rule 19b-4(f)(2) thereunder,<sup>15</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1: Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibit 2 – 4: Not applicable.

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>15</sup> 17 CFR 240.19b-4(f)(2).

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BatsBZX-2017-13)

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Option Regulatory Fees as they Relate to the Equity Options Platform

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 BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c) to amend its

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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)(ii).

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

<sup>5</sup> The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

Options Regulatory Fee (“ORF”).

The text of the proposed rule change is available at the Exchange’s website at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to modify the fee schedule applicable to the Exchange’s options platform (“BZX Options”) to amend the rate of its ORF.<sup>6</sup> Currently, the Exchange charges an ORF in the amount of \$0.0010 per contract side. The Exchange proposes to decrease the amount of ORF to \$0.0009 per contract side.<sup>7</sup> The proposed

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<sup>6</sup> The Exchange also proposes to insert a colon after the title “Options Regulatory Fee”.

<sup>7</sup> The Exchange notes that it previously proposed to decrease its ORF of \$0.0008 per contract in August 2016 and to assess ORF to each Member and non-Member for all options transactions cleared by OCC in the “customer” range, regardless of the exchange on which the transaction occurred. See Securities Exchange Act Release No. 78453 (August 1, 2016), 81 FR 51954 (August 5, 2016) (SR-BatsBZX-2016-42). The Exchange then filed to delay the implementation of SR-BatsBZX-2016-42 until February 1, 2017. See Securities Exchange Act Release No. 78746 (September 1, 2016), 81 FR 62225 (September 8, 2016) (SR-

change to ORF should continue to balance the Exchange's regulatory expenses against the anticipated revenue.

The per-contract ORF is assessed by the Exchange on each Member for all options transactions executed and cleared, or simply cleared, by the Member, that are cleared by OCC in the "customer" range, regardless of the exchange on which the transaction occurs. The ORF is collected indirectly from Members through their clearing firms by OCC on behalf of the Exchange. The ORF is also charged for transactions that are not executed by a Member but are ultimately cleared by a Member. Thus, in the case where a non-Member executes a transaction and a Member clears the transaction, the ORF is assessed to the Member who clears the transaction. Similarly, in the case where a Member executes a transaction and another Member clears the transaction, the ORF is assessed to the Member who clears the transaction.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members' customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines,

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BatsBZX-2016-52). The Commission later issued an order suspending and SR-BatsBZX-2016-42 and instituted proceedings to determine whether to approve or disapprove the proposed rule change asking whether the "a sufficient regulatory nexus exists between the Exchange and a non-Member to justify imposition of the ORF on such non-Member." See Securities Exchange Act Release No. 78849 (September 15, 2016), 81 FR 64960 (September 21, 2016). On January 10, 2017, the Exchange withdrew SR-Bats-BZX-2016-42. The Exchange also proposes in this filing to remove text from its fee schedule adopted by SR-BatsBZX-2016-52 which delayed the implementation of SR-BatsBZX-2016-42 until February 1, 2017.

will continue to cover a material portion, but not all, of the Exchange's regulatory costs.<sup>8</sup>

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange expects to monitor its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange will continue to notify Members of adjustments to the ORF at least 30 calendar days prior to the effective date of the change.<sup>9</sup>

#### Implementation Date

The Exchange proposes to implement changes to the ORF immediately.<sup>10</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the

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<sup>8</sup> The Exchange notes that its regulatory responsibilities with respect to compliance with options sales practice rules has been allocated to the Financial Industry Regulatory Authority, Inc. ("FINRA") under a 17d-2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation.

<sup>9</sup> The Exchange announced the proposed changes to ORF on December 30, 2016. See Bats Options Exchange Regulatory Fee Schedule Update Effective February 1, 2017 available at [http://cdn.batstrading.com/resources/fee\\_schedule/2017/Bats-Options-Exchange-Regulatory-Fee-Schedule-Update-Effective-February-1-2017.pdf](http://cdn.batstrading.com/resources/fee_schedule/2017/Bats-Options-Exchange-Regulatory-Fee-Schedule-Update-Effective-February-1-2017.pdf).

<sup>10</sup> The Exchange originally filed the proposed rule change on January 30, 2017. (SR-BatsBZX-2017-02). On February 8, 2017, the Exchange withdrew SR-BatsBZX-2017-02 and submitted this filing.

Act.<sup>11</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>12</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

The Exchange believes the decreased ORF is equitable and not unfairly discriminatory because it would be objectively allocated to Members in that it would be charged to all Members on all their transactions that clear as customer transactions at the OCC. The Exchange believes that decreasing the ORF is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory revenue collected by the Exchange. The Exchange believes that the proposed adjustment noted herein will serve to continue to balance the Exchange's regulatory revenue against its anticipated regulatory costs. In addition, the Exchange believes the amount of the ORF is reasonable as it is significantly lower than ORFs charged by other exchanges. By way of comparison, MIAX charges an ORF of \$0.0045 per contract side,<sup>13</sup> and both NYSE Arca and NYSE Amex charge an ORF of \$0.0055 per contract side.<sup>14</sup> The CBOE

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<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> See MIAX fee schedule available at [http://www.miaxoptions.com/sites/default/files/MIAX\\_Options\\_Fee\\_Schedule\\_06012016.pdf](http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_06012016.pdf) (dated January 1, 2017).

<sup>14</sup> See NYSE Arca Options fee schedule available at [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf) (dated January 1, 2017); and NYSE Amex fee schedule available at

charges an ORF of \$0.0081 per contract.<sup>15</sup>

The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the decreased level of the fee is reasonable and appropriate.

(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. The ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to

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[https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE\\_Amex\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf) (dated January 1, 2017).

<sup>15</sup> See CBOE fee schedule available at [http://www.cboe.com/framed/pdf/framed.aspx?content=/publish/feeschedule/CBOEFeeSchedule.pdf&section=SEC\\_RESOURCES&title=CBOE%20Fee%20Schedule](http://www.cboe.com/framed/pdf/framed.aspx?content=/publish/feeschedule/CBOEFeeSchedule.pdf&section=SEC_RESOURCES&title=CBOE%20Fee%20Schedule) (dated January 3, 2017).



remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The decreased ORF continues to also be comparable to ORFs charged by other options exchanges.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>17</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Comments may be submitted by any of the following methods:

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

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

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-BatsBZX-2017-13 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-2017-13. 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-2017-13 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>18</sup>

Robert W. Errett  
Deputy Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

## Bats BZX Options Exchange Fee Schedule

Effective February [1]8, 2017

\* \* \* \* \*

**Options Regulatory Fee:**

The per-contract Options Regulatory Fee (“ORF”) is assessed by BZX Options to each Member for all options transactions executed and cleared, or simply cleared by the Member that are cleared by OCC in the “customer” range, regardless of the exchange on which the transaction occurs. The ORF is collected indirectly from Members through their clearing firms by OCC on behalf of BZX Options. The Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. The Exchange will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.

Options Regulatory Fee (ORF)	Fee Per Executed Contract Side
All Classes	\${0.0010] <u>0.0009</u>

[On February 1, 2017, the above ORF will expire and the below text proposed in SR-BatsBZX-2016-42 will go into effect.]