

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 39	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2017 - * 23	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 related to fees as they apply 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 04/12/2017	Assistant General Counsel
By Chris Solgan	<input style="width: 100%;" type="text"/>
(Name *)	

csolgan@bats.com

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

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

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

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

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

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act” or “Exchange Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Bats BZX Exchange, Inc. (“BZX” or the “Exchange”) proposes to amend its fees and rebates applicable to Members<sup>3</sup> and non-Members of the Exchange pursuant to BZX Rule 15.1(a) and (c). The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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

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

Joanne Moffic-Silver  
Executive Vice President, General  
Counsel, and Corporate Secretary  
(312) 786-7462

Chris Solgan  
Assistant General Counsel  
(646) 856-8723

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

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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> 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).

(a) Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (“BZX Options”) to: (i) decrease the standard rebate provided by fee code PM; (ii) modify select tiers under footnotes 4, 6, 8, 9, and 10; and (iii) eliminate certain tiers under footnotes 1, 3, and 12.

Decrease the Standard Rebate Provided by Fee Code PM

Currently, fee code PM sets forth the standard rebate of \$0.35 per contract for Market Maker<sup>4</sup> orders that add liquidity on the Exchange in Penny-Pilot securities. The Exchange now proposes to reduce this standard rebate to \$0.31 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect new rebate.

NBBO Setter Tiers 1 Through 4 Under Footnote 4

The Exchange currently offers five NBBO Setter Tiers under footnote 4, which provide an additional rebate per contract ranging from \$0.02 to \$0.05 for qualifying Non-Customer<sup>5</sup> orders that add liquidity and establish a new National Best Bid or Offer (“NBBO”) and yield fee code PF, PM or PN. The Exchange now proposes to modify the required criteria and rebates of tiers 1 through 5.

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<sup>4</sup> “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>5</sup> “Non-Customer” applies to any transaction identified by a Member for clearing which is not in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1. Id.

- Under Tier 1, a Member may currently receive an additional rebate of \$0.02 per share where they have an ADV<sup>6</sup> greater than or equal to 0.40% of average OCV.<sup>7</sup> As amended, a Member may receive an additional rebate of \$0.01 per share where they have an: (i) ADAV<sup>8</sup> in Non-Customer orders greater than or equal to 0.20% of average OCV; and (ii) an ADAV in Firm,<sup>9</sup> Market Maker<sup>10</sup> and Away Market Maker<sup>11</sup> orders that establish a new NBBO greater than or equal to 0.05% of average OCV.
- Under Tier 2, a Member may currently receive an additional rebate of \$0.04 per share where they have an ADV greater than or equal to 1.30% of average OCV. As amended a Member may receive an additional rebate of \$0.02 per share

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<sup>6</sup> “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day. See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>7</sup> “OCV” means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (“OCC”) for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. Id.

<sup>8</sup> “ADAV” means average daily added volume calculated as the number of contracts added and “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day. Id.

<sup>9</sup> “Firm” applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. Id.

<sup>10</sup> “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). Id.

<sup>11</sup> “Away Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

where they have an: (i) ADAV in Non-Customer orders greater than or equal to 0.40% of average OCV; and (ii) an ADAV in Firm, Market Maker, and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 3, a Member may currently receive an additional rebate of \$0.04 per share where they have an: (i) ADV greater than or equal to 0.50% of average OCV; and an ADAV in Away Market Maker, Firm, Broker Dealer,<sup>12</sup> and Joint Back Office<sup>13</sup> orders greater than or equal to 0.40% of average OCV. As amended a Member may receive an additional rebate of \$0.03 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 0.50% of average OCV; and (ii) an ADAV in Firm, Market Maker and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.
- Under Tier 4, a Member may currently receive an additional rebate of \$0.03 per share where they have an ADAV in Market Maker orders greater than or equal to 0.50% of average OCV. As amended a Member may receive an additional rebate of \$0.04 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 1.80% of average OCV; (ii) an ADAV in Non-Customer

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<sup>12</sup> “Broker Dealer” applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation (“OCC”). *Id.*

<sup>13</sup> “Joint Back Office” applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *Id.*

Non-Penny orders greater than or equal to 0.20% of average OCV; and (iii) an ADAV in Firm, Market Maker and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 5, a Member currently receives an additional rebate of \$0.05 per share where they have an ADAV in Non-Customer orders greater than or equal to 3.00% of average OCV. As amended a Member may receive an additional rebate of \$0.05 per share when they have an:(i) ADAV in Non-Customer orders greater than or equal to 3.00% of average OCV; and (ii) ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

#### Market Maker Penny Pilot Add Volume Tiers Under Footnote 6

The Exchange currently offers two Market Maker Penny Pilot Add Volume Tiers under footnote 6, which provide an enhanced rebate of \$0.40 and \$0.42 per contract for qualifying Market Maker orders which add liquidity in Penny Pilot securities<sup>14</sup> and yield fee code PM. The Exchange now proposes to modify the required criteria and rebates of Tiers 1 and 2, and to add a new tier.

- Under Tier 1, a Member may currently receive an enhanced rebate of \$0.40 per share where they have an ADV greater than or equal to 0.40% of average OCV. As amended a Member may receive an enhanced rebate of \$0.35 per share where they have an ADAV in Market Maker orders greater than or equal to 0.05% of average OCV.

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<sup>14</sup> “Penny Pilot Securities” are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. Id.

- Under the current Tier 2, a Member may receive an enhanced rebate of \$0.42 per share where they have an: (i) ADAV in Market Maker and/or Away Market Maker orders greater than or equal to 1.30% of average OCV; and (ii) an ADV greater than or equal to 2.60% of average OCV. As amended Tier 2 will be renamed Tier 3, and a Member may receive an enhanced rebate of \$0.42 per share where they have an: (i) ADAV in Market Maker orders greater than or equal to 1.30% of average OCV; and (ii) an ADV greater than or equal to 2.60% of average OCV.
- Under the newly proposed Tier 2, a Member may receive an enhanced rebate of \$0.40 per share where they have an ADAV in Market Maker orders greater than or equal to 0.15% of average OCV.

Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tier 3

Under Footnote 8

The Exchange currently offers three Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers under footnote 8, which provide an enhanced rebate ranging from \$0.45 to \$0.82 per contract for qualifying Firm, Broker Dealer, and Joint Back Office orders which add liquidity in Non-Penny Pilot securities and yield fee code NF. The Exchange now proposes to add a third prong to the criteria required to achieve Tier 3. Under Tier 3, a Member may currently receive an enhanced rebate of \$0.82 per share where (i) they have an ADV greater than or equal to 2.30% of average OCV; and (ii) an ADAV in Away Market Maker, Firm, Broker Dealer, and Joint Back Office orders greater than or equal to 1.65% of average OCV. As amended the Exchange proposes to add a third prong to the criteria requiring that a Member also have a ADAV



in Non-Customer Non-Penny Pilot orders greater than or equal to 0.20% of average OCV. The Exchange does not propose to amend the rebate provided under Tier 3.

Away Market Maker Penny Pilot Add Volume Tier 2 Under Footnote 10

The Exchange currently offers three Away Market Maker Penny Pilot Add Volume Tiers under footnote 10, which provide an enhanced rebate ranging from \$0.40 to \$0.46 per contract for qualifying Away Market Maker orders which add liquidity in Penny Pilot securities and yield fee code PN. The Exchange now proposes to add a third prong to the criteria required to achieve Tier 2 and to lower the rebate from \$0.46 per contract to \$0.45 per contract. Under Tier 2, a Member will now receive an enhanced rebate of \$0.45 per share where they have an: (i) ADAV in Away Market Maker, Firm, Broker Dealer and Join Back Office orders greater than or equal to 1.05% of average OCV; and (ii) ADV greater than or equal to 1.95% of average OCV; and (iii) ADAV in Non-Customer Non-Penny Pilot Securities greater than or equal to 0.20% of average OCV.

Professional Penny Pilot Add Volume Tier 1 Under Footnote 9

The Exchange currently offers four Professional<sup>15</sup> Penny Pilot Add Volume Tiers under footnote 9, which provide an enhanced rebate ranging from \$0.42 to \$0.48 per contract for qualifying Professional orders which add liquidity in Penny Pilot securities and yield fee code PA. The Exchange now proposes to increase the criteria required to achieve Tier 1. Under Tier 1, a Member may currently receive an enhanced

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<sup>15</sup> “Professional” applies to any transaction identified by a Member as such pursuant to Exchange Rule 16.1. Id.

rebate of \$0.42 per share where they have an ADAV in Customer<sup>16</sup> and Professional orders greater than or equal to 0.15% of average OCV. As amended, a Member may continue to receive an enhanced rebate of \$0.42 per share where they satisfy the amended criteria by having an ADAV in Customer and Professional orders greater than or equal to 0.20% of average OCV.

Eliminate the Customer Step-Up Volume Tier and the Step-Up Tier Under Footnote 1

The Exchange currently offers nine Customer Penny Pilot Add Volume Tiers under footnote 1, which provide an enhanced rebate ranging from \$0.40 to \$0.53 per contract for qualifying Customer orders which add liquidity in Penny Pilot securities and yield fee code PY. The Exchange now proposes to eliminate the Customer Step-Up Volume Tier under footnote 1, which provides a rebate of \$0.53 per share for Members that have an Options Step-Up Add OCV<sup>17</sup> in Customer orders from September 2015 baseline greater than or equal to 0.45%. The Exchange additionally proposes to eliminate the Step-Up Tier under footnote 1, which provides an additional rebate of \$0.02 per share to orders that yield fee code PY or those that qualify for the remaining Customer Penny Pilot Add Tiers where the Member has an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

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<sup>16</sup> “Customer” applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1. Id.

<sup>17</sup> “Options Step-Up Add OCV” means ADAV as a percentage of OCV in the relevant baseline month subtracted from current ADAV as a percentage of OCV. See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

### Eliminate the Step-Up Tier Under Footnote 3

The Exchange currently offers four Non-Customer Penny Pilot Take Volume Tiers under footnote 3, which provide a reduced fee ranging from \$0.44 to \$0.47 per contract for qualifying Non-Customer orders which remove liquidity in Penny Pilot securities and yield fee code PP. The Exchange now proposes to eliminate the Step-Up Tier under footnote 3, which provides a reduced fee of \$0.47 per contract for Members that have an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

### Eliminate the Step-Up Tier Under Footnote 12

The Exchange currently offers three Customer Non-Penny Pilot Add Volume Tiers under footnote 12, which provide an enhanced rebate per contract ranging from \$1.00 to \$1.05 for Customer orders which add liquidity in Non-Penny Pilot securities and yield fee code NY. The Exchange now proposes to eliminate the Step-Up Tier under footnote 12, which provides a rebate of \$1.00 per share for Members that have an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

### Implementation Date

The Exchange proposes to implement these amendments to its fee schedule immediately.<sup>18</sup>

### (b) Statutory Basis

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<sup>18</sup> The Exchange initially filed the proposed amendments to its fee schedule on March 31, 2017 (SR-BatsBZX-2017-20). On April 12, 2017, the Exchange withdrew SR-BatsBZX-2017-20 and then subsequently submitted this filing (SR-BatsBZX-2017-23).

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,<sup>19</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>20</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

#### Fee Codes PM

The Exchange believes that its proposal to reduce the rebate provided by fee code PM is fair and equitable and reasonable because such proposed rebates remain consistent with pricing previously offered by the Exchange as well as its competitors<sup>21</sup> and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives. Specifically, the Exchange's proposal to lower the rebate to \$0.31 per contract for Market Maker orders which add liquidity in Penny Pilot securities under fee code PM remains lower than NYSE Arca LLC ("NYSE Arca"), which provides a standard rebate of \$0.28 per contract for similar orders.

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<sup>19</sup> 15 U.S.C. 78f.

<sup>20</sup> 15 U.S.C. 78f(b)(4).

<sup>21</sup> See the NYSE Arca 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).

Lastly, the proposed change to fee code PM is not unfairly discriminatory because it will apply equally to all Members.

Modifications to the Volume Discount Tier Rebates and Required Criteria

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) the value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. Lastly, the proposed change to the tiered pricing structure are not unfairly discriminatory because they will apply equally to all Members.

In particular, the proposed changes to footnotes 8, 9, and 10 intended to further incentivize Members to send increased order flow to the Exchange in an effort to qualify for the enhanced rebate made available by the tiers, in turn contributing to the growth of

the Exchange. The enhanced rebate made available by the tiers, in turn contributing to the growth of the Exchange.

In addition, the proposed modifications to the Market Maker Penny Pilot Add Volume Tiers to require that Members attain an ADAV in Market Maker orders specifically, instead of requiring a general level of ADV or an ADAV that also includes Away Market Maker orders, reinforces the purpose of the volume tier – to incentivize Members to send Market Maker orders in Penny Pilot securities to the Exchange. The tier structure under footnote 6 has thus been adjusted accordingly to accommodate the newly proposed Tier 2 and renaming of current Tier 2 as Tier 3. Further, the Exchange believes the proposed rebates reasonably reflect the ascending difficulty of achieving the corresponding tier.

Furthermore, the proposed modifications to the NBBO Setter Tiers are consistent with the Act in that the proposed changes are designed to incentivize Members to contribute certain orders which establish a new NBBO to the Exchange in an effort to qualify for the enhanced rebate. By also requiring Members to achieve a certain ADAV in certain orders that establish a new NBBO, the proposed changes would further enhance the market quality of the Exchange by improving opportunities for price improvement. In particular, the proposed changes will further encourage orders at the NBBO, and is therefore directly focused on encouraging aggressively priced liquidity provision on BZX Options. The Exchange also believes the rebate associated with each tier is reasonable as they reflect the difficulty in achieving the corresponding tier. These incentives remain reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and

the introduction of higher volumes of orders into the price and volume discovery processes.

Lastly, the Exchange believes that eliminating the: (i) Customer Step-Up Volume Tier and the Step-Up Tier under footnote 1; (ii) the Step-Up Tier under footnote 3; and (iii) the Step-Up Tier under footnote 12 is reasonable, fair, and equitable because the these tiers were not providing the desired result of incentivizing Members to increase their participation on the Exchange. As such, the Exchange also believes that the proposed elimination of these tiers would be non-discriminatory in that they currently apply equally to all Members and, upon elimination, would no longer be available to any Members. Further, their elimination will allow the Exchange to explore other pricing mechanisms in which it may enhance market quality for all Members.

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

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's standard fees, rebates and tiered pricing structure burdens competition, but

instead, enhances competition as it is intended to increase the competitiveness of the Exchange.

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>22</sup> and Rule 19b-4(f)(2) thereunder,<sup>23</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.

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<sup>22</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>23</sup> 17 CFR 240.19b-4(f)(2).



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

Not applicable.

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

Not applicable.

11. Exhibits

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

Exhibit 2 – 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BatsBZX-2017-23)

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Exchange's 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).

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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).

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 amend its fee schedule for its equity options platform ("BZX Options") to: (i) decrease the standard rebate provided by fee code PM; (ii) modify select tiers under footnotes 4, 6, 8, 9, and 10; and (iii) eliminate certain tiers under footnotes 1, 3, and 12.

Decrease the Standard Rebate Provided by Fee Code PM

Currently, fee code PM sets forth the standard rebate of \$0.35 per contract for Market Maker<sup>6</sup> orders that add liquidity on the Exchange in Penny-Pilot securities. The Exchange now proposes to reduce this standard rebate to \$0.31 per contract. The

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<sup>6</sup> "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). See the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

Exchange also proposes to update the Standard Rates table accordingly to reflect new rebate.

NBBO Setter Tiers 1 Through 4 Under Footnote 4

The Exchange currently offers five NBBO Setter Tiers under footnote 4, which provide an additional rebate per contract ranging from \$0.02 to \$0.05 for qualifying Non-Customer<sup>7</sup> orders that add liquidity and establish a new National Best Bid or Offer (“NBBO”) and yield fee code PF, PM or PN. The Exchange now proposes to modify the required criteria and rebates of tiers 1 through 5.

- Under Tier 1, a Member may currently receive an additional rebate of \$0.02 per share where they have an ADV<sup>8</sup> greater than or equal to 0.40% of average OCV.<sup>9</sup> As amended, a Member may receive an additional rebate of \$0.01 per share where they have an: (i) ADAV<sup>10</sup> in Non-Customer orders greater than or equal to 0.20% of average OCV; and (ii) an ADAV in Firm,<sup>11</sup> Market Maker<sup>12</sup> and Away Market

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<sup>7</sup> “Non-Customer” applies to any transaction identified by a Member for clearing which is not in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1. Id.

<sup>8</sup> “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day. See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>9</sup> “OCV” means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (“OCC”) for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. Id.

<sup>10</sup> “ADAV” means average daily added volume calculated as the number of contracts added and “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day. Id.

<sup>11</sup> “Firm” applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. Id.

Maker<sup>13</sup> orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 2, a Member may currently receive an additional rebate of \$0.04 per share where they have an ADV greater than or equal to 1.30% of average OCV. As amended a Member may receive an additional rebate of \$0.02 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 0.40% of average OCV; and (ii) an ADAV in Firm, Market Maker, and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.
- Under Tier 3, a Member may currently receive an additional rebate of \$0.04 per share where they have an: (i) ADV greater than or equal to 0.50% of average OCV; and an ADAV in Away Market Maker, Firm, Broker Dealer,<sup>14</sup> and Joint Back Office<sup>15</sup> orders greater than or equal to 0.40% of average OCV. As amended a Member may receive an additional rebate of \$0.03 per share where

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<sup>12</sup> “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). Id.

<sup>13</sup> “Away Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>14</sup> “Broker Dealer” applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation (“OCC”). Id.

<sup>15</sup> “Joint Back Office” applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. Id.

they have an: (i) ADAV in Non-Customer orders greater than or equal to 0.50% of average OCV; and (ii) an ADAV in Firm, Market Maker and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 4, a Member may currently receive an additional rebate of \$0.03 per share where they have an ADAV in Market Maker orders greater than or equal to 0.50% of average OCV. As amended a Member may receive an additional rebate of \$0.04 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 1.80% of average OCV; (ii) an ADAV in Non-Customer Non-Penny orders greater than or equal to 0.20% of average OCV; and (iii) an ADAV in Firm, Market Maker and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.
- Under Tier 5, a Member currently receives an additional rebate of \$0.05 per share where they have an ADAV in Non-Customer orders greater than or equal to 3.00% of average OCV. As amended a Member may receive an additional rebate of \$0.05 per share when they have an:(i) ADAV in Non-Customer orders greater than or equal to 3.00% of average OCV; and (ii) ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

#### Market Maker Penny Pilot Add Volume Tiers Under Footnote 6

The Exchange currently offers two Market Maker Penny Pilot Add Volume Tiers under footnote 6, which provide an enhanced rebate of \$0.40 and \$0.42 per contract for

qualifying Market Maker orders which add liquidity in Penny Pilot securities<sup>16</sup> and yield fee code PM. The Exchange now proposes to modify the required criteria and rebates of Tiers 1 and 2, and to add a new tier.

- Under Tier 1, a Member may currently receive an enhanced rebate of \$0.40 per share where they have an ADV greater than or equal to 0.40% of average OCV. As amended a Member may receive an enhanced rebate of \$0.35 per share where they have an ADAV in Market Maker orders greater than or equal to 0.05% of average OCV.
- Under the current Tier 2, a Member may receive an enhanced rebate of \$0.42 per share where they have an: (i) ADAV in Market Maker and/or Away Market Maker orders greater than or equal to 1.30% of average OCV; and (ii) an ADV greater than or equal to 2.60% of average OCV. As amended Tier 2 will be renamed Tier 3, and a Member may receive an enhanced rebate of \$0.42 per share where they have an: (i) ADAV in Market Maker orders greater than or equal to 1.30% of average OCV; and (ii) an ADV greater than or equal to 2.60% of average OCV.
- Under the newly proposed Tier 2, a Member may receive an enhanced rebate of \$0.40 per share where they have an ADAV in Market Maker orders greater than or equal to 0.15% or average OCV.

Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tier 3

Under Footnote 8

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<sup>16</sup> “Penny Pilot Securities” are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. Id.

The Exchange currently offers three Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers under footnote 8, which provide an enhanced rebate ranging from \$0.45 to \$0.82 per contract for qualifying Firm, Broker Dealer, and Joint Back Office orders which add liquidity in Non-Penny Pilot securities and yield fee code NF. The Exchange now proposes to add a third prong to the criteria required to achieve Tier 3. Under Tier 3, a Member may currently receive an enhanced rebate of \$0.82 per share where (i) they have an ADV greater than or equal to 2.30% of average OCV; and (ii) an ADAV in Away Market Maker, Firm, Broker Dealer, and Joint Back Office orders greater than or equal to 1.65% of average OCV. As amended the Exchange proposes to add a third prong to the criteria requiring that a Member also have a ADAV in Non-Customer Non-Penny Pilot orders greater than or equal to 0.20% of average OCV. The Exchange does not propose to amend the rebate provided under Tier 3.

Away Market Maker Penny Pilot Add Volume Tier 2 Under Footnote 10

The Exchange currently offers three Away Market Maker Penny Pilot Add Volume Tiers under footnote 10, which provide an enhanced rebate ranging from \$0.40 to \$0.46 per contract for qualifying Away Market Maker orders which add liquidity in Penny Pilot securities and yield fee code PN. The Exchange now proposes to add a third prong to the criteria required to achieve Tier 2 and to lower the rebate from \$0.46 per contract to \$0.45 per contract. Under Tier 2, a Member will now receive an enhanced rebate of \$0.45 per share where they have an: (i) ADAV in Away Market Maker, Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.05% of average OCV; and (ii) ADV greater than or equal to 1.95% of average OCV; and (iii) ADAV in



Non-Customer Non-Penny Pilot Securities greater than or equal to 0.20% of average OCV.

Professional Penny Pilot Add Volume Tier 1 Under Footnote 9

The Exchange currently offers four Professional<sup>17</sup> Penny Pilot Add Volume Tiers under footnote 9, which provide an enhanced rebate ranging from \$0.42 to \$0.48 per contract for qualifying Professional orders which add liquidity in Penny Pilot securities and yield fee code PA. The Exchange now proposes to increase the criteria required to achieve Tier 1. Under Tier 1, a Member may currently receive an enhanced rebate of \$0.42 per share where they have an ADAV in Customer<sup>18</sup> and Professional orders greater than or equal to 0.15% of average OCV. As amended, a Member may continue to receive an enhanced rebate of \$0.42 per share where they satisfy the amended criteria by having an ADAV in Customer and Professional orders greater than or equal to 0.20% of average OCV.

Eliminate the Customer Step-Up Volume Tier and the Step-Up Tier Under

Footnote 1

The Exchange currently offers nine Customer Penny Pilot Add Volume Tiers under footnote 1, which provide an enhanced rebate ranging from \$0.40 to \$0.53 per contract for qualifying Customer orders which add liquidity in Penny Pilot securities and yield fee code PY. The Exchange now proposes to eliminate the Customer Step-Up

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<sup>17</sup> “Professional” applies to any transaction identified by a Member as such pursuant to Exchange Rule 16.1. Id.

<sup>18</sup> “Customer” applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1. Id.

Volume Tier under footnote 1, which provides a rebate of \$0.53 per share for Members that have an Options Step-Up Add OCV<sup>19</sup> in Customer orders from September 2015 baseline greater than or equal to 0.45%. The Exchange additionally proposes to eliminate the Step-Up Tier under footnote 1, which provides an additional rebate of \$0.02 per share to orders that yield fee code PY or those that qualify for the remaining Customer Penny Pilot Add Tiers where the Member has an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

Eliminate the Step-Up Tier Under Footnote 3

The Exchange currently offers four Non-Customer Penny Pilot Take Volume Tiers under footnote 3, which provide a reduced fee ranging from \$0.44 to \$0.47 per contract for qualifying Non-Customer orders which remove liquidity in Penny Pilot securities and yield fee code PP. The Exchange now proposes to eliminate the Step-Up Tier under footnote 3, which provides a reduced fee of \$0.47 per contract for Members that have an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

Eliminate the Step-Up Tier Under Footnote 12

The Exchange currently offers three Customer Non-Penny Pilot Add Volume Tiers under footnote 12, which provide an enhanced rebate per contract ranging from \$1.00 to \$1.05 for Customer orders which add liquidity in Non-Penny Pilot securities and yield fee code NY. The Exchange now proposes to eliminate the Step-Up Tier under

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<sup>19</sup> “Options Step-Up Add OCV” means ADAV as a percentage of OCV in the relevant baseline month subtracted from current ADAV as a percentage of OCV. See the Exchange’s fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

footnote 12, which provides a rebate of \$1.00 per share for Members that have an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

#### Implementation Date

The Exchange proposes to implement these amendments to its fee schedule immediately.<sup>20</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,<sup>21</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>22</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

#### Fee Codes PM

The Exchange believes that its proposal to reduce the rebate provided by fee code PM is fair and equitable and reasonable because such proposed rebates remain consistent

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<sup>20</sup> The Exchange initially filed the proposed amendments to its fee schedule on March 31, 2017 (SR-BatsBZX-2017-20). On April 12, 2017, the Exchange withdrew SR-BatsBZX-2017-20 and then subsequently submitted this filing (SR-BatsBZX-2017-23).

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

<sup>22</sup> 15 U.S.C. 78f(b)(4).

with pricing previously offered by the Exchange as well as its competitors<sup>23</sup> and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives. Specifically, the Exchange's proposal to lower the rebate to \$0.31 per contract for Market Maker orders which add liquidity in Penny Pilot securities under fee code PM remains lower than NYSE Arca LLC ("NYSE Arca"), which provides a standard rebate of \$0.28 per contract for similar orders. Lastly, the proposed change to fee code PM is not unfairly discriminatory because it will apply equally to all Members.

#### Modifications to the Volume Discount Tier Rebates and Required Criteria

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) the value to an exchange's market quality; (ii) associated higher

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<sup>23</sup> See the NYSE Arca 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).

levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. Lastly, the proposed change to the tiered pricing structure are not unfairly discriminatory because they will apply equally to all Members.

In particular, the proposed changes to footnotes 8, 9, and 10 intended to further incentivize Members to send increased order flow to the Exchange in an effort to qualify for the enhanced rebate made available by the tiers, in turn contributing to the growth of the Exchange. The enhanced rebate made available by the tiers, in turn contributing to the growth of the Exchange.

In addition, the proposed modifications to the Market Maker Penny Pilot Add Volume Tiers to require that Members attain an ADAV in Market Maker orders specifically, instead of requiring a general level of ADV or an ADAV that also includes Away Market Maker orders, reinforces the purpose of the volume tier – to incentivize Members to send Market Maker orders in Penny Pilot securities to the Exchange. The tier structure under footnote 6 has thus been adjusted accordingly to accommodate the newly proposed Tier 2 and renaming of current Tier 2 as Tier 3. Further, the Exchange believes the proposed rebates reasonably reflect the ascending difficulty of achieving the corresponding tier.

Furthermore, the proposed modifications to the NBBO Setter Tiers are consistent with the Act in that the proposed changes are designed to incentivize Members to contribute certain orders which establish a new NBBO to the Exchange in an effort to qualify for the enhanced rebate. By also requiring Members to achieve a certain ADAV in certain orders that establish a new NBBO, the proposed changes would further enhance

the market quality of the Exchange by improving opportunities for price improvement. In particular, the proposed changes will further encourage orders at the NBBO, and is therefore directly focused on encouraging aggressively priced liquidity provision on BZX Options. The Exchange also believes the rebate associate with each tier is reasonable as they reflect the difficulty in achieving the corresponding tier. These incentives remain reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes.

Lastly, the Exchange believes that eliminating the: (i) Customer Step-Up Volume Tier and the Step-Up Tier under footnote 1; (ii) the Step-Up Tier under footnote 3; and (iii) the Step-Up Tier under footnote 12 is reasonable, fair, and equitable because the these tiers were not providing the desired result of incentivizing Members to increase their participation on the Exchange. As such, the Exchange also believes that the proposed elimination of these tiers would be non-discriminatory in that they currently apply equally to all Members and, upon elimination, would no longer be available to any Members. Further, their elimination will allow the Exchange to explore other pricing mechanisms in which it may enhance market quality for all Members.

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

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to

disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's standard fees, rebates and tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange.

(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>24</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>25</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments

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<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f).

concerning the foregoing, including whether the proposal is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BatsBZX-2017-23 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-2017-23. 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-2017-23 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>26</sup>

Robert W. Errett  
Deputy Secretary

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<sup>26</sup> 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Proposed new language is underlined; proposed deletions are in [brackets].

**Bats BZX Options Exchange Fee Schedule**

Effective April [3]12, 2017

\* \* \* \* \*

**Standard Rates:**

	Penny Pilot Securities				Non-Penny Pilot Securities			
	Add		Remove		Add		Remove	
	Code	Rates	Code	Rates	Code	Rates	Code	Rates
Customer	PY	(\$0.25) (\$0.40) (\$0.48) (\$0.50) (\$0.52) (\$0.53)	PC	(No change).	NY	(\$0.85) (\$1.00) (\$1.05)	NC	(No change).
Professional	PA	(No change).	PP	(No change).	NA	(No change).	NP	(No change).
Firm/BD/JBO	PF	(No change).			NF	(No change).		
Market Maker	PM	<u>(\$0.31)</u> (\$0.35) (\$0.40) (\$0.42)			NM	(No change).		
Away Market Maker	PN	(\$0.30) (\$0.40) (\$0.43) [(\$0.46)] <u>(\$0.45)</u>			NN	(No change).		

**Fee Codes and Associated Fees:**

Fee Code	Description	Fee/(Rebate)
D1 - PF <sup>2,4</sup>	(No change).	
PM <sup>4,5,6</sup>	Adds liquidity (MM), Penny Pilot	<u>[(0.35)](0.31)</u>

PN <sup>4,10</sup> -RR	(No change).	
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**Footnotes:****<sup>1</sup> Customer Penny Pilot Add Tiers**

Applicable to fee code PY.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1 - Tier 6	(No change).	
[Customer Step-Up Volume Tier	(\$0.53)	Member has an Options Step-Up Add OCV in Customer orders from September 2015 baseline $\geq 0.45\%$
Customer Cross-Asset Add Tier	(No change).	

[Applicable to fee code PY and Customer Penny Pilot Add Tiers.]

Tier	Additional Rebate Per Contract to Add	Required Criteria
Step-Up Tier	(\$0.02)	Member has an Options Step Up Add OCV in Customer orders from October 2016 baseline $\geq 0.45\%$

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**<sup>3</sup> Non-Customer Penny Pilot Take Volume Tiers**

Applicable to fee code PP.

Tier	Fee Per Contract to Remove	Required Criteria
Tier 1 - Tier 3	(No change).	
[Step-Up Tier	\$0.47	Member has an Options Step-Up Add OCV in Customer orders from an October 2016 baseline $\geq 0.45\%$

**<sup>4</sup> NBBO Setter Tiers**

Applicable to the following fee codes: PF, PM and PN. Applicable only to orders which establish a new NBBO.

Tier	Additional Rebate Per Contract to Add	Required Criteria
Tier 1	[(\$0.02)]( <u>\$0.01</u> )	<p>(1) Member has an [ADV <math>\geq</math> 0.40% ]<u>ADAV in Non-Customer orders <math>\geq</math> 0.20% of average OCV; and</u></p> <p>(2) <u>Member has an ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO <math>\geq</math> 0.05% of average OCV</u></p>
Tier 2	[(\$0.04)]( <u>\$0.02</u> )	<p>(1) Member has an [ADV <math>\geq</math> 1.30% ]<u>ADAV in Non-Customer orders <math>\geq</math> 0.40% of average OCV; and</u></p> <p>(2) <u>Member has an ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO <math>\geq</math> 0.05% of average OCV</u></p>
Tier 3	[(\$0.04)]( <u>\$0.03</u> )	<p>(1) Member has an [ADV <math>\geq</math> 0.50% ]<u>ADAV in Non-Customer orders <math>\geq</math> 0.50% of average OCV; and</u></p> <p>(2) Member has an ADAV in [Away MM/Firm/BD/JBO]<u>Firm/Market Maker/Away MM orders that establish a new NBBO <math>\geq</math> [0.40% ]0.05% of average OCV</u></p>
Tier 4	[(\$0.03)]( <u>\$0.04</u> )	<p>(1) Member has an ADAV in [Market Maker]<u>Non-Customer orders <math>\geq</math></u></p>

		<p>[0.50%]<u>1.80%</u> of average OCV; and</p> <p>(2) <u>Member has an ADAV in Non-Customer Non-Penny orders <math>\geq</math> 0.20% of average OCV; and</u></p> <p>(3) <u>Member has an ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO <math>\geq</math> 0.05% of average OCV</u></p>
Tier 5	(\$0.05)	<p>(1) <u>Member has an ADAV in Non-Customer orders <math>\geq</math> 3.00% of average OCV; and</u></p> <p>(2) <u>Member has an ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO <math>\geq</math> 0.05% of average OCV</u></p>

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**<sup>6</sup> Market Maker Penny Pilot Add Volume Tiers**

Applicable to fee code PM.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1	<del>[\$0.40]</del> <u>[\$0.35]</u>	Member has an [ADV $\geq$ 0.40%] <u>ADAV in Market Maker orders <math>\geq</math> 0.05% of average OCV</u>
<u>Tier 2</u>	<u>(\$0.40)</u>	<u>Member has an ADAV in Market Maker orders <math>\geq</math> 0.15% of average OCV</u>
<del>[Tier 2]</del> <u>Tier 3</u>	(\$0.42)	<p>(1) Member has an ADAV in Market Maker [and/or Away Market Maker] orders <math>\geq</math> 1.30% of average OCV; and</p> <p>(2) Member has an ADV <math>\geq</math></p>

		2.60% of average OCV
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**<sup>8</sup> Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers**

Applicable to fee code NF.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1 - Tier 2	(No change).	
Tier 3	(\$0.82)	(1) Member has an ADV $\geq$ 2.30% of average OCV; [and] (2) Member has an ADAV in Away MM/Firm/BD/JBO orders $\geq$ 1.65% of average OCV; and (3) <u>Member has an ADAV in Non-Customer orders in Non-Penny Pilot Securities <math>\geq</math> 0.20% of average OCV</u>

**<sup>9</sup> Professional Penny Pilot Add Volume Tiers**

Applicable to fee code PA.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1	(\$0.42)	Member has an ADAV in Customer and Professional orders $\geq$ [0.15%] <u>0.20%</u> of average OCV
Tier 2 - Tier 4	(No change).	

**<sup>10</sup> Away Market Maker Penny Pilot Add Volume Tiers**

Applicable to fee code PN.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1	(No change).	

Tier 2	[( <del>\$0.46</del> )]( <u>\$0.45</u> )	(1) Member has an ADAV in Away MM/Firm/BD/JBO orders $\geq$ 1.05% of average OCV; [and] (2) Member has an ADV $\geq$ 1.95% of average OCV; <u>and</u> (3) <u>Member has an ADAV in Non-Customer orders in Non-Penny Pilot Securities <math>\geq</math> 0.20% of average OCV</u>
Tier 3	(No change).	

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**<sup>12</sup> Customer Non-Penny Pilot Add Volume Tier**

Applicable to fee code NY.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1 - Tier 2	(No change).	
[Step-Up Tier	(\$1.00)	Member has an Options Step-Up Add OCV in Customer orders from an October 2016 baseline $\geq$ 0.45%]

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