SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2009 - 022

Amendment No.

Proposed Rule Change by BATS Exchange

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

Initial ☑	Amendment ☐	Withdrawal ☐	Section 19(b)(2) ☐	Section 19(b)(3)(A) ☑	Section 19(b)(3)(B) ☐

Rule

Pilot ☐	Extension of Time Period for Commission Action ☐	Date Expires	

☐ 19b-4(f)(1)   ☐ 19b-4(f)(4)
☐ 19b-4(f)(2)   ☐ 19b-4(f)(5)
☐ 19b-4(f)(3)   ☑ 19b-4(f)(6)

Exhibit 2 Sent As Paper Document ☐   Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to offer Member Match Trade Prevention, or MMTP, to Exchange Users pursuant to proposed Rule 11.9(f).

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 proposed rule change.

First Name Anders   Last Name Franzon

Title   VP, Associate General Counsel

E-mail   afranzon@batstrading.com

Telephone   (913) 815-7154   Fax   (913) 815-7119

Signature

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

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

Date   07/06/2009

By   Anders Franzon   VP, Associate General Counsel
              (Name)

                                                    (Title)

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.

Anders Franzon,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document
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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

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of

1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] BATS Exchange, Inc. (the "Exchange" or

"BATS") is filing with the Securities and Exchange Commission ("Commission") a

proposed rule change to make modifications to the existing technology that it provides to

a User that wishes to avoid trading against orders from that same User ("Member Match

Trade Prevention" or "MMTP"). The Exchange has designated this proposal as non-

controversial and requests that the Commission waive the five business day pre-filing

notice required by Rule 19b-4(f)(6)(iii) under the Act.[3] The Exchange also requests that

the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-

4(f)(6)(iii) under the Act.[4] If such waivers are granted by the Commission, the Exchange

shall implement this rule proposal on or about July 17, 2009.

(a)   The text of the proposed rule change is attached as Exhibit 5. Material

proposed to be added is underlined. Material proposed to be deleted is enclosed in

brackets.

(b)   Not applicable.

(c)   Not applicable.

2.   Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange approved this proposed rule change on

July 1, 2009. This action constitutes requisite approval under the Exchange's By-Laws.

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[1]   15 U.S.C. 78s(b)(1).

[2]   17 CFR 240.19b-4.

[3]   17 CFR 240.19b-4(f)(6)(iii).

[4]   Id.

Questions regarding this rule filing may be directed to Eric Swanson, Senior Vice President and General Counsel of the Exchange at (212) 378-8520.

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

(a)   Purpose

The Exchange proposes to offer Member Match Trade Prevention, or MMTP, to Exchange Users pursuant to proposed Rule 11.9(f).[5]

Background

The proposed MMTP modifiers are designed to prevent two orders with the same Unique Identifier (as defined below) from executing against each other. The Exchange proposes adding four MMTP modifiers that will be implemented and can be set at the market participant identifier ("MPID"), the Exchange Member identifier or the Exchange Sponsored Participant identifier level (any such identifier, a "Unique Identifier").[6] With one exception, described below, the MMTP modifier on the incoming order controls the interaction between two orders marked with MMTP modifiers from the same Unique Identifier. The four new MMTP modifiers are discussed more thoroughly below.

MMTP Cancel Newest ("MCN")

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[5]   The Exchange currently offers a basic form of match prevention by allowing a User to request a setting for their connections that prevents incoming orders from interacting with resting orders if both orders originate from the same MPID. The proposed rule expands the functionality offered to Users by providing additional options for match prevention.

[6]   Any Exchange Member that has an MPID issued by FINRA is identified in the Exchange's internal systems by that MPID. Each Exchange Member that does not already have an MPID and each Sponsored Participant is issued an identifier that is specific to the Exchange and allows the Exchange to determine the User for each order and trade.

An incoming order marked with the MCN modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. The incoming order marked with the MCN modifier will be cancelled back to the originating User. The resting order marked with an MMTP modifier, which otherwise would have interacted with the incoming order from the same Unique Identifier, will remain on the BATS Book.

MCN Example 1: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order on the BATS Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCN modifier.

MCN Result 1: The incoming sell order for 500 shares @ $22.00 marked with the MCN modifier is cancelled back to the originating User. The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers remains on the BATS Book.

MCN Example 2: An order to buy 500 shares @ $22.00 is marked with any of the four STP modifiers and becomes a resting order on the BATS Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCN modifier.

MCN Result 2: The incoming sell order for 700 shares @ $22.00 marked with the MCN modifier is cancelled back to the originating User. The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers remains on the BATS Book.

MCN Example 3: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order on the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCN modifier.

MCN Result 3: The incoming sell order for 400 shares @ $22.00 marked with the MCN modifier is cancelled back to the originating User. The resting buy order for 500 shares at $22.00 marked one of the four MMTP modifiers remains on the BATS Book.

MMTP Cancel Oldest ("MCO")

An incoming order marked with the MCO modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. The resting order marked with the MMTP modifier, which otherwise would have interacted with the incoming order by the same Unique Identifier, will be cancelled back to the originating User. The incoming order marked with the MCO modifier will remain on the BATS Book.

MCO Example 1: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCO modifier.

MCO Result 1: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 500 shares @ $22.00 marked with the MCO modifier is entered in the BATS Book.

MCO Example 2: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCO modifier.

MCO Result 2: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 700 shares @ $22.00 marked with the MCO modifier is entered on the BATS Book.

MCO Example 3: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCO modifier.

MCO Result 3: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 400 shares @ $22.00 marked with the MCO modifier is entered on the BATS Book.

MMTP Decrement and Cancel ("MDC")

An incoming order marked with the MDC modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. If both orders are equivalent in size, both orders will be cancelled back to the originating User. If the orders are not equivalent in size, the equivalent size will be cancelled back to the originating User and the larger order will be decremented by the size of the smaller order, with the balance remaining on the BATS Book; provided,

however, that if the resting order is marked with any MMTP modifier other than MDC, and the incoming order is smaller in size than the resting order, then both orders will be cancelled back to the originating User.

MDC Example 1: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order on the BATS Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the MDC modifier.

MDC Result 1: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 500 shares @ $22.00 marked with the MDC modifier is cancelled back to the originating User.

MDC Example 2: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the MDC modifier.

MDC Result 2: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The equivalent portion, 500 shares, of the incoming sell order marked with the MDC modifier is cancelled back to the originating User. The remaining portion, 200 shares, is entered on the BATS Book.

MDC Example 3: An order to buy 500 shares @ $22.00 is marked with an MDC modifier and becomes a resting order in the BATS Book. Subsequently, an order to sell

400 shares @ $22.00 is entered with the same Unique Identifier and marked with the

MDC modifier.

MDC Result 3: 400 of the 500 shares on the resting buy order at $22.00 marked

with one of the four MMTP modifiers are cancelled back to the originating User. The

outstanding 100 shares remain on the BATS Book. The incoming sell order for 400

shares @ $22.00 marked with the MDC modifier is cancelled back to the originating

User.

MDC Example 4: An order to buy 500 shares @ $22.00 is marked with any

MMTP modifier other than MDC and becomes a resting order in the BATS Book.

Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique

Identifier and marked with the MDC modifier.

MDC Result 4: The resting buy order for 500 shares at $22.00 marked with a

MMTP modifier other than MDC is cancelled back to the originating User. The

incoming sell order for 400 shares @ $22.00 marked with the MDC modifier is cancelled

back to the originating User.

MMTP Cancel Both ("MCB")

An incoming order marked with the MCB modifier will not execute against

opposite side resting interest marked with any MMTP modifier originating from the same

Unique Identifier. The entire size of both orders will be cancelled back to the originating

User.

MCB Example 1: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an

order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCB modifier.

MCB Result 1: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 500 shares @ $22.00 marked with the MCB modifier is cancelled back to the originating User.

MCB Example 2: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCB modifier.

MCB Result 2: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming order to sell 700 shares @ $22.00 marked with the MCB modifier is cancelled back to the originating User.

MCB Example 3: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCB modifier.

MCB Result 3: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming order to sell 400 shares @ $22.00 marked with the MCB modifier is cancelled back to the originating User.

Additional Discussion

MMTP modifiers are intended to prevent interaction between the same Unique

Identifier. MMTP modifiers must be present on both the buy and the sell order in order

to prevent a trade from occurring and to effect a cancel instruction. MMTP modifiers are

available for orders entered in either an agency or principal capacity. An incoming

MMTP order cannot cancel through resting orders that have price and/or time priority.

When an order with an MMTP modifier is entered it will first interact with all available

interest in accordance with the execution process described in Exchange Rules 11.12 and

11.13. If there is a remaining balance on the order after trading with all orders with

higher priority, it may then interact with an opposite side MMTP order in accordance

with the rules established above. Incoming MMTP orders that are priced through the

price of a resting MMTP order may cancel the resting order as long as no other non-

MMTP orders have priority.

The Exchange believes that adding this functionality will allow Exchange Users

to better manage order flow and prevent undesirable executions with themselves or the

potential for (or the appearance of) "wash sales" that may occur as a result of the velocity

of trading in today's high speed marketplace. Many Exchange Users have multiple

connections into the Exchange due to capacity and speed related demands. Orders routed

by the same User via different connections may, in certain circumstances, trade against

each other. The new MMTP modifiers provide Users the opportunity to prevent these

potentially undesirable trades occurring under the same Unique Identifier on both the buy

and sell side of the execution. The Exchange also believes that this functionality will

allow firms to better internalize agency order flow which in turn may decrease the costs

to its customers. The Exchange notes that the MMTP modifiers do not alleviate, or

otherwise exempt, broker-dealers from their best execution obligations. As such, broker-dealers using the MMTP modifiers will be obligated to internally cross agency orders at the same price, or a better price than they would have received had the orders been executed on the Exchange. Additionally, the MMTP modifiers will assist market participants in complying with certain rules and regulations of the Employee Retirement Income Security Act (''ERISA'') that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts. Finally, the Exchange notes that offering the MMTP modifiers will streamline certain regulatory functions by reducing false positive results that may occur on Exchange generated wash trading surveillance reports when orders are executed under the same Unique Identifier. For these reasons, the Exchange believes the MMTP modifiers offer users enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

(b)   Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and

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[7]   15 U.S.C. 78f(b).

[8]   15 U.S.C. 78f(b)(5).

perfect the mechanism of, a free and open market and a national market system. This functionality will allow firms to better manage order flow and prevent undesirable executions against themselves.

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

The proposed rule change does not impose any burden on competition.

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)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[9] and paragraph (f)(6) of Rule 19b-4 thereunder.[10] The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days

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[9]   15 U.S.C. 78s(b)(3)(A).

[10]   17 CFR 240.19b-4.

prior to the date of filing, or such shorter time as designated by the Commission.[11] The

Exchange notes that this proposal does not propose any new policies or provisions that

are unique or unproven. Also, the Exchange notes that other national securities

exchanges have recently filed rule proposals on an immediately effective basis to offer

similar functionality to their members.[12] For the foregoing reasons, this rule filing

qualifies for immediate effectiveness as a "non-controversial" rule change under

paragraph (f)(6) of Rule 19b-4.

The Exchange respectfully requests that the Commission waive the five business

day pre-filing requirement and the 30-day pre-operative delay so that the proposed rule

change may become effective and operative upon filing with the Commission pursuant to

Section 19(b)(3)(A) of the Act[13] and paragraph (f)(6) of Rule 19b-4 thereunder.[14] Waiver

of these requirements, specified in Rule 19b-4(f)(6),[15] will allow the Exchange to

immediately offer Exchange Users the ability to better manage order flow and prevent

undesirable executions with themselves or the potential for (or the appearance of) "wash

sales" that may occur as a result of the velocity of trading in today's high speed

marketplace. The Exchange expects to have technological changes in place to support

the proposed rule change on or about July 17, 2009, and believes that benefits to

Exchange Users expected from the proposed rule change should not be delayed. Based

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[11]   17 CFR 240.19b-4(f)(6)(iii).

[12]   See Securities Exchange Act Release No. 60182 (June 26, 2009), 74 FR 32014 (July 6, 2009) (SR-NASDAQ-2009-057); Securities Exchange Act Release No. 60191 (June 30, 2009) (SR-NYSEArca-2009-058).

[13]   15 U.S.C. 78s(b)(3)(A).

[14]   17 CFR 240.19b-4(f)(6).

[15]   Id.

on the foregoing, the Exchange believes that its proposal should become immediately

effective and requests that the Commission waive the five business day pre-filing

requirement and the 30-day pre-operative waiting period contained in Rule 19b-

4(f)(6)(iii) under the Act.[16] Waiver of these requirements is consistent with the

protection of investors and the public interest for the reasons described above.

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

      Not applicable.

9.   Exhibits

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

      Exhibits 2 – 4: Not applicable.

      Exhibit 5:   Text of Proposed Rule Change.

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[16]   17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-_____; File No. SR-BATS-2009-022)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate
Effectiveness of Proposed Rule Change by BATS Exchange, Inc. to Amend BATS Rule
11.9, entitled "Orders and Modifiers"

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1]

and Rule 19b-4 thereunder,[2] notice is hereby given that on July 6, 2009, BATS Exchange,

Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission

("Commission") the proposed rule change as described in Items I and II below, which

Items have been prepared by the Exchange. The Exchange has designated this proposal as

a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3]

and Rule 19b-4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the

Commission. The Commission is publishing this notice to solicit comments on the

proposed rule change from interested persons.

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

The Exchange proposes to make modifications to the existing technology that it

provides to a User that wishes to avoid trading against orders from that same User

("Member Match Trade Prevention" or "MMTP").

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[1]   15 U.S.C. 78s(b)(1).

[2]   17 CFR 240.19b-4.

[3]   15 U.S.C. 78s(b)(3)(A).

[4]   17 CFR 240.19b-4(f)(6)(iii).

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 offer Member Match Trade Prevention, or MMTP, to

Exchange Users pursuant to proposed Rule 11.9(f).[5]

Background

The proposed MMTP modifiers are designed to prevent two orders with the same

Unique Identifier (as defined below) from executing against each other. The Exchange

proposes adding four MMTP modifiers that will be implemented and can be set at the

market participant identifier ("MPID"), the Exchange Member identifier or the Exchange

Sponsored Participant identifier level (any such identifier, a "Unique Identifier").[6] With

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[5]   The Exchange currently offers a basic form of match prevention by allowing a User to request a setting for their connections that prevents incoming orders from interacting with resting orders if both orders originate from the same MPID. The proposed rule expands the functionality offered to Users by providing additional options for match prevention.

[6]   Any Exchange Member that has an MPID issued by FINRA is identified in the Exchange's internal systems by that MPID. Each Exchange Member that does not already have an MPID and each Sponsored Participant is issued an identifier that is specific to the Exchange and allows the Exchange to determine the User for each order and trade.

one exception, described below, the MMTP modifier on the incoming order controls the

interaction between two orders marked with MMTP modifiers from the same Unique

Identifier. The four new MMTP modifiers are discussed more thoroughly below.

MMTP Cancel Newest ("MCN")

An incoming order marked with the MCN modifier will not execute against

opposite side resting interest marked with any MMTP modifier originating from the same

Unique Identifier. The incoming order marked with the MCN modifier will be cancelled

back to the originating User. The resting order marked with an MMTP modifier, which

otherwise would have interacted with the incoming order from the same Unique

Identifier, will remain on the BATS Book.

MCN Example 1: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order on the BATS Book. Subsequently, an

order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MCN modifier.

MCN Result 1: The incoming sell order for 500 shares @ $22.00 marked with the

MCN modifier is cancelled back to the originating User. The resting buy order for 500

shares at $22.00 marked with one of the four MMTP modifiers remains on the BATS

Book.

MCN Example 2: An order to buy 500 shares @ $22.00 is marked with any of the

four STP modifiers and becomes a resting order on the BATS Book. Subsequently, an

order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MCN modifier.

MCN Result 2: The incoming sell order for 700 shares @ $22.00 marked with the MCN modifier is cancelled back to the originating User. The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers remains on the BATS Book.

MCN Example 3: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order on the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCN modifier.

MCN Result 3: The incoming sell order for 400 shares @ $22.00 marked with the MCN modifier is cancelled back to the originating User. The resting buy order for 500 shares at $22.00 marked one of the four MMTP modifiers remains on the BATS Book.

MMTP Cancel Oldest ("MCO")

An incoming order marked with the MCO modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. The resting order marked with the MMTP modifier, which otherwise would have interacted with the incoming order by the same Unique Identifier, will be cancelled back to the originating User. The incoming order marked with the MCO modifier will remain on the BATS Book.

MCO Example 1: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCO modifier.

MCO Result 1: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 500 shares @ $22.00 marked with the MCO modifier is entered in the BATS Book.

MCO Example 2: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCO modifier.

MCO Result 2: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 700 shares @ $22.00 marked with the MCO modifier is entered on the BATS Book.

MCO Example 3: An order to buy 500 shares @ $22.00 is marked with any of the four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MCO modifier.

MCO Result 3: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming sell order for 400 shares @ $22.00 marked with the MCO modifier is entered on the BATS Book.

MMTP Decrement and Cancel ("MDC")

An incoming order marked with the MDC modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same

Unique Identifier. If both orders are equivalent in size, both orders will be cancelled

back to the originating User. If the orders are not equivalent in size, the equivalent size

will be cancelled back to the originating User and the larger order will be decremented by

the size of the smaller order, with the balance remaining on the BATS Book; provided,

however, that if the resting order is marked with any MMTP modifier other than MDC,

and the incoming order is smaller in size than the resting order, then both orders will be

cancelled back to the originating User.

MDC Example 1: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order on the BATS Book. Subsequently, an

order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MDC modifier.

MDC Result 1: The resting buy order for 500 shares at $22.00 marked with one of

the four MMTP modifiers is cancelled back to the originating User. The incoming sell

order for 500 shares @ $22.00 marked with the MDC modifier is cancelled back to the

originating User.

MDC Example 2: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an

order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MDC modifier.

MDC Result 2: The resting buy order for 500 shares at $22.00 marked with one of

the four MMTP modifiers is cancelled back to the originating User. The equivalent

portion, 500 shares, of the incoming sell order marked with the MDC modifier is

cancelled back to the originating User. The remaining portion, 200 shares, is entered on the BATS Book.

MDC Example 3: An order to buy 500 shares @ $22.00 is marked with an MDC modifier and becomes a resting order in the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MDC modifier.

MDC Result 3: 400 of the 500 shares on the resting buy order at $22.00 marked with one of the four MMTP modifiers are cancelled back to the originating User. The outstanding 100 shares remain on the BATS Book. The incoming sell order for 400 shares @ $22.00 marked with the MDC modifier is cancelled back to the originating User.

MDC Example 4: An order to buy 500 shares @ $22.00 is marked with any MMTP modifier other than MDC and becomes a resting order in the BATS Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the MDC modifier.

MDC Result 4: The resting buy order for 500 shares at $22.00 marked with a MMTP modifier other than MDC is cancelled back to the originating User. The incoming sell order for 400 shares @ $22.00 marked with the MDC modifier is cancelled back to the originating User.

MMTP Cancel Both ("MCB")

An incoming order marked with the MCB modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same

Unique Identifier. The entire size of both orders will be cancelled back to the originating

User.

MCB Example 1: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an

order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MCB modifier.

MCB Result 1: The resting buy order for 500 shares at $22.00 marked with one of

the four MMTP modifiers is cancelled back to the originating User. The incoming sell

order for 500 shares @ $22.00 marked with the MCB modifier is cancelled back to the

originating User.

MCB Example 2: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an

order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MCB modifier.

MCB Result 2: The resting buy order for 500 shares at $22.00 marked with one of

the four MMTP modifiers is cancelled back to the originating User. The incoming order

to sell 700 shares @ $22.00 marked with the MCB modifier is cancelled back to the

originating User.

MCB Example 3: An order to buy 500 shares @ $22.00 is marked with any of the

four MMTP modifiers and becomes a resting order in the BATS Book. Subsequently, an

order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked

with the MCB modifier.

MCB Result 3: The resting buy order for 500 shares at $22.00 marked with one of the four MMTP modifiers is cancelled back to the originating User. The incoming order to sell 400 shares @ $22.00 marked with the MCB modifier is cancelled back to the originating User.

Additional Discussion

MMTP modifiers are intended to prevent interaction between the same Unique Identifier. MMTP modifiers must be present on both the buy and the sell order in order to prevent a trade from occurring and to effect a cancel instruction. MMTP modifiers are available for orders entered in either an agency or principal capacity. An incoming MMTP order cannot cancel through resting orders that have price and/or time priority. When an order with an MMTP modifier is entered it will first interact with all available interest in accordance with the execution process described in Exchange Rules 11.12 and 11.13. If there is a remaining balance on the order after trading with all orders with higher priority, it may then interact with an opposite side MMTP order in accordance with the rules established above. Incoming MMTP orders that are priced through the price of a resting MMTP order may cancel the resting order as long as no other non-MMTP orders have priority.

The Exchange believes that adding this functionality will allow Exchange Users to better manage order flow and prevent undesirable executions with themselves or the potential for (or the appearance of) "wash sales" that may occur as a result of the velocity of trading in today's high speed marketplace. Many Exchange Users have multiple connections into the Exchange due to capacity and speed related demands. Orders routed by the same User via different connections may, in certain circumstances, trade against

each other. The new MMTP modifiers provide Users the opportunity to prevent these

potentially undesirable trades occurring under the same Unique Identifier on both the buy

and sell side of the execution. The Exchange also believes that this functionality will

allow firms to better internalize agency order flow which in turn may decrease the costs

to its customers. The Exchange notes that the MMTP modifiers do not alleviate, or

otherwise exempt, broker-dealers from their best execution obligations. As such, broker-

dealers using the MMTP modifiers will be obligated to internally cross agency orders at

the same price, or a better price than they would have received had the orders been

executed on the Exchange. Additionally, the MMTP modifiers will assist market

participants in complying with certain rules and regulations of the Employee Retirement

Income Security Act (''ERISA'') that preclude and/or limit managing broker-dealers of

such accounts from trading as principal with orders generated for those accounts. Finally,

the Exchange notes that offering the MMTP modifiers will streamline certain regulatory

functions by reducing false positive results that may occur on Exchange generated wash

trading surveillance reports when orders are executed under the same Unique Identifier.

For these reasons, the Exchange believes the MMTP modifiers offer users enhanced

order processing functionality that may prevent potentially undesirable executions

without negatively impacting broker-dealer best execution obligations.

  2. Statutory Basis

  The rule change proposed in this submission is consistent with the requirements

of the Act and the rules and regulations thereunder that are applicable to a national

securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7]

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[7] 15 U.S.C. 78f(b).

Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because

it is designed to prevent fraudulent and manipulative acts and practices, to promote just

and equitable principles of trade, to foster cooperation and coordination with persons

engaged in facilitating transactions in securities, and to remove impediments to, and

perfect the mechanism of, a free and open market and a national market system. This

functionality will allow firms to better manage order flow and prevent undesirable

executions against themselves.

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

The Exchange does not believe that the proposed rule change imposes any burden

on competition.

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

The Exchange has neither solicited nor received written comments on the

proposed rule change.

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

Because the foregoing proposed rule change does not: (i) significantly affect the

protection of investors or the public interest; (ii) impose any significant burden on

competition; and (iii) become operative for 30 days from the date on which it was filed,

or such shorter time as the Commission may designate, it has become effective pursuant

to Section 19(b)(3)(A) of the Act[9] and Rule 19b-4(f)(6)(iii) thereunder.[10]

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[8]   15 U.S.C. 78f(b)(5).

[9]   15 U.S.C. 78s(b)(3)(A).

[10]   17 CFR 240.19b-4(f)(6).

At any time within 60 days of the filing of the proposed rule change, the

Commission may summarily abrogate such rule change if it appears to the Commission

that such action is necessary or appropriate in the public interest, for the protection of

investors, or otherwise in furtherance of the purposes of the Act.

IV.   Solicitation of Comments

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

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

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form
  (http://www.sec.gov/rules/sro.shtml); or

- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BATS-
  2009-022 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-BATS-2009-022. 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 Web site

(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

changes 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

inspection and copying in the Commission's Public Reference Room, 100 F Street, NE,

Washington, DC 20549. Copies of such filing will also be available for inspection and

copying at the principal office of the Exchange. All comments received will be posted

without change; the Commission does not edit personal identifying information from

submissions. You should submit only information that you wish to make available

publicly. All submissions should refer to File No. SR-BATS-2009-022 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.[11]

Florence E. Harmon
Deputy Secretary

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[11]   17 CFR 200.30-3(a)(12).

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

Rules of BATS Exchange, Inc.

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CHAPTER XI. TRADING RULES

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Rule 11.9.   Orders and Modifiers

(No changes.)

(a) – (b)   (No changes.)

(c)   *Other Types of Orders [and Order Modifiers]*.

(1) – (13)   (No changes to text.)

(d) – (e)   (No changes.)

(f)   *Member Match Trade Prevention ("MMTP") Modifiers*. Any incoming order designated with an MMTP modifier will be prevented from executing against a resting opposite side order also designated with an MMTP modifier and originating from the same market participant identifier ("MPID"), Exchange Member identifier or Exchange Sponsored Participant identifier (any such identifier, a "Unique Identifier"). Subject to the exception contained in paragraph (3) below, the MMTP modifier on the incoming order controls the interaction between two orders marked with MMTP modifiers.

(1)   MMTP Cancel Newest ("MCN"). An incoming order marked with the "MCN" modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. The incoming order marked with the MCN modifier will be cancelled back to the originating User(s). The resting order marked with an MMTP modifier will remain on the BATS Book.

(2)   MMTP Cancel Oldest ("MCO"). An incoming order marked with the "MCO" modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. The resting order marked with the MMTP modifier will be cancelled back to the originating User(s). The incoming order marked with the MCO modifier will remain on the BATS Book.

(3)   MMTP Decrement and Cancel ("MDC"). An incoming order marked with the "MDC" modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. If both orders are equivalent in size, both orders will be cancelled back to the originating User(s). If the orders are not equivalent in size, the equivalent size will be cancelled back to the originating User(s) and the larger order will be decremented by the size of the smaller

order, with the balance remaining on the BATS Book; provided, however, that if the resting order is marked with any MMTP modifier other than MDC, and the incoming order is smaller in size than the resting order, then both orders will be cancelled back to the originating User(s).

   (4) MMTP Cancel Both ("MCB"). An incoming order marked with the "MCB" modifier will not execute against opposite side resting interest marked with any MMTP modifier originating from the same Unique Identifier. The entire size of both orders will be cancelled back to the originating User(s).

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