

Proposed Rule Change by BATS Exchange  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)		
Date Expires <input type="text"/>					

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 proposed rule change (limit 250 characters).

Proposal to amend BATS Rule 11.9(c)(12) (Destination Specific Order) to permit Exchange Users to designate an order that will first check the BATS Book for liquidity and then be routed to one or to multiple Alternative Trading Systems with which the Exchange has connections.

**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	<input type="text" value="Anders"/>	Last Name	<input type="text" value="Franzon"/>
Title	<input type="text" value="VP, Associate General Counsel"/>		
E-mail	<input type="text" value="afranzon@batstrading.com"/>		
Telephone	<input type="text" value="(913) 815-7154"/>	Fax	<input type="text" value="(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	<input type="text" value="03/30/2010"/>
By	<input type="text" value="Anders Franzon"/>
	(Name)
	<input type="text" value="VP, Associate General Counsel"/>
	(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.

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

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” or the “Exchange Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend BATS Rule 11.9(c)(12), entitled “Destination Specific Order.” The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>3</sup> The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>4</sup> If such waiver is granted by the Commission, the Exchange shall implement this rule proposal on or about April 1, 2010.

(a) The text of the proposed rule change is below. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

\* \* \* \* \*

Rule 11.9. Orders and Modifiers

(No changes.)

(a) – (b) (No changes.)

(c) *Other Types of Orders.*

(1) – (11) (No changes.)

(12) *Destination Specific Order.* A market or limit order that instructs the System to route the order to a specified away trading center or centers, after exposing

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

<sup>4</sup> Id.

the order to the BATS Book. Destination Specific Orders that are not executed in full after routing away are processed by the Exchange as described below in Rule 11.13(a)(2).

(13) (No changes.)

(d) – (f) (No changes.)

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on November 10, 2009. Exchange staff will advise the BATS Exchange Board of Directors of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to Eric Swanson, Senior Vice President and General Counsel of the Exchange at (913) 815-7000.

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

(a) Purpose

The purpose of the proposed rule change is to provide an additional option to Users of the Exchange with respect to the designation of a “Destination Specific Order”. Destination Specific Orders are market or limit orders that are routed by BATS to an away trading center after first being exposed to the BATS order book (“BATS Book”). As currently written, the Rule 11.9(c)(12) requires the specification of a particular away trading center to which an order will route after checking the BATS Book. Accordingly, BATS currently offers Users options to route to a single trading center designated by the

User after first being exposed to the BATS Book. For instance, a User can currently send an order that first checks the BATS Book for liquidity and then routes to the New York Stock Exchange. The Exchange also currently offers Users with the option to send a “Modified Destination Specific Order,” defined in BATS Rule 11.9(c)(13), which routes to one or more away trading centers without first checking the BATS Book. The only form of Modified Destination Specific Order currently offered by the Exchange routes to multiple Alternative Trading Systems disclosed by the Exchange prior to checking the BATS Book (referred to by the Exchange as a “Dark Scan” order). Although the identity of the Alternative Trading Systems to which a Dark Scan order may route is disclosed to Exchange Users, Users cannot designate the specific Alternative Trading System or Systems, but rather, rely on the Exchange’s smart order router to determine the Alternative Trading System or Systems to which the order will be routed and the order of such routing.

The proposed rule change is being submitted by the Exchange so that BATS can offer Users the additional option to designate an order to route to various undisclosed Alternative Trading Systems selected by the Exchange after first being exposed to the BATS Book (a “BATS + DART Order”). Accordingly, as amended, a User will be able to designate an order that will first check the BATS Book for liquidity and then be routed to one or to multiple Alternative Trading Systems with which the Exchange has connections. Similar to a Dark Scan order, a User will not be able to designate any specific Alternative Trading System or Systems to which the order will be routed, but rather, the Exchange will make the routing decisions with respect to any BATS + DART Order that is not filled on the Exchange. Orders that are not executed in full after routing

away would continue to be processed by the Exchange as described in BATS Rule 11.13(a)(2).

The Exchange is not proposing at this time to add functionality that would allow Users to designate multiple specific venues to which an order will route. Rather, a Destination Specific Order will continue to refer to an order that first checks the Exchange for liquidity and then routes to a specific venue or venues, with the only choice of multiple venues being the undisclosed list of Alternative Trading Systems offered through the DART routing program. Users that wish to have the Exchange first attempt to execute an order on the BATS Book and, if not executed, then route to multiple different venues, including Alternative Trading Systems, can use the Exchange's general best execution routing strategies, DART and CYCLE, but cannot specifically identify the venues to which the Exchange will route.

As occurs today, the routing performed in connection with this proposed change will be conducted by an affiliate of the Exchange, BATS Trading, Inc. (the "Outbound Router"), which is regulated as a facility of the Exchange (as defined in Section 3(a)(2) of the Act),<sup>5</sup> subject to Section 6 of the Act.<sup>6</sup> The role and functions of the Outbound Router are set forth in BATS Rule 2.11, which has previously been approved by the Commission. Routing of Destination Specific Orders under this proposed amendment will be subject to the same requirements as other orders routed by the Outbound Router, which are contained in Rule 2.11. Accordingly, the Exchange believes that routing of Destination Specific Orders under this proposed amendment continues to be consistent

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<sup>5</sup> 15 U.S.C. 78c(a)(2).

<sup>6</sup> 15 U.S.C. 78f.

with the previously approved functions of the Outbound Router, and the Exchange does not believe that such functions are expanded through this proposed amendment.

(b) Statutory Basis

Approval of 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.<sup>7</sup> In particular, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. Specifically, the Exchange believes that the proposed amendment to the Destination Specific Order will enhance order execution opportunities for market participants by allowing such participants to access, at a potentially reduced fee, pools of liquidity in addition to orders resting on the Exchange.

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.

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

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<sup>9</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup> 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 prior to the date of filing, or such shorter time as designated by the Commission.<sup>11</sup> The Exchange believes that the proposed amendment to the Destination Specific Order type is consistent with other rules of the Exchange previously approved by the Commission, including (1) its Modified Destination Specific Order, which operates similarly to the proposed order type, except that a Modified Destination Specific Order is not first exposed to the BATS Book before routing to an away trading center or centers,<sup>12</sup> and (2) Rule 2.11, which governs the Outbound Router of the Exchange. Accordingly, the

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4.

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> See BATS Rule 11.9(c)(13).



Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>13</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup>

The Exchange respectfully requests that the Commission waive 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<sup>15</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup> Waiver of this requirement, specified in Rule 19b-4(f)(6),<sup>17</sup> will allow the Exchange to immediately offer Exchange Users an additional choice when routing their orders to the Exchange. The Exchange believes that the proposed amendment to the Destination Specific Order type will enhance order execution opportunities for market participants by allowing such participants to access, at a potentially reduced fee, pools of liquidity in addition to orders resting on the Exchange. The Exchange expects to have technological changes in place to support the proposed rule change on or about April 1, 2010, and believes that benefits to Exchange Users expected from the proposed rule change should not be delayed. Waiver of the 30-day pre-operative delay 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.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> Id.

9. Exhibits

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

Exhibit 2 – 5: Not applicable.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BATS-2010-006)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rule 11.9(c)(12), entitled “Destination Specific Order.”

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 March 30, 2010, 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<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is proposing to amend BATS Rule 11.9(c)(12), entitled “Destination Specific Order.”

The text of the proposed rule change is available at the Exchange’s Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

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

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

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 purpose of the proposed rule change is to provide an additional option to Users of the Exchange with respect to the designation of a "Destination Specific Order". Destination Specific Orders are market or limit orders that are routed by BATS to an away trading center after first being exposed to the BATS order book ("BATS Book"). As currently written, the Rule 11.9(c)(12) requires the specification of a particular away trading center to which an order will route after checking the BATS Book. Accordingly, BATS currently offers Users options to route to a single trading center designated by the User after first being exposed to the BATS Book. For instance, a User can currently send an order that first checks the BATS Book for liquidity and then routes to the New York Stock Exchange. The Exchange also currently offers Users with the option to send a "Modified Destination Specific Order," defined in BATS Rule 11.9(c)(13), which routes to one or more away trading centers without first checking the BATS Book. The only form of Modified Destination Specific Order currently offered by the Exchange routes to multiple Alternative Trading Systems disclosed by the Exchange prior to checking the BATS Book (referred to by the Exchange as a "Dark Scan" order). Although the identity

of the Alternative Trading Systems to which a Dark Scan order may route is disclosed to Exchange Users, Users cannot designate the specific Alternative Trading System or Systems, but rather, rely on the Exchange's smart order router to determine the Alternative Trading System or Systems to which the order will be routed and the order of such routing.

The proposed rule change is being submitted by the Exchange so that BATS can offer Users the additional option to designate an order to route to various undisclosed Alternative Trading Systems selected by the Exchange after first being exposed to the BATS Book (a "BATS + DART Order"). Accordingly, as amended, a User will be able to designate an order that will first check the BATS Book for liquidity and then be routed to one or to multiple Alternative Trading Systems with which the Exchange has connections. Similar to a Dark Scan order, a User will not be able to designate any specific Alternative Trading System or Systems to which the order will be routed, but rather, the Exchange will make the routing decisions with respect to any BATS + DART Order that is not filled on the Exchange. Orders that are not executed in full after routing away would continue to be processed by the Exchange as described in BATS Rule 11.13(a)(2).

The Exchange is not proposing at this time to add functionality that would allow Users to designate multiple specific venues to which an order will route. Rather, a Destination Specific Order will continue to refer to an order that first checks the Exchange for liquidity and then routes to a specific venue or venues, with the only choice of multiple venues being the undisclosed list of Alternative Trading Systems offered through the DART routing program. Users that wish to have the Exchange first attempt

to execute an order on the BATS Book and, if not executed, then route to multiple different venues, including Alternative Trading Systems, can use the Exchange's general best execution routing strategies, DART and CYCLE, but cannot specifically identify the venues to which the Exchange will route.

As occurs today, the routing performed in connection with this proposed change will be conducted by an affiliate of the Exchange, BATS Trading, Inc. (the "Outbound Router"), which is regulated as a facility of the Exchange (as defined in Section 3(a)(2) of the Act),<sup>5</sup> subject to Section 6 of the Act.<sup>6</sup> The role and functions of the Outbound Router are set forth in BATS Rule 2.11, which has previously been approved by the Commission. Routing of Destination Specific Orders under this proposed amendment will be subject to the same requirements as other orders routed by the Outbound Router, which are contained in Rule 2.11. Accordingly, the Exchange believes that routing of Destination Specific Orders under this proposed amendment continues to be consistent with the previously approved functions of the Outbound Router, and the Exchange does not believe that such functions are expanded through this proposed amendment.

## 2. Statutory Basis

Approval of 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.<sup>7</sup> In particular, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>8</sup>

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<sup>5</sup> 15 U.S.C. 78c(a)(2).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b).

because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. Specifically, the Exchange believes that the proposed amendment to the Destination Specific Order will enhance order execution opportunities for market participants by allowing such participants to access, at a potentially reduced fee, pools of liquidity in addition to orders resting on the Exchange.

(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 on Comments on the Proposed Rule Change Received from Members, Participants or Others

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

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

Because the foregoing proposed rule change does not: (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<sup>9</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>10</sup>

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

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<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

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](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2010-006 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-2010-006. 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-2010-006 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>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).