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OMB APPROVAL

. ago . c. .c		WASHING	ND EXCHANGE COMMISSION File No.* SR - 2011 - * 023 HINGTON, D.C. 20549 Amendment No. (req. for Amendments *)			
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) * ✓ Rule	Section 19(b)(3)(B) *	
Pilot	Extension of Time Peri for Commission Action	llata Evnirae *		19b-4(f)(1) 19b-4(f)(4) 19b-4(f)(5) 19b-4(f)(3) 19b-4(f)(6)	5)	
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, required when Initial is checked *). Proposal to eliminate the directed order program of BATS Options.						
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 * Franzo	n		
Title * VP, Associate Gener						
	E-mail * afranzon@batstrading.com Telephone * (913) 815-7154					
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 07/22/2011						
Ву	Anders Franzon		VP, Associate Gener	al Counsel		
(Name *)						
		l		(Title *)		
	Clicking the button at right will on. A digital signature is as lega		And	ers Franzon,		
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. The self-regulatory organization must provide all required information, presented in a Form 19b-4 Information (required) clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the Remove View proposal is consistent with the Act and applicable rules and regulations under the Act. The Notice section of this Form 19b-4 must comply with the guidelines for Exhibit 1 - Notice of Proposed Rule Change publication in the Federal Register as well as any requirements for electronic filing (required) as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Add Remove View 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) Copies of notices, written comments, transcripts, other communications. If such Exhibit 2 - Notices, Written Comments. documents cannot be filed electronically in accordance with Instruction F, they shall **Transcripts, Other Communications** be filed in accordance with Instruction G. Add Remove View Exhibit Sent As Paper Document Exhibit 3 - Form, Report, or Questionnaire 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 Add Remove View referred to by the proposed rule change. Exhibit Sent As Paper Document The full text shall be marked, in any convenient manner, to indicate additions to and **Exhibit 4 - Marked Copies** 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 Add Remove View it has been working. The self-regulatory organization may choose to attach as Exhibit 5 proposed **Exhibit 5 - Proposed Rule Text** 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 Add Remove View considered part of the proposed rule change. If the self-regulatory organization is amending only part of the text of a lengthy **Partial Amendment** 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 View 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 amend BATS Rule 21.1, entitled "Definitions," to remove two order types, Market Maker Price Improving Orders and Directed Orders, from the types of approved order types offered by the BATS options market ("BATS Options"). Through this amendment, the Exchange is eliminating its recently approved rules related to the establishment of a directed order program on a pilot basis for BATS Options. ³ 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. ⁴

- (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 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

See Securities Exchange Act Release No. 64781 (June 30, 2011), 76 FR 39953 (July 7, 2011) (SR-BATS-2011-009).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

10, 2009. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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. <u>Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.</u>

(a) <u>Purpose</u>

The Exchange recently received approval to operate a directed order program for BATS Options on a pilot basis. The BATS Options directed order program would allow members of BATS Options ("Options Members") to direct an order to a particular BATS Options Market Maker for potential execution at a price improved over the existing National Best Bid ("NBB") or National Best Offer ("NBO"). The goal of the directed order program was to create a competitive structure to enhance aggressive quoting and shift economics associated with non-transparent payment for order flow arrangements to better execution prices for customer orders on the Exchange. While pending, the proposal to operate a directed order program received several comments from competitors of the Exchange and other market participants, some of which raised concerns that the directed order program may foster internalization and a widening of quoted spreads. During this time period, the Exchange also discussed the proposal with

See supra note 3.

See e.g., Letters to Elizabeth M. Murphy, Secretary, Commission, from Thomas F. Price, Managing Director, Securities Industry and Financial Markets Association, dated June 30, 2011; Christopher Nagy, Managing Director Order Strategy, TD Ameritrade, dated June 30, 2011; Jennifer M. Lamie, Assistant

several Options Members, and the Exchange has continued these discussions following the approval of the proposal. While the Exchange continues to believe that the proposal is consistent with the Act and contains appropriate requirements to incent competitive quotations and further the public price discovery process, based on on-going discussions with Options Members, the Exchange believes there is sufficient reason to withdraw the directed order program and continue analyzing potential refinements that may better achieve the Exchange's goal. The Exchange notes that it has not yet implemented the directed order program.

Based on the foregoing, the Exchange proposes to eliminate the definitions for Market Maker Price Improving Orders and Directed Orders from the types of approved order types offered by the BATS Options pursuant to Rule 21.1.

(b) <u>Statutory Basis</u>

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

General Counsel, Legal Division, Chicago Board Options Exchange, dated June 29, 2011; Tom Wittman, The NASDAQ OMX PHLX, Inc. and The NASDAQ Options Market, dated June 24, 2011; Janet L. McGinness, SVP & Corporate Secretary, Legal & Government Affairs, NYSE Euronext, dated June 17, 2011; Michael J. Simon, Secretary, International Securities Exchange, LLC, dated June 17, 2011; Anthony D. McCormick, Chief Executive Officer, BOX Options Exchange Group, LLC, dated June 13, 2011; John C. Nagel, Managing Director and General Counsel, Asset Management and Markets, Citadel LLC, dated April 25, 2011; Andrew Stevens, Legal Counsel, IMC Chicago, LLC d/b/a IMC Financial Markets, dated April 21, 2011. The Exchange also notes that other options exchanges filed with the Commission a joint petition related to the directed order program following the approval of the directed order program.

⁷ 15 U.S.C. 78f(b).

Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,⁸ 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. The Exchange believes that elimination of the directed order program will provide the Exchange and the options industry as a whole with additional time to evaluate the potential benefits of a program such as the directed order program.

- Self-Regulatory Organization's Statement on Burden on Competition
 The proposed rule change does not impose any burden on competition.
- 5. <u>Self-Regulatory Organization's Statement on Comments on the Proposed Rule</u>
 <u>Change Received from Members, Participants or Others</u>

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.

- Extension of Time Period for Commission Action
 Not applicable.
- 7. <u>Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated</u> 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 Act⁹ 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,

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4.

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.¹¹

The Exchange believes that elimination of the directed order program will benefit market participants and the options industry as a whole by providing the Exchange with additional time to consider potential refinements to achieve its goal of shifting economics associated with non-transparent payment for order flow to better execution prices for customer orders on the Exchange., Moreover, the Exchange believes that the elimination of the language in Rule 21.1 will have no practical impact, as the directed order program has not yet been implemented, and thus eliminating it should not cause disruption to Options Members or the industry as a whole.

The Exchange respectfully requests that the Commission waive the 30-day 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 Act¹² and paragraph (f)(6) of Rule 19b-4 thereunder.¹³ The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would permit the Exchange to immediately remove language from its rules that could otherwise create confusion under the circumstances. Waiver of the 30-

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

day operative delay is consistent with the protection of investors and the public interest for the reasons described above.

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. <u>Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission</u>

Not applicable.

9. <u>Exhibits</u>

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.

EXHIBIT 1

SECURITIES AND EXCHAN	IGE COMMISSION
(Release No. 34	; File No. SR-BATS-2011-023

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rules in Connection with the Elimination of a Directed Order Program for BATS Options.

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 22, 2011, 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 Act³ and Rule 19b-4(f)(6)(iii) thereunder, ⁴ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is proposing to to amend BATS Rule 21.1, entitled "Definitions," to remove two order types, Market Maker Price Improving Orders and Directed Orders, from the types of approved order types offered by the BATS options market ("BATS Options"). Through this amendment, the Exchange is eliminating its recently approved

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).

rules related to the establishment of a directed order program on a pilot basis for BATS Options.⁵

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.

II. <u>Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis</u> 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) <u>Self-Regulatory Organization's Statement of the Purpose of, and Statutory</u> <u>Basis for, the Proposed Rule Change</u>
- 1. Purpose

The Exchange recently received approval to operate a directed order program for BATS Options on a pilot basis. The BATS Options directed order program would allow members of BATS Options ("Options Members") to direct an order to a particular BATS Options Market Maker for potential execution at a price improved over the existing National Best Bid ("NBB") or National Best Offer ("NBO"). The goal of the directed order program was to create a competitive structure to enhance aggressive quoting and shift economics associated with non-transparent payment for order flow arrangements to

See Securities Exchange Act Release No. 64781 (June 30, 2011), 76 FR 39953 (July 7, 2011) (SR-BATS-2011-009).

See supra note 3.

better execution prices for customer orders on the Exchange. While pending, the proposal to operate a directed order program received several comments from competitors of the Exchange and other market participants, some of which raised concerns that the directed order program may foster internalization and a widening of quoted spreads. During this time period, the Exchange also discussed the proposal with several Options Members, and the Exchange has continued these discussions following the approval of the proposal. While the Exchange continues to believe that the proposal is consistent with the Act and contains appropriate requirements to incent competitive quotations and further the public price discovery process, based on on-going discussions with Options Members, the Exchange believes there is sufficient reason to withdraw the directed order program and continue analyzing potential refinements that may better achieve the Exchange's goal. The Exchange notes that it has not yet implemented the directed order program.

⁷

See e.g., Letters to Elizabeth M. Murphy, Secretary, Commission, from Thomas F. Price, Managing Director, Securities Industry and Financial Markets Association, dated June 30, 2011; Christopher Nagy, Managing Director Order Strategy, TD Ameritrade, dated June 30, 2011; Jennifer M. Lamie, Assistant General Counsel, Legal Division, Chicago Board Options Exchange, dated June 29, 2011; Tom Wittman, The NASDAQ OMX PHLX, Inc. and The NASDAQ Options Market, dated June 24, 2011; Janet L. McGinness, SVP & Corporate Secretary, Legal & Government Affairs, NYSE Euronext, dated June 17, 2011; Michael J. Simon, Secretary, International Securities Exchange, LLC, dated June 17, 2011; Anthony D. McCormick, Chief Executive Officer, BOX Options Exchange Group, LLC, dated June 13, 2011; John C. Nagel, Managing Director and General Counsel, Asset Management and Markets, Citadel LLC, dated April 25, 2011; Andrew Stevens, Legal Counsel, IMC Chicago, LLC d/b/a IMC Financial Markets, dated April 21, 2011. The Exchange also notes that other options exchanges filed with the Commission a joint petition related to the directed order program following the approval of the directed order program.

Based on the foregoing, the Exchange proposes to eliminate the definitions for Market Maker Price Improving Orders and Directed Orders from the types of approved order types offered by the BATS Options pursuant to Rule 21.1.

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. Specifically, the proposed change is consistent with Section 6(b)(5) of the Act, 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. The Exchange believes that elimination of the directed order program will provide the Exchange and the options industry as a whole with additional time to evaluate the potential benefits of a program such as the directed order program.

- (B) <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

 The Exchange does not believe that the proposed rule change imposes any burden on competition.
 - (C) <u>Self-Regulatory Organization's Statement on Comments on the Proposed</u> Rule Change Received from Members, Participants, or Others

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

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

III. <u>Date of Effectiveness of the Proposed Rule Change and Timing for Commission</u> 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 Act¹⁰ and Rule 19b-4(f)(6)(iii) thereunder.¹¹

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

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-2011-023 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.

¹⁵ U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

All submissions should refer to File No. SR-BATS-2011-023. 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 Web site 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-BATS-2011-023 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. 12

Cathy H. Ahn **Deputy Secretary**

¹² 17 CFR 200.30-3(a)(12).

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

Rules of BATS Exchange, Inc.

* * * * *

CHAPTER XXI. TRADING SYSTEMS

Rule 21.1. Definitions

The following definitions apply to Chapter XXI for the trading of options listed on BATS Options.

- (a) (c) (No changes)
- (d) The term "Order Type" shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:
 - (1) (12) (No changes)
 - [(13) "Market Maker Price Improving Orders" are orders submitted by registered BATS Options Market Makers to buy or sell an option that have a displayed price and size, as well as a non-displayed price at which the BATS Options Market Maker is willing to trade with a Directed Order. The non-displayed price of a Market Maker Price Improving Order may be entered in increments as small as (1) one cent. Market Maker Price Improving Orders will be ranked on the BATS Options Book at their displayed price. The non-displayed price of a Market Maker Price Improving Order is not entered into the BATS Options Book but is, along with the displayed size, converted to a buy or sell order at its non-displayed price in response to a Directed Order directed to the BATS Options Market Maker. If the Directed Order is marketable against the non-displayed price of the Market Maker Price Improving Order, the Market Maker Price Improving Order will execute against a Directed Order directed to the BATS Options Market Maker up to the full displayed size, and at the non-displayed price, of the Market Maker Price Improving Order, so long as the following conditions are satisfied:
 - (A) at the time the Directed Order arrives to the Exchange, the displayed price of the Market Maker Price Improving Order is equal to the NBB (for sell Directed Orders) or the NBO (for buy Directed Orders), and
 - (B) there are no other orders on the BATS Options Book at prices equal to or better than the non-displayed price of the Market Maker Price Improving Order.

If there are other non-displayed orders on the BATS Options Book at prices equal to or better than the non-displayed price of the Market Maker Price Improving Orders, those other non-displayed orders will in all cases have priority over the non-displayed price of the Market Maker Price Improving Order. In such circumstances, the Market Maker

Price Improving Order may still execute at its non-displayed price against the Directed Order consistent with the price/time priority provisions of Rule 21.8 to the extent of any remaining contracts of the Directed Order. If a Directed Order is directed to multiple BATS Options Market Makers, the Market Maker Price Improving Orders against which such Directed Order can execute will execute in price/time priority based on the non-displayed price of such orders.

(14) "Directed Orders" are orders from a BATS Options Member that are directed to one or more BATS Options Market Makers for execution. Directed Orders will be eligible to trade at a price better than the NBB or NBO with the BATS Options Market Maker(s) to whom the Directed Order is directed if the BATS Options Member submitting the Directed Order has been permissioned by the BATS Options Market Maker(s) to submit Directed Orders to the BATS Options Market Maker(s), and the BATS Options Market Maker(s) has or have posted a Market Maker Price Improving Order on the BATS Options Book in the security that has a displayed price equal to the NBB (for sell Directed Orders) or the NBO (for buy Directed Orders) at the time the Directed Order arrives to the Exchange. If these conditions are not met, the Directed Order will be processed on the Exchange, consistent with the terms of the Directed Order, in compliance with the order display and book processing provisions of BATS Rule 21.8 and, as applicable, with the order routing provisions of BATS Rule 21.9.]

(e) - (g) (No changes)

* * * * *