

Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2012 - * 013

Amendment No. (req. for Amendments *)

Proposed Rule Change by BATS Y-Exchange, Inc.

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

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 *).

Amendments to the fee schedule of BATS Y-Exchange, Inc.

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 07/02/2012

By Anders Franzon
(Name *)

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.

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 (required)

Add Remove View

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 (required)

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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

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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 Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² BATS Y-Exchange, Inc. (the “Exchange” or “BYX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the fee schedule applicable to Members³ and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

(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.

* * * * *

BATS BYX Exchange Fee Schedule
Effective [February 1] July 2, 2012

The following is the Schedule of Fees (pursuant to Rule 15.1(a) and (c)) for BATS Y-Exchange, Inc. (“BYX Exchange” or “BYX”).

All references to “per share” mean “per share executed.”

* * * * *

TRIM Routing Strategy

- TRIM orders executed at NASDAQ BX: \$0.0014 rebate per share
- TRIM2 orders executed at NASDAQ BX: \$0.0010 rebate per share
- TRIM/TRIM2 orders executed at EDGA: \$0.0007 charge per share
- TRIM orders executed at NASDAQ PSX: No charge per share
- TRIM/TRIM2 orders executed at a DRT venue: \$0.0020 charge per share
- TRIM orders executed at NYSE: \$0.0022 charge per share
- TRIM orders executed at BZX Exchange: \$0.0029 charge per share

SLIM Routing Strategy

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

- SLIM orders executed at BZX Exchange: \$0.0029 charge per share
- SLIM orders executed at NYSE: \$0.0022 charge per share
- SLIM orders executed at any other venue, including any DRT venue: \$0.0026 charge per share

Logical Port Fees

- \$400.00 per month per pair (primary and secondary data center) of any logical port other than a Multicast PITCH Spin Server Port or GRP Port
- Multicast PITCH customers: 32 free pairs of Multicast PITCH Spin Server Ports, and, if such ports are used, one free pair of GRP Ports; \$400.00 per month per additional set of 32 pairs of Multicast PITCH Spin Server Ports or additional pair of GRP Ports

* * * * *

(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 (“Board”) on September 27, 2010. Exchange staff will advise the Board 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 Exchange proposes to modify its fee schedule in order to: (i) accommodate an additional venue as part of the Exchange’s “TRIM” routing strategy; and (ii) commence charging for logical ports used to enter orders into Exchange systems and to receive data from the Exchange. Each of these proposed changes is described in further detail below.

(i) TRIM Routing Strategy

The Exchange proposes to modify its fee schedule in order to accommodate an additional venue as part of the Exchange's "TRIM" routing strategy. As defined in BYX Rule 11.13(a)(3)(G), TRIM is a routing option under which an order checks the System⁴ for available shares and then is sent to destinations on the System routing table. The TRIM routing strategy is focused on seeking execution of orders while minimizing execution costs by routing to certain low cost execution venues on the Exchange's routing table. Accordingly, the Exchange's current TRIM routing strategy will check the Exchange's order book and then route to various venues on the Exchange's routing table, including NASDAQ OMX BX, Inc. ("NASDAQ BX"), EDGA EXCHANGE, Inc. ("EDGA"), the New York Stock Exchange LLC ("NYSE"), BATS Exchange, Inc. ("BZX Exchange") and certain alternative trading systems available through the Exchange's "DRT" strategy ("DRT Venues").⁵ As of July 2, 2012, the Exchange plans to add an additional execution venue, NASDAQ OMX PSX ("NASDAQ PSX"), to the TRIM routing strategy. The TRIM routing strategy generally passes the same execution fee assessed by the applicable market center back to Exchange Users.⁶ In order to add

⁴ As defined in BYX Rule 1.5(aa), the System is the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

⁵ As set forth in BYX Rule 11.13(a)(3)(E), DRT is a routing option in which the entering firm instructs the System to route to alternative trading systems included in the System routing table. Unless otherwise specified, DRT can be combined with and function consistent with all other routing options.

⁶ As defined in BYX Rule 1.5(cc), a User is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. A Sponsored Participant is a firm that is sponsored by a Member of the Exchange to access the Exchange and that meets the criteria of Exchange Rule 11.3.

NASDAQ PSX to the TRIM routing strategy, the Exchange is proposing to adopt pricing for executions through the TRIM routing strategy of orders routed to NASDAQ PSX.

Based on a recently filed proposal, as of July 2, 2012, NASDAQ PSX does not assess any charge to remove liquidity from its order book for participants that reach certain volume tiers.⁷ Because the Exchange anticipates being able to reach such tiers based on its routing practices, the Exchange proposes neither to assess any fee nor to provide any rebate for TRIM orders that remove liquidity from NASDAQ PSX.

(ii) Logical Port Fees

The Exchange also proposes to commence charging fees to Members and non-members for logical ports used to enter orders into Exchange systems and to receive data from the Exchange. A logical port is also commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt.

In contrast to its affiliate, BZX Exchange, and most of its competitors, the Exchange currently provides logical ports free of charge to Members and non-members that have access to or receive data from the Exchange. Pursuant to the proposed rule change, the Exchange will begin charging a monthly fee for ports used to enter orders in the Exchange's trading system and to receive data from the Exchange. The Exchange

⁷ See SR-Phlx-2012-87 (June 27, 2012). This proposal was recently filed and will become operative on July 2, 2012.

proposes to charge \$400.00 per month per pair⁸ of any port type other than a Multicast PITCH Spin Server Port or a GRP Port. Thus, this proposed charge will apply to all Exchange FIX, FIXDROP, BOE, DROP, TCP PITCH, and TOP ports. In addition, the Exchange proposes to provide all Exchange constituents that receive the Exchange's Multicast PITCH Feed with 32 Multicast PITCH Spin Server Ports free of charge and, if such ports are used, one free pair of GRP Ports. The Exchange proposes to charge such customers \$400.00 per month per additional pair of GRP Ports or additional set of 32 Multicast PITCH Spin Server Ports. The Exchange's proposal to provide certain ports free of charge to Multicast Pitch customers is designed to encourage use of the Exchange's Multicast PITCH Feed because the Exchange believes that the feed is its most efficient feed, and thus, will reduce infrastructure costs for both the Exchange and those who utilize the feed. Any Member or non-member that has entered into the appropriate agreements with the Exchange is permitted to receive Multicast PITCH Spin Server Ports and GRP Ports from the Exchange.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, Sponsored Participants sponsored by Members to receive direct access to the Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients. The Exchange has previously provided ports free of charge to all Members and non-members that use such ports for order entry to the Exchange or for receipt of market data.

However, over time, the Exchange's infrastructure costs have increased. In addition, the

⁸ Each pair of ports will consist of one port at the Exchange's primary data center and one port at the Exchange's secondary data center.

Exchange believes that providing ports free of charge has not encouraged Members and non-members to reserve and maintain ports efficiently, but rather, has led to a significant number of ports that are reserved and enabled by such market participants but are never used or are under used. Accordingly, the Exchange believes that the imposition of port fees will help the Exchange to continue to maintain and improve its infrastructure, while also encouraging Exchange customers to request and enable only the ports that are necessary for their operations related to the Exchange. The Exchange also notes that its affiliated national securities exchange, BZX Exchange, charges for ports to access its cash equity securities platform on exactly the same terms as are proposed herein.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.⁹ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁰ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange also notes that with respect to the routing changes proposed in this filing, although routing options are available to all Users, Users are not required to

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4).

use the Exchange's routing services, but instead, the Exchange's routing services are completely optional. Members can manage their own routing to different venues or can utilize a myriad of other routing solutions that are available to market participants.

The Exchange believes that the proposed fee for executions at NASDAQ PSX under the TRIM routing option is reasonable in that it is the same fee as the fee charged directly by NASDAQ PSX, as described above. As such, the Exchange believes that the proposed routing fee is competitive, fair and reasonable, and non-discriminatory in that it is generally designed to mirror the fee applicable to the execution if such routed orders were executed directly by the Member at NASDAQ PSX. The Exchange also believes that the proposed fees for the TRIM routing strategy are fair and equitable and not unreasonably discriminatory in that they apply equally to all Exchange Users.

The Exchange believes that its proposed logical port fees are reasonable in light of the benefits to Members of direct market access and receipt of data, which data, other than the proposed logical port fee, is currently provided free of charge. In addition, the Exchange believes that its fees are equitably allocated among its constituents based upon the number of access ports that they require to submit orders to the Exchange or receive data from the Exchange. The Exchange believes that its fees for access services will enable it to better cover its infrastructure costs and to improve its technology and services.

The Exchange also believes that providing financial incentives to use Exchange technology that the Exchange believes is the most technologically efficient for the Exchange and its constituents is a fair and equitable approach to pricing. Accordingly, the Exchange believes that promotion of its Multicast PITCH data feed through the

offering of free logical ports is fair and equitable. The Multicast PITCH data feed is available to all Members, and as such, all Members have the ability to receive applicable Multicast PITCH ports free of charge. Based on the foregoing, the Exchange believes that the proposed pricing structure for logical ports is not unreasonably discriminatory.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange will not assess any routing fee for orders routed to NASDAQ PSX, consistent with NASDAQ PSX pricing. The Exchange also notes that Users may choose to mark their orders as ineligible for routing to avoid incurring routing fees.¹¹ With respect to port fees, fees for access to the Exchange will be a component of the overall fees charged by the Exchange to execute and route orders through the Exchange. As the Commission has recognized, the market for execution and routing services is extremely competitive.¹² Market participants that choose not to connect directly to the Exchange can readily access liquidity available on the Exchange by directing their order flow to other venues that, under Regulation NMS, must route to the Exchange if it has posted the best price. Accordingly, the Exchange must set its fees, including access service fees, at a level that will not deter market participants from connecting to the Exchange; otherwise, potential users of the Exchange's services will simply direct order flow to the Exchange's multiple competitors. In addition, the

¹¹ See, e.g., BYX Rule 11.9(c)(4) (describing "BATS Only" orders) and BYX Rule 11.13(a)(2) (describing the routing process, which is dependent on User instruction).

¹² Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

Exchange believes that the proposed port fees are consistent with or less than the port fees charged by its competitors. With respect to market data, the Exchange does not currently charge any fees for such data. Although it will now begin imposing a fee related to access to such data, for market participants that receive such data directly from the Exchange, the Exchange believes that its free provision of data justifies such market participants paying some amount in order to help the Exchange offset the infrastructure costs of providing such data.

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

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

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act¹³ and Rule 19b-4(f)(2) thereunder,¹⁴ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

The port fee component of the proposed rule change is based on the rules of other self-regulatory organizations that charge port fees to market participants. For example, BZX Exchange, the Exchange's affiliate, currently charges \$400 per month for ports to access the BZX Exchange, on exactly the same terms as the Exchange has proposed herein.¹⁵ One of the Exchange's competitors, NASDAQ, currently charges \$500 per month for FIX ports used to enter orders into its systems.¹⁶ NASDAQ also charges for ports used to receive market data, including a \$500 charge per month for a FIX port and a \$1,000 charge for a Multicast ITCH data feed pair.¹⁷

9. Exhibits

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

Exhibit 2 – 5: Not applicable.

¹⁵ See Securities Exchange Act Release No. 63857 (February 7, 2011), 76 FR 7891 (February 11, 2011) (SR-BATS-2011-004) (notice of filing and immediate effectiveness of proposed rule change related to exchange fees, including an increase of the logical port fee charge from \$250 per month to \$400 per month).

¹⁶ See NASDAQ Rule 7015(b) and (g).

¹⁷ Id.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BYX-2012-013)

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

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 2, 2012, BATS Y-Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the fee schedule applicable to Members⁵ and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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

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

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

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

1. Purpose

The Exchange proposes to modify its fee schedule in order to: (i) accommodate an additional venue as part of the Exchange's "TRIM" routing strategy; and (ii) commence charging for logical ports used to enter orders into Exchange systems and to receive data from the Exchange. Each of these proposed changes is described in further detail below.

(i) TRIM Routing Strategy

The Exchange proposes to modify its fee schedule in order to accommodate an additional venue as part of the Exchange's "TRIM" routing strategy. As defined in BYX Rule 11.13(a)(3)(G), TRIM is a routing option under which an order checks the System⁶

⁶ As defined in BYX Rule 1.5(aa), the System is the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

for available shares and then is sent to destinations on the System routing table. The TRIM routing strategy is focused on seeking execution of orders while minimizing execution costs by routing to certain low cost execution venues on the Exchange's routing table. Accordingly, the Exchange's current TRIM routing strategy will check the Exchange's order book and then route to various venues on the Exchange's routing table, including NASDAQ OMX BX, Inc. ("NASDAQ BX"), EDGA EXCHANGE, Inc. ("EDGA"), the New York Stock Exchange LLC ("NYSE"), BATS Exchange, Inc. ("BZX Exchange") and certain alternative trading systems available through the Exchange's "DRT" strategy ("DRT Venues").⁷ As of July 2, 2012, the Exchange plans to add an additional execution venue, NASDAQ OMX PSX ("NASDAQ PSX"), to the TRIM routing strategy. The TRIM routing strategy generally passes the same execution fee assessed by the applicable market center back to Exchange Users.⁸ In order to add NASDAQ PSX to the TRIM routing strategy, the Exchange is proposing to adopt pricing for executions through the TRIM routing strategy of orders routed to NASDAQ PSX.

Based on a recently filed proposal, as of July 2, 2012, NASDAQ PSX does not assess any charge to remove liquidity from its order book for participants that reach certain volume tiers.⁹ Because the Exchange anticipates being able to reach such tiers

⁷ As set forth in BYX Rule 11.13(a)(3)(E), DRT is a routing option in which the entering firm instructs the System to route to alternative trading systems included in the System routing table. Unless otherwise specified, DRT can be combined with and function consistent with all other routing options.

⁸ As defined in BYX Rule 1.5(cc), a User is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. A Sponsored Participant is a firm that is sponsored by a Member of the Exchange to access the Exchange and that meets the criteria of Exchange Rule 11.3.

⁹ See SR-Phlx-2012-87 (June 27, 2012). This proposal was recently filed and will become operative on July 2, 2012.

based on its routing practices, the Exchange proposes neither to assess any fee nor to provide any rebate for TRIM orders that remove liquidity from NASDAQ PSX.

(ii) Logical Port Fees

The Exchange also proposes to commence charging fees to Members and non-members for logical ports used to enter orders into Exchange systems and to receive data from the Exchange. A logical port is also commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt.

In contrast to its affiliate, BZX Exchange, and most of its competitors, the Exchange currently provides logical ports free of charge to Members and non-members that have access to or receive data from the Exchange. Pursuant to the proposed rule change, the Exchange will begin charging a monthly fee for ports used to enter orders in the Exchange's trading system and to receive data from the Exchange. The Exchange proposes to charge \$400.00 per month per pair¹⁰ of any port type other than a Multicast PITCH Spin Server Port or a GRP Port. Thus, this proposed charge will apply to all Exchange FIX, FIXDROP, BOE, DROP, TCP PITCH, and TOP ports. In addition, the Exchange proposes to provide all Exchange constituents that receive the Exchange's Multicast PITCH Feed with 32 Multicast PITCH Spin Server Ports free of charge and, if such ports are used, one free pair of GRP Ports. The Exchange proposes to charge such customers \$400.00 per month per additional pair of GRP Ports or additional set of 32

¹⁰ Each pair of ports will consist of one port at the Exchange's primary data center and one port at the Exchange's secondary data center.

Multicast PITCH Spin Server Ports. The Exchange's proposal to provide certain ports free of charge to Multicast Pitch customers is designed to encourage use of the Exchange's Multicast PITCH Feed because the Exchange believes that the feed is its most efficient feed, and thus, will reduce infrastructure costs for both the Exchange and those who utilize the feed. Any Member or non-member that has entered into the appropriate agreements with the Exchange is permitted to receive Multicast PITCH Spin Server Ports and GRP Ports from the Exchange.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, Sponsored Participants sponsored by Members to receive direct access to the Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients. The Exchange has previously provided ports free of charge to all Members and non-members that use such ports for order entry to the Exchange or for receipt of market data. However, over time, the Exchange's infrastructure costs have increased. In addition, the Exchange believes that providing ports free of charge has not encouraged Members and non-members to reserve and maintain ports efficiently, but rather, has led to a significant number of ports that are reserved and enabled by such market participants but are never used or are under used. Accordingly, the Exchange believes that the imposition of port fees will help the Exchange to continue to maintain and improve its infrastructure, while also encouraging Exchange customers to request and enable only the ports that are necessary for their operations related to the Exchange. The Exchange also notes that its affiliated national securities exchange, BZX Exchange, charges for ports to access its cash equity securities platform on exactly the same terms as are proposed herein.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.¹¹ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹² in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange also notes that with respect to the routing changes proposed in this filing, although routing options are available to all Users, Users are not required to use the Exchange's routing services, but instead, the Exchange's routing services are completely optional. Members can manage their own routing to different venues or can utilize a myriad of other routing solutions that are available to market participants.

The Exchange believes that the proposed fee for executions at NASDAQ PSX under the TRIM routing option is reasonable in that is the same fee as the fee charged directly by NASDAQ PSX, as described above. As such, the Exchange believes that the proposed routing fee is competitive, fair and reasonable, and non-discriminatory in that it is generally designed to mirror the fee applicable to the execution if such routed orders were executed directly by the Member at NASDAQ PSX. The Exchange also believes

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(4).

that the proposed fees for the TRIM routing strategy are fair and equitable and not unreasonably discriminatory in that they apply equally to all Exchange Users.

The Exchange believes that its proposed logical port fees are reasonable in light of the benefits to Members of direct market access and receipt of data, which data, other than the proposed logical port fee, is currently provided free of charge. In addition, the Exchange believes that its fees are equitably allocated among its constituents based upon the number of access ports that they require to submit orders to the Exchange or receive data from the Exchange. The Exchange believes that its fees for access services will enable it to better cover its infrastructure costs and to improve its technology and services.

The Exchange also believes that providing financial incentives to use Exchange technology that the Exchange believes is the most technologically efficient for the Exchange and its constituents is a fair and equitable approach to pricing. Accordingly, the Exchange believes that promotion of its Multicast PITCH data feed through the offering of free logical ports is fair and equitable. The Multicast PITCH data feed is available to all Members, and as such, all Members have the ability to receive applicable Multicast PITCH ports free of charge. Based on the foregoing, the Exchange believes that the proposed pricing structure for logical ports is not unreasonably discriminatory.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange will not assess any routing fee for orders routed to NASDAQ PSX, consistent with NASDAQ PSX pricing. The Exchange also notes that Users may choose to mark their orders as ineligible for routing to avoid incurring routing

fees.¹³ With respect to port fees, fees for access to the Exchange will be a component of the overall fees charged by the Exchange to execute and route orders through the Exchange. As the Commission has recognized, the market for execution and routing services is extremely competitive.¹⁴ Market participants that choose not to connect directly to the Exchange can readily access liquidity available on the Exchange by directing their order flow to other venues that, under Regulation NMS, must route to the Exchange if it has posted the best price. Accordingly, the Exchange must set its fees, including access service fees, at a level that will not deter market participants from connecting to the Exchange; otherwise, potential users of the Exchange's services will simply direct order flow to the Exchange's multiple competitors. In addition, the Exchange believes that the proposed port fees are consistent with or less than the port fees charged by its competitors. With respect to market data, the Exchange does not currently charge any fees for such data. Although it will now begin imposing a fee related to access to such data, for market participants that receive such data directly from the Exchange, the Exchange believes that its free provision of data justifies such market participants paying some amount in order to help the Exchange offset the infrastructure costs of providing such data.

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

No written comments were solicited or received.

¹³ See, e.g., BYX Rule 11.9(c)(4) (describing "BATS Only" orders) and BYX Rule 11.13(a)(2) (describing the routing process, which is dependent on User instruction).

¹⁴ Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁵ and Rule 19b-4(f)(2) thereunder,¹⁶ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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

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-BYX-2012-013 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-BYX-2012-013. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BYX-2012-013 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.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).