

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 27      SECURITIES AND EXCHANGE COMMISSION      File No.\* SR - 2013 - \* 061  
 WASHINGTON, D.C. 20549      Form 19b-4      Amendment No. (req. for Amendments \*)

Filing 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"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/>	Section 806(e)(2) <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>
--	---	--

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
--	--

**Description**  
 Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).  
 Amendments to the fee schedule of BATS Exchange, Inc. with respect to routing fees charged by BATS Options for orders routed to and executed by certain other options exchanges.

**Contact Information**  
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Anders      Last Name \* Franzon  
 Title \* VP, Associate General Counsel  
 E-mail \* afranzon@bats.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.  
 (Title \*)  
 Date 12/02/2013      VP, Associate General Counsel  
 By Anders Franzon  
 (Name \*)  
 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.  
 Persona Not Validated - 1364234628553,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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 \***

Add Remove View

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

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

Add Remove View

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

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

Add Remove View

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**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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”),<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 the fee schedule applicable to Members<sup>3</sup> and non-members of the Exchange pursuant to BATS 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 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 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.

---

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

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

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

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 pricing charged by the Exchange's options platform ("BATS Options") for orders routed away from the Exchange and executed at the International Securities Exchange, LLC ("ISE") and the NASDAQ OMX PHLX LLC ("PHLX").

Background

The Exchange currently charges certain flat rates for routing to other options exchanges that have been placed into groups based on the approximate cost of routing to such venues. The grouping of away options exchanges is based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (i.e., clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). To address different fees at various other options exchanges, the Exchange in most instances differentiates between either securities subject to the options penny pilot program ("Penny Pilot Securities") and non-Penny Pilot Securities or between "Make/Take issues" and "Classic issues." As set forth on the Exchange's fee schedule, pricing in Make/Take issues is for executions at the identified exchange under which rebates to post liquidity (i.e., "Make") are credited by that exchange and fees to take liquidity (i.e., "Take") are charged by that exchange; pricing in Classic issues applies to all other executions at such exchanges.

ISE Routing Fees

The Exchange currently charges \$0.30 per contract for Customer<sup>4</sup> orders and \$0.57 per contract for Professional,<sup>5</sup> Firm, and Market Maker<sup>6</sup> orders executed at ISE in Make/Take issues. Based on execution fees charged by ISE, which currently exceed the fee charged for Customer orders even without taking other Routing Costs into consideration, the Exchange proposes to increase fees for Customer orders routed to and executed at ISE in Make/Take issues. Specifically, the Exchange proposes to charge \$0.52 per contract for Customer orders executed at ISE in Make/Take issues. This is the same fee charged for executions in Penny Pilot Securities for Customer orders routed to and executed at the Topaz Exchange, LLC (“ISE Gemini”), the NASDAQ Options Market (“NOM”), and NYSE Arca, Inc. (“ARCA”). Also, for consistency with such other markets, because the ISE’s pricing model is now clearly differentiated between Penny Pilot Securities and non-Penny Pilot Securities, the Exchange proposes to change the references for such pricing from Make/Take pricing to Penny Pilot Security pricing.

The Exchange does not propose any change to the fee of \$0.57 per contract for Professional, Firm, and Market Maker orders executed at ISE other than to re-designate such pricing as applicable to Penny Pilot Securities rather than Make/Take issues. The Exchange also proposes to change the references for ISE pricing in Classic issues to refer

---

<sup>4</sup> As defined on the Exchange’s fee schedule, a “Customer” order is any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (“OCC”), except for those designated as “Professional”.

<sup>5</sup> The term “Professional” is defined in Exchange Rule 16.1 to mean any person or entity that (A) is not a broker or dealer in securities, and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>6</sup> As defined on the Exchange’s fee schedule, the terms “Firm” and “Market Maker” apply to any transaction identified by a member for clearing in the Firm or Market Maker range, respectively, at the Options Clearing Corporation (“OCC”).

to pricing in non-Penny Pilot Securities. The Exchange is not proposing any changes to the actual pricing for orders executed at ISE in non-Penny Pilot Securities, which will remain at \$0.11 per contract for Customer orders and \$0.57 per contract for Professional, Firm, and Market Maker orders.

#### PHLX Routing Fees

The Exchange currently charges \$0.11 per contract for Customer orders and \$0.57 per contract for Professional, Firm, and Market Maker orders routed to and executed at PHLX in both Classic and Make/Take issues. Based on changes to pricing at PHLX that will set the fee to remove liquidity in options overlying the SPDR® S&P 500® exchange-traded fund (“SPY”) for all participants at \$0.45 per contract effective December 2, 2013, the Exchange proposes to increase its fees for all Customer orders routed to and executed at PHLX from \$0.11 to \$0.45 per contract. The Exchange believes that this increase will allow it to cover applicable Routing Costs for all Customer orders routed to and executed at PHLX, as further described below. Effective December 2, 2013, PHLX also adopted increased rates to remove liquidity in Classic issues to \$0.60 per contract. Based on this increase for Routing Costs for Professional, Firm, and Market Maker orders routed to and executed at PHLX in Classic issues, the Exchange proposes to increase the routing rate for all Professional, Firm, and Market Maker orders from \$0.57 to \$0.65 per contract. The Exchange believes that this increase will allow it to cover applicable Routing Costs for all Professional, Firm, and Market Maker orders routed to and executed at PHLX.

The Exchange notes that while the Exchange will be charging significantly more for certain Customer orders routed to and executed at PHLX than the PHLX charges

directly for such Customer orders, in other instances the Exchange will be charging less than the total Routing Costs incurred by the Exchange for routing Customer orders to PHLX, namely in the most actively traded options contract, SPY. Because options on SPY account for a significant amount of volume routed to away markets (as well as executed on the Exchange), the Exchange does not want to charge less than the actual fee for executions of SPY options on PHLX. Also, in order to continue to maintain a relatively simple routing table and fee schedule, the Exchange does not want to charge a routing fee specific to one underlying security at this time. Similarly, with respect to Professional, Firm, and Market Maker orders, the Exchange's proposal to charge \$0.65 per contract for all such orders will allow the Exchange to cover its Routing Costs for such orders routed to PHLX while also maintaining a simple pricing structure.

As it has done before, despite identical fees, the Exchange is maintaining separate references to Make/Take and Classic pricing for orders routed to and executed PHLX because it believes that participants that are accustomed to this distinction will be less confused if it continues to separately list each category.

The Exchange currently charges \$0.60 per contract for Directed ISOs routed and executed at away destinations, with the exception of: (i) Directed ISOs in Mini Options, for which the Exchange charges \$0.15 per contract; and (ii) in the following situations, for which the Exchange charges \$0.95 per contract: (1) orders in non-Penny Pilot Securities executed at NOM, ARCA and ISE Gemini; (2) Professional, Firm and Market Maker orders executed at BX Options in non-Penny Pilot Securities; and (3) Professional, Firm and Market Maker orders executed at C2. In order to cover anticipated Routing Costs for such orders taking recent PHLX pricing changes into account, the Exchange

proposes to charge \$0.95 per contract for Professional, Firm, and Market Maker orders if such orders are Directed ISOs routed to and executed at PHLX.

(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.<sup>7</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>8</sup> 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 or providers of routing services if they deem fee levels to be excessive.

As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to modify fees to ISE and PHLX is fair, equitable and reasonable because the fees are generally an approximation of the cost to the Exchange for routing orders to such exchanges. The Exchange believes that its flat fee structure for orders routed to various venues is a fair and equitable approach to pricing, as it provides

---

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

certainty with respect to execution fees at groups of away options exchanges. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or slight loss for orders routed to and executed at both ISE and PHLX. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to such exchanges. The Exchange also believes that the proposed fee structure for orders routed to and executed at these away options exchanges is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

As explained above, other than Directed ISOs sent to ISE and PHLX that are Customer orders, for which pricing remains unchanged, the Exchange has proposed to charge increased fees for Customer orders routed to ISE and for all orders routed to PHLX. The Exchange believes that the proposed fee structure for Customer orders routed to and executed at ISE is fair, equitable and reasonable because the fees are an approximation of the cost to the Exchange for routing such orders and will allow the Exchange to recoup and cover the costs of providing routing services to ISE. The Exchange also believes that the proposed fee structure for Customer orders routed to and executed at ISE is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members. The Exchange also believes that the change of references for ISE routing pricing from Classic and Make/Take to non-Penny Pilot Securities and Penny Pilot Securities is consistent with the Act because this change is consistent with the current ISE pricing structure.

Consistent with the Exchange's general approach to routing fees, as described above, the Exchange believes that maintaining a simple routing table with respect to

orders routed to PHLX despite recent changes by PHLX that will increase overall Routing Costs to the Exchange is also a fair and equitable approach to pricing. While the Exchange has proposed to maintain reference to both Classic and Make/Take pricing with respect to PHLX routing fees, the Exchange's proposal will actually maintain a single routing fee for all Customer orders executed at PHLX and a single routing fee for all Professional, Firm, and Market Maker orders executed at PHLX. The Exchange believes that this simple routing structure is fair, equitable and reasonable for the reasons describe above, including the certainty it provides market participants that choose to utilize the Exchange's routing services. The Exchange also believes that the proposed fee structure for orders routed to and executed at PHLX is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

The Exchange has also proposed an increased fee for Directed ISOs routed to and executed at PHLX to the extent such orders are Professional, Firm, or Market Maker orders. This increase is proposed because without adjustment, the Routing Costs incurred by the Exchange for Directed ISOs in certain securities sent on behalf of Professional, Firm, and Market Maker participants to PHLX would exceed the fee charged by the Exchange for Directed ISOs. The Exchange believes that the proposed fee structure for Directed ISOs routed to and executed at PHLX is fair, equitable and reasonable because the fees are an approximation of the cost to the Exchange for routing such orders and will allow the Exchange to recoup and cover the costs of providing routing services to PHLX. The Exchange also believes that the proposed fee structure for Directed ISOs routed to and executed at PHLX is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

The Exchange reiterates 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 to be excessive or providers of routing services if they deem fee levels to be excessive. Finally, the Exchange notes that it constantly evaluates its routing fees, including profit and loss attributable to routing, as applicable, in connection with the operation of a flat fee routing service, and would consider future adjustments to the proposed pricing structure to the extent it was recouping a significant profit or loss from routing to either ISE or PHLX.

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. The proposed changes will assist the Exchange in recouping costs for routing orders to other options exchanges on behalf of its participants in a manner that is a better approximation of actual costs than is currently in place and that reflects recent pricing changes by such options exchanges. The Exchange also notes that Members may choose to mark their orders as ineligible for routing to avoid incurring routing fees.<sup>9</sup> As stated above, 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 to be excessive or providers of routing services if they deem fee levels to be excessive.

---

<sup>9</sup> See BATS Rule 21.1(d)(8) (describing "BATS Only" orders for BATS Options) and BATS Rule 21.9(a)(1) (describing the BATS Options routing process, which requires orders to be designated as available for routing).

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2) thereunder,<sup>11</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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

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

Not applicable.

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

Not applicable.

---

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

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

Not applicable.

11. Exhibits

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

Exhibit 2 – 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_ ; File No. SR-BATS-2013-061)

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

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 December 2, 2013, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to

---

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

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

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

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

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

the fee schedule pursuant to this proposal will be effective upon filing.

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 pricing charged by the Exchange's options platform ("BATS Options") for orders routed away from the Exchange and executed at the International Securities Exchange, LLC ("ISE") and the NASDAQ OMX PHLX LLC ("PHLX").

Background

The Exchange currently charges certain flat rates for routing to other options exchanges that have been placed into groups based on the approximate cost of routing to such venues. The grouping of away options exchanges is based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (i.e., clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). To address different fees at various other options exchanges, the

Exchange in most instances differentiates between either securities subject to the options penny pilot program (“Penny Pilot Securities”) and non-Penny Pilot Securities or between “Make/Take issues” and “Classic issues.” As set forth on the Exchange’s fee schedule, pricing in Make/Take issues is for executions at the identified exchange under which rebates to post liquidity (i.e., “Make”) are credited by that exchange and fees to take liquidity (i.e., “Take”) are charged by that exchange; pricing in Classic issues applies to all other executions at such exchanges.

#### ISE Routing Fees

The Exchange currently charges \$0.30 per contract for Customer<sup>6</sup> orders and \$0.57 per contract for Professional,<sup>7</sup> Firm, and Market Maker<sup>8</sup> orders executed at ISE in Make/Take issues. Based on execution fees charged by ISE, which currently exceed the fee charged for Customer orders even without taking other Routing Costs into consideration, the Exchange proposes to increase fees for Customer orders routed to and executed at ISE in Make/Take issues. Specifically, the Exchange proposes to charge \$0.52 per contract for Customer orders executed at ISE in Make/Take issues. This is the same fee charged for executions in Penny Pilot Securities for Customer orders routed to and executed at the Topaz Exchange, LLC (“ISE Gemini”), the NASDAQ Options

---

<sup>6</sup> As defined on the Exchange’s fee schedule, a “Customer” order is any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (“OCC”), except for those designated as “Professional”.

<sup>7</sup> The term “Professional” is defined in Exchange Rule 16.1 to mean any person or entity that (A) is not a broker or dealer in securities, and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>8</sup> As defined on the Exchange’s fee schedule, the terms “Firm” and “Market Maker” apply to any transaction identified by a member for clearing in the Firm or Market Maker range, respectively, at the Options Clearing Corporation (“OCC”).

Market (“NOM”), and NYSE Arca, Inc. (“ARCA”). Also, for consistency with such other markets, because the ISE’s pricing model is now clearly differentiated between Penny Pilot Securities and non-Penny Pilot Securities, the Exchange proposes to change the references for such pricing from Make/Take pricing to Penny Pilot Security pricing.

The Exchange does not propose any change to the fee of \$0.57 per contract for Professional, Firm, and Market Maker orders executed at ISE other than to re-designate such pricing as applicable to Penny Pilot Securities rather than Make/Take issues. The Exchange also proposes to change the references for ISE pricing in Classic issues to refer to pricing in non-Penny Pilot Securities. The Exchange is not proposing any changes to the actual pricing for orders executed at ISE in non-Penny Pilot Securities, which will remain at \$0.11 per contract for Customer orders and \$0.57 per contract for Professional, Firm, and Market Maker orders.

#### PHLX Routing Fees

The Exchange currently charges \$0.11 per contract for Customer orders and \$0.57 per contract for Professional, Firm, and Market Maker orders routed to and executed at PHLX in both Classic and Make/Take issues. Based on changes to pricing at PHLX that will set the fee to remove liquidity in options overlying the SPDR® S&P 500® exchange-traded fund (“SPY”) for all participants at \$0.45 per contract effective December 2, 2013, the Exchange proposes to increase its fees for all Customer orders routed to and executed at PHLX from \$0.11 to \$0.45 per contract. The Exchange believes that this increase will allow it to cover applicable Routing Costs for all Customer orders routed to and executed at PHLX, as further described below. Effective December 2, 2013, PHLX also adopted increased rates to remove liquidity in Classic issues to \$0.60

per contract. Based on this increase for Routing Costs for Professional, Firm, and Market Maker orders routed to and executed at PHLX in Classic issues, the Exchange proposes to increase the routing rate for all Professional, Firm, and Market Maker orders from \$0.57 to \$0.65 per contract. The Exchange believes that this increase will allow it to cover applicable Routing Costs for all Professional, Firm, and Market Maker orders routed to and executed at PHLX.

The Exchange notes that while the Exchange will be charging significantly more for certain Customer orders routed to and executed at PHLX than the PHLX charges directly for such Customer orders, in other instances the Exchange will be charging less than the total Routing Costs incurred by the Exchange for routing Customer orders to PHLX, namely in the most actively traded options contract, SPY. Because options on SPY account for a significant amount of volume routed to away markets (as well as executed on the Exchange), the Exchange does not want to charge less than the actual fee for executions of SPY options on PHLX. Also, in order to continue to maintain a relatively simple routing table and fee schedule, the Exchange does not want to charge a routing fee specific to one underlying security at this time. Similarly, with respect to Professional, Firm, and Market Maker orders, the Exchange's proposal to charge \$0.65 per contract for all such orders will allow the Exchange to cover its Routing Costs for such orders routed to PHLX while also maintaining a simple pricing structure.

As it has done before, despite identical fees, the Exchange is maintaining separate references to Make/Take and Classic pricing for orders routed to and executed PHLX because it believes that participants that are accustomed to this distinction will be less confused if it continues to separately list each category.

The Exchange currently charges \$0.60 per contract for Directed ISOs routed and executed at away destinations, with the exception of: (i) Directed ISOs in Mini Options, for which the Exchange charges \$0.15 per contract; and (ii) in the following situations, for which the Exchange charges \$0.95 per contract: (1) orders in non-Penny Pilot Securities executed at NOM, ARCA and ISE Gemini; (2) Professional, Firm and Market Maker orders executed at BX Options in non-Penny Pilot Securities; and (3) Professional, Firm and Market Maker orders executed at C2. In order to cover anticipated Routing Costs for such orders taking recent PHLX pricing changes into account, the Exchange proposes to charge \$0.95 per contract for Professional, Firm, and Market Maker orders if such orders are Directed ISOs routed to and executed at PHLX.

## 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.<sup>9</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>10</sup> 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 or providers of routing services if they deem fee levels to be excessive.

---

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to modify fees to ISE and PHLX is fair, equitable and reasonable because the fees are generally an approximation of the cost to the Exchange for routing orders to such exchanges. The Exchange believes that its flat fee structure for orders routed to various venues is a fair and equitable approach to pricing, as it provides certainty with respect to execution fees at groups of away options exchanges. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or slight loss for orders routed to and executed at both ISE and PHLX. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to such exchanges. The Exchange also believes that the proposed fee structure for orders routed to and executed at these away options exchanges is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

As explained above, other than Directed ISOs sent to ISE and PHLX that are Customer orders, for which pricing remains unchanged, the Exchange has proposed to charge increased fees for Customer orders routed to ISE and for all orders routed to PHLX. The Exchange believes that the proposed fee structure for Customer orders routed to and executed at ISE is fair, equitable and reasonable because the fees are an approximation of the cost to the Exchange for routing such orders and will allow the Exchange to recoup and cover the costs of providing routing services to ISE. The

Exchange also believes that the proposed fee structure for Customer orders routed to and executed at ISE is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members. The Exchange also believes that the change of references for ISE routing pricing from Classic and Make/Take to non-Penny Pilot Securities and Penny Pilot Securities is consistent with the Act because this change is consistent with the current ISE pricing structure.

Consistent with the Exchange's general approach to routing fees, as described above, the Exchange believes that maintaining a simple routing table with respect to orders routed to PHLX despite recent changes by PHLX that will increase overall Routing Costs to the Exchange is also a fair and equitable approach to pricing. While the Exchange has proposed to maintain reference to both Classic and Make/Take pricing with respect to PHLX routing fees, the Exchange's proposal will actually maintain a single routing fee for all Customer orders executed at PHLX and a single routing fee for all Professional, Firm, and Market Maker orders executed at PHLX. The Exchange believes that this simple routing structure is fair, equitable and reasonable for the reasons describe above, including the certainty it provides market participants that choose to utilize the Exchange's routing services. The Exchange also believes that the proposed fee structure for orders routed to and executed at PHLX is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

The Exchange has also proposed an increased fee for Directed ISOs routed to and executed at PHLX to the extent such orders are Professional, Firm, or Market Maker orders. This increase is proposed because without adjustment, the Routing Costs incurred by the Exchange for Directed ISOs in certain securities sent on behalf of Professional,

Firm, and Market Maker participants to PHLX would exceed the fee charged by the Exchange for Directed ISOs. The Exchange believes that the proposed fee structure for Directed ISOs routed to and executed at PHLX is fair, equitable and reasonable because the fees are an approximation of the cost to the Exchange for routing such orders and will allow the Exchange to recoup and cover the costs of providing routing services to PHLX. The Exchange also believes that the proposed fee structure for Directed ISOs routed to and executed at PHLX is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

The Exchange reiterates 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 to be excessive or providers of routing services if they deem fee levels to be excessive. Finally, the Exchange notes that it constantly evaluates its routing fees, including profit and loss attributable to routing, as applicable, in connection with the operation of a flat fee routing service, and would consider future adjustments to the proposed pricing structure to the extent it was recouping a significant profit or loss from routing to either ISE or PHLX.

(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. The proposed changes will assist the Exchange in recouping costs for routing orders to other options exchanges on behalf of its participants in a manner that is a better approximation of actual costs than is currently in place and that reflects recent pricing changes by such options exchanges. The Exchange also notes that Members may choose

to mark their orders as ineligible for routing to avoid incurring routing fees.<sup>11</sup> As stated above, 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 to be excessive or providers of routing services if they deem fee levels to be excessive.

(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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>13</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

---

<sup>11</sup> See BATS Rule 21.1(d)(8) (describing "BATS Only" orders for BATS Options) and BATS Rule 21.9(a)(1) (describing the BATS Options routing process, which requires orders to be designated as available for routing).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).

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-2013-061 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-2013-061. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change;

the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BATS-2013-061 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>14</sup>

Kevin M. O'Neill  
Deputy Secretary

---

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

BATS BZX Exchange Fee Schedule  
Effective [November 1]December 2, 2013

The following is the Schedule of Fees (pursuant to Rule 15.1(a) and (c)) for BATS Exchange, Inc. (“BZX Exchange” or “BZX”). The Schedule of Fees is divided into Equities Pricing, Options Pricing and Physical Connection Charges.

\* \* \* \* \*

**Options Pricing:**

\* \* \* \* \*

**Standard Best Execution Routing or Destination Specific Routing (“BATS Options+”)**

Charge per contract for contracts executed using “CYCLE”, “RECYCLE”, “Parallel D”, “Parallel 2D”, or BATS Options+ routing:

		Customer	Professional/ Firm/Market Maker
Mini Options (All Markets)		\$0.10	\$0.10
BOX		\$0.00	\$0.57
AMEX CBOE MIAX	BX Options (Penny Pilot Securities) ISE ( <u>Non-Penny Pilot Securities</u> )[Classic issues] <sup>6</sup> [PHLX (Classic issues) <sup>6</sup> ] [PHLX (Make/Take issues) <sup>6</sup> ]	\$0.11	\$0.57
[ISE (Make/Take issues) <sup>6</sup> ]		[\$0.30]	[\$0.57]
<u>PHLX (Classic issues)<sup>6</sup></u> <u>PHLX (Make/Take issues)<sup>6</sup></u>		<u>\$0.45</u>	<u>\$0.65</u>
ARCA (Penny Pilot Securities) NOM (Penny Pilot Securities) <u>ISE (Penny Pilot Securities)</u> ISE Gemini (Penny Pilot Securities)		\$0.52	\$0.57
BX Options (Non-Penny Pilot Securities) C2		\$0.00	\$0.95
NOM (Non-Penny Pilot Securities) ARCA (Non-Penny Pilot Securities) ISE Gemini (Non-Penny Pilot Securities)		\$0.90	\$0.95

**Directed ISO Fee**

\* \* \* \* \*

\$0.95 for: (1) orders in non-Penny Pilot Securities executed at NOM, ARCA and ISE Gemini, (2) Professional, Firm and Market Maker orders executed at BX Options in non-Penny Pilot Securities, and (3) Professional, Firm and Market Maker orders executed at C2 and PHLX

\* \* \* \* \*