

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="30"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2014"/> - * <input type="text" value="017"/>
		Amendment No. (req. for Amendments *) <input type="text"/>

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"/>
			Rule		
Pilot <input type="checkbox"/>	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	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
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"/>
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**Description**  
Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

**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 *	<input type="text" value="Christopher"/>	Last Name *	<input type="text" value="Solgan"/>
Title *	<input type="text" value="Regulatory Counsel"/>		
E-mail *	<input type="text" value="csolgan@bats.com"/>		
Telephone *	<input type="text" value="(201) 942-8321"/>	Fax	<input type="text"/>

**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	<input type="text" value="04/28/2014"/>	<input type="text" value="Regulatory Counsel"/>
By	<input type="text" value="Christopher Solgan"/>	<input type="text" value="csolgan@directedge.com"/>

(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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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 \***

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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, 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**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

Pursuant to 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 are 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 February 11, 2014. 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.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

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

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

<sup>3</sup> A Member is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

Eric Swanson  
EVP, General Counsel  
(913) 815-7000

Anders Franzon  
VP, Associate General Counsel  
(913) 815-7154

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 applicable to use of the Exchange in order to: (i) introduce "Step-Up Tiers" and a corresponding definition of "Step-Up Add TCV" on the Exchange's equities trading platform ("BATS Equities"); (ii) introduce a "Cross-Asset Step-Up Tier" and a corresponding definition of "Options Step-Up Add TCV" for the purposes of BATS Equities pricing; (iii) introduce a new tier for Customer<sup>4</sup> orders that add liquidity to the Exchange's options platform ("BATS Options") in options classes subject to the penny pilot program as described below ("Penny Pilot Securities")<sup>5</sup> and add a corresponding definition of "ADAV" for purposes of BATS Options pricing; and (iv) make a change to clarify that Enhanced Rebates will continue to only apply to Members that qualify for Volume Tier 2.

Background

Currently, with respect to BATS Equities, the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure, which is based on the Member meeting certain volume tiers based on their

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<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 Exchange currently charges different fees and provides different rebates depending on whether an options class is an options class that qualifies as a Penny Pilot Security pursuant to Exchange Rule 21.5, Interpretation and Policy .01 or is a non-penny options class.

ADAV<sup>6</sup> as a percentage of TCV<sup>7</sup> or ADV<sup>8</sup> as a percentage of TCV. Under such pricing structure, a Member will receive an adding rebate of anywhere between \$0.0020 and \$0.0032 per share executed, depending on the volume tier for which such Member qualifies.

The Exchange proposes to add two new types of tiers in addition to the volume tiers described above: Step-Up Tiers and a Cross-Asset Step-Up tier. The existing volume tiers will remain the same and both the Step-Up Tiers and Cross-Asset Step Up Tier will provide Members with additional ways to qualify for enhanced rebates. As proposed, a Member will receive the higher of the volume rebates, step-up rebates, or cross-asset step-up rebates for which they qualify.

#### Step-Up Tier 1 and Step-Up Tier 2

The Exchange proposes to add two tiers to its fee schedule: Step-Up Tier 1 and Step-Up Tier 2, both of which are similar to step-up tiers currently employed by NYSE

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<sup>6</sup> As provided in the fee schedule, for purposes of BATS Equities pricing, “ADAV” means average daily added volume calculated as the number of shares added per day on a monthly basis; neither routed shares nor shares added on any day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours (“Exchange System Disruption”) and on the last Friday in June (the “Russell Reconstitution Day”) are included in ADAV calculation.

<sup>7</sup> As provided in the fee schedule, for purposes of BATS Equities pricing, “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption or the Russell Reconstitution Day.

<sup>8</sup> As provided in the fee schedule, for purposes of BATS Equities pricing, “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; neither routed shares nor shares added or removed on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADV calculation.

Arca, Inc. (“Arca”).<sup>9</sup> The Exchange also proposes to add a corresponding definition of “Step-Up Add TCV.” Step-Up Tier 1 and Step-Up Tier 2 are designed to incentivize Members to increase their participation on the Exchange in terms of their ADAV compared to their January 2014 ADAV.

For purposes of BATS Equities pricing, the Exchange also proposes to define the term, “Step-Up Add TCV” within the definition of ADAV. As described more fully below, Step-Up Add TCV would be defined as “a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV.” Proposed Step-Up Tier 1 would provide a rebate of \$0.0029 per share where the Member’s Step-Up Add TCV is equal to or greater than 0.10% and Step-Up Tier 2 would provide a rebate of \$0.0030 where the Member’s Step-Up Add TCV is equal to or greater than 0.15%. A Member’s Step-Up Add TCV is calculated as the increase in the Member’s current ADAV as a percentage of TCV (“Current ADAV”) over the Member’s ADAV as a percentage of TCV from January 2014 (“Baseline ADAV”). Where a Member’s Current ADAV is at least 0.10% (0.15%) greater than its Baseline ADAV, the Member will qualify for Step-Up Tier 1 (Step-Up Tier 2). By way of example, where a Member’s Baseline ADAV is 0.09%, the Member would qualify for Step-Up Tier 1 if the Member’s Current ADAV is at least 0.19% and Step-Up Tier 2 if the Member’s Current ADAV is at least 0.24%.

#### Cross-Asset Step-Up Tier

The Exchange also proposes to add a single Cross-Asset Step-Up Tier, which is designed to incentivize Members to both increase their participation on the Exchange in

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<sup>9</sup> See Exchange Act Release No. 64820 (July 12, 2011), 76 FR 40974 (July 6, 2011) (SR-NYSEArca-2011-41).

terms of their ADAV and their ADAV on BATS Options (“Options ADAV”) compared to their January 2014 ADAV and Options ADAV. The Cross-Asset Step-Up Tier is also similar to a cross asset tier employed by Arca.<sup>10</sup>

The Exchange also proposes to add corresponding definitions of “ADAV” for BATS Options pricing and “Options Step-Up Add TCV” for BATS Equities pricing. First, for purposes of BATS Options pricing, the Exchange proposes to define “ADAV” within in the definition of ADV for as the “average daily added volume calculated as the number of contracts added.” The Exchange also proposes to clarify that ADAV is calculated on a monthly basis and that neither routed shares nor shares added on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADAV calculation. The Exchange notes that its proposed definition of ADAV for BATS Options pricing mirrors the definition of ADAV under BATS Equities pricing. Second, for purposes of BATS Equities pricing, the Exchange proposes to define “Options Step-Up Add TCV” within the definition of ADV and ADAV as “ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV, using the definitions of ADAV and TCV as provided under Options Pricing.”

The proposed Cross-Asset Step-Up Tier would provide a rebate of \$0.0032 per share where the Member’s Step-Up Add TCV is equal to or greater than 0.30% and the Member’s Options Step-Up Add TCV is greater than 0.40%. A Member’s Options Step-Up Add TCV is calculated as the increase in the Member’s current Options ADAV as a

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<sup>10</sup> See Exchange Act Release No. 67424 (July 18, 2012), 77 FR 42347 (July 12, 2012) (SR-NYSEArca-2012-70).

percentage of options TCV (“Options TCV”)<sup>11</sup> (“Current Options ADAV”) over the Member’s Options ADAV as a percentage of Options TCV from January 2014 (“Baseline Options ADAV”). By way of example, where a Member’s Baseline ADAV is 0.09% and the Member’s Baseline Options ADAV is 0.04%, the Member would need to achieve a Current ADAV of 0.39% and a Current Options ADAV of 0.44% in order to qualify for the Cross-Asset Step-Up Tier and its \$0.0032 per share rebate.

#### Additional Cross-Asset Tier

The Exchange also proposes to add an additional cross-asset tier for Customer orders that add liquidity on BATS Options in Penny Pilot Securities, which is also similar to a cross-asset tier employed by Arca.<sup>12</sup> The proposed cross-asset tier would provide an additional way for Members to receive a \$0.50 per contract rebate, which is the highest rebate available in Customer orders in Penny Pilot Securities. Currently, in order to receive a \$0.50 rebate for Customer orders that add liquidity in Penny Pilot Securities, the Member must have an ADV<sup>13</sup> equal to or greater than 1.00% of average TCV. The Exchange now proposes to create an additional cross-asset tier, which is designed to incentivize Members to achieve certain levels of participation in both BATS Options and

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<sup>11</sup> As provided in the fee schedule, for purposes of BATS Options pricing, “TCV” means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption.

<sup>12</sup> See Exchange Act Release No. 67020 (May 24, 2012), 77 FR 31050 (May 18, 2012) (SR-NYSEArca-2012-41).

<sup>13</sup> As provided in the fee schedule, for purposes of BATS Options pricing, “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis; neither routed shares nor shares added or removed on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADV calculation.

BATS Equities. As proposed, the cross-asset tier would provide a rebate of \$0.0050 per contract for Customer orders that add liquidity on BATS Options in Penny Pilot Securities where such Member has an ADV equal to or greater than 0.90% of average TCV on BATS Options and has on BATS Equities and ADAV equal to or greater than 0.25% of average TCV, as defined on the fee schedule under Equities Pricing. Such a tier would provide Members with an additional means to reaching the \$0.0050 per contract rebate for Customer orders in Penny Pilot Securities.

#### Clarifying Change

Finally, the Exchange proposes to make one non-substantive change to the fee schedule by adding the word “Volume” in front of “Tier 2” under Additional Rebates. The Exchange believes this change further clarifies that the Additional Rebates will continue to apply only to Members that qualify for Volume Tier 2.

#### Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on May 1, 2014.

#### (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>14</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>15</sup> in that it provides for the equitable allocation of

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<sup>14</sup> 15 U.S.C. 78f.

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

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.

#### Step-Up and Cross-Asset Tiers

The Exchange believes that providing additional financial incentives to Members that demonstrate an increase over their Baseline ADAV through the Step-Up Tiers and the cross-asset step up tier offers an additional, flexible way to achieve financial incentives from the Exchange and encourages Members to add increasing amounts of liquidity to both BATS Equities and BATS Options as compared to January 2014. Similarly, the Exchange cross-asset tier provides an additional incentive for Members to reach certain thresholds on both BATS Equities and BATS Options, which will also encourage members to add liquidity on BATS Equities and BATS Options. The increased liquidity from each of these proposals also benefits all investors by deepening the BATS Equities and BATS Options liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. These pricing programs are also fair and equitable in that they are available to all Members and will result in Members receiving either the same or an increased rebate than they would

currently receive. The Exchange also notes that the proposed step-up and cross-asset tiers are similar to pricing tiers currently available on Arca.<sup>16</sup>

Volume-based rebates and fees such as the ones maintained on both BATS Equities and BATS Options as well as the Step-Up Tiers, the cross-asset step-up tier, and the cross-asset tier proposed herein, have been widely adopted in the cash equities markets and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Further, the Exchange believes that the cross-asset step-up tier and cross-asset tier will provide such enhancements in market quality on both BATS Equities and BATS Options by incentivizing increased participation on both platforms. The Exchange notes that it is not proposing to modify any existing tiers, but rather to add new tiers that will provide Members with additional ways to receive higher rebates, meaning that under the proposal, a Member will receive either the same or a higher rebate than they would receive today. Accordingly, the Exchange believes that the proposed additions to the Exchange's tiered pricing structure and incentives are not unfairly discriminatory because they will apply uniformly to all Members and are consistent with the overall goals of enhancing market quality on both BATS Equities and BATS Options.

#### Clarifying Change

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<sup>16</sup> See supra notes 9, 10, and 12.

Finally, the Exchange believes that the clarifying change that adds the word “Volume” in front of “Tier 2” under Additional Rebates is reasonable as it will help to avoid confusion for those that review the Exchange’s fee schedule. The Exchange notes that the proposed change is not designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the fee schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. With respect to the proposed new tiered rebates, the Exchange does not believe that any such changes burden competition, but instead, enhance competition, as they are intended to increase the competitiveness of and draw additional volume to both BATS Equities and BATS Options. The Exchange also believes the proposed step-up and cross-asset tiers would enhance competition because they are similar to pricing tiers currently available on Arca.<sup>17</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 the deemed fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity

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<sup>17</sup> See supra notes 9, 10, and 12.

to the Exchange. In addition, the Exchange believes that the proposed non-substantive change to add the word “Volume” in front of “Tier 2” under Additional Rebates would not affect intermarket nor intramarket competition because the change does not alter the criteria necessary to achieve the tiers nor the rates offered by the tiers. As such, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants.

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 Act<sup>18</sup> and Rule 19b-4(f)(2) thereunder,<sup>19</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

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>19</sup> 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

Not applicable.

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

Not applicable.

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-2014-017)

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 April 28, 2014, 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 the fee schedule pursuant to this proposal are effective upon filing.

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

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

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

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

<sup>5</sup> A Member is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

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 applicable to use of the Exchange in order to: (i) introduce "Step-Up Tiers" and a corresponding definition of "Step-Up Add TCV" on the Exchange's equities trading platform ("BATS Equities"); (ii) introduce a "Cross-Asset Step-Up Tier" and a corresponding definition of "Options Step-Up Add TCV" for the purposes of BATS Equities pricing; (iii) introduce a new tier for Customer<sup>6</sup> orders that add liquidity to the Exchange's options platform ("BATS Options") in options classes subject to the penny pilot program as described below

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<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".

(“Penny Pilot Securities”)<sup>7</sup> and add a corresponding definition of “ADAV” for purposes of BATS Options pricing; and (iv) make a change to clarify that Enhanced Rebates will continue to only apply to Members that qualify for Volume Tier 2.

### Background

Currently, with respect to BATS Equities, the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange’s tiered pricing structure, which is based on the Member meeting certain volume tiers based on their ADAV<sup>8</sup> as a percentage of TCV<sup>9</sup> or ADV<sup>10</sup> as a percentage of TCV. Under such pricing structure, a Member will receive an adding rebate of anywhere between \$0.0020 and

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<sup>7</sup> The Exchange currently charges different fees and provides different rebates depending on whether an options class is an options class that qualifies as a Penny Pilot Security pursuant to Exchange Rule 21.5, Interpretation and Policy .01 or is a non-penny options class.

<sup>8</sup> As provided in the fee schedule, for purposes of BATS Equities pricing, “ADAV” means average daily added volume calculated as the number of shares added per day on a monthly basis; neither routed shares nor shares added on any day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours (“Exchange System Disruption”) and on the last Friday in June (the “Russell Reconstitution Day”) are included in ADAV calculation.

<sup>9</sup> As provided in the fee schedule, for purposes of BATS Equities pricing, “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption or the Russell Reconstitution Day.

<sup>10</sup> As provided in the fee schedule, for purposes of BATS Equities pricing, “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; neither routed shares nor shares added or removed on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADV calculation.

\$0.0032 per share executed, depending on the volume tier for which such Member qualifies.

The Exchange proposes to add two new types of tiers in addition to the volume tiers described above: Step-Up Tiers and a Cross-Asset Step-Up tier. The existing volume tiers will remain the same and both the Step-Up Tiers and Cross-Asset Step Up Tier will provide Members with additional ways to qualify for enhanced rebates. As proposed, a Member will receive the higher of the volume rebates, step-up rebates, or cross-asset step-up rebates for which they qualify.

#### Step-Up Tier 1 and Step-Up Tier 2

The Exchange proposes to add two tiers to its fee schedule: Step-Up Tier 1 and Step-Up Tier 2, both of which are similar to step-up tiers currently employed by NYSE Arca, Inc. (“Arca”).<sup>11</sup> The Exchange also proposes to add a corresponding definition of “Step-Up Add TCV.” Step-Up Tier 1 and Step-Up Tier 2 are designed to incentivize Members to increase their participation on the Exchange in terms of their ADAV compared to their January 2014 ADAV.

For purposes of BATS Equities pricing, the Exchange also proposes to define the term, “Step-Up Add TCV” within the definition of ADAV. As described more fully below, Step-Up Add TCV would be defined as “a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV.” Proposed Step-Up Tier 1 would provide a rebate of \$0.0029 per share where the Member’s Step-Up Add TCV is equal to or greater than 0.10% and Step-Up Tier 2 would provide a rebate of \$0.0030

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<sup>11</sup> See Exchange Act Release No. 64820 (July 12, 2011), 76 FR 40974 (July 6, 2011) (SR-NYSEArca-2011-41).

where the Member's Step-Up Add TCV is equal to or greater than 0.15%. A Member's Step-Up Add TCV is calculated as the increase in the Member's current ADAV as a percentage of TCV ("Current ADAV") over the Member's ADAV as a percentage of TCV from January 2014 ("Baseline ADAV"). Where a Member's Current ADAV is at least 0.10% (0.15%) greater than its Baseline ADAV, the Member will qualify for Step-Up Tier 1 (Step-Up Tier 2). By way of example, where a Member's Baseline ADAV is 0.09%, the Member would qualify for Step-Up Tier 1 if the Member's Current ADAV is at least 0.19% and Step-Up Tier 2 if the Member's Current ADAV is at least 0.24%.

#### Cross-Asset Step-Up Tier

The Exchange also proposes to add a single Cross-Asset Step-Up Tier, which is designed to incentivize Members to both increase their participation on the Exchange in terms of their ADAV and their ADAV on BATS Options ("Options ADAV") compared to their January 2014 ADAV and Options ADAV. The Cross-Asset Step-Up Tier is also similar to a cross asset tier employed by Arca.<sup>12</sup>

The Exchange also proposes to add corresponding definitions of "ADAV" for BATS Options pricing and "Options Step-Up Add TCV" for BATS Equities pricing. First, for purposes of BATS Options pricing, the Exchange proposes to define "ADAV" within in the definition of ADV for as the "average daily added volume calculated as the number of contracts added." The Exchange also proposes to clarify that ADAV is calculated on a monthly basis and that neither routed shares nor shares added on any day that the Exchange experiences an Exchange System Disruption and the Russell

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<sup>12</sup> See Exchange Act Release No. 67424 (July 18, 2012), 77 FR 42347 (July 12, 2012) (SR-NYSEArca-2012-70).

Reconstitution Day are included in ADAV calculation. The Exchange notes that its proposed definition of ADAV for BATS Options pricing mirrors the definition of ADAV under BATS Equities pricing. Second, for purposes of BATS Equities pricing, the Exchange proposes to define “Options Step-Up Add TCV” within the definition of ADAV and ADAV as “ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV, using the definitions of ADAV and TCV as provided under Options Pricing.”

The proposed Cross-Asset Step-Up Tier would provide a rebate of \$0.0032 per share where the Member’s Step-Up Add TCV is equal to or greater than 0.30% and the Member’s Options Step-Up Add TCV is greater than 0.40%. A Member’s Options Step-Up Add TCV is calculated as the increase in the Member’s current Options ADAV as a percentage of options TCV (“Options TCV”)<sup>13</sup> (“Current Options ADAV”) over the Member’s Options ADAV as a percentage of Options TCV from January 2014 (“Baseline Options ADAV”). By way of example, where a Member’s Baseline ADAV is 0.09% and the Member’s Baseline Options ADAV is 0.04%, the Member would need to achieve a Current ADAV of 0.39% and a Current Options ADAV of 0.44% in order to qualify for the Cross-Asset Step-Up Tier and its \$0.0032 per share rebate.

#### Additional Cross-Asset Tier

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<sup>13</sup> As provided in the fee schedule, for purposes of BATS Options pricing, “TCV” means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption.

The Exchange also proposes to add an additional cross-asset tier for Customer orders that add liquidity on BATS Options in Penny Pilot Securities, which is also similar to a cross-asset tier employed by Arca.<sup>14</sup> The proposed cross-asset tier would provide an additional way for Members to receive a \$0.50 per contract rebate, which is the highest rebate available in Customer orders in Penny Pilot Securities. Currently, in order to receive a \$0.50 rebate for Customer orders that add liquidity in Penny Pilot Securities, the Member must have an ADV<sup>15</sup> equal to or greater than 1.00% of average TCV. The Exchange now proposes to create an additional cross-asset tier, which is designed to incentivize Members to achieve certain levels of participation in both BATS Options and BATS Equities. As proposed, the cross-asset tier would provide a rebate of \$0.0050 per contract for Customer orders that add liquidity on BATS Options in Penny Pilot Securities where such Member has an ADV equal to or greater than 0.90% of average TCV on BATS Options and has on BATS Equities and ADAV equal to or greater than 0.25% of average TCV, as defined on the fee schedule under Equities Pricing. Such a tier would provide Members with an additional means to reaching the \$0.0050 per contract rebate for Customer orders in Penny Pilot Securities.

#### Clarifying Change

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<sup>14</sup> See Exchange Act Release No. 67020 (May 24, 2012), 77 FR 31050 (May 18, 2012) (SR-NYSEArca-2012-41).

<sup>15</sup> As provided in the fee schedule, for purposes of BATS Options pricing, “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis; neither routed shares nor shares added or removed on any day that the Exchange experiences an Exchange System Disruption and the Russell Reconstitution Day are included in ADV calculation.

Finally, the Exchange proposes to make one non-substantive change to the fee schedule by adding the word “Volume” in front of “Tier 2” under Additional Rebates. The Exchange believes this change further clarifies that the Additional Rebates will continue to apply only to Members that qualify for Volume Tier 2.

#### Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on May 1, 2014.

#### 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>16</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>17</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 if they deem fee levels at a particular venue to be excessive.

#### Step-Up and Cross-Asset Tiers

The Exchange believes that providing additional financial incentives to Members that demonstrate an increase over their Baseline ADAV through the Step-Up Tiers and

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<sup>16</sup> 15 U.S.C. 78f.

<sup>17</sup> 15 U.S.C. 78f(b)(4).

the cross-asset step up tier offers an additional, flexible way to achieve financial incentives from the Exchange and encourages Members to add increasing amounts of liquidity to both BATS Equities and BATS Options as compared to January 2014. Similarly, the Exchange cross-asset tier provides an additional incentive for Members to reach certain thresholds on both BATS Equities and BATS Options, which will also encourage members to add liquidity on BATS Equities and BATS Options. The increased liquidity from each of these proposals also benefits all investors by deepening the BATS Equities and BATS Options liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. These pricing programs are also fair and equitable in that they are available to all Members and will result in Members receiving either the same or an increased rebate than they would currently receive. The Exchange also notes that the proposed step-up and cross-asset tiers are similar to pricing tiers currently available on Arca.<sup>18</sup>

Volume-based rebates and fees such as the ones maintained on both BATS Equities and BATS Options as well as the Step-Up Tiers, the cross-asset step-up tier, and the cross-asset tier proposed herein, have been widely adopted in the cash equities markets and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an

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<sup>18</sup> See supra notes 9, 10, and 12.

exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Further, the Exchange believes that the cross-asset step-up tier and cross-asset tier will provide such enhancements in market quality on both BATS Equities and BATS Options by incentivizing increased participation on both platforms. The Exchange notes that it is not proposing to modify any existing tiers, but rather to add new tiers that will provide Members with additional ways to receive higher rebates, meaning that under the proposal, a Member will receive either the same or a higher rebate than they would receive today. Accordingly, the Exchange believes that the proposed additions to the Exchange's tiered pricing structure and incentives are not unfairly discriminatory because they will apply uniformly to all Members and are consistent with the overall goals of enhancing market quality on both BATS Equities and BATS Options.

#### Clarifying Change

Finally, the Exchange believes that the clarifying change that adds the word "Volume" in front of "Tier 2" under Additional Rebates is reasonable as it will help to avoid confusion for those that review the Exchange's fee schedule. The Exchange notes that the proposed change is not designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the fee schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. With respect to the proposed new tiered rebates, the Exchange does not believe that any such changes burden competition, but instead, enhance competition, as they are intended to increase the competitiveness of and draw additional volume to both BATS Equities and BATS Options. The Exchange also believes the proposed step-up and cross-asset tiers would enhance competition because they are similar to pricing tiers currently available on Arca.<sup>19</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 the deemed fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange. In addition, the Exchange believes that the proposed non-substantive change to add the word "Volume" in front of "Tier 2" under Additional Rebates would not affect intermarket nor intramarket competition because the change does not alter the criteria necessary to achieve the tiers nor the rates offered by the tiers. As such, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants.

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<sup>19</sup> See supra notes 9, 10, and 12.

(C) 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.

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>20</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>21</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.

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-2014-017 on the subject line.

Paper Comments:

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f).

- 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-2014-017. 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-2014-017 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>22</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>22</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 [April 1]May 1, 2014

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.

Equities Pricing:

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Enhanced rebates: Members will receive the higher of the volume rebates, step-up rebates, or cross-asset step-up rebates for which they qualify, as shown below[Tiered rebates per share for adding displayed liquidity for qualifying Members based on ADAV<sup>1</sup> (added liquidity only) or ADV<sup>1</sup> (added and removed liquidity)]:

Volume Tier	Member’s ADAV is equal to or greater than average TCV <sup>2</sup> of:	or	Member’s ADV is equal to or greater than average TCV of:	Rebate per share
Tier 1	0.10%	or	0.25%	(\$0.0025)
Tier 2	0.20%	or	0.50%	(\$0.0028)
Tier 3	0.30%	or	0.75%	(\$0.0029)
Tier 4	0.50%	or	1.00%	(\$0.0030)
Tier 5	0.75%	or	1.40%	(\$0.0031)
Tier 6	1.00%	or	1.75%	(\$0.0032)

<u>Step-Up Tier</u>	<u>Member’s Step-Up Add TCV<sup>1</sup> is equal to or greater than:</u>	<u>Rebate per share</u>
<u>Tier 1</u>	<u>0.10%</u>	<u>(\$0.0029)</u>
<u>Tier 2</u>	<u>0.15%</u>	<u>(\$0.0030)</u>

<u>Cross-Asset Step-Up Tier</u>	<u>Member’s Step-Up Add TCV<sup>1</sup> is equal to or greater than:</u>	<u>Member’s Options Step-Up Add TCV<sup>1</sup> is equal to or</u>	<u>Rebate per share</u>

greater than:

Tier 1                      0.30%                      and                      0.40%                      (\$0.0032)

Additional rebates: Additional rebates per share for adding displayed liquidity for Members qualifying for Volume Tier 2 or higher:

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<sup>1</sup> “ADAV” means average daily added volume calculated as the number of shares added and “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day. “Step-Up Add TCV” means ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV. “Options Step-Up Add TCV” means ADAV as a percentage of TCV in January 2014 subtracted from current ADAV as a percentage of TCV, using the definitions of ADAV and TCV as provided under Options Pricing. ADAV and ADV are calculated on a monthly basis, excluding shares added or removed on any day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours (“Exchange System Disruption”) and on the last Friday in June (the “Russell Reconstitution Day”). Routed shares are not included in ADAV or ADV calculation. With prior notice to the Exchange, a Member may aggregate ADAV or ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member’s Form BD).

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Options Pricing:

All references to “per contract” mean “per contract executed”

“ADAV” means average daily added volume calculated as the number of contracts added and “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis, excluding contracts added or removed on any day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours (“Exchange System Disruption”); routed contracts are not included in ADAV or ADV calculation; with prior notice to the Exchange, a Member may aggregate ADAV or ADV with other Members that control, are controlled by, or are under common control with such Member

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Liquidity Rebates for Penny Pilot Securities

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Customer Orders

\$0.45 rebate per contract for a Customer order that adds liquidity to the BATS Options order book and the Member does not qualify for a higher rebate based on the Member’s ADV

\$0.48 rebate per contract for a Customer order that adds liquidity to the BATS Options order book where the Member has an ADV equal to or greater than 0.30% of average TCV but less than 1.00% of average TCV

\$0.50 rebate per contract for a Customer order that adds liquidity to the BATS Options order book where the Member has an ADV equal to or greater than 0.90% of average TCV and has on BZX Equities an ADAV equal to or greater than 0.25% of average TCV, as defined under Equities Pricing

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