

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 *

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

Exhibit 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”),¹ and Rule 19b-4 thereunder,² BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Rule 21.7, entitled “Market Opening Procedures” in order to modify the process by which the Exchange’s equity options trading platform (“BATS Options”) opens trading at the beginning of the day and after trading halts.

(a) The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined.

(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:

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

(a) Purpose

The purpose of the proposed rule changes is to amend BATS Rule 21.7 in order to amend the Opening Process³ by executing orders in the Opening Process based on time priority instead of price-time priority, treating orders that are not executed during the Opening Process as if they had just been entered by a User⁴ rather than cancelling certain orders, and adding certain clarifying language to the Rule in order to make the Opening Process more clear. The Exchange is also proposing to add titles to BATS Rule 21.7(a)(1), (2), (3), and (4) in order to make the rule text easier to follow. The Exchange is not proposing to amend the process by which orders are entered or the Opening Price⁵ is determined or validated.

Currently, after establishing an Opening Price that is also a Valid Price,⁶ orders and quotes in the System⁷ that are priced equal to or more aggressively than the Opening Price will be matched based on price-time priority and in accordance with BATS Rule 21.8. All orders and quotes or portions thereof that are matched pursuant to the Opening Process will be executed at the Opening Price. Where orders that meet the following criteria are not executed during the Opening Process, they will be cancelled: (i) limit orders that are priced equal to or more aggressively than the Opening Price; and (ii)

³ Opening Process is defined in BATS Rule 21.7(a).

⁴ User is defined in BATS Rule 16.1(a)(63).

⁵ Opening Price is defined in BATS Rule 21.7(a)(1).

⁶ Valid Price is defined in BATS Rule 21.7(a)(2).

⁷ System is defined in BATS Rule 1.5(aa).

market orders. Where the Exchange is going to open trading in a series pursuant to Rule 21.7(a)(1)(D) (where there is no NBBO Midpoint, no Print, and no Previous Close at a Valid Price) (a “Contingent Open”) and there is at least one price level at which at least one contract of a limit order could be executed, the System will similarly cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. Limit orders and quotes that are not executed during the Opening Process or cancelled as set forth above shall become eligible for trading on BATS Options immediately following the completion of the Opening Process. Finally, where there are no orders in a series that are matched at the Opening Price, the System will open the series for trading.

The Exchange is proposing to amend its Rules in order to match orders for execution in the Opening Process based on time priority rather than price-time priority and in accordance with Rule 21.9. The Exchange believes that handling orders in time priority makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price, which can only be one of three prices: the midpoint of the NBBO; the last regular way print disseminated to the OPRA Plan⁸ after 9:30 a.m.; or the last regular way transaction from the previous trading day as disseminated pursuant to OPRA.⁹ Because the Opening Price is always based on a price-taking process rather than a price-forming process, there is no reason to reward a more aggressive order with priority in the Opening Process. Thus, the Exchange is

⁸ OPRA Plan is defined in BATS Rule 27.1(15).

⁹ OPRA is defined in BATS Rule 27.1(14).

proposing that all orders and quotes that are priced equal to or more aggressively than the Opening Price be matched based only on time priority and will be matched until there is no remaining volume or there is an imbalance of orders that are not executed in whole or in part, at which point all matched orders and quotes will be executed at the Opening Price.

Further, the Exchange is also proposing to handle all orders that are not executed in the Opening Process in time priority. Specifically, the Exchange is proposing to handle such orders in time sequence, beginning with the order with the oldest time stamp and may, in whole or in part, place such orders on the BATS Options Book,¹⁰ cancel the orders, execute the orders, or route the orders in accordance with Rule 21.9. If an order is placed on the BATS Options Book, it will then be subject to the standard price-time priority and subject to Rule 21.8. This proposed functionality will apply to all orders, including both those orders that are not executed under proposed Rule 21.7(a)(3) and orders in a series that is opening subject to a Contingent Open. While the Exchange currently cancels any orders that are not executed in the Opening Process that are priced more aggressively than the Opening Price, the Exchange is proposing to simply enter these orders on to the BATS Options Book as described above in order to minimize the number of orders that are cancelled and must be reentered by Users. The Exchange notes that all order protections, including Trade-Through¹¹ protection and a BATS Market

¹⁰ BATS Options Book is defined in BATS Rule 16.1(a)(9).

¹¹ Trade-Through is defined in BATS Rule 27.1(22).

Order¹² collar, will apply to orders entered pursuant to proposed Rule 21.7(a)(3) and 21.7(a)(4).

The Exchange is also proposing to eliminate the current functionality of cancelling orders that are not executed during the Opening Process that fit the following criteria: (i) limit orders that are priced equal to or more aggressively than the Opening Price; and (ii) market orders. Further, the Exchange is proposing to eliminate the current functionality for a series subject to a Contingent Open where, if there is at least one price level at which at least one contract of a limit order can be executed, the System will cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. While not cancelling these orders might result in executions at a price that is not the same as the Opening Price that occur as the orders are handled in time sequence (either on BATS Options or upon routing to another options exchange), these executions would be part of regular way trading and are distinct from the opening execution that occurs as a result of the Opening Process. For many Users, cancelling orders that were entered for participation in the Opening Process negates the advantages of allowing orders to be entered prior to the beginning of regular way trading and the Opening Process. As such, the Exchange is proposing this functionality in order to provide Users with the certainty that orders that are entered prior to the Opening Process will not be cancelled based on market conditions outside of a User's control.

Finally, the Exchange is proposing to clarify its rules around the Opening Process. Specifically, the Exchange is proposing to add language to Rule 21.7(a)(3) stating that

¹² BATS Market Order is defined in BATS Rule 21.1(d)(5).

the Opening Process will be performed after the establishment of an Opening Price that is a Valid Price¹³ and that matches will occur until there is no remaining volume or there is an imbalance of orders, both of which it believes are implicit, but will make the rule text more clear. The Exchange is also proposing to add titles to Rules 21.7(a)(1) through (4) in order to make the rule text easier to follow. The Exchange is also proposing to delete Rule 21.7(a)(5), which states that where no orders are matched at the Opening Price, the System will open the series for trading because such situation will be covered by proposed Rule 21.7(a)(3), as described above.

(b) Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁴ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,¹⁵ because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the Opening Process for options listed on the Exchange will help to ensure that BATS Options opens trading in options contracts in a fair and orderly manner. Specifically, the Exchange believes that handling orders in time priority will both create a more orderly opening and makes more sense than price-time priority for the Opening Process because

¹³ Valid Price is defined in BATS Rule 21.7(a)(2).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price and, as such, there is no reason to reward a more aggressive order with priority in the Opening Process.

The Exchange also believes that entering orders in time sequence based on the time that they were received instead of cancelling certain orders will create a more orderly opening because Users will enter orders and quotes prior to the opening of trading that they know will either participate in the Opening Process or be handled as if they were entered immediately following the Opening Process and, more importantly, will not be cancelled, unless otherwise instructed by the User.

Modifying the Opening Process will also provide Market Makers and other Users with greater control and flexibility with respect to entering orders and quotes, allowing them to enter orders and quotes in advance of the Opening Process that they know will not be cancelled because of market conditions out of the control of the User that entered the order. This simplifies the process for Market Makers and other Users by providing them certainty as to when orders and quotes can be submitted without having to resubmit orders in options series that have been cancelled, which removes impediments to a free and open market and benefits all Users of BATS Options.

As described above, the Exchange believes that the other proposed changes to its rulebook to clarify and add additional detail provides further clarification to Members, Users, and the investing public regarding the functionality of the Opening Process.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the Exchange's current Opening Process in which certain orders and

quotes may be cancelled based on market conditions beyond the entering User's control limits competition in that other exchanges are able to accept orders and quotes before trading in options opens that will not be cancelled. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders and quotes prior to the opening of trading that will not be cancelled and thus compete with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders and quotes prior to the open that were not eligible to be cancelled.

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)

Not applicable.

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.

Exhibits 2 – 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BATS-2014-040)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rule 21.7 of BATS Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on _____, 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 and II below, which Items have been prepared by the Exchange. 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 Rule 21.7, entitled “Market Opening Procedures” in order to modify the process by which the Exchange’s equity options trading platform (“BATS Options”) opens trading at the beginning of the day and after trading halts.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The purpose of the proposed rule changes is to amend BATS Rule 21.7 in order to amend the Opening Process³ by executing orders in the Opening Process based on time priority instead of price-time priority, treating orders that are not executed during the Opening Process as if they had just been entered by a User⁴ rather than cancelling certain orders, and adding certain clarifying language to the Rule in order to make the Opening Process more clear. The Exchange is also proposing to add titles to BATS Rule 21.7(a)(1), (2), (3), and (4) in order to make the rule text easier to follow. The Exchange is not proposing to amend the process by which orders are entered or the Opening Price⁵ is determined or validated.

Currently, after establishing an Opening Price that is also a Valid Price,⁶ orders and quotes in the System⁷ that are priced equal to or more aggressively than the Opening

³ Opening Process is defined in BATS Rule 21.7(a).

⁴ User is defined in BATS Rule 16.1(a)(63).

⁵ Opening Price is defined in BATS Rule 21.7(a)(1).

⁶ Valid Price is defined in BATS Rule 21.7(a)(2).

Price will be matched based on price-time priority and in accordance with BATS Rule 21.8. All orders and quotes or portions thereof that are matched pursuant to the Opening Process will be executed at the Opening Price. Where orders that meet the following criteria are not executed during the Opening Process, they will be cancelled: (i) limit orders that are priced equal to or more aggressively than the Opening Price; and (ii) market orders. Where the Exchange is going to open trading in a series pursuant to Rule 21.7(a)(1)(D) (where there is no NBBO Midpoint, no Print, and no Previous Close at a Valid Price) (a “Contingent Open”) and there is at least one price level at which at least one contract of a limit order could be executed, the System will similarly cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. Limit orders and quotes that are not executed during the Opening Process or cancelled as set forth above shall become eligible for trading on BATS Options immediately following the completion of the Opening Process. Finally, where there are no orders in a series that are matched at the Opening Price, the System will open the series for trading.

The Exchange is proposing to amend its Rules in order to match orders for execution in the Opening Process based on time priority rather than price-time priority and in accordance with Rule 21.9. The Exchange believes that handling orders in time priority makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price, which can only be one of three prices: the midpoint of the NBBO; the last regular way print disseminated to the

⁷ System is defined in BATS Rule 1.5(aa).

OPRA Plan⁸ after 9:30 a.m.; or the last regular way transaction from the previous trading day as disseminated pursuant to OPRA.⁹ Because the Opening Price is always based on a price-taking process rather than a price-forming process, there is no reason to reward a more aggressive order with priority in the Opening Process. Thus, the Exchange is proposing that all orders and quotes that are priced equal to or more aggressively than the Opening Price be matched based only on time priority and will be matched until there is no remaining volume or there is an imbalance of orders that are not executed in whole or in part, at which point all matched orders and quotes will be executed at the Opening Price.

Further, the Exchange is also proposing to handle all orders that are not executed in the Opening Process in time priority. Specifically, the Exchange is proposing to handle such orders in time sequence, beginning with the order with the oldest time stamp and may, in whole or in part, place such orders on the BATS Options Book,¹⁰ cancel the orders, execute the orders, or route the orders in accordance with Rule 21.9. If an order is placed on the BATS Options Book, it will then be subject to the standard price-time priority and subject to Rule 21.8. This proposed functionality will apply to all orders, including both those orders that are not executed under proposed Rule 21.7(a)(3) and orders in a series that is opening subject to a Contingent Open. While the Exchange currently cancels any orders that are not executed in the Opening Process that are priced more aggressively than the Opening Price, the Exchange is proposing to simply enter these orders on to the BATS Options Book as described above in order to minimize the

⁸ OPRA Plan is defined in BATS Rule 27.1(15).

⁹ OPRA is defined in BATS Rule 27.1(14).

¹⁰ BATS Options Book is defined in BATS Rule 16.1(a)(9).

number of orders that are cancelled and must be reentered by Users. The Exchange notes that all order protections, including Trade-Through¹¹ protection and a BATS Market Order¹² collar, will apply to orders entered pursuant to proposed Rule 21.7(a)(3) and 21.7(a)(4).

The Exchange is also proposing to eliminate the current functionality of cancelling orders that are not executed during the Opening Process that fit the following criteria: (i) limit orders that are priced equal to or more aggressively than the Opening Price; and (ii) market orders. Further, the Exchange is proposing to eliminate the current functionality for a series subject to a Contingent Open where, if there is at least one price level at which at least one contract of a limit order can be executed, the System will cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. While not cancelling these orders might result in executions at a price that is not the same as the Opening Price that occur as the orders are handled in time sequence (either on BATS Options or upon routing to another options exchange), these executions would be part of regular way trading and are distinct from the opening execution that occurs as a result of the Opening Process. For many Users, cancelling orders that were entered for participation in the Opening Process negates the advantages of allowing orders to be entered prior to the beginning of regular way trading and the Opening Process. As such, the Exchange is proposing this functionality in order to provide Users with the certainty that orders that are entered prior to the Opening Process will not be cancelled based on market conditions outside of a User's control.

¹¹ Trade-Through is defined in BATS Rule 27.1(22).

¹² BATS Market Order is defined in BATS Rule 21.1(d)(5).

Finally, the Exchange is proposing to clarify its rules around the Opening Process. Specifically, the Exchange is proposing to add language to Rule 21.7(a)(3) stating that the Opening Process will be performed after the establishment of an Opening Price that is a Valid Price¹³ and that matches will occur until there is no remaining volume or there is an imbalance of orders, both of which it believes are implicit, but will make the rule text more clear. The Exchange is also proposing to add titles to Rules 21.7(a)(1) through (4) in order to make the rule text easier to follow. The Exchange is also proposing to delete Rule 21.7(a)(5), which states that where no orders are matched at the Opening Price, the System will open the series for trading because such situation will be covered by proposed Rule 21.7(a)(3), as described above.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁴ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,¹⁵ because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the Opening Process for options listed on the Exchange will help to ensure that BATS Options opens trading in options contracts in a fair and orderly manner. Specifically, the Exchange believes that handling orders in time priority will both create a more orderly

¹³ Valid Price is defined in BATS Rule 21.7(a)(2).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

opening and makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price and, as such, there is no reason to reward a more aggressive order with priority in the Opening Process.

The Exchange also believes that entering orders in time sequence based on the time that they were received instead of cancelling certain orders will create a more orderly opening because Users will enter orders and quotes prior to the opening of trading that they know will either participate in the Opening Process or be handled as if they were entered immediately following the Opening Process and, more importantly, will not be cancelled, unless otherwise instructed by the User.

Modifying the Opening Process will also provide Market Makers and other Users with greater control and flexibility with respect to entering orders and quotes, allowing them to enter orders and quotes in advance of the Opening Process that they know will not be cancelled because of market conditions out of the control of the User that entered the order. This simplifies the process for Market Makers and other Users by providing them certainty as to when orders and quotes can be submitted without having to resubmit orders in options series that have been cancelled, which removes impediments to a free and open market and benefits all Users of BATS Options.

As described above, the Exchange believes that the other proposed changes to its rulebook to clarify and add additional detail provides further clarification to Members, Users, and the investing public regarding the functionality of the Opening Process.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the

act. To the contrary, the Exchange's current Opening Process in which certain orders and quotes may be cancelled based on market conditions beyond the entering User's control limits competition in that other exchanges are able to accept orders and quotes before trading in options opens that will not be cancelled. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders and quotes prior to the opening of trading that will not be cancelled and thus compete with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders and quotes prior to the open that were not eligible to be cancelled.

(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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BATS-2014-040 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-2014-040. 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-2014-040 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.¹⁶

Kevin M. O'Neill
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).

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

Rules of BATS Exchange, Inc.

* * * * *

Rule 21.7 Market Opening Procedures

(a) (No changes.)

(1) Determining the Opening Price. The System will determine a single price at which a particular option series will be opened (the “Opening Price”) as calculated by the System within 30 seconds of the First Listing Market Transaction or the Regulatory Halt being lifted. Where there are no contracts in a particular series that would execute at any price, the System shall open such options for trading without determining an Opening Price. The Opening Price of a series must be a Valid Price, as determined in paragraph (2) below, and will be:

(A)-(D) (No changes.)

(2) Validating the Opening Price. For purposes of this Rule, a NBBO Midpoint, a Print, and a Previous Close will be at a Valid Price:

(A)-(C) (No changes.)

(3) Performing the Opening Process. After establishing an Opening Price that is also a Valid Price, [O]orders and quotes in the System that are priced equal to or more aggressively than the Opening Price will be matched based on [price-time priority and in accordance with BATS Rule 21.8]time priority. Matches will occur until there is no remaining volume or there is an imbalance of orders. All orders and quotes or portions thereof that are matched pursuant to the Opening Process will be executed at the Opening Price. An imbalance of orders on the buy side or sell side may result in orders that are not executed in whole or in part. Such orders will be handled in time sequence, beginning with the order with the oldest time stamp and may, in whole or in part, be placed on the BATS Options Book, cancelled, executed, or routed in accordance with Rule 21.9.

(4) Contingent Open. Orders that are not executed during the Opening Process [that fit the following criteria will be cancelled: (i) limit orders that are priced equal to or more aggressively than the Opening Price; and (ii) market orders. Where]because trading in a series is going to be opened for trading pursuant to paragraph (1)(D) above [and there is at least one price level at which at least one contract of a limit]will be handled in time sequence, beginning with the order [could be executed,]with the [System]oldest time stamp and may, in whole or in part, [will cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. Limit orders and quotes that are not executed during the Opening Process or cancelled as set forth above shall become eligible for trading]be placed on the BATS Options[immediately following] Book,

cancelled, executed, or routed in accordance with Rule 21.9 [the completion of the Opening Process].

[(5) Where no orders are matched at the Opening Price, the System will open the series for trading.]

(b)-(c) (No changes.)
