

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 28

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

File No.\* SR - 2014 - \* 013

Amendment No. (req. for Amendments \*)

Filing by BATS Y-Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

☐

Section 806(e)(2) \*

☐

Section 3C(b)(2) \*

☐

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

BATS Y-Exchange, Inc. proposes to amend Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as retail orders under the Retail Price Improvement Program.

**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 \* Christopher Last Name \* Solgan

Title \* Regulatory Counsel

E-mail \* csolgan@bats.com

Telephone \* (201) 942-8321 Fax

**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 07/24/2014

By Christopher Solgan

(Name \*)

Regulatory Counsel

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.

csolgan@directedge.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

Add Remove View

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

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

Add Remove View

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

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

Add Remove View

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

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

Add Remove View

Exhibit Sent As Paper Document

☐

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

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

Add Remove View

Exhibit Sent As Paper Document

☐

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

**Exhibit 4 - Marked Copies**

Add Remove View

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

**Exhibit 5 - Proposed Rule Text**

Add Remove View

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

**Partial Amendment**

Add Remove View

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

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Y-Exchange, Inc. (“BYX” or the “Exchange”) proposes to amend Exchange Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as Retail Orders under the Exchange’s Retail Price Improvement Program (the “RPI Program”). The Exchange has designated this proposal as non-controversial and provided the Securities and Exchange Commission (the “Commission”) with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>3</sup>

The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange’s website at [www.batstrading.com](http://www.batstrading.com), at the Exchange’s principal office and at the Public Reference Room of the Commission.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Exchange submits the proposed rule change pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. Exchange staff will advise the Exchange’s Board of Directors of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change and, therefore, the Exchange’s internal procedures with respect to the proposed change are complete.

The persons on the Exchange staff prepared to respond to questions and

---

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

comments on the proposed rule change are:

Eric Swanson  
Executive Vice President and  
General Counsel  
(913) 815-7000

Christopher Solgan  
Regulatory Counsel  
(201) 942-8321

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

(a) Purpose

The Exchange proposes to amend Exchange Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as Retail Orders under the Exchange's RPI Program.<sup>4</sup>

The Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow.<sup>5</sup> Under the RPI Program, all Exchange Users<sup>6</sup> are permitted members to submit Retail Price Improvement Orders ("RPI Orders")<sup>7</sup> which are designed to provide potential price improvement for Retail Orders in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation ("Protected NBB") or the national best offer that is a Protected Quotation ("Protected NBO", and together with the Protected

<sup>4</sup> The Exchange notes that in order to qualify as a Retail Order, a riskless principal order must satisfy the criteria set forth in FINRA Rule 5320.03.

<sup>5</sup> See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) ("RPI Approval Order") (SR-BYX-2012-019). See also Securities Exchange Act Release No. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2014) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness extending pilot period until January 31, 2015).

<sup>6</sup> A "User" is defined "as any member or sponsored participant of the Exchange who is authorized to obtain access to the System." BYX Rule 1.5(cc).

<sup>7</sup> A "Retail Price Improvement Order" is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least \$0.001 and that is identified as such. See Rule 11.24(a)(3).

NBB, the “Protected NBBO”).<sup>8</sup> The Exchange believes that the RPI Program promotes competition for retail order flow by allowing Exchange Users to submit RPI Orders to interact with Retail Orders.

Exchange Rule 11.24(a)(2) currently defines a Retail Order as, “an agency order that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of the market and the order does not originate from a trading algorithm or any other computerized methodology.” The Exchange believes that its definition of a Retail Order is unnecessarily restrictive compared to that of other exchanges because it does not include “riskless principal orders” in its definition.<sup>9</sup> The Exchange believes that its comparatively narrow definition may create confusion among

---

<sup>8</sup> The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (“NBB”) and national best offer (“NBO”, together with the NBB, the “NBBO”) will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

<sup>9</sup> The Exchange notes that other market centers include “riskless principal orders” as part of their definitions of “Retail Orders.” *See, e.g.*, Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR-NASDAQ-2012-129); Securities Exchange Act Release No. 69103 (March 11, 2013), 78 FR 16547 (March 15, 2013) (SR-NYSE-2013-20); Securities Exchange Act Release No. 69104 (March 11, 2013), 78 FR 16556 (March 15, 2013) (SR-NYSEMKT-2013-22); and Securities Exchange Act Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13).

the Exchange's Members,<sup>10</sup> preventing Members from participating in the RPI Program. In addition, the Exchange believes that the restrictiveness of the Exchange's definition may inadvertently put the Exchange at a competitive disadvantage in relation to other exchanges that provide a less restrictive definition of a Retail Order.

Accordingly, the Exchange proposes to amend the definition of a Retail Order in under Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as Retail Orders.<sup>11</sup> The Exchange proposes to amend Rule 11.24(a)(2) to define a Retail Order as, "an agency order or riskless principal that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology" (emphasis added).<sup>12</sup>

The Exchange believes that, for purposes of determining whether an order should qualify as a Retail Order, there is no substantive difference between an agency order and a riskless principal order that meets the requirements of FINRA Rule 5320.03. A riskless

---

<sup>10</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a "member" of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange." See Exchange Rule 1.5(n).

<sup>11</sup> The Exchange notes that in order to qualify as a Retail Order, a riskless principal order must satisfy the criteria set forth in FINRA Rule 5320.03.

<sup>12</sup> The Exchange notes that it will amend its attestation form for Members designating Retail Orders to conform to these new requirements. The definition of Retail Order under Rule 11.24(a)(2) will continue to state that a Retail Order is an Immediate or Cancel ("IOC") Order and shall operate in accordance with paragraph (f) of Rule 11.24 and that a Retail Order may be an odd lot, round lot, or mixed lot.

principal transaction is a transaction in which a Member, after having received an order to buy (sell) a security, purchases (sells) the security as principal and, contemporaneously, satisfies the original order by selling (buying) as principal at the same price. Generally, a riskless principal transaction involves two orders, the execution of one being dependent upon the receipt or execution of the other; thus, there is no “risk” in the interdependent transactions when completed. Unlike a riskless principal transaction, an agency order is entered directly in the System<sup>13</sup> by a Member on behalf of a customer. Ultimately, however, the results of a riskless principal transaction and an agency order are the same: the customer receives an execution while the involved Member acts as an intermediary to effect the transaction.<sup>14</sup>

The Exchange believes that the requirement that the entry of such riskless principal orders satisfy FINRA Rule 5320.03 provides sufficient protection against Members submitting orders for their own account to the Exchange. A Member entering a riskless principal transaction will have to, contemporaneously with the execution of the customer’s order, submit a report identifying the trade as riskless principal to FINRA. Additionally, the Member will need to have written policies and procedures to ensure that riskless principal transactions comply with applicable FINRA rules. The policies and procedures, at a minimum, must require that the customer order be received prior to the offsetting principal transaction, and that the offsetting principal transaction is at the same

---

<sup>13</sup> The term “System” is defined as “the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.” Exchange Rule 1.5(aa).

<sup>14</sup> A principal transaction differs from both a riskless principal transaction and an agency order in that it is an order for the principal account of the entering Member.

price as the customer order exclusive of any markup or markdown, commission equivalent, or other fee, and is allocated to a riskless principal or customer account in a consistent manner and within 60 seconds of execution. Additionally, the Member must have supervisory systems in place that produce records that enable the Member and FINRA to reconstruct accurately, readily, and in a time-sequenced manner all Retail Orders that are entered on a riskless principal basis.

The Exchange believes that the Member must also ensure that non-Retail Orders from customers are not included with the Retail Orders as part of a riskless principal transaction. The above requirements ensure that despite the procedural differences between the execution of a riskless principal transaction and an agency order, the only difference will be the procedure in which the transactions are effected and not the result.

The Exchange further believes that clarifying that riskless principal orders that meet the requirements of FINRA Rule 5320.03 are able to be submitted as Retail Orders on the same basis as agency orders will enable Members, and in turn, their retail customers, to benefit from the price improvement opportunities available under the Exchange's RPI Program.

(b) Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>16</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open

---

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).



market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade because it will ensure that riskless principal orders that meet the requirements of FINRA Rule 5320.03 will have the same opportunity to be submitted as Retail Orders as agency orders. As discussed above, there is no functional distinction for purposes of Retail Orders between an order entered by a Member on an agency basis and one entered on a riskless principal basis. The Exchange believes that the proposed change would tend to reduce any potential discrimination between similarly situated customers or brokers by ensuring that the ability of retail customers to benefit from the use of Retail Orders and price improvement opportunities available under the Exchange's RPI Program does not depend on a distinction in capacity that is not meaningful for purposes of submitting Retail Orders. As a result of the change, a retail customer would be able to in the RPI Program utilizing Retail Orders without regards to whether the Member enters the order on a riskless principal or agency basis.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will clarify that riskless principal orders that meet the requirements of FINRA Rule 5320.03 are eligible to be submitted as Retail Orders on the same basis as agency orders. By allowing all orders that are functionally equivalent to agency orders to be submitted as Retail Orders, the proposed change would potentially stimulate further competition for retail order flow because it is similar to the definition of retail order

available on other exchanges.<sup>17</sup>

The Exchange believes that the proposed change would protect investors and the public interest by expanding the access of Members to the RPI Program offered by the Exchange as well as the access of the public to an exchange sponsored alternative to broker-operated internalization venues. In this regard, the Exchange believes that maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

#### 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the amendment, by increasing the level of participation in the RPI Program, will increase the level of competition around retail executions such that retail investors would receive better prices than they currently do on the Exchange and potentially through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of operating a program such as the RPI Program on an exchange market would result in better prices for retail investors and benefits retail investors by expanding the capabilities of the Exchange to

---

<sup>17</sup> See Footnote 4 of the EDGX Exchange, Inc. ("EDGX") fee schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx> (last visited July 16, 2014); NASDAQ Stock Market LLC Rule 4780(a)(2); New York Stock Exchange, Inc. Rule 107C(a)(3)' and NYSE MKT LLC Rule 107C(a)(3).

encompass practices currently allowed on non-exchange venues. In addition, by allowing all orders that are functionally equivalent to agency orders to be submitted as Retail Orders, the proposed change would potentially stimulate further competition for retail order flow because it is similar to the definition of retail order available on other exchanges.<sup>18</sup>

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

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

6. Extension of Time Period for Commission Action

Not applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>19</sup> of the Act and Rule 19b-4(f)(6)<sup>20</sup> thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the

---

<sup>18</sup> Id.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

proposed rule change, or such shorter time as designated by the Commission. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.<sup>21</sup>

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4<sup>22</sup> because the proposed rule change would not significantly affect investors or the public interest or impose a significant burden on competition because it is similar to rule changes undertaken by other exchanges and does not present any unique policy issues that have not been previously considered by the Commission.<sup>23</sup> The Exchange believes that Members should reap the benefits of these proposed amendments immediately, as it believes transparency would be enhanced and use of Retail Orders increased. The Exchange believes the proposed rule change will not significantly affect the protection of investors or the public interest because the rule proposal is intended to clarify that an Member may submit Retail Orders to the Exchange in a riskless principal capacity as well as in an agency capacity, provided that the entry of such riskless principal orders meets the requirements of FINRA Rule 5320.03. This clarification will, as previously stated, encourage Members to send more retail order flow to the Exchange and thereby allow more Members to benefit from the price improvement

---

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> See Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR-NASDAQ-2012-129); Securities Exchange Act Release No. 69103 (March 11, 2013), 78 FR 16547 (March 15, 2013) (SR-NYSE-2013-20); Securities Exchange Release No. 69104 (March 11, 2013), 78 FR 16556 (March 15, 2013) (SR-NYSEMKT-2013-22); and Securities Exchange Act Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13).

opportunities available under the Exchange's RPI Program. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>24</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>25</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The Exchange believes that waiver of the 30-day operative delay would permit Members to send Retail Orders that are riskless principal orders to the Exchange in a timelier manner, thereby allowing those orders to benefit from the price improvement opportunities available under the Exchange's RPI Program. Waiver of the 30-day operative delay would also enable the Exchange to remain competitive with other market centers by providing an additional choice to its Members as to where they send Retail Orders on a riskless principal basis. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest.

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

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

The proposed change to the definition of Retail Order under Exchange Rule 11.24(a)(2) is identical to the definition of Retail Order in Footnote 4 of the EDGX

---

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(6).

Exchange, Inc. fee schedule,<sup>26</sup> NASDAQ Stock Market LLC Rule 4780(a)(2), New York Stock Exchange, Inc. Rule 107C(a)(3), and NYSE MKT LLC Rule 107C(a)(3).<sup>27</sup>

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 – Form of Notice of Proposed Rule Change for Federal Register.

Exhibit 5 – Text of the Proposed Rule Change.

---

<sup>26</sup> EDGX Exchange fee schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx> (last visited July 16, 2014).

<sup>27</sup> See Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR-NASDAQ-2012-129); Securities Exchange Act Release No. 69103 (March 11, 2013), 78 FR 16547 (March 15, 2013) (SR-NYSE-2013-20) Securities Exchange Release No. 69104 (March 11, 2013), 78 FR 16556 (March 15, 2013) (SR-NYSEMKT-2013-22).

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BYX-2014-013)

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.24(a)(2) to Include Riskless Principal Orders to the Types of Orders that May Qualify as Retail Orders under the Retail Price Improvement Program.

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 \_\_\_\_\_, BATS Y-Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as Retail Orders under the Exchange’s Retail Price Improvement Program (the “RPI Program”). The Exchange has designated this proposal as non-controversial and provided the Commission with the

---

<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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>5</sup>

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 amend Exchange Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as Retail Orders under the Exchange's RPI Program.<sup>6</sup>

The Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow.<sup>7</sup>

---

<sup>5</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> The Exchange notes that in order to qualify as a Retail Order, a riskless principal order must satisfy the criteria set forth in FINRA Rule 5320.03.

<sup>7</sup> See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) ("RPI Approval Order") (SR-BYX-2012-019). See also Securities Exchange Act Release No. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2014) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness extending pilot period until January 31, 2015).



Under the RPI Program, all Exchange Users<sup>8</sup> are permitted members to submit Retail Price Improvement Orders (“RPI Orders”)<sup>9</sup> which are designed to provide potential price improvement for Retail Orders in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation (“Protected NBB”) or the national best offer that is a Protected Quotation (“Protected NBO”, and together with the Protected NBB, the “Protected NBBO”).<sup>10</sup> The Exchange believes that the RPI Program promotes competition for retail order flow by allowing Exchange Users to submit RPI Orders to interact with Retail Orders.

Exchange Rule 11.24(a)(2) currently defines a Retail Order as, “an agency order that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of the market and the order does not originate from a trading algorithm or any other computerized methodology.” The Exchange believes that its

---

<sup>8</sup> A “User” is defined “as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.” BYX Rule 1.5(cc).

<sup>9</sup> A “Retail Price Improvement Order” is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least \$0.001 and that is identified as such. See Rule 11.24(a)(3).

<sup>10</sup> The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (“NBB”) and national best offer (“NBO”, together with the NBB, the “NBBO”) will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

definition of a Retail Order is unnecessarily restrictive compared to that of other exchanges because it does not include “riskless principal orders” in its definition.<sup>11</sup> The Exchange believes that its comparatively narrow definition may create confusion among the Exchange’s Members,<sup>12</sup> preventing Members from participating in the RPI Program. In addition, the Exchange believes that the restrictiveness of the Exchange’s definition may inadvertently put the Exchange at a competitive disadvantage in relation to other exchanges that provide a less restrictive definition of a Retail Order.

Accordingly, the Exchange proposes to amend the definition of a Retail Order in under Rule 11.24(a)(2) to include riskless principal orders to the types of orders that may qualify as Retail Orders.<sup>13</sup> The Exchange proposes to amend Rule 11.24(a)(2) to define a Retail Order as, “an agency order or riskless principal that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member organization, provided that no change is made to the terms of the order

---

<sup>11</sup> The Exchange notes that other market centers include “riskless principal orders” as part of their definitions of “Retail Orders.” See, e.g., Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR-NASDAQ-2012-129); Securities Exchange Act Release No. 69103 (March 11, 2013), 78 FR 16547 (March 15, 2013) (SR-NYSE-2013-20); Securities Exchange Release No. 69104 (March 11, 2013), 78 FR 16556 (March 15, 2013) (SR-NYSEMKT-2013-22); and Securities Exchange Act Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13).

<sup>12</sup> The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a “member” of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.” See Exchange Rule 1.5(n).

<sup>13</sup> The Exchange notes that in order to qualify as a Retail Order, a riskless principal order must satisfy the criteria set forth in FINRA Rule 5320.03.

with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology” (emphasis added).<sup>14</sup>

The Exchange believes that, for purposes of determining whether an order should qualify as a Retail Order, there is no substantive difference between an agency order and a riskless principal order that meets the requirements of FINRA Rule 5320.03. A riskless principal transaction is a transaction in which a Member, after having received an order to buy (sell) a security, purchases (sells) the security as principal and, contemporaneously, satisfies the original order by selling (buying) as principal at the same price. Generally, a riskless principal transaction involves two orders, the execution of one being dependent upon the receipt or execution of the other; thus, there is no “risk” in the interdependent transactions when completed. Unlike a riskless principal transaction, an agency order is entered directly in the System<sup>15</sup> by a Member on behalf of a customer. Ultimately, however, the results of a riskless principal transaction and an agency order are the same: the customer receives an execution while the involved Member acts as an intermediary to effect the transaction.<sup>16</sup>

---

<sup>14</sup> The Exchange notes that it will amend its attestation form for Members designating Retail Orders to conform to these new requirements. The definition of Retail Order under Rule 11.24(a)(2) will continue to state that a Retail Order is an Immediate or Cancel (“IOC”) Order and shall operate in accordance with paragraph (f) of Rule 11.24 and that a Retail Order may be an odd lot, round lot, or mixed lot.

<sup>15</sup> The term “System” is defined as “the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.” Exchange Rule 1.5(aa).

<sup>16</sup> A principal transaction differs from both a riskless principal transaction and an agency order in that it is an order for the principal account of the entering Member.

The Exchange believes that the requirement that the entry of such riskless principal orders satisfy FINRA Rule 5320.03 provides sufficient protection against Members submitting orders for their own account to the Exchange. A Member entering a riskless principal transaction will have to, contemporaneously with the execution of the customer's order, submit a report identifying the trade as riskless principal to FINRA. Additionally, the Member will need to have written policies and procedures to ensure that riskless principal transactions comply with applicable FINRA rules. The policies and procedures, at a minimum, must require that the customer order be received prior to the offsetting principal transaction, and that the offsetting principal transaction is at the same price as the customer order exclusive of any markup or markdown, commission equivalent, or other fee, and is allocated to a riskless principal or customer account in a consistent manner and within 60 seconds of execution. Additionally, the Member must have supervisory systems in place that produce records that enable the Member and FINRA to reconstruct accurately, readily, and in a time-sequenced manner all Retail Orders that are entered on a riskless principal basis.

The Exchange believes that the Member must also ensure that non-Retail Orders from customers are not included with the Retail Orders as part of a riskless principal transaction. The above requirements ensure that despite the procedural differences between the execution of a riskless principal transaction and an agency order, the only difference will be the procedure in which the transactions are effected and not the result.

The Exchange further believes that clarifying that riskless principal orders that meet the requirements of FINRA Rule 5320.03 are able to be submitted as Retail Orders on the same basis as agency orders will enable Members, and in turn, their retail

customers, to benefit from the price improvement opportunities available under the Exchange's RPI Program.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>18</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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 proposed rule change promotes just and equitable principles of trade because it will ensure that riskless principal orders that meet the requirements of FINRA Rule 5320.03 will have the same opportunity to be submitted as Retail Orders as agency orders. As discussed above, there is no functional distinction for purposes of Retail Orders between an order entered by a Member on an agency basis and one entered on a riskless principal basis. The Exchange believes that the proposed change would tend to reduce any potential discrimination between similarly situated customers or brokers by ensuring that the ability of retail customers to benefit from the use of Retail Orders and price improvement opportunities available under the Exchange's RPI Program does not depend on a distinction in capacity that is not meaningful for purposes of submitting Retail Orders. As a result of the change, a retail customer would

---

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

<sup>18</sup> 15 U.S.C. 78f(b)(5).

be able to in the RPI Program utilizing Retail Orders without regards to whether the Member enters the order on a riskless principal or agency basis.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will clarify that riskless principal orders that meet the requirements of FINRA Rule 5320.03 are eligible to be submitted as Retail Orders on the same basis as agency orders. By allowing all orders that are functionally equivalent to agency orders to be submitted as Retail Orders, the proposed change would potentially stimulate further competition for retail order flow because it is similar to the definition of retail order available on other exchanges.<sup>19</sup>

The Exchange believes that the proposed change would protect investors and the public interest by expanding the access of Members to the RPI Program offered by the Exchange as well as the access of the public to an exchange sponsored alternative to broker-operated internalization venues. In this regard, the Exchange believes that maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

---

<sup>19</sup> See Footnote 4 of the EDGX Exchange, Inc. ("EDGX") fee schedule available at <http://www.directedge.com/Trading/EDGXFeeSchedule.aspx> (last visited July 16, 2014); NASDAQ Stock Market LLC Rule 4780(a)(2); New York Stock Exchange, Inc. Rule 107C(a)(3)' and NYSE MKT LLC Rule 107C(a)(3).

(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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the amendment, by increasing the level of participation in the RPI Program, will increase the level of competition around retail executions such that retail investors would receive better prices than they currently do on the Exchange and potentially through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of operating a program such as the RPI Program on an exchange market would result in better prices for retail investors and benefits retail investors by expanding the capabilities of the Exchange to encompass practices currently allowed on non-exchange venues. In addition, by allowing all orders that are functionally equivalent to agency orders to be submitted as Retail Orders, the proposed change would potentially stimulate further competition for retail order flow because it is similar to the definition of retail order available on other exchanges.<sup>20</sup>

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>21</sup>

---

<sup>20</sup> Id.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

of the Act and Rule 19b-4(f)(6)<sup>22</sup> thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.<sup>23</sup>

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4<sup>24</sup> because the proposed rule change would not significantly affect investors or the public interest or impose a significant burden on competition because it is similar to rule changes undertaken by other exchanges and does not present any unique policy issues that have not been previously considered by the Commission.<sup>25</sup> The Exchange believes that Members should reap the benefits of these

---

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>24</sup> 17 CFR 240.19b-4(f)(6).

<sup>25</sup> See Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR-NASDAQ-2012-129); Securities Exchange Act Release No. 69103 (March 11, 2013), 78 FR 16547 (March 15, 2013) (SR-NYSE-2013-20); Securities Exchange Release No. 69104 (March 11, 2013), 78 FR 16556 (March 15, 2013) (SR-NYSEMKT-2013-22); and Securities Exchange Act



proposed amendments immediately, as it believes transparency would be enhanced and use of Retail Orders increased. The Exchange believes the proposed rule change will not significantly affect the protection of investors or the public interest because the rule proposal is intended to clarify that an Member may submit Retail Orders to the Exchange in a riskless principal capacity as well as in an agency capacity, provided that the entry of such riskless principal orders meets the requirements of FINRA Rule 5320.03. This clarification will, as previously stated, encourage Members to send more retail order flow to the Exchange and thereby allow more Members to benefit from the price improvement opportunities available under the Exchange's RPI Program. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>26</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>27</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The Exchange believes that waiver of the 30-day operative delay would permit Members to send Retail Orders that are riskless principal orders to the Exchange in a timelier manner, thereby allowing those orders to benefit from the price improvement opportunities available under the Exchange's RPI Program. Waiver of the 30-day operative delay would also enable the Exchange to remain competitive with other market centers by providing an additional choice to its Members as to where they send Retail Orders on a riskless principal basis. Waiver of the operative delay is, therefore,

---

Release No. 69378 (April 15, 2013), 78 FR 23617 (April 19, 2013) (SR-EDGX-2013-13).

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4(f)(6).

consistent with the protection of investors and the public interest.

At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily 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-BYX-2014-013 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-BYX-2014-013. 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-BYX-2014-013 and should be submitted on or before [\_\_\_\_\_] 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

Kevin M. O'Neill  
Deputy Secretary

---

<sup>28</sup> 17 CFR 200.30-3(a)(12).

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

**Rules of BATS Y-Exchange, Inc.**

\* \* \* \* \*

**CHAPTER XI. TRADING RULES**

\* \* \* \* \*

**Rule 11.24. Retail Price Improvement Program**

(a) Definitions.

(1) (No change).

(2) Retail Order. A “Retail Order” is an agency order or riskless principal that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Order is an Immediate or Cancel (“IOC”) Order and shall operate in accordance with paragraph (f) below. A Retail Order may be an odd lot, round lot, or mixed lot.

(3) (No change).

(b) - (h) (No changes.)

\* \* \* \* \*