

OMB APPROVAL

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Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2016 - * 27

Amendment No. (req. for Amendments *)

Filing by Bats BYX Exchange, Inc.

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

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

The Exchange proposes a rule change to amend BYX Rule 11.13, Order Execution and Routing.

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 * Chris Last Name * Solgan
 Title * Assistant General Counsel
 E-mail * csolgan@bats.com
 Telephone * (646) 856-8723 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 10/12/2016

By Chris Solgan

(Name *)

Assistant General 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@bats.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 *

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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

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² Bats BYX Exchange, Inc. (the “Exchange” or “BYX”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend Exchange Rule 11.13(b)(1) to describe when an order marked as “short” may be eligible for routing when a short sale price test restriction is in effect. The Exchange has designated this proposal as “non-controversial” and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.³

The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

- (b) Not applicable.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

comments on the proposed rule change are:

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

Chris Solgan
Assistant General Counsel
(646) 856-8723

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 11.13(b)(1) to describe when an order to sell marked⁴ as “short”⁵ may be eligible for routing when a short sale price test restriction is in effect. Under Rule 201 of Regulation SHO,⁶ short sale orders in a covered security⁷ generally cannot be executed or displayed by a Trading Center,⁸ such

⁴ 17 CFR 242.200(g).

⁵ The term “short sale” is defined as “any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.” 17 CFR 242.200(a).

⁶ See 17 CFR 242.201; Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010).

⁷ Rule 201(a)(1) of Regulation SHO defines the term “covered security” to mean any “NMS stock” as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an “NMS stock” as “any NMS security other than an option.” Rule 600(b)(46) of Regulation NMS defines an “NMS security” as “any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.” 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

⁸ Rule 201(a)(9) of Regulation SHO states that the term “Trading Center” shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) of Regulation NMS defines a “Trading Center” as “a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.” 17 CFR 242.200(a)(9); 17 CFR 242.600(b)(78).

as the Exchange, at a price that is at or below the current national best bid (“NBB”)⁹ when a short sale circuit breaker is in effect for the covered security (the “short sale price test restriction”).¹⁰

Under Rule 11.13(b)(1), an order marked “short” when a short sale price test restriction is in effect is not eligible for routing by the Exchange. If an order is ineligible for routing due to a short sale price test restriction and such order is an Immediate or Cancel (“IOC”) Order¹¹ or a BYX Market Order,¹² then the order will be cancelled. If an order is ineligible for routing due to a short sale price test restriction and such order is a Limit Order,¹³ the Exchange will post the unfilled balance of the order to the BYX Book,¹⁴ subject to the price sliding process as defined in paragraph (g) of Exchange Rule 11.9.¹⁵

The Exchange proposes to specify in Rule 11.13 that orders marked “short” may be eligible for routing by the Exchange when a short sale price test restriction is in effect

⁹ 17 CFR 242.201(a)(4); 17 CFR 242.600(b)(42).

¹⁰ 17 CFR 242.201(b)(1).

¹¹ See Exchange Rule 11.9(b)(1).

¹² See Exchange Rule 11.9(a)(2). The Exchange also proposes to remove the reference to BYX Market Orders in Rule 11.13(b)(1) as BYX Market Orders with a time-in-force of Day that are ineligible for routing due to a short sale price test restriction pursuant to Rule 201 of Regulation SHO are not cancelled, but rather posted to the BYX Book pursuant to Exchange Rule 11.9(a)(2). All other BYX Market Orders are handled in accordance with Exchange Rule 11.13(a).

¹³ See Exchange Rule 11.9(a)(1).

¹⁴ See Exchange Rule 1.5(e).

¹⁵ In sum, under Exchange Rule 11.9(g), a short sale order that, at the time of entry, could not be executed or displayed in compliance with Rule 201 of Regulation SHO will be re-priced by the System at one minimum price variation above the current NBB (“Permitted Price”). See Exchange Rule 11.9(g) for a full description of the Exchange’s Short Sale Price Sliding Process.

where the User¹⁶ selects the Post to Away¹⁷ routing option.¹⁸ In contrast to all other routing strategies, which are routed to other Trading Centers for immediate execution, the Post to Away routing option is an order that is sent to other Trading Centers for posting and/or later execution as further described below. Under the Post to Away routing option, the remainder of a routed order is routed to and posted to the order book of a destination on the System routing table,¹⁹ as specified by the User. Orders routed pursuant to the Post to Away routing option that are identified as “short” are subject to the receiving Trading Center’s processes for handling short sale orders in compliance with Rule 201 of Regulation SHO.²⁰

Under Exchange Rule 11.13(b)(1), IOC Orders marked “short” that are not eligible for routing during a short sale price test restriction will continue to be cancelled.²¹ The unfilled portions of Limit Orders marked “short” that are ineligible for routing due to a short sale price test restriction Exchange will continue to be posted to the BYX Book subject to the price sliding process as defined in paragraph (g) of Exchange Rule 11.9.

¹⁶ See Exchange Rule 1.5(cc).

¹⁷ See 11.13(b)(3)(H).

¹⁸ The Exchange also proposes to specify within Rule 11.13(b)(1) that the short sale price test restriction is declared pursuant to Rule 201 of Regulation SHO.

¹⁹ The term “System routing table” is defined as the “the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.” See Exchange Rule 11.13(b)(3).

²⁰ See, e.g., Nasdaq Stock Market LLC (“Nasdaq”) Rule 4763; New York Stock Exchange, Inc. (“NYSE”) Rule 440B; and Nasdaq’s Regulation SHO Frequently Asked Questions (updated March 10, 2011), available at <https://nasdaqtrader.com/content/marketregulation/regsho/regshoFAQs.pdf>.

²¹ See *supra* note 12.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act²² and furthers the objectives of Section 6(b)(5) of the Act²³ because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, protect investors and the public interest. Specifically, the proposed changes are designed to ensure clarity in the Exchange's rulebook with respect to the routing of orders in compliance with Rule 201 of Regulation SHO. In addition, providing Users the ability to send short sale orders that are routable pursuant to the Post to Away routing option provides them additional flexibility with regard to the handling of their orders. The Exchange notes that short sale orders routed pursuant to the Post to Away routing option are identified as "short" and, therefore, subject to the receiving Trading Center's processes for handling short sale orders in compliance with Rule 201 of Regulation SHO.²⁴ The Exchange also notes that other national securities exchanges do not expressly prohibit the routing of short sale orders. For example, Nasdaq and NYSE Arca, Inc. ("NYSE Arca") allow for the routing of short sale orders generally, and do not limit a short sale order's ability to route to certain routing options.²⁵ Thus, the proposal is

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).

²⁴ See supra note 20.

²⁵ See e.g., Nasdaq Rules 4702(a) (stating generally that an "[o]rder may . . . may be routed to other market centers for potential execution if designated as 'Routable'") and 4763 (not prohibiting the routing of a short sale order during a short sale price test). See also e.g., NYSE Arca Rule 7.6P (not prohibiting the routing of a short sale order during a short sale price test).

directly targeted at removing impediments to and perfecting the mechanism of a free and open market and national market system. The proposed rule change also is designed to support the principles of Section 11A(a)(1)²⁶ of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is simply proposing to reflect in its rules that orders marked "short" may be routed to an away market for execution under one specific routing strategy offered by the Exchange.

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

Not applicable.

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 Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²⁷ and paragraph (f)(6) of Rule 19b-4 thereunder.²⁸ The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, (3) and will not become operative for 30 days from the date on which it was filed, or such

²⁶ 15 U.S.C. 78k-1(a)(1).

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4.

shorter time as the Commission may designate. In addition, 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.²⁹

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4³⁰ because the proposed rule change would not significantly affect the protection of investors or the public interest. The Exchange notes that the proposed rule change is in the public interest because it would ensure clarity in the Exchange's rulebook with respect to the routing of orders in compliance with Rule 201 of Regulation SHO. Routed orders will continue to be identified as "short", therefore, requiring the receiving Trading Center to subject such orders to its processes for handling short sale orders in compliance with Rule 201 of Regulation SHO.³¹ In addition, the Exchange also notes that the proposed rule change is non-controversial because Nasdaq and NYSE Arca rules allow for the routing of short sale orders generally, and do not limit a short sale order's ability to route to certain routing options.³² Lastly, the proposed rule change would not impose any significant burden on competition for the reasons set forth under Item 4 above. Based on the foregoing, the proposed rule changes do not present any unique issues not previously considered by the Commission, and the Exchange has accordingly designated this rule filing as non-controversial under Section

²⁹ 17 CFR 240.19b-4(f)(6)(iii).

³⁰ 17 CFR 240.19b-4(f)(6).

³¹ See supra note 20.

³² See supra note 25.

19(b)(3)(A) of the Act³³ and paragraph (f)(6) of Rule 19b-4 thereunder.³⁴

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

Exhibit 2–4: Not applicable.

Exhibit 5: Text of Proposed Rule Change

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-BatsBYX-2016-27)

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend BYX Rule 11.13, Order Execution and Routing

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 _____, Bats BYX 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 Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ 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 filed a proposal to amend Exchange Rule 11.13(b)(1) to describe when an order marked as “short” may be eligible for routing when a short sale price test restriction is in effect.

The text of the proposed rule change is available at the Exchange’s website at www.batstrading.com, at the principal office of the Exchange, and at the Commission’s

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

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 11.13(b)(1) to describe when an order to sell marked⁵ as "short"⁶ may be eligible for routing when a short sale price test restriction is in effect. Under Rule 201 of Regulation SHO,⁷ short sale orders in a covered security⁸ generally cannot be executed or displayed by a Trading Center,⁹ such

⁵ 17 CFR 242.200(g).

⁶ The term "short sale" is defined as "any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller." 17 CFR 242.200(a).

⁷ See 17 CFR 242.201; Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010).

⁸ Rule 201(a)(1) of Regulation SHO defines the term "covered security" to mean any "NMS stock" as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an "NMS stock" as "any NMS security other than an option." Rule 600(b)(46) of Regulation NMS defines an "NMS security" as "any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options." 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

as the Exchange, at a price that is at or below the current national best bid (“NBB”) ¹⁰ when a short sale circuit breaker is in effect for the covered security (the “short sale price test restriction”).¹¹

Under Rule 11.13(b)(1), an order marked “short” when a short sale price test restriction is in effect is not eligible for routing by the Exchange. If an order is ineligible for routing due to a short sale price test restriction and such order is an Immediate or Cancel (“IOC”) Order¹² or a BYX Market Order,¹³ then the order will be cancelled. If an order is ineligible for routing due to a short sale price test restriction and such order is a Limit Order,¹⁴ the Exchange will post the unfilled balance of the order to the BYX Book,¹⁵ subject to the price sliding process as defined in paragraph (g) of Exchange Rule

⁹ Rule 201(a)(9) of Regulation SHO states that the term “Trading Center” shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) of Regulation NMS defines a “Trading Center” as “a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.” 17 CFR 242.200(a)(9); 17 CFR 242.600(b)(78).

¹⁰ 17 CFR 242.201(a)(4); 17 CFR 242.600(b)(42).

¹¹ 17 CFR 242.201(b)(1).

¹² See Exchange Rule 11.9(b)(1).

¹³ See Exchange Rule 11.9(a)(2). The Exchange also proposes to remove the reference to BYX Market Orders in Rule 11.13(b)(1) as BYX Market Orders with a time-in-force of Day that are ineligible for routing due to a short sale price test restriction pursuant to Rule 201 of Regulation SHO are not cancelled, but rather posted to the BYX Book pursuant to Exchange Rule 11.9(a)(2). All other BYX Market Orders are handled in accordance with Exchange Rule 11.13(a).

¹⁴ See Exchange Rule 11.9(a)(1).

¹⁵ See Exchange Rule 1.5(e).

11.9.¹⁶

The Exchange proposes to specify in Rule 11.13 that orders marked “short” may be eligible for routing by the Exchange when a short sale price test restriction is in effect where the User¹⁷ selects the Post to Away¹⁸ routing option.¹⁹ In contrast to all other routing strategies, which are routed to other Trading Centers for immediate execution, the Post to Away routing option is an order that is sent to other Trading Centers for posting and/or later execution as further described below. Under the Post to Away routing option, the remainder of a routed order is routed to and posted to the order book of a destination on the System routing table,²⁰ as specified by the User. Orders routed pursuant to the Post to Away routing option that are identified as “short” are subject to the receiving Trading Center’s processes for handling short sale orders in compliance with Rule 201 of Regulation SHO.²¹

Under Exchange Rule 11.13(b)(1), IOC Orders marked “short” that are not

¹⁶ In sum, under Exchange Rule 11.9(g), a short sale order that, at the time of entry, could not be executed or displayed in compliance with Rule 201 of Regulation SHO will be re-priced by the System at one minimum price variation above the current NBB (“Permitted Price”). See Exchange Rule 11.9(g) for a full description of the Exchange’s Short Sale Price Sliding Process.

¹⁷ See Exchange Rule 1.5(cc).

¹⁸ See 11.13(b)(3)(H).

¹⁹ The Exchange also proposes to specify within Rule 11.13(b)(1) that the short sale price test restriction is declared pursuant to Rule 201 of Regulation SHO.

²⁰ The term “System routing table” is defined as the “the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.” See Exchange Rule 11.13(b)(3).

²¹ See, e.g., Nasdaq Stock Market LLC (“Nasdaq”) Rule 4763; New York Stock Exchange, Inc. (“NYSE”) Rule 440B; and Nasdaq’s Regulation SHO Frequently Asked Questions (updated March 10, 2011), available at <https://nasdaqtrader.com/content/marketregulation/regsho/regshoFAQs.pdf>.

eligible for routing during a short sale price test restriction will continue to be cancelled.²² The unfilled portions of Limit Orders marked “short” that are ineligible for routing due to a short sale price test restriction Exchange will continue to be posted to the BYX Book subject to the price sliding process as defined in paragraph (g) of Exchange Rule 11.9.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act²³ and furthers the objectives of Section 6(b)(5) of the Act²⁴ because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, protect investors and the public interest. Specifically, the proposed changes are designed to ensure clarity in the Exchange’s rulebook with respect to the routing of orders in compliance with Rule 201 of Regulation SHO. In addition, providing Users the ability to send short sale orders that are routable pursuant to the Post to Away routing option provides them additional flexibility with regard to the handling of their orders. The Exchange notes that short sale orders routed pursuant to the Post to Away routing option are identified as “short” and, therefore, subject to the receiving Trading Center’s processes for handling short sale orders in compliance with Rule 201 of

²² See supra note 13.

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

Regulation SHO.²⁵ The Exchange also notes that other national securities exchanges do not expressly prohibit the routing of short sale orders. For example, Nasdaq and NYSE Arca, Inc. (“NYSE Arca”) allow for the routing of short sale orders generally, and do not limit a short sale order’s ability to route to certain routing options.²⁶ Thus, the proposal is directly targeted at removing impediments to and perfecting the mechanism of a free and open market and national market system. The proposed rule change also is designed to support the principles of Section 11A(a)(1)²⁷ of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is simply proposing to reflect in its rules that orders marked “short” may be routed to an away market for execution under one specific routing strategy offered by the Exchange.

(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

²⁵ See supra note 21.

²⁶ See e.g., Nasdaq Rules 4702(a) (stating generally that an “[o]rder may . . . may be routed to other market centers for potential execution if designated as ‘Routable’”) and 4763 (not prohibiting the routing of a short sale order during a short sale price test). See also e.g., NYSE Arca Rule 7.6P (not prohibiting the routing of a short sale order during a short sale price test).

²⁷ 15 U.S.C. 78k-1(a)(1).

Action

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act²⁸ and paragraph (f)(6) of Rule 19b-4 thereunder,²⁹ the Exchange has designated this rule filing as non-controversial. The Exchange 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.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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:

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 17 CFR 240.19b-4.

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-BatsBYX-2016-27 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-BatsBYX-2016-27. 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-BatsBYX-2016-27 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.³⁰

Robert W. Errett
Deputy Secretary

³⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

Rules of Bats BYX Exchange, Inc.

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CHAPTER XI. TRADING RULES

* * * * *

Rule 11.13. Order Execution and Routing

* * * * *

(a) (No change).

(b) (No change).

(1) [Orders Eligible for Routing]Regulation SHO. Unless a User selects the Post to Away routing option set forth under paragraph (b)(3) of this Rule, [A]an order marked "short" when a short sale price test restriction pursuant to Rule 201 of Regulation SHO is in effect is not eligible for routing by the Exchange. If an order is ineligible for routing due to a short sale price test restriction and such order is an IOC[or a market] order, then the order will be cancelled. If an order is ineligible for routing due to a short sale price test restriction pursuant to Rule 201 of Regulation SHO and such order is a limit order, the Exchange will post the unfilled balance of the order to the BYX Book, subject to the price sliding process as defined in paragraph (g) of Rule 11.9.

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