

December 23rd, 2010

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

RE: **Release No. 34-63403; File No. SR-BATS-2010-034**

Dear Ms. Harmon:

TD Ameritrade, Inc.¹ (“TD Ameritrade” or “the Firm”) appreciates the opportunity to comment on the above rule filing proposal submitted by the BATS Exchange, Inc. (“BATS”). TD Ameritrade is a strong proponent of market structures that create a level playing field for retail investors and in this regard the Firm applauds BATS’ proposal as it will be beneficial to retail investors. The Firm, however, believes that some sections of the rule filing should not be approved as they require further analysis by BATS and the Securities and Exchange Commission’s (“Commission”), Office of Economic Analysis (“OEA”) to determine whether they are in the public interest.

Price Improvement is Important for Retail Option Orders

TD Ameritrade agrees with BATS that the proposed rule changes are similar in nature to the price improvement auctions that currently exist in the market with one significant difference which allows the ability for a firm to direct orders to a market participant. TD Ameritrade strongly supports this approach as it provides firms with competitive opportunities to seek price improvement on client option orders. Furthermore, TD Ameritrade applauds the approach as the Firm believes the proposal fosters competitive quoting opportunities within the proposed structure. The Firm, however, believes the Commission should approve the proposal subject to the changes referenced below.

¹ TD Ameritrade is a wholly owned broker-dealer subsidiary of TD Ameritrade Holding Corporation (“TD Ameritrade Holding”). TD Ameritrade Holding has a 35-year history of providing financial services to self-directed investors. TD Ameritrade serves an investor base comprised of over 5.4 million funded client accounts with approximately \$369 billion in assets. During November 2010, the Firm averaged a total of 392,000 client trades per day.

Sub-penny Pricing for Options is Premature

BATS' proposal explains that "[a]n Options Market Maker Price Improving Order would be required to have a non-displayed price better than the displayed limit price that could be entered in an increment as small as (1) one cent or may be designated at the midpoint of the National Best Bid and Offer ("NBBO")." TD Ameritrade submits that permitting the use of midpoint pricing could lead to printing occurring out to 3 decimal places. The Firm believes that the proposal is premature and would represent a significant shift in options markets structure at a time when the options markets are still adjusting to the recent move to trading in penny increments as a pilot program². TD Ameritrade submits that the Commission should require BATS to submit economic data for review by OEA to determine whether sub-penny trading in the options markets will be in the public interest. Pending this study, the Firm recommends amending the proposal to allow "a non-displayed price better than the displayed limit price that could be entered in an increment as small as (1) one cent" and strike the language regarding mid-point executions as contained throughout the proposal.

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TD Ameritrade appreciates the opportunity to comment. Please feel free to contact me at 402-970-5656 with any questions regarding our comments.

Respectfully Submitted,

/S/

Christopher Nagy
Managing Director Order Strategy
TD Ameritrade

² See Exchange Act Release No. 60711 (September 23, 2009), 74 FR 49419 (September 28, 2009) order approving SR-NYSEArca-2009-44).