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September 25, 2014

Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F. Street, N.E.  
Washington, D.C. 20548-1090

Re: BATS Rule Filings

Dear Mr. Fields:

IEX Services LLC (“IEX”) is pleased to comment on two companion rule filings<sup>1</sup> filed by BATS Exchange, Inc. and BATS-Y Exchange, Inc. (collectively the “Exchanges”, or “BATS”) relating to the use of certain data feeds for order handling and execution, order routing and regulatory compliance (the “Rule Filings”). IEX currently operates a non-displayed alternative trading system for US equities, the IEX ATS. IEX offers a simplified and transparent market structure with no broker owners, and only broker Subscribers. Also, via limited order types and advanced technology and architecture, IEX has sought to neutralize on its trading platform certain negative effects of structural inefficiencies in the national market system.

The Rule Filings were submitted in response to a call by Chair White for all existing exchanges to make rule filings disclosing how and for what purpose they are using data feeds for various purposes.<sup>2</sup> Chair White asked for this additional transparency in order to allow brokers and investors “to better assess the quality of an exchange’s execution and routing services.”<sup>3</sup> IEX’s affiliate, Investors’ Exchange LLC, intends to pursue registration as a national securities exchange and therefore commends BATS for submitting detailed disclosures in the Rule Filings regarding which data feeds are used in calculating the NBBO for various purposes, and we encourage the other exchanges to follow their lead.

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*1 BATS Exchange, Inc. and BATS Y-Exchange, Inc.: Notices of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify for Members and Non-Members the Use of Certain Data Feeds for Order Handling and Execution, Order Routing and Regulatory Compliance, SR-BATS-2014-029 (available at <http://www.sec.gov/rules/sro/bats/2014/34-72685.pdf>), SR-BYX-2014-12 (available at <http://www.sec.gov/rules/sro/byx/2014/34-72687.pdf>).*

*2 See Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler O’Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at [www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw](http://www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw)).*

*3 Id.*



The Rule Filings describe, among other matters, the data sources used by the Exchanges to calculate the national best bid and offer (“NBBO”) in their matching engines. In addition, the filings suggest that the Exchanges calculate the NBBO for purposes of determining the price at which certain pegged orders<sup>4</sup> (the “pegged” best bid and offer or “PBBO”) are to be pegged, by using data sources that differ in certain respects.

IEX requests that the Exchanges clarify the reason for this difference and whether it raises the potential for inferior executions, or other advantages or disadvantages for participants, especially those who submit Pegged Orders to the Exchanges.

Specifically, the Exchanges represent that, in determining the NBBO used by its matching engines, they use quotes disseminated through proprietary data feeds from various market centers, data feeds from the securities information processors (“SIP”), and certain other “feedback” consisting of data sent to other venues with protected quotations, execution reports received from those venues, feedback from the receipt of intermarket sweep orders with a time-in-force of Day and feedback from the Exchanges’ routing broker-dealer, BATS Trading, Inc. The Exchanges further represent that they do not include their own quotes because “the system is designed such that all incoming orders are separately compared” to the Exchange best bid and offer and the Exchange calculated NBBO, “prior to display, execution, or routing.” In essence, the Exchanges appear to say that their calculation of the NBBO is informed by information contained on their order books, as it is updated on an ongoing basis.

In contrast, the Exchanges represent that for purposes of determining the NBBO for pegged orders, or the PBBO, they require their systems to receive their own quotes from the SIP feeds, along with other data sources used in determining the NBBO. Although the Rule Filings are not explicit on this point, it appears that BATS do not use their own order book information for this purpose.

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<sup>4</sup> The rule filings describe the use of data sources for determining a Pegged Order, Mid-Point Peg Order, or Market Maker Peg Order, as defined in the Exchanges’ rules (hereinafter, “Pegged Orders”).



From the information available in the Rule Filings, it appears that the Exchanges' calculation of the NBBO is designed to draw on a variety of information sources and to update the NBBO as quickly as possible, including the use of each Exchange's own order book information known intrinsically rather than through receipt from a public quote stream. The PBBO methodology, in contrast, will process quote changes from the Exchanges' own markets via the SIP, which necessarily will be a slower means of incorporating Exchange quotes into the PBBO, as compared to the NBBO.

Accordingly, it appears probable that the NBBO and PBBO at certain points in time will be out of alignment. One possible result is that participants submitting Pegged Orders may receive an inferior execution compared to an order that is otherwise priced according to the NBBO. Further, market participants might reasonably assume that the NBBO would be calculated in a consistent way, both for purposes of processing other types of orders and also processing Pegged Orders, except to the extent that they could understand from the Rule Filings that this is not the case.

IEX believes that the Exchanges should amend the Rule Filings, or otherwise explain for the record, the reason or reasons for the difference in methodologies. IEX further believes that the Exchanges should address the concern identified above about the potential for misalignment of the NBBO and PBBO, and the potential for advantage or disadvantage resulting from the difference in handling. Finally, IEX believes that the Exchanges should explain how long this difference in methodology has existed, and whether or how any prior disclosure has been made to market participants, including resulting potential risks of using Pegged Orders.

IEX further believes that each of the other nine equities national securities exchanges should follow BATS' lead by describing how particular data sources are used for particular purposes and why. In their Rule Filings, several other SROs state generally that they use both SIP data feeds and proprietary data feeds for various identified purposes, including to calculate the NBBO for purposes of order types that are priced based on the NBBO<sup>5</sup>, but do not identify either how particular data sources are incorporated for such purposes or whether the same sources are used in the same way for calculating the NBBO for use by their matching engines.

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<sup>5</sup> See e.g. *The NASDAQ Stock Market LLC and NYSE Arca, Inc.: Notices of Filing and Immediate Effectiveness of Proposed Rule Change Clarifying the Exchange's Use of Certain Data Feeds for Order Handling and Execution, Order Routing and Regulatory Compliance, SR-NASDAQ-2014-07w* (available at <http://www.sec.gov/rules/sro/nasdaq/2014/34-72684.pdf>), *SR-NYSEArca-2014-82* (available at <http://www.sec.gov/rules/sro/nysearca/2014/34-72708.pdf>).



IEX suggests that the SROs clarify which data sources are used to calculate the NBBO for the purposes of processing orders in their matching engines compared to those used to determine the BBO for purposes of their pegged order types, including whether intrinsic data or a public data feed is used for their own quote, whether they use information derived from Day ISO orders, and whether or not non-Day ISO orders are allowed to join the locking quotation set by a previously received Day ISO order. Additional specificity and clarity by the other exchanges will better serve the purpose of this disclosure as announced by Chair White.

Sincerely,

Donald Bollerman  
Head of Market Operations  
IEX ATS

cc: Stephen Luparello  
James Burns  
David Shillman  
Daniel Gray  
Richard Holley