

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77960; File No. SR-BatsBZX-2016-20)

June 1, 2016

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 14.13, Company Listing Fees

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 May 20, 2016, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fees applicable to securities listed on the Exchange, which are set forth in BZX Rule 14.13.

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 Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,⁵ which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products (“ETPs”)⁶ on the Exchange,⁷ which it subsequently modified again on June 4, 2014.⁸ On October 16, 2014, the Exchange modified Rule 14.13, entitled “Company Listing Fees” to eliminate the annual fees for ETPs not participating in the Exchange’s Competitive Liquidity Provider Program pursuant to Rule 11.8, Interpretation and Policy .02 (the “CLP Program”).⁹ On May 22, 2015, the Exchange further modified Rule 14.13 to eliminate the \$5,000 application fee for ETPs,

⁵ See Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

⁶ As defined in Rule 11.8(e)(1)(A), the term “ETP” means any security listed pursuant to Exchange Rule 14.11.

⁷ See Securities Exchange Act Release No. 66422 (February 17, 2012), 77 FR 11179 (February 24, 2012) (SR-BATS-2012-010).

⁸ See Securities Exchange Act Release No. 72377 (June 12, 2014), 79 FR 34822 (June 18, 2014) (SR-BATS-2014-024).

⁹ See Securities Exchange Act Release No. 73414 (October 23, 2014), 79 FR 64434 (October 29, 2014) (SR-BATS-2014-050).

effectively eliminating any compulsory fees for both new ETP issues and transfer listings in ETPs on the Exchange¹⁰ and on September 30, 2015, the Exchange began offering an incentive payment to ETPs that are listed on the Exchange based on the consolidated average daily volume (the “CADV”) of the ETP (the “Issuer Incentive Program”).¹¹

The Exchange is now proposing to make an administrative change to the Issuer Incentive Program such that an ETP must be enrolled by completing the Issuer Incentive Program Enrollment Form with the Exchange in order to receive payment under the Issuer Incentive Program. Practically, the Exchange cannot provide payment to an ETP that is eligible to receive payment under the Issuer Incentive Program without certain bank information from the issuer and the ETP cannot accept payments from the Exchange without confirming that there are no issuer- and fund-specific issues that are created through receipt of the payment. All ETPs will be eligible for enrollment in the Issuer Incentive Program and, as noted above, this proposed change is only an administrative change. As part of this proposal, the Exchange also notes that where an ETP is not enrolled with the Exchange on the last day of a quarter for which the ETP is eligible to receive payments under the Issuer Incentive Program, any such payment is forfeited by the ETP.

The Exchange proposes to implement the amendments to Rule 14.13(b)(2)(C) effective immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities

¹⁰ See Securities Exchange Act Release No. 75085 (June 1, 2015), 80 FR 32190 (June 5, 2015) (SR-BATS-2015-39).

¹¹ See Securities Exchange Act Release No. 76113 (October 8, 2015), 80 FR 62142 (October 15, 2015) (SR-BATS-2015-80).

exchange, and, in particular, with the requirements of Section 6 of the Act.¹² Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,¹³ in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that requiring enrollment with the Exchange in order to receive payment under the Issuer Incentive Program is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges because, as noted above, the Exchange cannot provide payment to an ETP that is eligible to receive payment under the Issuer Incentive Program without bank information from the issuer and the ETP cannot receive payments from the Exchange without confirming that there are no issuer- and fund-specific issues that are created through receipt of the payment. Thus, the proposal will provide a mechanism to ensure that both the Exchange and the ETP are prepared to provide and receive the payment, respectively. Additionally, such requirement will apply equally to all ETPs eligible for payment under the Issuer Incentive Program.

Similarly, the Exchange believes that requiring an ETP to be enrolled with the Exchange on at least the last day of the quarter for which the ETP is eligible to receive payments under the Issuer Incentive Program in order to receive the payment is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges because an ETP can be enrolled as part of the application process prior to the ETP even listing on the Exchange and even where the ETP is enrolled after listing on the Exchange, the process is very simple and involves only

¹² 15 U.S.C. 78f.

¹³ 15 U.S.C. 78f(b)(4) and (5).

standard bank account information. Further, to the extent that an ETP is not enrolled on the last day of the quarter but would otherwise be eligible to receive payment, the Exchange believes that it is reasonable, fair and equitable, and not unfairly discriminatory for the ETP to forfeit such payment because, as noted above, the ETP can be enrolled as part of the application process prior to listing on the Exchange and the forfeiture of such payments (rather than allowing the payments to carry over for multiple quarters) provides the Exchange with financial certainty about the costs associated with the Issuer Incentive Program and will allow the Exchange to better approximate its operational costs.

Based on the foregoing, the Exchange believes that the proposed amendment to Rule 14.13(b)(2)(C) to implement the Issuer Incentive Program is a reasonable, equitable, and non-discriminatory allocation of fees to issuers.

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, as amended. The Exchange does not believe that the proposed change burdens competition, but instead, enhances competition, as it is intended to increase the competitiveness of the Exchange's listings program by making clear the requirements for the Exchange to provide ETPs with quarterly payments based on the CADV of the ETP. As such, the proposal is a competitive proposal that is intended to further clarify the Issuer Incentive Program and attract additional ETP listings, which will, in turn, benefit the Exchange and all other BZX-listed ETPs.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and paragraph (f) of Rule 19b-4 thereunder.¹⁵ 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 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 proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BatsBZX-2016-20 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.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-BatsBZX-2016-20. 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 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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 Number SR-BatsBZX-2016-20, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Brent J. Fields
Secretary

¹⁶ 17 CFR 200.30-3(a)(12).