

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81288; File No. SR-BatsBYX-2017-16)

August 2, 2017

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats BYX Exchange, Inc.

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 July 24, 2017, 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, 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 Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members⁵ and non-Members of the Exchange pursuant to BYX Rules 15.1(a) and (c).

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

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).

⁵ The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

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 its fee schedule applicable to its equities trading platform ("BYX Equities") to re-name NYSE MKT as NYSE American throughout the fee schedule.

The Exchange also proposes to modify fees for orders routed to NYSE American in connection with changes made by NYSE American to its fee structure. As of July 24, 2017, NYSE American transitioned to a fully automated cash equities market. In connection with this transition, NYSE American updated its fee structure in a variety of ways, including to charge a fee to add non-displayed liquidity and to provide no rebate (nor charge any fee) to add displayed liquidity.⁶

The Exchange proposes to modify the fee structure for orders that are routed to and add liquidity at NYSE American, which yielded fee code 8 for displayed liquidity and fee code NA

⁶ See SR-NYSEMKT-2017-43 (filed July 19, 2017), available at: <https://www.nyse.com/regulation/rule-filings?market=NYSE>.

for non-displayed liquidity. Orders yielding fee code 8 previously received a rebate of \$0.00150 per share and orders yielding fee code NA were not provided a rebate or charged any fee.

The Exchange proposes to continue to apply fee code 8 to orders that add displayed liquidity at NYSE American but to change the rate from a rebate to a fee, charging orders that yield fee code 8 a fee of \$0.00020 per share.

The Exchange also proposes to remove NYSE American (previously NYSE MKT) from the list of venues where an order that adds non-displayed liquidity yields fee code NA. The Exchange does not propose to modify the rate applied to orders yielding fee code NA, but, as a result of this change, orders adding non-displayed liquidity at NYSE American will yield fee code NB instead, which is applied to all routed executions at an exchange not covered by Fee Code NA that adds non-displayed liquidity. Similarly, the Exchange does not propose to modify the rate applied to orders yielding fee code NB, which is currently a fee of \$0.00300 per share.

The Exchange notes that the changes proposed above will not impact the current fee structure for orders that add displayed liquidity at NYSE American in securities priced below \$1.00, which, pursuant to footnote 10, are provided without charge and without rebate. However, the proposed change to remove NYSE American from fee code NA will impact pricing for non-displayed orders routed to NYSE American that add liquidity. Specifically, consistent with other orders yielding fee code NB, pursuant to footnote 14, orders in securities priced below \$1.00 will be charged 0.30% of the total dollar value of an execution.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,⁷ in general, and furthers the objectives of Section 6(b)(4),⁸ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. At the outset, the Exchange notes that its proposal to refer to NYSE American is consistent with the Act as it will avoid confusion with the Exchange's fee schedule by reflecting NYSE MKT's new name. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes are designed to react to pricing changes at NYSE American, to avoid subsidizing routing to such venue. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, Inc. is voluntary.

The changes to fee code 8 and to remove NYSE American (NYSE MKT) from fee code NA are primarily designed to react to pricing changes at NYSE American, effective July 24, 2017. These changes are necessary to avoid providing routing services with pricing that effectively subsidizes routing to NYSE American. The Exchange's prior pricing model for orders routed to NYSE American was based on a fee structure that provided rebates for orders that added liquidity. The Exchange believes it is reasonable and fair and equitable to charge fees for orders routed to NYSE American that no longer receive a rebate but instead are either assessed a fee by NYSE American or are provided free of charge. The Exchange also believes the proposed rates are reasonable and not unfairly discriminatory in that they are consistent with other rates already charged by the Exchange. Finally, the Exchange believes the proposed

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

changes are not unfairly discriminatory in that they are equally applicable to all Members that use the Exchange's routing services to add liquidity at NYSE American.

(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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed changes to the Exchange's routing pricing burden competition, as they are based on the pricing on other venues. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(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 unsolicited 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 Act⁹ and paragraph (f) of Rule 19b-4 thereunder.¹⁰ 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.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

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. Please include File Number SR-BatsBYX-2017-16 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 Number SR-BatsBYX-2017-16. 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 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 Number SR-BatsBYX-2017-16 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.¹¹

Eduardo A. Aleman
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).