

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75711 ; File No. SR-BATS-2015-62)

August 17, 2015

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.22 to Describe the Market Data Product BZX Book Viewer

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 August 7, 2015, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 Rule 11.22 to describe a market data product known as BZX Book Viewer.

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).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

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 add language to Rule 11.22 describing a market data product known as BZX Book Viewer. The proposal memorializes in the Exchange's rules a data feed that is currently available through the Exchange's public website free of charge. BZX Book Viewer is a data feed that disseminates, on a real-time basis, the aggregated two-side quotations for up to five (5) price levels for all displayed orders for securities traded on the Exchange and for which the Exchanges reports quotes under the Consolidated Tape Association ("CTA") Plan or the Nasdaq/UTP Plan. BZX Book Viewer also contains the last ten (10) trades including time of trade, price and share quantity. BZX Book Viewer is currently available via www.batstrading.com without charge. The Exchange will file a separate proposed rule change with the Commission proposing fees to be charged for certain types of access to BZX Book Viewer as of September 1, 2015.⁵

⁵ The Exchange understands that its affiliated exchanges intend to file identical proposed rule changes to adopt rules and fees for the Book Viewer data feed with

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of BZX Book Viewer. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with an alternative for receiving market data as requested by market data vendors and purchasers that expressed an interest in exchange-only data for instances where consolidated data is no longer required to be purchased and displayed. The proposed rule change would benefit investors by facilitating their prompt access to real-time depth-of-book information contained in BZX Book Viewer. The proposed rule change also removes impediments to and perfect the mechanism of a free and open market and a national market system by memorializing in the Exchange's rules a data feed that is currently available through the Exchange's public website free of charge.

the Commission. The Exchange's affiliates are EDGA Exchange, Inc., EDGX Exchange, Inc. and BATS Y-Exchange, Inc.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act⁸ in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,⁹ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. BZX Book Viewer is accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, distributors and subscribers can discontinue use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS – by lessening regulation of the market in proprietary data – would itself further the Act’s goals of facilitating efficiency and competition:

⁸ 15 U.S.C. 78k-1.

⁹ See 17 CFR 242.603.

[E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.¹⁰

By removing “unnecessary regulatory restrictions” on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

In addition, BZX Book Viewer removes impediments to and perfects the mechanism of a free and open market and a national market system because BZX Book Viewer provides investors with alternative market data and competes with similar market data product currently offered by the New York Stock Exchange, Inc. (“NYSE”) and the Nasdaq Stock Market LLC (“Nasdaq”).¹¹ The provision of new options for investors to receive market data was a primary goal of the market data amendments adopted by Regulation NMS.¹² BZX Book Viewer is precisely the sort of market data product that

¹⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04).

¹¹ See Nasdaq Rule 7023(a)(1)(C) (describing Nasdaq TotalView is a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center). See also Nasdaq Book Viewer, a description of which is available at <https://data.nasdaq.com/Book Viewer.aspx> (last visited July 29, 2015). See NYSE OpenBook available at <http://www.nyxdata.com/openbook> (last visited July 29m 2015) (providing real-time view of the NYSE limit order book). See e.g., Securities Exchange Act Release No. 71775 (March 24, 2014), 79 FR 17627 (March 28, 2014) (SR-CBOE-2014-021) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the CBSX BBO Data Feed and the New CBSX Book Depth Data Feed).

¹² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

the Commission envisioned when it adopted Regulation NMS.

(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 proposal is not intended to address any competitive issues, but rather to memorialize in the Exchange's rules a data feed that is currently available through the Exchange's public website free of charge. Nonetheless, the Exchange believes that the proposal will promote competition by the Exchange offering a service similar to that offered by the NYSE and Nasdaq.¹³ Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. Therefore, the Exchange does not believe 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.

(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 Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act¹⁴ and paragraph (f)(6) of Rule 19b-4 thereunder.¹⁵ The proposed

¹³ See supra note 11.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 C.F.R. 240.19b-4.

rule change effects a change that: (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization 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.¹⁶

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:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

¹⁶ The Exchange has fulfilled this requirement.

- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BATS-2015-62 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-BATS-2015-62. 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-

BATS-2015-62 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.¹⁷

Robert W. Errett
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).