SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69773; File No. SR-BYX-2013-020)

June 17, 2013

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-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 June 7, 2013, BATS Y-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 Act[3] 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 proposes to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

---

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 A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

The text of the proposed rule change is available at the Exchange's website at http://www.batstrading.com, at the principal office of the Exchange, and at the Commission's Public 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 modify its fee schedule effective June 7, 2013, in order to amend the fee structure related to its Retail Price Improvement ("RPI") program. Specifically, the Exchange is proposing to: (i) apply standard pricing to all securities participating in the RPI program; (ii) eliminate the language related to groups of securities; and (iii) eliminate RPI-specific fees for non-displayed liquidity. In summary, the Exchange is proposing a simplification of the fees and rebates applied to the RPI program, such that the Exchange will: provide a $0.0025 rebate per share for a Retail Order[6] that removes liquidity from the BYX order book, except for a Retail Order that removes displayed liquidity, which will be subject to

[6] As defined in BYX Rule 11.24(a)(2), a "Retail Order" is an agency order that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

standard rebates and fees; and charge a $0.0025 fee per share for any Retail Price Improving Order[7] that adds liquidity to the Exchange order book and is removed by a Retail Order.

Under the RPI program as currently constituted, the Exchange generally provides a rebate of $0.0025 per share for Retail Orders that remove liquidity from the Exchange order book in Group 1 Securities[8] and provides a rebate of $0.0010 per share for a Retail Order that removes liquidity from the Exchange order book in Group 2 Securities.[9] For executions of Retail Orders that remove displayed liquidity, however, the Exchange's fee schedule states that it applies standard removal pricing (i.e., either a $0.0005, $0.0006, or $0.0007 per share liquidity removal rebate or an execution free of charge) rather than pricing that is specific to the RPI program. Additionally, the Exchange currently charges any Retail Price Improving Order or non-displayed order that is added to the Exchange a fee of $0.0025 per share for Group 1 Securities and $0.0010 per share for Group 2 Securities.

As described above, the Exchange intends to simplify pricing for the RPI program by making the following changes:

<u>Standard Pricing for All Securities</u>

The Exchange is proposing to apply flat pricing for all securities in the RPI program ("RPI Securities"), without regard to securities groups. Specifically, the Exchange is proposing to provide a $0.0025 rebate per share for a Retail Order that removes liquidity from the BYX order book, except for a Retail Order that removes displayed liquidity, in all securities

---

7 As defined in BYX Rule 11.24(a)(3), a "Retail Price Improvement Order" consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least $0.001 and that is identified as such.

8 As provided in the fee schedule, Group 1 Securities include: AAPL, SPY, FB, FAS, FAZ, IWM, C, GE, GOOG, and GLD.

9 As provided in the fee schedule, Group 2 Securities include: SIRI, BAC, NOK, S, MU, F, AMD, JPM, HPQ, and XLF.

participating in the RPI program. The Exchange is also proposing to charge a $0.0025 per share fee for any Retail Price Improving Order that adds liquidity to the BYX order book that is removed by a Retail Order. As described above, the Exchange currently has different pricing for executions in RPI Securities depending on whether the security is included in Group 1 Securities or Group 2 Securities. Under this proposal, the Exchange would eliminate the $0.0010 per share rebate and fee applicable to Group 2 Securities and then apply existing Group 1 Securities pricing to all RPI Securities: a $0.0025 per share rebate for removing liquidity or a $0.0025 per share fee for adding liquidity.

Eliminating Securities Groups

In conjunction with the proposed change to apply standard pricing for all RPI Securities, the Exchange is proposing to eliminate from its fee schedule references to Group 1 Securities and Group 2 Securities. As described above, the Exchange currently offers different rebates and fees as part of the RPI program for executions based on the group in which the security falls. As proposed, the Exchange will offer a flat fee or rebate without regard to any grouping, which renders the distinction in the fee schedule unnecessary. As such, the Exchange is proposing to eliminate any references to Group 1 Securities and Group 2 Securities in the fee schedule, including the securities included in these groups.

RPI Fees for Non-Displayed Liquidity

Also in conjunction with the proposed change to standard pricing for the RPI program, the Exchange is proposing to eliminate pricing specific to the RPI program related to non-displayed orders. As described above, the Exchange currently charges non-displayed orders that are added to the BYX order book $0.0025 per share in Group 1 Securities and $0.0010 per share for Group 2 Securities. The Exchange is proposing to eliminate this RPI program pricing for non-displayed orders and instead to charge a flat fee of $0.0010 per share for non-displayed liquidity that is removed by a Retail Order, which is intentionally the same as the standard fee for executions of non-displayed liquidity. Based on this change, the Exchange is also proposing to eliminate from the fee schedule the cross-reference to the Retail Order section in the fees for non-displayed liquidity for securities priced $1.00 or above.

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 exchange, and, in particular, with the requirements of Section 6 of the Act.[10] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. 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 levels at a particular venue to be excessive.

The Exchange believes that its proposal to modify the fee schedule related to the RPI program is reasonable because eliminating the distinction between groups of securities and offering a single rebate and fee for participating executions creates a more easily understandable pricing structure for the RPI program. The Exchange believes that a simple pricing structure will help to garner increased participation in the RPI program, which will help improve execution quality generally, and for retail customers in particular.

---

10 15 U.S.C. 78f.

11 15 U.S.C. 78f(b)(4).

The Exchange also believes that this proposal is equitably allocated and not unfairly discriminatory because it will be applied equally to all participants in all RPI Securities. While the Exchange acknowledges that certain executions for Retail Price Improvement Orders will be charged more under the proposal, specifically Retail Price Improving Orders that add liquidity to the BYX book and are removed by a Retail Order (which are charged $0.0010 per share under the current fee schedule, and would be charged $0.0025 per share as proposed), the Exchange believes that such costs are offset by the benefits of the standard pricing model and the ability to interact with a Retail Order. Additionally, all other executions under the current RPI program will realize increased rebates, reduced fees, or their rebates and fees for the execution will remain the same under the proposal. Further, the Exchange believes that charging Retail Price Improving Orders that are removed by a Retail Order more than non-displayed orders that are removed by a Retail Order is not unfairly discriminatory because non-displayed orders can interact with any order (a Retail Order or otherwise) and may not have any preference to interact with a Retail Order, while Retail Price Improvement Orders will only interact with Retail Orders. As such, the Exchange believes that it is not unfairly discriminatory to charge a higher fee for orders that will only interact with Retail Orders. Additionally, such pricing provides certainty in execution costs for non-displayed orders, regardless of the order that removes the non-displayed order. The Exchange again 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.

Accordingly, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to apply standard pricing to all orders that are executed as part of the RPI program.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the market for order execution is extremely competitive, Members may choose to preference other market centers ahead of the Exchange if they believe that they can receive better fees or rebates elsewhere. 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 believes that its pricing for the RPI program is appropriately competitive vis-à-vis the Exchange's competitors. Further, the Exchange believes that providing a more straight-forward pricing structure will encourage increased participation in the RPI program and will continue to incentivize the entry of aggressively priced, displayed liquidity, which fosters intra-market competition to the benefit of all market participants that enter orders on the Exchange, including Retail Orders.

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

No written comments were solicited or received.

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 Act[12] and paragraph (f) of Rule 19b-4 thereunder.[13] 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.

---

12 15 U.S.C. 78s(b)(3)(A)(ii).

13 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 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-BYX-2013-020 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BYX-2013-020. 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 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-BYX-2013-020, 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.[14]

Kevin M. O'Neill
Deputy Secretary

---

[14] 17 CFR 200.30-3(a)(12).