SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70386; File No. SR-BYX-2013-030)

September 12, 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 August 30, 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. <u>Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change</u>

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). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the proposed changes will become operative on September 3, 2013.

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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 September 3, 2013, in order to amend the fee structure related to its Retail Price Improvement ("RPI") program with respect to executions in securities priced below $1.00.

Currently, pursuant to the RPI program the Exchange provides a $0.0025 rebate per share for any Retail Order[6] that removes liquidity from the BYX order book (except for a Retail Order that removes displayed liquidity, which is subject to standard rebates and fees). The Exchange

[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.

currently charges 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. Finally, the Exchange currently charges at $0.0010 fee per share for any non-displayed order that adds liquidity to the Exchange order book and is removed by a Retail Order.

The fees and rebates described above are applied without regard to the price of the security for which an order is executed (i.e., RPI rebates apply in all cases to Retail Orders other than those that remove displayed liquidity and RPI fees apply to all Retail Price Improving Orders that add liquidity and are removed by Retail Orders). In contrast, with respect to executions of orders on the Exchange outside of the RPI program, the Exchange charges different rates and has a different rebate structure depending on whether an execution is in a security priced below $1.00 or a security priced $1.00 and above. Consistent with this structure, the Exchange proposes to limit the rebates and fees of the RPI program to executions in securities priced $1.00 or above and to apply its standard fee structure to all executions in securities priced below $1.00, even in executions related to the RPI program. Accordingly, in any security priced below $1.00, the Exchange proposes to charge 0.10% charge of the total dollar value of the execution to remove liquidity from the Exchange's order book, including all instances where a Retail Order removes liquidity from the Exchange in connection with the RPI program. Also, in all instances for any execution of a security priced below $1.00 the Exchange proposes to provide such execution free of charge, but also without any liquidity rebate, to the party that added liquidity to the Exchange's order book. Accordingly, this no-rebate and no-fee model to add liquidity will apply to all executions of securities priced below $1.00 on the

[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.

Exchange, including those related to the RPI program. The Exchange does not propose to change any pricing related to securities priced $1.00 or above in connection with this proposal.

The Exchange believes the current structure, providing significant rebates to incoming Retail Orders and charging liquidity providers interacting with such orders, in securities priced below $1.00 may act to discourage liquidity providers from adding meaningful liquidity in such securities. Accordingly, the proposal is intended to encourage liquidity in securities priced below $1.00 while otherwise maintaining the benefits of the RPI program.

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.[8] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[9] 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 it applies a fee model to the RPI program with respect to securities priced below $1.00 that is consistent with all other executions on the Exchange. As noted above, the Exchange believes the current structure, providing rebates to incoming Retail Orders and charging liquidity providers interacting with such orders, in securities priced below

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8 15 U.S.C. 78f.

9 15 U.S.C. 78f(b)(4).

$1.00 may act to discourage liquidity providers from adding meaningful liquidity in such securities. Accordingly, the Exchange believes the proposal is reasonable because it is intended to encourage liquidity in securities priced below $1.00 while otherwise maintaining the benefits of the RPI program.

The Exchange also believes that this proposal is equitably allocated and not unfairly discriminatory because it will be applied equally to all participants. While the Exchange acknowledges that certain executions for Retail Orders will be charged fees under the proposal, where such orders currently receive a rebate, the Exchange believes that such costs are offset by the benefits of continued liquidity in securities priced below $1.00. Additionally, such costs are offset by the fact that all other executions of Retail Orders under the current RPI program will continue to receive the current rebates provided by the Exchange. 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 its standard Exchange pricing to all orders that are executed as part of the RPI program in securities priced below $1.00.

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 consistent pricing structure for all securities priced below $1.00 will encourage liquidity provision in such securities, which fosters intra-market competition to the benefit of all market participants that enter orders on the Exchange, including Members that submit 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[10] and paragraph (f) of Rule 19b-4 thereunder.[11] 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-BYX-2013-030 on the subject line.

10 15 U.S.C. 78s(b)(3)(A)(ii).

11 17 CFR 240.19b-4(f).

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-2013-030. 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-2013-030 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.[12]

Kevin M. O'Neill
Deputy Secretary

12 17 CFR 200.30-3(a)(12).