

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62404; File No. SR-BATS-2010-017)

June 30, 2010

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rule 11.13, entitled “Order Execution”

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 28, 2010, 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 Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> 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 proposes to amend BATS Rule 11.13, entitled “Order Execution,” to modify the existing general description of Exchange routing functionality, to describe available routing options in greater detail, and to add certain new routing options.

The text of the proposed rule change is available at the Exchange’s Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 Rule 11.13, which describes its order routing processes, to modify the existing general description of Exchange routing functionality, to describe available routing options in greater detail, and to add certain new routing options.

In addition to the changes described below related to specific routing options, the Exchange proposes various modifications to its general routing standards, which modifications, the Exchange believes, will help to clarify the rule. For instance, the Exchange proposes consolidating the portions of the Rule related to routing of market orders with those portions related to routing of limit orders. Although market orders and limit orders might operate differently under different circumstances, the Exchange does not believe there is a meaningful reason to maintain separate rules related to such routing options any longer. The Exchange made a similar consolidation when adopting its rule for routing of options orders from BATS Options.<sup>5</sup>

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<sup>5</sup> See BATS Rule 21.9, which contains information regarding the routing functionality offered by the Exchange for equity options but does not differentiate between market orders and limit orders.

Also, subject to User instructions, the Exchange currently allows orders that have been routed and then posted to the Exchange's order book to be re-routed if the order is subsequently locked or crossed by another accessible Trading Center ("RECYCLE Option"). The Exchange proposes to add a reference to the "RECYCLE Option" in its Rule following the text describing this option, consistent with the general goal of the proposed changes to align the routing options offered by the Exchange with the rule text by providing additional specificity. The Exchange also wishes to make clear that, unless otherwise specified, the RECYCLE Option may be combined with any of the System routing options specified in Rule 11.13.

The Exchange is also amending Rule 11.13 to include a definition of "System routing table," defined as the proprietary process for determining the specific trading venues to which the Exchange System routes orders and the order in which it routes them. The definition reflects the fact that the Exchange, like other trading venues, maintains different routing tables for different routing options and modifies them on a regular basis to reflect assessments about the destination markets. Such assessments consider factors such as a destination's latency, fill rates, reliability, and cost. Accordingly, the definition specifies that the Exchange reserves the right to maintain a different routing table for different routing options and to modify routing tables at any time without notice.

Currently, routing options available through BATS are all variations of a routing option referred to by the Exchange as "CYCLE" routing. Although the rule language for Exchange routing options describes the available variations of options in general terms, the Exchange believes that understanding of these options would be enhanced by describing the different versions as separately named routing options.

Below is a description of the various routing options proposed pursuant to new paragraph (a)(3) of Rule 11.13.

- CYCLE. CYCLE is a routing option currently offered by the Exchange under which an order checks the System for available shares and then is sent sequentially to destinations on the System routing table for the full remaining size of such order.
- Parallel D. The Exchange is introducing the new Parallel D routing option, under which an order checks the System for available shares and then is sent to destinations on the System routing table. The System may route to multiple destinations at a single price level simultaneously through Parallel D routing.
- Parallel 2D. The Exchange is introducing the new Parallel 2D routing option, under which an order checks the System for available shares and then is sent to destinations on the System routing table. The System may route to multiple destinations and at multiple price levels simultaneously through Parallel 2D routing.
- Parallel T. The Exchange is introducing the new Parallel T routing option, under which orders route only to Protected Quotations and only for displayed size. The System may route to multiple destinations and at multiple price levels simultaneously through Parallel T routing.
- DART. DART is a routing option currently offered by the Exchange in which the entering firm instructs the System to first route to alternative trading systems included in the System routing table. DART can be combined with and function consistent with either the CYCLE, Parallel D or Parallel 2D routing options.

- “Destination Specific Orders,” “Modified Destination Specific Orders” and “Directed ISO” orders are routed orders described in Rule 11.9.

## 2. Statutory Basis

The rule change proposed in this submission 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(b) of the Act.<sup>6</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed change to provide additional clarity and specificity to the Exchange’s Rules regarding routing strategies further enhances transparency with respect to Exchange routing offerings. Furthermore, the proposal to introduce the new routing options will provide market participants with greater flexibility in routing orders consistent with Regulation NMS without developing complicated order routing strategies on their own.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

### 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.

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

Because the foregoing rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>10</sup> However, Rule 19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange expects to have technological changes for one or more of the new routing strategies in place to support the proposed rule change on or about July 6, 2010, and believes that benefits to Exchange Users expected from the proposed rule change should not be delayed.<sup>12</sup> In addition, the Exchange notes that another national securities exchange currently offers similar routing functionalities.<sup>13</sup> The Commission believes that waiving the 30-day

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to 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. The Exchange has satisfied this requirement.

<sup>11</sup> Id.

<sup>12</sup> See SR-BATS-2010-017, Item 7.

<sup>13</sup> See SR-BATS-2010-017, Item 7 and 8. See also The NASDAQ Stock Market LLC Rule 4758.

operative delay is consistent with the protection of investors and the public interest and hereby designates the proposal operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate 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](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2010-017 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 No. SR-BATS-2010-017. 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

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<sup>14</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>15</sup> 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 Web site 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 also will be available for inspection and copying at the principal office of BATS. 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-2010-017 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.<sup>16</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>15</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>16</sup> 17 CFR 200.30-3(a)(12).