

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63147; File No. SR-BATS-2010-029)

October 21, 2010

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by BATS Exchange, Inc. 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 October 13, 2010, BATS Exchange, Inc. ("BATS" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 add certain new routing strategies and to modify the description of certain existing Exchange routing strategies.

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.

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

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

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.13, which describes its order routing processes, to add certain new routing strategies and to modify the existing description of two Exchange routing strategies.

Currently, various routing strategies are available through BATS, including the CYCLE routing strategy, variations of the Parallel routing strategy, DRT routing and Destination Specific Routing. The Exchange proposes to offer two new routing strategies, which are described below.

- TRIM. TRIM is a routing option under which an order will check the System for available shares if so instructed by the entering User and then will be sent to destinations on the System routing table.
- SLIM. SLIM is a routing option under which an order will check the System for available shares, will be routed to BATS Y-Exchange, Inc. ("BYX"),<sup>3</sup> and then will be sent to destinations on the System routing table.

In addition to the addition of the TRIM and SLIM routing strategies, the Exchange proposes modifying the description of the Parallel T routing strategy to make clear that when checking the Exchange's System for available shares, it will only check for displayed shares prior to routing away from the Exchange. The Parallel T routing strategy is intended to route only to Protected Quotations and only for displayed size, and thus, the Exchange believes that removal of only displayed size from its own System is most consistent with this strategy.

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<sup>3</sup> BYX is a registered national securities exchange and affiliate of the Exchange. See Securities Exchange Act Release No. 34-62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (order approving application of BATS Y-Exchange, Inc. for registration as a national securities exchange). BYX plans to commence operations on October 15, 2010.

Exchange Rule 11.13(a)(3)(E) includes a definition of DRT routing, which is routing option in which the entering firm instructs the System to route to alternative trading systems included in the System routing table. The definition of DRT currently states that it can be combined with three specified routing strategies offered by the Exchange. The Exchange proposes modifying the description of DRT routing to make clear that it can be combined with all routing strategies, including the new TRIM and SLIM routing strategies, unless otherwise specified. In addition, because some routing strategies offered by the Exchange might include DRT routing at a later stage, the Exchange proposes to remove the word “first” from the definition of the DRT routing strategy.

## 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>4</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>5</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 introduce additional routing strategies and to modify certain existing routing strategies will provide market participants with greater flexibility in routing orders consistent with Regulation NMS without developing complicated order routing strategies on their own.

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<sup>4</sup> 15 U.S.C. 78f(b).

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

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.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>8</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)<sup>9</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. BATS requests that the Commission waive the 30-day operative delay in order to allow BATS to immediately offer Exchange Users new routing strategies at or around the time that its affiliated national securities exchange, BYX, commences

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. BATS has satisfied this requirement.

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> Id.

operations. Further, the Exchange believes that the proposed TRIM and SLIM routing strategies are consistent with routing strategies offered by the Nasdaq Stock Market (“NASDAQ”).<sup>10</sup> In addition, the Exchange believes that its proposed new routing strategies will benefit market participants and their customers by allowing them greater flexibility in their efforts to fill orders and minimize trading costs. The Exchange expects to have technological changes for one or more of the new routing strategies in place to support the proposed rule change in the near future, and believes that benefits to Exchange Users expected from the proposed rule change should not be delayed. In addition, BATS states a delay to the implementation date would put the Exchange at a competitive disadvantage to other markets that already offer similar functionalities. The Commission believes that waiving the 30-day operative delay<sup>11</sup> is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.

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:

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<sup>10</sup> See NASDAQ Rule 4758.

<sup>11</sup> For 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).

- 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 Number SR-BATS-2010-029 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-BATS-2010-029. 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,<sup>12</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 website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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

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<sup>12</sup> The text of the proposed rule change is available on the Commission's website at <http://www.sec.gov/rules/sro.shtml>.

make available publicly. All submissions should refer to File Number SR-BATS-2010-029 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>13</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).