

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69160; File No. SR-BATS-2013-019)

March 18, 2013

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change to Amend the Minimum Trading Increments for Mini Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 15, 2013, 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) 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 from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal for the BATS Options Market (“BATS Options”) to permit the minimum trading increment for Mini Options to be the same as the minimum trading increment permitted for standard options on the same underlying security. 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.

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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)(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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend BATS Rules to permit the minimum trading increment for Mini Options to be the same as the minimum trading increment permitted for standard options on the same underlying security. Mini Options overlie 10 equity or ETF shares, rather than the standard 100 shares.<sup>5</sup> Mini Options are currently approved on the following five (5) underlying securities: SPDR S&P 500 ETF ("SPY"), Apple Inc. ("AAPL"), SPDR Gold Trust ("GLD"), Google Inc. ("GOOG"), and Amazon.com, Inc. ("AMZN"). Of the five securities on which Mini Options are permitted, four of them (SPY, AAPL, GLD, and AMZN) participate in the Penny Pilot Program.<sup>6</sup> Under the Penny Pilot Program, with the

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<sup>5</sup> See Securities Exchange Act Release No. 69018 (March 1, 2013), 78 FR 15090 (March 8, 2013) (Notice of filing and immediate effectiveness allowing Mini Options to be listed and traded on BATS Options) (SR-BATS-2013-013). The Exchange expects to begin listing and trading Mini Options on March 18, 2013.

<sup>6</sup> The rules of BATS Options, including rules applicable to BATS Options' participation in the Penny Pilot, were approved on January 26, 2010. See Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031). BATS Options commenced operations on February 26, 2010. The Penny Pilot was extended for BATS Options through June 30, 2013. See Securities Exchange Act Release No. 67306 (December 21, 2012), 77 FR 77176 (December 31, 2012) (SR-BATS-2012-048).

exception of three classes,<sup>7</sup> the minimum price variation for all participating options classes is \$0.01 for all quotations in options series that are quoted at less than \$3 per contract and \$0.05 for all quotations in options series that are quoted at \$3 per contract or greater. Therefore, the minimum trading increment for AAPL, GLD, and AMZN is \$0.01 for option series under \$3 and \$0.05 for options quoted at \$3 or greater, while the minimum trading increment for SPY, which is not subject to a price test, is \$0.01 across all option series. The Exchange notes that GOOG is not in the Penny Pilot Program and therefore, standard options in GOOG have a minimum increment of \$0.05 and \$0.10 per contract depending on the price at which the standard option on GOOG is quoted.

This proposed rule change will permit the minimum trading increment for Mini Options to be identical to the minimum trading increment applicable to standard options on the same underlying security. The Exchange believes having different trading increments for Mini Options than those permitted for standard options on the same underlying security would be detrimental to the success of this new product offering and would also lead to investor confusion. The Exchange notes that the Commission approved Mini Options on SPY, AAPL, GLD, GOOG, and AMZN because of their high price and current volume levels and because of the level of retail investor participation in trading options on these underlying securities. Mini Options are a natural extension to the options overlying these securities and therefore should retain the most important characteristic, i.e., trading increments. The Exchange believes that by reducing the minimum trading increments for Mini Options, the proposed rule change will provide market participants with meaningful trading opportunities in this product. Further, quoting and trading

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<sup>7</sup> The three classes are the Nasdaq-100 Index Tracking Stock (“QQQQ”), SPY, and the iShares Russell 2000 Index Fund (“IWM”). QQQQ, SPY, and IWM are quoted in \$0.01 for all options series.

in smaller increments will enable market participants to trade Mini Options with greater precision as to price. Providing these more refined increments will permit the Exchange's market makers the opportunity to provide better fills (meaning less spread than the current wider minimum increments rules allow) to customers. Therefore, the Exchange proposes to amend its rules to permit the listing and trading of Mini Options in the same increment permitted for standard options on the same underlying security.

With this proposed rule change, although certain Mini Options would be trading in penny increments, they would not be considered part of the Penny Pilot Program.

The Exchange's proposal to quote and trade certain option classes that are outside of the Penny Pilot Program in \$0.01 increments is not novel. Specifically, the Commission has approved proposals by International Securities Exchange LLC ("ISE") and Chicago Board Options Exchange, Incorporated ("CBOE") that allows the exchanges to permit the minimum trading increment for Mini Options to be the same as the minimum trading increment permitted for standard options on the same underlying security.<sup>8</sup> Similarly, the Commission has approved proposals by ISE and NASDAQ OMX PHLX, Inc. that permitted the exchanges to set the minimum increment for foreign currency options in \$0.01 increments, regardless of the price at which the option is quoted.<sup>9</sup>

In support of this proposed rule change, the Exchange proposes to amend BATS Rule 19.6 Interpretation and Policy .07 by adding new paragraph (d) to the rule which provides that

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<sup>8</sup> See Securities Exchange Act Release No. 69124 (March 12, 2013) (order approving proposal to permit the minimum trading increment for Mini Options to be the same as the minimum trading increment permitted for standard options on the same underlying security) (SR-CBOE-2013-016; SR-ISE-2013-08).

<sup>9</sup> See Securities Exchange Act Release Nos. 56933 (December 7, 2007), 72 FR 71185 (December 14, 2007) (SR-PHLX-2007-70) and 57019 (December 20, 2007), 72 FR 73937 (December 28, 2007) (SR-ISE-2007-120).

the minimum trading increment for Mini Options shall be the same as the minimum trading increment permitted for standard options on the same underlying security.

With regard to the impact of this proposal on system capacity, the Exchange represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with this proposal. The Exchange does not believe that this increased traffic will become unmanageable since Mini Options are limited to a fixed number of underlying securities.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>11</sup> in particular, in that it is designed 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, in general to protect investors and the public interest.

In particular, the Exchange believes that the proposed rule change will assure that standard options and Mini Options on the same underlying security will trade in similar increments and therefore provide market participants meaningful trading opportunities and enable them to trade Mini Options with greater precision as to price. The Exchange also believes that the proposed rule change will avoid investor confusion if both standard options and Mini Options on the same underlying security are permitted to trade in similar trading increments. The Exchange further believes that investors and other market participants will benefit from this proposed rule change because it proposes to clarify and establish the minimum trading increment for Mini Options prior to the commencement of trading. The Exchange believes that investors

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<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

generally will be expecting the minimum trading increment for Mini Options to be the same as the minimum trading increment for standard options on the same underlying security. This proposed rule change will therefore lessen investor confusion because Mini Options and standard options on the same underlying security will have the same minimum trading increment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to the CBOE and ISE filings. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

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 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: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposed rule change may coincide with the anticipated launch of trading in Mini Options. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>14</sup> Waiver of the operative delay will allow the Exchange to implement its proposal consistent with the commencement of trading in Mini Options as scheduled and expected by members and other participants on March 18, 2013. For these reasons, the Commission designates the proposed rule change as 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:

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

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shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

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

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BATS-2013-019 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-2013-019. 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 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 make available publicly. All submissions should refer to File Number SR-BATS-2013-019 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>15</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).