

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76320; File No. SR-BATS-2015-92)

October 30, 2015

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rules 21.2, 21.6, and 21.7, as they Relate to Order Acceptance Time

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 28, 2015, 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rules 21.2, 21.6, and 21.7 to change the time orders will be accepted on the Exchange’s options platform (“BATS Options”) from 8:00 a.m. to 7:30 a.m.

The text of the proposed rule change is available at the Exchange’s website at [www.batstrading.com](http://www.batstrading.com), at the principal office of the Exchange, and at the Commission’s Public

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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).

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 is proposing to amend Rules 21.2, 21.6, and 21.7 to change the time orders will be accepted on BATS Options from 8:00 a.m. to 7:30 a.m. Currently, the Exchange begins accepting orders at 8:00 a.m. Eastern Time. Orders would then be available for execution as of 9:30 a.m. until 4:00 p.m. Eastern Time.<sup>5</sup> The Exchange does not propose to amend how it handles orders accepted prior to the market open other than to begin accepting orders at 7:30 a.m. Eastern Time rather than 8:00 a.m. Eastern Time.

First, the Exchange proposes to amend Rule 21.2(a) to expressly state that the Exchange will begin accepting orders at 7:30 a.m. Eastern Time, as described in Rule 21.7 and discussed below. The addition of this sentence to Rule 21.2(a) would align the text of the rule with EDGX

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<sup>5</sup> Option contracts on Fund Shares, as defined in Rule 19.3(i), option contracts on exchange-traded notes including Index-Linked Securities, as defined in Rule 19.3(l), and option contracts on broad-based indexes, as defined in Rule 29.1(j), close as of 4:15 p.m. Eastern Time. See Exchange Rule 21.2(a).

Exchange, Inc. (“EDGX”) Rule 21.2(a).<sup>6</sup>

Second, the Exchange proposes to amend Rule 21.6(c) to state that orders can be entered into the System starting at 7:30 a.m. Eastern Time. Currently, the Rule 21.6(c) states that orders can be entered into the System from 9:30 a.m. Eastern Time until the market close. While orders will be accepted by the System starting at 7:30 a.m. Eastern Time, they will not be eligible for execution until 9:30 a.m. Eastern Time. The Exchange also proposes to amend Rule 21.6(c) to state that orders received prior to completion of the Exchange’s Opening Process will be handled in accordance with Rule 21.7 discussed below. As with the proposed change to Rule 21.2(a) discussed above, the addition of this sentence to Rule 21.6(c) would align the text of the rule with EDGX Rule 21.6(c).<sup>7</sup>

Lastly, as amended, Rule 21.7 would state that the Exchange will accept market and limit orders and quotes for inclusion in the opening process beginning at 7:30 a.m. Eastern Time, rather than 8:00 a.m. as is currently the case and will continue to accept market and limit orders and quotes until such time as the Opening Process is initiated in that option series (the “Order Entry Period”), other than index options.<sup>8</sup> The Exchange will continue to not accept IOC,<sup>9</sup> FOK<sup>10</sup> or WAIT<sup>11</sup> orders for queuing prior to the completion of the Opening Process. The

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<sup>6</sup> The Exchange understands that EDGX is to also file a proposed rule change with the Commission to amend its Rules 21.2, 21.6, and 21.7 to change the time orders will be accepted from 8:00 a.m. to 7:30 a.m.

<sup>7</sup> Id.

<sup>8</sup> Rule 21.7 also discusses order acceptance when the primary listing market for the applicable underlying security declares a regulatory trading halt, suspension, or pause with respect to such security (“Regulatory Halt”). The Exchange does not propose to amend the treatment of orders during a Regulatory Halt under Rule 21.7.

<sup>9</sup> See Exchange Rule 21.1(f)(2).

<sup>10</sup> See Exchange Rule 21.1(f)(5).

<sup>11</sup> See Exchange Rule 21.1(f)(4).

Exchange will also continue to convert all Intermarket Sweep Orders (“ISOs”)<sup>12</sup> entered for queuing prior to the completion of the Opening Process into non-ISOs.

## 2. Statutory Basis

The Exchange believes that its proposal to begin accepting orders at 7:30 a.m. 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>13</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act<sup>14</sup> because it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that accepting orders at 7:30 a.m. will benefit investors, the national market system, Members, and the Exchange market by increasing competition for order flow and executions, and thereby spurring product enhancements and lowering prices. The Exchange also notes that other options exchanges currently accept orders prior to 8:00 a.m. Eastern Time<sup>15</sup> and the proposal would enable the Exchange to directly compete with these exchanges for order flow.

Lastly, the Exchange believes the proposed additions to Rules 21.2(a) and 21.6(c) are

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<sup>12</sup> See Exchange Rule 21.1(d)(11).

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See Nasdaq OMX Systems Hours of Operation, available at [http://nasdaqtrader.com/content/TechnicalSupport/nasdaq\\_sys\\_hours.pdf](http://nasdaqtrader.com/content/TechnicalSupport/nasdaq_sys_hours.pdf) (stating that system hours begin at 7:00 a.m. for Nasdaq OMX BX (“BX”) and 7:30 a.m. for Nasdaq OMX PHLX (“PHLX”), and BX Chapter VI, Section 2(a) (stating the System operates and shall be available to accept bids and offers and orders from the time prior to market open specified by the Exchange on its website to market close on each business day). See also Hours of Operation of the MIAX Options Exchange (“MIAX”) available at <http://www.miaxoptions.com/hours-operation-miax-options-exchange> (stating that firms can connect and conduct pre-market activity starting at 7:30 a.m.).

consistent with Section 6(b)(5) of the Act<sup>16</sup> because it is designed to provide consistent rules across the Exchange and EDGX, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. The proposed rule changes would provide greater harmonization between rules of similar purpose on the Exchange and EDGX, resulting in greater uniformity and less burdensome and more efficient regulatory compliance and understanding of Exchange Rules. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposed rule change is a competitive change that is designed to attract additional order flow to the Exchange.<sup>17</sup> The proposed rule change would, therefore, increase competition by enabling the Exchange to accept orders starting at 7:30 a.m. Eastern Time like its competitors. For all the reasons stated above, the Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition. Lastly, the proposed changes to Rules 21.2(a) and 21.6(c) are not designed to address any competitive issues but rather to provide greater harmonization among Exchange and EDGX rules of similar purpose.

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<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> See supra note 15.

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. The Exchange has not received any written comments from members or other interested parties.

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

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, 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>18</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>19</sup> the Exchange has designated this rule filing as non-controversial. The Exchange has given 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.

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: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4.

#### 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-2015-92 on the subject line.

##### Paper comments:

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

All submissions should refer to File No. SR-BATS-2015-92. 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, D.C. 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 No. SR-BATS-2015-92, 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>20</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>20</sup> 17 CFR 200.30-3(a)(12).