

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77256; File No. SR-BATS-2016-23)

March 1, 2016

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as they Apply to the Equity Options Platform

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 February 24, 2015, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) (f/k/a BATS Exchange, Inc.) 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 Act³ 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. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members⁵ and non-members of the Exchange pursuant to Exchange Rules 15.1(a) and (c) (“Fee Schedule”).

The text of the proposed rule change is available at the Exchange’s website at

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 The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

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's current approach to routing fees is to set forth in a simple manner certain sub-categories of fees that approximate the cost of routing to other options exchanges based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (i.e., clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). The Exchange then monitors the fees charged as compared to the costs of its routing services and adjusts its routing fees and/or sub-categories to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The Exchange proposes to adopt a routing fee in connection with the launch of the new options exchange, ISE Mercury, LLC ("ISE Mercury") consistent with this approach.

The Exchange proposes to adopt fee code YC which would be appended to orders routed to ISE Mercury beginning February 16, 2016, which is the same date that ISE Mercury initiated

trading.⁶ Orders that yield fee code YC would be charged a fee of \$0.99 per contract. Proposed fee code YC would be applied to all orders routed to ISE Mercury regardless of the capacity of the order⁷ or whether the order is in a Penny Pilot Security⁸ or not.

The Exchange anticipates that the proposed fee structure will approximate the cost of routing orders to ISE Mercury. The Exchange also notes that the proposed fee for fee code YC is higher than the fees charged by ISE Mercury and is designed to approximate Routing Costs based on the highest rate ISE Mercury charges.⁹ As it has done historically in connection with the fee structure for routing to other options exchanges, the Exchange is proposing the charge set forth above to maintain a simple Fee Schedule with respect to routing fees that approximates the total cost of routing, including Routing Costs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(4),¹¹ in particular,

⁶ See SEC Approves ISE's Form 1 Application for Third Options Exchange, dated February 1, 2016, available at <http://www.ise.com/press-room/press-releases/2016/february/ise-mercury-to-launch-on-february-16-2016/>. The Exchange initially filed the proposed fee change on February 16, 2016 (SR-BATS-2016-19). On February 18, 2016, the Exchange withdrew SR-BATS-2016-19 and submitted SR-BATS-2016-20. On February 24, 2016, the Exchange withdrew SR-BATS-2016-20 and submitted this filing.

⁷ Order capacities include Customer, Professional, Firm, Broker-Dealer, Joint Back Office, Market Maker, and Away Market Maker. As defined in the Exchange's Fee Schedule.

⁸ As defined in the Exchange's Fee Schedule.

⁹ ISE Mercury's standard rates range from a rebate of \$0.18 to a fee of \$0.90 per contract. See ISE Mercury Fee Notice dated February 5, 2016 available at [http://www.ise.com/assets/mercury/documents/OptionsExchange/legal/fee/2016/ISE%20Mercury%20Fee%20Announcement\\$20160205.pdf](http://www.ise.com/assets/mercury/documents/OptionsExchange/legal/fee/2016/ISE%20Mercury%20Fee%20Announcement$20160205.pdf).

¹⁰ 15 U.S.C. 78f.

¹¹ 15 U.S.C. 78f(b)(4).

as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. While the proposed fee for fee code YC is higher than the fees charged by ISE Mercury, the Exchange believes it is reasonable as it takes into account Routing Costs based on the highest rate charged by ISE Mercury. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to adopt routing fees to ISE Mercury is fair, equitable and reasonable because the fees are generally an approximation of the anticipated cost to the Exchange for routing orders to ISE Mercury. The Exchange notes that routing through the Exchange is voluntary. The Exchange also believes that the proposed fee structure for orders routed to and executed at ISE Mercury is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that its proposed pricing for routing to ISE Mercury burdens competition, as such rates are intended to approximate the cost of routing to ISE Mercury. 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 to be excessive or providers of routing services if they deem routing fee levels to be excessive. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 Act¹² and paragraph (f) of Rule 19b-4 thereunder.¹³ 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

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BATS-2016-23 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 Number SR-BATS-2016-23. 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 will also 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-2016-23 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.¹⁴

Robert W. Errett
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).