

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77632; File No. SR-BatsBZX-2016-06)

April 15, 2016

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify the Fee Schedule Applicable to the Exchange's 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 April 7, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") 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 BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's website at www.batstrading.com, at the principal office of the Exchange, and at the Commission's Public

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).

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 proposes to modify its fee schedule applicable to the Exchange's options platform ("BZX Options") to: (i) replace references to "NBMM" (i.e., Non-Bats Market Maker) with the term "Away MM" (i.e. Away Market Maker); (ii) adopt a new Quoting Incentive Program Tier under footnote 5; (iii) amend the criteria necessary to meet the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 3 under footnote 2; and (iv) amend the criteria necessary to meet the Away Market Maker Penny Pilot Add Volume Tier 2 under footnote 10.

Replace References to "NBMM" with "Away MM"

In February 2016, the Exchange amended its fee schedule to rename the defined term "Non-BATS Market Maker" as "Away Market Maker" to be consistent with terminology used on the options fee schedule of the Exchange's affiliate, Bats EDGX Exchange, Inc.⁶ In light of

⁶ See Securities Exchange Act Release No. 77307 (March 7, 2016), 81 FR 12996 (March 11, 2016) (Notice of Filing and Immediate Effectiveness of SR-BATS-2016-25).

that change, the Exchange now proposes to replace references to “NBMM” (i.e., Non-Bats Market Maker) with the term “Away MM” (i.e. Away Market Maker) under footnotes 2, 4, 8 and 10 in order to use consistent terminology through the fee schedule. With this change, the Exchange does not propose to amend the criteria necessary to meet the tier or the amount of the rebate provided.

Quoting Incentive Program (“QIP”) Tier 3

The Exchange currently offers two QIP tiers which provide an additional rebate per contract for an order that adds liquidity to the BZX Options Book⁷ in options classes in which a Member is a Market Maker registered on BZX Options pursuant to Rule 22.2. The Market Maker must be registered with BZX Options in an average of 20% or more of the associated options series in a class in order to qualify for QIP rebates for that class. Under QIP Tier 1, a Market Maker will receive an additional rebate of \$0.02 per contract where that Market Maker has an ADV⁸ equal to or greater than 0.30% of average TCV.⁹ Under QIP Tier 2, a Market Maker will receive an additional rebate of \$0.04 per contract where that Market Maker has an ADV equal to or greater than 1.00% of average TCV. The Exchange now proposes to add QIP Tier 3 under which a Market Maker may receive an additional rebate of \$0.06 per contract where the Member has an ADV equal to or greater than 2.5% of average TCV.

Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 3

The Exchange proposes to amend the criteria necessary to meet and receive the rebate associated with the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 3

⁷ See Exchange Rule 16.1(a)(9).

⁸ As defined in the Exchange’s fee schedule available at http://www.batsoptions.com/support/fee_schedule/bzx/.

⁹ Id.

under footnote 2, which currently provides Members with a rebate of \$0.46 per contract for Firm,¹⁰ Broker Dealer,¹¹ and Joint Back Office¹² orders that add liquidity in Penny Pilot Securities¹³ where the Member has an: (i) ADAV¹⁴ in Firm, Broker-Dealer, or Joint Back Office orders in Penny Pilot Securities (yielding Fee Code PF¹⁵) equal to or greater than 0.25% of average TCV; and (ii) ADV equal to or greater than 1.50% of average TCV. Specifically, the Exchange proposes to amend the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 3 to now require that the Member have an ADAV in Away Market Maker¹⁶ orders, in addition to Firm, Broker-Dealer, or Joint Back Office orders equal to or greater than 0.80%, rather than 0.25%, of average TCV. While the rebate would continue to be available only to Firm, Broker-Dealer, or Joint Back Office orders in Penny Pilot Securities, the requirement that the Member have an ADAV equal to or greater than 0.80% of average TCV would no longer be limited to orders in Penny Pilot Securities. The tier would continue to require that Members also have an ADV equal to or greater than 1.50% of average TCV.

10

Id.

11

As defined in the Exchange's fee schedule available at http://www.batsoptions.com/support/fee_schedule/bzx/.

12

Id.

13

Id.

14

Id.

15

Fee code PF is yielding to Firm, Broker-Dealer, and Joint Back Office orders that add liquidity in Penny Pilot Securities. See the Exchange's fee schedule available at http://www.batsoptions.com/support/fee_schedule/bzx/.

16

As defined in the Exchange's fee schedule available at http://www.batsoptions.com/support/fee_schedule/bzx/.

Away Market Maker Penny Pilot Add Volume Tier 2

The Exchange proposes to amend the criteria necessary to meet and receive the rebate associated with the Away Market Maker Penny Pilot Add Volume Tier 2 under footnote 10, which currently provides a Member that acts as an Away Market Maker a rebate of \$0.46 per contract for Away Market Maker orders that add liquidity in a Penny Pilot Security where the Member has an: (i) ADAV in Firm, Broker-Dealer, and/or Joint Back Office orders in Penny Pilot Securities (yielding Fee Code PF) equal to or greater than 0.25% of average TCV; and (ii) ADV equal to or greater than 1.50% of average TCV. Specifically, the Exchange proposes to amend the Away Market Maker Penny Pilot Add Volume Tier 2 to now require that the Member have an ADAV in Away Market Maker¹⁷ orders, in addition to Firm, Broker-Dealer, or Joint Back Office orders equal to or greater than 0.80%, rather than 0.25%, of average TCV. While the rebate would continue to be available only to Firm, Broker-Dealer, or Joint Back Office orders in Penny Pilot Securities, the requirement that the Member have an ADAV equal to or greater than 0.80% of average TCV would no longer be limited to orders in Penny Pilot Securities. The Exchange notes that this change is similar to that proposed for the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 3 discussed above. The tier would continue to require that Members also have an ADV equal to or greater than 1.50% of average TCV.

¹⁷ As defined in the Exchange's fee schedule available at http://www.batsoptions.com/support/fee_schedule/bzx/.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule immediately.¹⁸

2. Statutory Basis

The Exchange believes that the proposed rule change 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 of the Act.¹⁹ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,²⁰ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. 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.

Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

¹⁸ The Exchange initially filed the proposed change on April 1, 2016 (SR-BatsBZX-2016-05). On April 7, 2016, the Exchange withdrew SR-BatsBZX-2016-05 and submitted this filing.

¹⁹ 15 U.S.C. 78f.

²⁰ 15 U.S.C. 78f(b)(4).

Specifically, the Exchange believes the changes to the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 3 and Away Market Maker Penny Pilot Add Volume Tier 2 are reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally, because such change will apply equally to all participants, and because the change will incentivize such participants to further contribute to market quality on the Exchange. Moreover, the proposed changes will provide Members with an increased incentive to add liquidity in Away Market Maker orders, which the Exchange not only believes will enhance market quality for all market participants, but will also encourage increased participation of other orders wanting to interact with such Away Market Maker orders, further to the benefit of all market participants. The Exchange also believes that the proposed changes to the tiers remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure.

The Exchange believes that its proposal to add a new QIP Tier 3 under footnote 5 is reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally. In addition, the Exchange believes the amount of the proposed rebate offered under QIP Tier 3 is equitable and reasonable because of the increased criteria required to satisfy QIP Tier 3 compared to the rebates offered and the criteria required by QIP Tiers 1 and 2. The Exchange also notes that although registration as a Market Maker is required to qualify for QIP, such registration is available to all Members on an equal basis. The Exchange also believes that the proposed tier is reasonable, fair and equitable, and non-discriminatory because it, like the QIP generally, is aimed to incentivize active market making on the Exchange.

Lastly, the Exchange believes that replacing references to “NBMM” with “Away MM” is reasonable, fair and equitable and non-discriminatory because it is non-substantive designed to make the fee schedule as clear and easily understandable as possible. The proposed changes would enable the Exchange to use consistent terminology throughout the fee schedule. With this change, the Exchange does not propose to amend the criteria necessary to meet the tier or the amount of the rebate provided.

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

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange has designed the proposed amendments to its fee schedule in order to enhance its ability to compete with other exchanges. Rather, the proposal as a whole is a competitive proposal that is seeking to further the growth of the Exchange. Also, the Exchange believes that the increase to certain thresholds necessary to meet tiers offered by the Exchange contributes to rather than burdens competition, as such changes are intended to incentivize participants to increase their participation on the Exchange. Similarly, the introduction of a new QIP Tier is intended to provide incentives to Market Makers to encourage them to enter orders to the Exchange, and thus is again intended to enhance competition.

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 change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. 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 to the Exchange’s tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the

competitiveness of the Exchange. Also, the Exchange believes that the price changes contribute to, rather than burden competition, as such changes are broadly intended to incentivize participants to increase their participation on the Exchange, which will increase the liquidity and market quality on the Exchange, which will then further enhance the Exchange's ability to compete with other exchanges.

(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 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 Act²¹ and paragraph (f) of Rule 19b-4 thereunder.²² 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

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BatsBZX-2016-06 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-BatsBZX-2016-06. 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-BatsBZX-2016-06 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.²³

Brent J. Fields
Secretary

²³ 17 CFR 200.30-3(a)(12).