

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78111; File No. SR-BatsBZX-2016-24)

June 21, 2016

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

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 June 8, 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) (“Fee Schedule”) to: (i) add fee codes NA and NB; and (ii) increase the standard rebate for orders that yield fee code B.

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).

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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to: (i) add fee codes NA and NB; and (ii) increase the standard rebate for orders that yield fee code B.

Fee Codes NA and NB

The Exchange previously filed a proposed rule change with the Commission to identify Non-Displayed Orders⁶ as such when routed to an away Trading Center.⁷ The Exchange intends to implement this functionality on June 1, 2016.⁸ Because other Trading Centers typically

⁶ See Exchange Rule 11.9(c)(11).

⁷ The Exchange notes that the Exchange also amended its rules to route Reserve Orders (as defined in Rule 11.9(c)(1)) as such to other Trading Centers. See Securities Exchange Act 77187 (February 19, 2016), 81 FR 9556 (February 25, 2016) (SR-BYX-2016-04). Non-Displayed Orders and Reserve Orders would be handled in accordance with the rules of the Trading Center to which they are routed. *Id.* This proposal does not impact the routing of Reserve Orders.

⁸ See Bats Announces Support for Hidden Post-to-Away Routed Orders, available at

provide different rebates or fees with respect to non-displayed liquidity the Exchange proposes to amend its Fee Schedule to add fee codes NA and NB, which would apply to routed Non-Displayed Orders. Proposed fee code NA would be applied to Non-Displayed Orders that are routed to and add liquidity on Bats EDGX Exchange, Inc. (“EDGX”), the New York Stock Exchange, Inc. (“NYSE”), NYSE Arca, Inc. (“NYSE Arca”), NYSE MKT LLC (“NYSE MKT”), or the Nasdaq Stock Market LLC (“Nasdaq”).⁹ Orders that yield fee code NA would not be charged a fee nor receive a rebate in both securities priced at or above \$1.00 or below \$1.00. Proposed fee code NB would be applied to Non-Displayed Orders that are routed to and add liquidity on any exchange not listed in proposed fee code NA. Orders that yield fee code NB would be charged a fee of \$0.0030 per share in securities priced at or above \$1.00 and 0.30% of the trade’s total dollar value in securities priced below \$1.00.

Fee Code B

Fee code B is appended to orders that provide liquidity in Tape B securities on the Exchange. Such orders that yield fee code B currently receive a standard rebate of \$0.0020 per share. The Exchange proposes to increase this standard rebate applied to orders yielding fee

http://cdn.batstrading.com/resources/release_notes/2016/Bats-Announces-Support-for-Hidden-Post-to-Away-Routed-Orders.pdf.

⁹ Today, all orders that are routed to post to an away market are routed for display on such market and receive the following rates: (i) rebate of \$0.0015 per share for orders routed to the NYSE; (ii) rebate of \$0.0021 per share for Tapes A and C securities and a rebate of \$0.0022 per share for Tape B securities for orders routed to NYSE Arca; (iii) rebate of \$0.0015 per share for orders routed to NYSE MKT; (iv) rebate of \$0.0015 per share for orders routed to Nasdaq; and (v) a rebate of \$0.0020 per share for orders routed to EDGX. See the Exchange’s Fee Schedule available at http://batstrading.com/support/fee_schedule/bzx/. These rates generally represent a pass through of the rate that Bats Trading, Inc. (“Bats Trading”), the Exchange’s affiliated routing broker-dealer, is provided for adding displayed liquidity at NYSE, NYSE Arca, NYSE MKT, Nasdaq, or EDGX when it does not qualify for a volume tiered reduced fee or enhanced rebate.

code B to \$0.0025 per share. The Exchange believes the increased rebate would incentivize the provision of displayed liquidity in Tape B securities on the Exchange.

The Exchange also currently provides two Tape B Volume and Quoting Tiers pursuant to footnote 13 that provide additional step-up rebates based on a member's Tape B ADAV¹⁰ as a percentage of TCV.¹¹ The "Tape B Volume Tier" provides a step-up rebate of \$0.0027 per share if a Member's Tape B ADAV as a percentage of TCV is equal to or greater than 0.08%. This tier will remain unchanged. "Tier 1" currently provides a step-up rebate of \$0.0025 per share if a Member's Tape B ADAV as a percentage of TCV is equal to or greater than 0.05%. Because the Exchange proposes to increase of the standard rebate applicable to orders that yield fee code B to \$0.0025 per share, the Exchange proposes to eliminate Tier 1 in its entirety as tier's criteria would now be unnecessary to achieve the increased rebate.

Finally, the Exchange proposes to update its Standard Rate table to include the proposed \$0.0025 rebate with respect to pricing for adding liquidity for securities at or above \$1.00.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule effective immediately.¹²

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of

¹⁰ As provided in the Fee Schedule, "ADAV" means average daily added volume calculated as the number of shares added per day.

¹¹ As provided in the Fee Schedule, "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

¹² The Exchange initially filed the proposed fee change on May 31, 2016 (SR-BatsBZX-2016-21). On June 8, 2016, the Exchange withdrew SR-BatsBZX-2016-21 and submitted this filing.

Section 6 of the Act,¹³ in general, and furthers the objectives of Section 6(b)(4),¹⁴ in particular, 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. The Exchange also 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 at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rebate increase is equitable and non-discriminatory in that it would apply uniformly to all Members. The Exchange believes the rates remain competitive with those charged by other venues and, therefore, reasonable and equitably allocated to Members.

In particular, the Exchange believes that proposed fee codes NA and NB represent an equitable allocation of reasonable dues, fees, and other charges. The proposed fees are similar to and based on the fees and rebates assessed or provided to Bats Trading when routing to away Trading Centers. For instance, like proposed fee code NA, the NYSE, NYSE Arca, and Nasdaq charge no fee nor provide a rebate for non-displayed orders that add liquidity.¹⁵ In addition, the exchanges that would be covered by proposed fee code NB charge a fee of up to \$0.0030 per

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ See the NYSE fee schedule available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf (dated May 23, 2016); the NYSE Arca fee schedule available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf (dated May 23, 2016); and the Nasdaq fee schedule available at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>. The Exchange notes that NYSE MKT and EDGX provide a rebate of \$0.0016 and \$ 0.0015 per share respectively for non-displayed orders that add liquidity. See the NYSE MKT fee schedule available at https://www.nyse.com/publicdocs/nyse/markets/nyse-mkt/NYSE_MKT_Equities_Price_List.pdf (dated May 23, 2016); and the EDGX fee schedule available at http://batstrading.com/support/fee_schedule/edgx/.

share to add liquidity.¹⁶ In addition, the proposed rate for fee code NB is equal to or greater than similar routing fees charged by other exchanges. For example, the NYSE, NYSE MKT, and Nasdaq charge a fee of \$0.0030 per share and NYSE Arca charges a fee of \$0.0035 per share regardless of which destination the order is routed.¹⁷

The Exchange notes that routing through Bats Trading is voluntary. The Exchange is providing a service to allow Members to post Non-Displayed Orders to these destinations and that those Members seeking to post such orders to away destinations may connect to those destinations directly and be charged the fee or provided the rebate from that destination. Therefore, the Exchange believes the rates for proposed fee codes NA and NB are equitable and reasonable because they are related to the rates provided by the away exchange and reasonably account for the routing service provided for by the Exchange. Lastly, the Exchange believes that the proposed amendments are non-discriminatory because it applies uniformly to all Members and that the proposed rates are directly related to rates provided by the destinations to which the orders may be routed.

The Exchange believes the increased rebate for orders adding liquidity yielding Fee Code B is a reasonable means to encourage Members to increase their liquidity on the Exchange in Tape B securities. The Exchange further believes that the rebate increase is an equitable and non-discriminatory allocation of reasonable dues, fees, and other charges because the increased

¹⁶ See the Bats EDGA Exchange, Inc. fee schedule available at http://batstrading.com/support/fee_schedule/edga/; and the Nasdaq BX, Inc. fee schedule available at http://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing. The Exchange notes that it currently does not provide for routing orders to post on the Chicago Stock Exchange, Inc. or the National Stock Exchange, Inc.

¹⁷ See supra note 15. Nasdaq charges a fee of \$0.0035 per share for routed orders that are directed to another market. See the Nasdaq fee schedule at id.

rebate encourages Members to add increased liquidity to the BZX Book¹⁸ in Tape B securities and is applicable equally to all Members. The increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

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

The Exchange does not believe its proposed amendment to its Fee Schedule would 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 the proposed change represents 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. For example, routing through Bats Trading is voluntary and Members seeking to post such orders to away destinations may connect to those destinations directly and be charged the fee or provide the rebate from that destination. The Exchange does not believe that the increased rebate applicable to orders yielding Fee Code B would burden competition, but instead, enhances competition, as it is intended to increase the competitiveness of and draw additional liquidity to the Exchange. The Exchange does not believe the increased rebate would burden intramarket competition as it would apply to all Members uniformly. 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.

¹⁸ See Exchange Rule 1.5(e).

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 Act¹⁹ and paragraph (f) of Rule 19b-4 thereunder.²⁰ 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BatsBZX-2016-24 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.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-BatsBZX-2016-24. 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-2016-24, 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.²¹

Robert W. Errett
Deputy Secretary

²¹ 17 CFR 200.30-3(a)(12).