

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79766; File No. SR-BatsBZX-2016-92)

January 10, 2017

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Fees to Adopt a New Cross-Asset Step-Up Tier

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 December 30, 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).

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.bats.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 is proposing to adopt a new Tier 4 under footnote 3, Cross-Asset Step-Up Tiers and to rename the existing Tier 4 as Tier 5. Currently, with respect to the Exchange’s equities trading platform (“BZX Equities”), the Exchange determines the fee charged for the removal of liquidity or the rebate for adding liquidity that it will provide to Members using the Exchange’s tiered pricing structure, which is based on the Member meeting certain volume tiers based on their ADAV⁶ as a percentage of TCV⁷ or ADV⁸ as a percentage of TCV. Included amongst the volume tiers offered on BZX Equities are four Cross-Asset Step-Up Tiers, which require participation on the Exchange’s equity options platform (“BZX Options”). The current

⁶ As defined in the Exchange’s fee schedule available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.

⁷ Id.

⁸ Id.

Cross-Asset Step-Up Tiers provide rebates of \$0.0027, \$0.0028 and \$0.0029 per share for Tier 1, Tier 2, and Tier 3, respectively, and charge a fee of \$0.00295 per share for the existing Tier 4. To qualify for Tier 1, a Member must have an Options Step-Up Add TCV⁹ that is equal to or greater than 0.30%. To qualify for Tier 2, a Member must have an Options Step-Up Add TCV¹⁰ that is equal to or greater than 0.40%. To qualify for Tier 3, a Member must have an Options Add TCV¹¹ greater than or equal to 0.30% and have a Step-Up ADAV from June 2015 greater than [sic] 1,000,000. The existing Tier 4 requires a Member to have an Options Customer Remove TCV¹² greater than or equal to 0.30% and a Step-Up Remove TCV¹³ from July 2016 greater than or equal to 0.05%.

The Exchange now proposes to adopt a new tier, Tier 4, and to rename the existing Tier 4 as Tier 5. Under the proposed new Tier 4, the Exchange would provide a rebate of \$0.0032 per share to Members that have an Options Step-Up Add TCV in Customer¹⁴ orders from October 2016 baseline greater than or equal to 0.35%. Other than renaming current Tier 4 as Tier 5, no additional changes are proposed for the renamed Tier 5.

⁹ Id.

¹⁰ As defined in the Exchange's fee schedule available at
http://www.bats.com/us/equities/membership/fee_schedule/bzx/.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ As defined in the Exchange's fee schedule available at
http://www.bats.com/us/equities/membership/fee_schedule/bzx/.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule January 3, 2017.¹⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(4),¹⁷ 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 rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

Volume-based rebates such as the proposed Cross-Asset Step-Up Tier 4 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

¹⁵ The Exchange notes that the date of its fee schedule was previously updated to January 3, 2017 in SR-BatsBZX-2016-87 (December 6, 2017 [sic]). See Securities Exchange Act Release No. 79636 (December 21, 2016).

¹⁶ 15 U.S.C. 78f.

¹⁷ 15 U.S.C. 78f(b)(4).

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. The Exchange believes that the proposal to add a Cross-Asset Step-Up Tier 4 is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will provide Members with an additional incentive to reach certain thresholds on both the BZX Equities and BZX Options. The increased liquidity from this proposal also benefits all investors by deepening the BZX Equities and BZX Options liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern on the Exchange and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. To the extent a Member participates on BZX Equities but not on BZX Options, the Exchange does believe that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of BZX Options. As noted above, such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Options or not. The proposed pricing program is also fair and equitable in that membership in BZX Options is available to all market participants which would provide them with access to the benefits on BZX Options provided by the proposed changes, as described above, even where a Member of BZX Options is not necessarily eligible for the proposed increased rebates on the Exchange. Further, the proposed changes will result in Members receiving either the same or an increased rebate than they would currently receive.

Lastly, the Exchange believes the proposed tier's criteria and corresponding rebate are equitable and reasonable as compared to other Cross Asset Step-Up Tiers under footnote 3. For example, to qualify for Tier 3 and receive a rebate of \$0.0029 per share, a Member must have an Options Add TCV greater than or equal to 0.30% and have a Step-Up ADAV from June 2015 greater than [sic] 1,000,000. Under the proposed tier, a Member would receive a higher rebate of \$0.0032 per share where they satisfy more stringent criteria of having an Options Step-Up Add TCV in Customer orders from October 2016 baseline greater than or equal to 0.35%.

(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. 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.

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 structures to be unreasonable or excessive. The proposed changes are generally intended to offer an incentive resulting in a rebate for adding liquidity on the Exchange, which is intended to draw additional participants to the Exchange. The Exchange does not believe that the proposed new Cross-Asset Step-Up Tier 4 would burden competition, but instead, enhance competition, as it is intended to increase the competitiveness of and draw additional volume to the Exchange. The Exchange does not believe the proposed amendments would burden intramarket competition as they would

be available to all Members uniformly.

(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 Act¹⁸ and paragraph (f) of Rule 19b-4 thereunder.¹⁹ 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-2016-92 on the subject line.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f).

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-2016-92. 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, 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-2016-92 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.²⁰

Eduardo A. Aleman
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).