

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-81906; File No. SR-BatsBZX-2017-67)

October 19, 2017

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Transaction Fees for the Exchange's Equity Platform

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 10, 2017, 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 Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 Members<sup>5</sup> 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.bats.com](http://www.bats.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)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> 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 amend its fee schedule applicable to its equities trading platform ("BZX Equities") to amend the criteria for Cross-Asset Add Volume Tier 3 under footnote 1. The Exchange currently offers four Cross-Asset Add Volume tiers under footnote 1 that provide an enhanced rebate ranging from \$0.0028 to \$0.0030 per share for orders that yield fee codes B,<sup>6</sup> V,<sup>7</sup> and Y<sup>8</sup> upon a Member achieving each tier's required criteria. Currently, under Cross-Asset Add Volume Tier 3, Members receives an enhanced rebate of \$0.0028 per share where they have on the Exchange's equity options platform ("BZX Options") an ADAV greater

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<sup>6</sup> Fee code B is appended to displayed orders that add liquidity to BZX (Tape B) and is provided a standard rebate of \$0.0025 per share. See the Exchange's fee schedule available at [http://www.bats.com/us/equities/membership/fee\\_schedule/bzx/](http://www.bats.com/us/equities/membership/fee_schedule/bzx/).

<sup>7</sup> Fee code V is appended to displayed orders that add liquidity to BZX (Tape A) and is provided a standard rebate of \$0.0020 per share. Id.

<sup>8</sup> Fee code Y is appended to displayed orders that add liquidity to BZX (Tape C) and is provided a standard rebate of \$0.0020 per share. Id.

than or equal to 2.00% of average OCV.<sup>9</sup> The Exchange now proposes to amend the criteria necessary to receive the enhanced rebate provided by Cross-Asset Tier 3. As amended, Cross-Asset Add Volume Tier 3 would require that the Member have on BZX Options an Options Market Maker Add OCV<sup>10</sup> equal to or greater than 1.85% of average OCV and that Member must also add an ADV<sup>11</sup> equal to or greater than 0.10% of TCV.<sup>12</sup> The Exchange proposes to implement these amendments to its fee schedule immediately.<sup>13</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>14</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>15</sup> 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

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<sup>9</sup> “OCV”, for purposes of equities pricing means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (“OCC”) for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close, using the definition of Customer as provided under the Exchange’s fee schedule for BZX Options. See the Exchange’s fee schedule available at [http://www.bats.com/us/equities/membership/fee\\_schedule/bzx/](http://www.bats.com/us/equities/membership/fee_schedule/bzx/).

<sup>10</sup> “Options Market Maker Add OCV” for purposes of equities pricing means ADAV resulting from Market Maker orders as a percentage of OCV, using the definitions of ADAV, Market Maker and OCV as provided under the Exchange’s fee schedule for BZX Options. Id.

<sup>11</sup> “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day. Id.

<sup>12</sup> “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. Id.

<sup>13</sup> The Exchange initially filed the proposed rule change on September 29, 2017 (SR-BatsBZX-2017-64). On October 10, 2017, the Exchange withdrew SR-BatsBZX-2017-64 and submitted this filing.

<sup>14</sup> 15 U.S.C. 78f.

<sup>15</sup> 15 U.S.C. 78f(b)(4).

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 the rates remain competitive with those charged by other venues and, therefore, reasonable and equitably allocated to Members.

Volume-based rebates and fees such as the proposed Cross-Asset Add Volume Tier 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.

The Exchange believes that the proposal to modify the criteria for Cross-Asset Add Volume Tier 3 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 BZX Equities and BZX Options. The revised criteria continues to be reasonably related to the rebate provided by the tier. The Exchange believes decreasing the first prong of the tier's criteria to 1.85% but limiting it to Options Market Maker Add OCV, and adding the second prong requiring that the Member add an ADV equal to or greater than 0.10% of TCV ensures the difficulty of achieving the tier remains relatively the same, while adjusting it to reflect current market dynamics. The potential increased liquidity from this proposal also benefits all investors by deepening the BZX Equities and BZX Options liquidity pools, 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 the Exchange 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.

Lastly, the Exchange believes that limiting one prong of the tier's required criteria to Options Market Makers is not unfairly discriminatory because it is intended to increase Market Maker participation on BZX Options. Market Makers have affirmative obligations to maintain fair and orderly markets and to maintain a two-sided market in those options series in which it is registered.<sup>16</sup> Encouraging Market Maker's [sic] to achieve certain volume criteria on BZX Options in order to receive the tier's enhanced rebate, therefore, benefits all market participants by increasing the depth of the BZX Options liquidity pool and improving the market quality of the Exchange. The Exchange notes that the proposed criteria is not only limited to the Member's Options Market Making on BZX Options. The proposed criteria also requires that the Member meet certain volume requirements on BZX Equities and does require [sic] the Member be registered as a Market Maker to satisfy the tier.

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

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<sup>16</sup> See Exchange Rule 22.5(a).

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed change [sic] to the Exchange's tiered pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of the Exchange by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange. 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 enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange, and to eliminate a rebate that has not achieved its desired result. 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 Act<sup>17</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>18</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f).

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 proposal 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 Number SR-BatsBZX-2017-67 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-2017-67. 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 No. SR-BatsBZX-2017-67 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>19</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).