

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input style="width: 40px;" type="text" value="22"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input style="width: 40px;" type="text" value="2012"/> - * <input style="width: 40px;" type="text" value="012"/> Amendment No. (req. for Amendments *) <input style="width: 40px;" type="text"/>
Proposed Rule Change by BATS Exchange Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934		
Initial * <input checked="" type="checkbox"/> Amendment * <input type="checkbox"/> Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/> Section 19(b)(3)(A) * <input checked="" type="checkbox"/> Section 19(b)(3)(B) * <input type="checkbox"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/> <input style="width: 80px;" type="text"/>	Date Expires * <input style="width: 80px;" type="text"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>	
<b>Description</b> Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). <div style="border: 1px solid black; padding: 5px; min-height: 30px;">Proposed rule change to amend BATS Rule 14.3 to include additional requirements for the listing of securities that are issued by the Exchange or any of its affiliates.</div>		
<b>Contact Information</b> Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.		
First Name * <input style="width: 200px;" type="text" value="Anders"/>	Last Name * <input style="width: 200px;" type="text" value="Franzon"/>	
Title * <input style="width: 500px;" type="text" value="VP, Associate General Counsel"/>		
E-mail * <input style="width: 500px;" type="text" value="afranzon@batstrading.com"/>		
Telephone * <input style="width: 100px;" type="text" value="(913) 815-7154"/>	Fax <input style="width: 100px;" type="text" value="(913) 815-7119"/>	
<b>Signature</b> Pursuant to the requirements of the Securities Exchange Act of 1934,  has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.		
Date <input style="width: 100px;" type="text" value="03/08/2012"/>		
By <input style="width: 200px;" type="text" value="Anders Franzon"/>	<input style="width: 300px;" type="text" value="VP, Associate General Counsel"/>	
(Name *)	(Title *)	
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.		
<input style="width: 150px; height: 20px; background-color: #cccccc;" type="button" value="Anders Franzon,"/>		

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information (required)**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend BATS Rule 14.3, entitled “General Procedures and Prerequisites for Initial and Continued Listing on the Exchange” to include additional requirements for the listing of securities that are issued by the Exchange or any of its affiliates. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>3</sup>

(a) The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on November 10, 2009. Exchange staff will advise the BATS Exchange Board of Directors of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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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> 17 CFR 240.19b-4(f)(6)(iii).

Questions regarding this rule filing may be directed to Eric Swanson, Senior Vice President and General Counsel of the Exchange at (913) 815-7000.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

(a) Purpose

The Exchange is proposing a rule change to adopt a new Rule 14.3(e) that would impose additional reporting requirements on the Exchange should the Exchange or an affiliate of the Exchange list a security on the Exchange (collectively, the "BATS Affiliates"). In the event that a BATS Affiliate seeks to list a security on the Exchange (the "Affiliate Security"), the proposed rule change would require that prior to the initial listing of the Affiliate Security on the Exchange, Exchange personnel determine that such security satisfies the Exchange's rules for listing, and such finding must be approved by the Regulatory Oversight Committee of the Exchange's Board of Directors. The proposed rule change would also require the Exchange to prepare a quarterly report for the Regulatory Oversight Committee of the Exchange's Board of Directors detailing: (1) the Exchange's monitoring of the Affiliate Security's compliance with the Exchange's listing standards, including the Affiliate Security's compliance with the Exchange's minimum share price requirement and the Affiliate Security's compliance with each of the quantitative continued listing requirements; and (2) the Exchange's monitoring of the trading of the Affiliate Security, including summaries of all related surveillance alerts, complaints, regulatory referrals, trades cancelled or adjusted pursuant to Rule 11.17, investigations, examinations, formal and informal disciplinary actions, exception reports and trading data used to ensure the Affiliate Security's compliance with the Exchange's

listing and trading rules. The Exchange would be required to promptly furnish a copy of this quarterly report to the Commission.

To the extent the Exchange uses Exchange staff to conduct surveillance of trading activity on the Exchange, which it does today, the Exchange would be required to engage an independent third party once a year to review and prepare a report regarding surveillance of the Affiliate Security and promptly forward to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission a copy of the report prepared by the independent third party. In connection with the engagement of this third party, the Exchange would look for appropriate subject-matter expertise and would consider engaging appropriately qualified entities such as independent accounting firms, law firms, consulting firms or other self-regulatory organizations. The Exchange would also be required to commission an annual review and report by an independent accounting firm of the compliance of the Affiliate Security with the Exchange's listing requirements. The Exchange would be required to promptly furnish a copy of this annual report to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission.

In the event that the Exchange determines that the BATS Affiliate is not in compliance with any of the Exchange's listing standards, the rule would require the Exchange to notify the issuer of such non-compliance promptly and request a plan of compliance. The Exchange would be required to file a report with the Commission within five business days of providing such notice to the issuer of its non-compliance. The required report would identify the date of the non-compliance, type of non-compliance, and any other material information conveyed to the issuer in the notice of

non-compliance. Within five business days of receipt of a plan of compliance from the issuer, the Exchange would be again required to notify the Commission of such receipt, whether the plan of compliance was accepted by the Exchange or what other action was taken with respect to the plan and the time period provided to regain compliance with the Exchange's listing standards, if any.

The Exchange is proposing to exclude from the definition of Rule 14.3(e)—solely for purposes of this rule— securities that meet the definition of “Portfolio Depository Receipts” and “Index Fund Shares” under Rules 14.11(b)(1)(A) and 14.11(c)(1)(A), respectively. These securities, commonly referred to as “exchange traded funds” or “ETFs,” are issued by investment companies registered under the Investment Company Act of 1940 and are based on an index or portfolio of securities. An ETF is designed to provide investment results that correspond generally to the price and yield performance of the underlying index or portfolio of securities. The Exchange believes that such securities do not present the same concerns as other securities, even if issued by a BATS Affiliate. ETFs, which do not represent investments in an individual company, are already exempt from a number of listing standards including corporate governance rules standards, such as the requirement to have a board of directors comprised of a majority of independent directors and to have a code of conduct applicable to all employees and directors. The Exchange does not believe that the additional reporting requirements in the proposed rule change would provide any value in this context because ETFs would not constitute an investment in a BATS Affiliate. Further, these issuers are already subject to a comprehensive scheme of regulation pursuant to the Investment Company Act of 1940.

The listing of securities of a BATS Affiliate could potentially create a conflict of interest between the Exchange's self regulatory responsibility to vigorously oversee the listing and trading of the stock on its market, and its own commercial or economic interests. Such "self-listing" may raise questions as to the Exchange's ability to independently and effectively enforce its rules against an affiliate or the operator/owner of its facility. In addition, such listing has the potential to exacerbate possible conflicts that may arise when the Exchange oversees competitors that may also be listed on the Exchange. The Exchange believes that the proposed rule change, by requiring heightened reporting by the Exchange to the Commission with respect to the Exchange's oversight of the listing and trading on the Exchange of the securities of any BATS Affiliate, will help protect against any concern that the Exchange will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with the Exchange's listing standards adds a degree of independent oversight to the Exchange's regulation of the listing of these securities, which should help mitigate against any potential or actual conflicts of interest. The Exchange also believes that the additional requirements contained in the proposed rule change would provide additional assurance that any Affiliate Securities listed on the Exchange by a BATS Affiliate comply with the Exchange's listing standards on an on-going basis. Finally, the Exchange believes that the proposed rule change would eliminate any perception of a potential conflict of interest if a BATS Affiliate seeks to list a security on the Exchange.

(b) Statutory Basis

The Exchange believes that its proposal 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(b) of the Act.<sup>4</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. Specifically, the Exchange believes that the proposed rule change, by requiring heightened reporting by the Exchange to the Commission with respect to oversight of the listing and trading on the Exchange of Affiliate Securities, will help protect against concerns that the Exchange will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with the Exchange's listing standards adds a degree of independent oversight to the Exchange's regulation of the listing of these securities, which may mitigate any potential or actual conflicts of interest. Further, the additional requirements contained in the proposed rule change would help to provide additional assurance that any Affiliate Securities listed on the Exchange by a BATS Affiliate comply with the Exchange's listing standards both upon the initial listing of the BATS Affiliate and on an on-going basis. The Exchange believes that the proposed rule

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

<sup>5</sup> 15 U.S.C. 78f(b)(5).

change would eliminate any perception of a potential conflict of interest if a BATS Affiliate seeks to list a security on the Exchange.

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

The proposed rule change does not impose any burden on competition.

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>6</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.<sup>8</sup> The Exchange notes that this proposal is based on similar proposals by other self-regulatory organizations and does not propose any new policies or provisions that are unique or

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

unproven and is consistent with prior Commission action.<sup>9</sup> For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>10</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange respectfully requests that the Commission waive the 30-day delayed operative date so that the proposed rule change may become immediately effective in accordance with Section 19(b)(3)(A)<sup>11</sup> and Rule 19b-4(f)(6)<sup>12</sup> of the Act. Waiver of the operative delay will allow the Exchange to implement the proposed rule change immediately, in the event an Affiliate seeks to list on the Exchange. The Exchange again notes that the proposal is directly based on the existing rules of other self-regulatory organizations.

For the foregoing reasons, the Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

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

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<sup>9</sup> See Securities Exchange Act Release Nos. 50171 (August 9, 2004), 69 FR 50427 (August 16, 2004) (SR-PCX-2004-76); 51123 (February 2, 2005), 70 FR 6743 (February 8, 2005) (SR-NASD-2004-169).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii)

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 15 CFR 240.19b-4(f)(6).

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.

8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission

This proposed rule change is based on NYSE Rule 497. NYSE Rule 497 differs only in that such rule references a wholly owned subsidiary of NYSE, NYSE Regulation, Inc., which performs certain regulatory functions for NYSE. The Exchange does not operate with a separate operating entity that carries out regulatory functions on its behalf. Other than this distinction, there are no substantive differences between NYSE Rule 497 and proposed BATS Rule 14.3(e).

9. Exhibits

Exhibit 1: Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibits 2 – 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_ ; File No. SR-BATS-2012-012)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify Exchange Rule 14.3, entitled “General Procedures and Prerequisites for Initial and Continued Listing on the Exchange.”

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 March 8, 2012, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 is filing with the Commission a proposal to amend Rule 14.3, entitled “General Procedures and Prerequisites for Initial and Continued Listing on the Exchange” to include additional requirements for the listing of securities that are issued by the Exchange or any of its affiliates.

The text of the proposed rule change is available at the Exchange’s website at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

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 a rule change to adopt a new Rule 14.3(e) that would impose additional reporting requirements on the Exchange should the Exchange or an affiliate of the Exchange list a security on the Exchange (collectively, the "BATS Affiliates"). In the event that a BATS Affiliate seeks to list a security on the Exchange (the "Affiliate Security"), the proposed rule change would require that prior to the initial listing of the Affiliate Security on the Exchange, Exchange personnel determine that such security satisfies the Exchange's rules for listing, and such finding must be approved by the Regulatory Oversight Committee of the Exchange's Board of Directors. The proposed rule change would also require the Exchange to prepare a quarterly report for the Regulatory Oversight Committee of the Exchange's Board of Directors detailing: (1) the Exchange's monitoring of the Affiliate Security's compliance with the Exchange's listing standards, including the Affiliate Security's compliance with the Exchange's minimum share price requirement and the Affiliate Security's compliance with each of the quantitative continued listing requirements; and (2) the Exchange's monitoring of the trading of the Affiliate Security, including summaries of all related surveillance alerts,

complaints, regulatory referrals, trades cancelled or adjusted pursuant to Rule 11.17, investigations, examinations, formal and informal disciplinary actions, exception reports and trading data used to ensure the Affiliate Security's compliance with the Exchange's listing and trading rules. The Exchange would be required to promptly furnish a copy of this quarterly report to the Commission.

To the extent the Exchange uses Exchange staff to conduct surveillance of trading activity on the Exchange, which it does today, the Exchange would be required to engage an independent third party once a year to review and prepare a report regarding surveillance of the Affiliate Security and promptly forward to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission a copy of the report prepared by the independent third party. In connection with the engagement of this third party, the Exchange would look for appropriate subject-matter expertise and would consider engaging appropriately qualified entities such as independent accounting firms, law firms, consulting firms or other self-regulatory organizations. The Exchange would also be required to commission an annual review and report by an independent accounting firm of the compliance of the Affiliate Security with the Exchange's listing requirements. The Exchange would be required to promptly furnish a copy of this annual report to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission.

In the event that the Exchange determines that the BATS Affiliate is not in compliance with any of the Exchange's listing standards, the rule would require the Exchange to notify the issuer of such non-compliance promptly and request a plan of compliance. The Exchange would be required to file a report with the Commission

within five business days of providing such notice to the issuer of its non-compliance. The required report would identify the date of the non-compliance, type of non-compliance, and any other material information conveyed to the issuer in the notice of non-compliance. Within five business days of receipt of a plan of compliance from the issuer, the Exchange would be again required to notify the Commission of such receipt, whether the plan of compliance was accepted by the Exchange or what other action was taken with respect to the plan and the time period provided to regain compliance with the Exchange's listing standards, if any.

The Exchange is proposing to exclude from the definition of Rule 14.3(e)—solely for purposes of this rule— securities that meet the definition of “Portfolio Depository Receipts” and “Index Fund Shares” under Rules 14.11(b)(1)(A) and 14.11(c)(1)(A), respectively. These securities, commonly referred to as “exchange traded funds” or “ETFs,” are issued by investment companies registered under the Investment Company Act of 1940 and are based on an index or portfolio of securities. An ETF is designed to provide investment results that correspond generally to the price and yield performance of the underlying index or portfolio of securities. The Exchange believes that such securities do not present the same concerns as other securities, even if issued by a BATS Affiliate. ETFs, which do not represent investments in an individual company, are already exempt from a number of listing standards including corporate governance rules standards, such as the requirement to have a board of directors comprised of a majority of independent directors and to have a code of conduct applicable to all employees and directors. The Exchange does not believe that the additional reporting requirements in the proposed rule change would provide any value in this context because ETFs would

not constitute an investment in a BATS Affiliate. Further, these issuers are already subject to a comprehensive scheme of regulation pursuant to the Investment Company Act of 1940.

The listing of securities of a BATS Affiliate could potentially create a conflict of interest between the Exchange's self regulatory responsibility to vigorously oversee the listing and trading of the stock on its market, and its own commercial or economic interests. Such "self-listing" may raise questions as to the Exchange's ability to independently and effectively enforce its rules against an affiliate or the operator/owner of its facility. In addition, such listing has the potential to exacerbate possible conflicts that may arise when the Exchange oversees competitors that may also be listed on the Exchange. The Exchange believes that the proposed rule change, by requiring heightened reporting by the Exchange to the Commission with respect to the Exchange's oversight of the listing and trading on the Exchange of the securities of any BATS Affiliate, will help protect against any concern that the Exchange will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with the Exchange's listing standards adds a degree of independent oversight to the Exchange's regulation of the listing of these securities, which should help mitigate against any potential or actual conflicts of interest. The Exchange also believes that the additional requirements contained in the proposed rule change would provide additional assurance that any Affiliate Securities listed on the Exchange by a BATS Affiliate comply with the Exchange's listing standards on an on-going basis. Finally, the Exchange

believes that the proposed rule change would eliminate any perception of a potential conflict of interest if a BATS Affiliate seeks to list a security on the Exchange.

## 2. Statutory Basis

The Exchange believes that its proposal 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(b) of the Act.<sup>3</sup>

Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>4</sup> because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

Specifically, the Exchange believes that the proposed rule change, by requiring heightened reporting by the Exchange to the Commission with respect to oversight of the listing and trading on the Exchange of Affiliate Securities, will help protect against concerns that the Exchange will not effectively enforce its rules with respect to the listing and trading of these securities. In addition, the requirement that an independent accounting firm review such issuer's compliance with the Exchange's listing standards adds a degree of independent oversight to the Exchange's regulation of the listing of these securities, which may mitigate any potential or actual conflicts of interest. Further, the additional requirements contained in the proposed rule change would help to provide additional assurance that any Affiliate Securities listed on the Exchange by a BATS

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<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

Affiliate comply with the Exchange's listing standards both upon the initial listing of the BATS Affiliate and on an on-going basis. The Exchange believes that the proposed rule change would eliminate any perception of a potential conflict of interest if a BATS Affiliate seeks to list a security on the Exchange.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>6</sup>

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.

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<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

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 No. SR-BATS-2012-012 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-BATS-2012-012. 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 changes 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 am and 3:00 pm. 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-BATS-2012-012 and should be submitted on or before [\_\_\_\_\_21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(12).

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

**Rules of BATS Exchange, Inc.**

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**CHAPTER XIV. BATS EXCHANGE LISTING RULES**

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Rule 14.3. General Procedures and Prerequisites for Initial and Continued Listing on the Exchange

(a)–(d) (No changes.)

(e) Additional Requirements for BATS-Listed Securities Issued by the Exchange or its Affiliates

(1) For purposes of this Rule, the terms below are defined as follows:

(A) “BATS Affiliate” means the Exchange and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Exchange, where “control” means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

(B) “Affiliate Security” means any security issued by a BATS Affiliate, with the exception of Portfolio Depository Receipts as defined in Rule 14.11(b) and Index Fund Shares as defined in Rule 14.11(c).

(2) Prior to the initial listing of an Affiliate Security on the Exchange, Exchange personnel shall determine that such security satisfies the Exchange’s rules for listing, and such finding must be approved by the Regulatory Oversight Committee of the Exchange’s Board of Directors.

(3) Throughout the continued listing of the Affiliate Security on the Exchange:

(A) the Exchange shall prepare a quarterly report on the Affiliate Security for the Regulatory Oversight Committee of the Exchange’s Board of Directors that describes:

(i) the Exchange’s monitoring of the Affiliate Security’s compliance with the Exchange’s listing standards, including,

(a) the Affiliate Security's compliance with the Exchange's minimum share price requirement; and

(b) the Affiliate Security's compliance with each of the quantitative continued listing requirements; and

(ii) the Exchange's monitoring of the trading of the Affiliate Security, including summaries of all related surveillance alerts, complaints, regulatory referrals, trades cancelled or adjusted pursuant to Rule 11.17, investigations, examinations, formal and informal disciplinary actions, exception reports and trading data used to ensure the Affiliate Security's compliance with the Exchange's listing and trading rules.

A copy of the report required by this sub-paragraph (A) will be forwarded promptly to the Commission.

(B) to the extent the Exchange uses Exchange staff to conduct surveillance of trading activity on the Exchange, the Exchange shall engage an independent third party once a year to review and prepare a report regarding surveillance of the Affiliate Security and promptly forward to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission a copy of the report prepared by the independent third party.

(C) once a year, an independent accounting firm shall review the listing standards for the Affiliate Security to ensure that the issuer is in compliance with the listing requirements and a copy of the report shall be forwarded promptly to the Regulatory Oversight Committee of the Exchange's Board of Directors and the Commission.

(4) In the event that the Exchange determines that the BATS Affiliate is not in compliance with any of the Exchange's listing standards, the Exchange shall notify the issuer of such non-compliance promptly and request a plan of compliance. The Exchange shall file a report with the Commission within five business days of providing such notice to the issuer of its non-compliance. The report shall identify the date of the non-compliance, type of non-compliance, and any other material information conveyed to the issuer in the notice of non-compliance. Within five business days of receipt of a plan of compliance from the issuer, the Exchange shall notify the Commission of such receipt, whether the plan of compliance was accepted by the Exchange or what other action was taken with respect to the plan and the time period provided to regain compliance with the Exchange's listing standards, if any.

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