

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 21      SECURITIES AND EXCHANGE COMMISSION      File No.\* SR - 2013 - \* 026  
 WASHINGTON, D.C. 20549      Form 19b-4      Amendment No. (req. for Amendments \*)

Filing 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"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
 Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).  
 Amendments to the fee schedule of BATS Exchange, Inc. with respect to redundant connectivity offered by the Exchange to connect to BATS Equities and BATS Options.

**Contact Information**  
 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 action.

First Name \* Anders      Last Name \* Franzon  
 Title \* VP, Associate General Counsel  
 E-mail \* afranzon@bats.com  
 Telephone \* (913) 815-7154      Fax (913) 815-7119

**Signature**  
 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.  
 (Title \*)  
 Date 05/07/2013      VP, Associate General Counsel  
 By Anders Franzon  
 (Name \*)  
 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.  
 Persona Not Validated - 1364234628553,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

Add Remove View

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 \***

Add Remove View

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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies**

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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, security-based swap submission, or advance notice 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**

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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 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 the fee schedule applicable to Members<sup>3</sup> and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

(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 Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

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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> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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

(a) Purpose

The purpose of the proposed to modify fees applicable to Members and non-members in order to encourage use of connectivity that provides redundant access to the Exchange by eliminating any potential fees for logical ports<sup>4</sup> in connection with such redundant access. The Exchange proposes to modify its fee schedule related to logical ports for BATS Equities and to make necessary changes so that the logical port fee sections of its fee schedule applicable to BATS Options is identical.<sup>5</sup>

The Exchange currently charges a monthly fee for ports used to enter orders in the Exchange's trading system and to receive data from the Exchange. With respect to BATS Equities, the Exchange currently charges \$400.00 per month per "pair" of any port type other than a Multicast PITCH Spin Server Port or a GRP Port.<sup>6</sup> Each pair of ports consists of one port at the Exchange's primary data center and one port at the Exchange's secondary data center. With respect to BATS Options, the Exchange also charges \$400 per month for any port other than a Multicast PITCH Spin Server Port, GRP Port or

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<sup>4</sup> A logical port is commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt.

<sup>5</sup> BATS Equities is the Exchange's platform for trading cash equity securities whereas BATS Options is the Exchange's platform for trading equity options.

<sup>6</sup> Thus, the charges apply to all BATS Equities FIX, FIXDROP, BOE, DROP, TCP PITCH, and TOP ports.

logical port with bulk-quoting capabilities,<sup>7</sup> and \$1,500 for a port with bulk-quoting capabilities. The Exchange recently began offering connectivity to the Exchange at its secondary data center, enabling BATS Options participants to obtain redundant connectivity, and has not commenced billing for any such connectivity.

Rather than stating that the fee for logical ports with respect to BATS Equities or BATS Options is per “pair”, the Exchange proposes to simplify the fee schedule by adding a footnote that states that logical port fees are limited to logical ports in the Exchange’s primary data center and that no logical port fees will be assessed for redundant secondary data center ports. Although this change to fee schedule language will not result in any substantive change to Members or non-members, as the Exchange is already providing secondary data center ports free of charge, the Exchange believes that this is a simpler way to bill for ports rather than billing in pairs. Further, this will allow the Exchange to include the concept of a “primary” Multicast PITCH data feed, as described below, without confusion as related to the Exchange’s primary data center.

In addition, the Exchange proposes to modify the description of the billing for ports related to the Exchange’s Multicast PITCH data feed.<sup>8</sup> The Exchange currently provides 32 pairs of Multicast PITCH Spin Server Ports free of charge and, if such ports

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<sup>7</sup> Thus, the charges apply to all BATS Options FIX, FIXDROP, BOE, and DROP ports.

<sup>8</sup> The Multicast PITCH data feed with respect to BATS Equities is defined in Rule 11.22(c) as “an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System.” The Multicast PITCH data feed with respect to BATS Options is defined in Rule 21.15 as “uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System.”

are used, one free pair of GRP Ports.<sup>9</sup> The Exchange charges customers \$400.00 per month per additional set of 32 Multicast PITCH Spin Server Ports or additional pair of GRP Ports. Consistent with the change described above, the Exchange proposes to eliminate the concept of port “pairs” and instead maintain a fee schedule that imposes fees only for logical ports at the Exchange’s primary data center. Thus, for both BATS Equities and BATS Options the Exchange will continue to provide at the Exchange’s primary data center 32 Multicast PITCH Spin Server Ports free of charge and, if such ports are used, one free GRP Port and all redundant Multicast PITCH Spin Server Ports and GRP Ports at the secondary data center will be free of charge. Again, although not a substantive change for Members and non-members, the Exchange believes that this change simplifies the fee schedule and also indicates the Exchange’s support for Members and non-members to establish sufficient connectivity for business continuity purposes.

Similarly, the Exchange proposes to modify its fee schedule in order to allow Members and non-members to take redundant Multicast PITCH data feeds from the Exchange. The Exchange’s Multicast PITCH data feed for both BATS Equities and BATS Options is currently offered through two primary feeds, identified as the “A feed” and the “C feed”, which contain the same information but differ only in the way such feeds are received. The Exchange is in the process of commencing to offer redundant

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<sup>9</sup> The Exchange notes that its fees for Multicast PITCH customers, including the current provision of certain ports free of charge, are designed to encourage use of the Exchange’s Multicast PITCH data feed because the Exchange believes that the feed is its most efficient feed, and thus, will reduce infrastructure costs for both the Exchange and those who utilize the feed. Any Member or non-member that has entered into the appropriate agreements with the Exchange is permitted to receive Multicast PITCH Spin Server Ports and GRP Ports from the Exchange.

versions of the Multicast PITCH data feed and does not intend for Members and non-members that connect to such feeds to incur additional port fees. As such, the Exchange is proposing to modify its description of Multicast PITCH logical port fees so that only ports necessary to take a primary feed (either A or C), and not redundant versions of such feed, are subject to logical port fees. Again, the Exchange wishes to encourage Members and non-members to establish connectivity for business continuity purposes, including in the event the Exchange's data center is fully operational but a specific version of an Exchange data feed becomes unavailable.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, Sponsored Participants sponsored by Members to receive direct access to the Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients.

(b) 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.<sup>10</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>11</sup> 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.

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<sup>10</sup> 15 U.S.C. 78f.

<sup>11</sup> 15 U.S.C. 78f(b)(4).

The Exchange believes that its proposed changes to logical port fees are reasonable in light of the fact that all such changes are intended to ensure that Members and non-members are able to establish redundant connections to the Exchange without incurring additional logical port fees. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the cost savings for redundant connectivity will be available to all such constituents. The Exchange reiterates that the change to limit logical port fees to logical port fees at the primary data center is not a substantive change in that Exchange constituents currently receive without charge a corresponding port at the secondary data center for any port established at the primary data center.

The Exchange also believes that providing financial incentives to use Exchange technology that the Exchange believes is the most technologically efficient for the Exchange and its constituents is a fair and equitable approach to pricing. Accordingly, the Exchange believes that promotion of its Multicast PITCH data feed through the continued offering of free logical ports is fair and equitable. The Multicast PITCH data feed is available to all Members, and as such, all Members have the ability to receive applicable Multicast PITCH ports free of charge. Further, the Exchange believes that promoting the use of redundant connectivity is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and non-members and should enable such participants to enhance their business continuity planning.

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

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. As discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including logical port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

5. 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.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>12</sup> and Rule 19b-4(f)(2) thereunder,<sup>13</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

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>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

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

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

Exhibit 2 - 4: Not applicable.

Exhibit 5: Text of Proposed Rule Change.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BATS-2013-026)

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

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 May 7, 2013, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

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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> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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.

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 purpose of the proposed to modify fees applicable to Members and non-members in order to encourage use of connectivity that provides redundant access to the Exchange by eliminating any potential fees for logical ports<sup>6</sup> in connection with such redundant access. The Exchange proposes to modify its fee schedule related to logical ports for BATS Equities and to make necessary changes so that the logical port fee sections of its fee schedule applicable to BATS Options is identical.<sup>7</sup>

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<sup>6</sup> A logical port is commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt.

<sup>7</sup> BATS Equities is the Exchange's platform for trading cash equity securities whereas BATS Options is the Exchange's platform for trading equity options.

The Exchange currently charges a monthly fee for ports used to enter orders in the Exchange's trading system and to receive data from the Exchange. With respect to BATS Equities, the Exchange currently charges \$400.00 per month per "pair" of any port type other than a Multicast PITCH Spin Server Port or a GRP Port.<sup>8</sup> Each pair of ports consists of one port at the Exchange's primary data center and one port at the Exchange's secondary data center. With respect to BATS Options, the Exchange also charges \$400 per month for any port other than a Multicast PITCH Spin Server Port, GRP Port or logical port with bulk-quoting capabilities,<sup>9</sup> and \$1,500 for a port with bulk-quoting capabilities. The Exchange recently began offering connectivity to the Exchange at its secondary data center, enabling BATS Options participants to obtain redundant connectivity, and has not commenced billing for any such connectivity.

Rather than stating that the fee for logical ports with respect to BATS Equities or BATS Options is per "pair", the Exchange proposes to simplify the fee schedule by adding a footnote that states that logical port fees are limited to logical ports in the Exchange's primary data center and that no logical port fees will be assessed for redundant secondary data center ports. Although this change to fee schedule language will not result in any substantive change to Members or non-members, as the Exchange is already providing secondary data center ports free of charge, the Exchange believes that this is a simpler way to bill for ports rather than billing in pairs. Further, this will allow

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<sup>8</sup> Thus, the charges apply to all BATS Equities FIX, FIXDROP, BOE, DROP, TCP PITCH, and TOP ports.

<sup>9</sup> Thus, the charges apply to all BATS Options FIX, FIXDROP, BOE, and DROP ports.

the Exchange to include the concept of a “primary” Multicast PITCH data feed, as described below, without confusion as related to the Exchange’s primary data center.

In addition, the Exchange proposes to modify the description of the billing for ports related to the Exchange’s Multicast PITCH data feed.<sup>10</sup> The Exchange currently provides 32 pairs of Multicast PITCH Spin Server Ports free of charge and, if such ports are used, one free pair of GRP Ports.<sup>11</sup> The Exchange charges customers \$400.00 per month per additional set of 32 Multicast PITCH Spin Server Ports or additional pair of GRP Ports. Consistent with the change described above, the Exchange proposes to eliminate the concept of port “pairs” and instead maintain a fee schedule that imposes fees only for logical ports at the Exchange’s primary data center. Thus, for both BATS Equities and BATS Options the Exchange will continue to provide at the Exchange’s primary data center 32 Multicast PITCH Spin Server Ports free of charge and, if such ports are used, one free GRP Port and all redundant Multicast PITCH Spin Server Ports and GRP Ports at the secondary data center will be free of charge. Again, although not a substantive change for Members and non-members, the Exchange believes that this change simplifies the fee schedule and also indicates the Exchange’s support for

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<sup>10</sup> The Multicast PITCH data feed with respect to BATS Equities is defined in Rule 11.22(c) as “an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System.” The Multicast PITCH data feed with respect to BATS Options is defined in Rule 21.15 as “uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System.”

<sup>11</sup> The Exchange notes that its fees for Multicast PITCH customers, including the current provision of certain ports free of charge, are designed to encourage use of the Exchange’s Multicast PITCH data feed because the Exchange believes that the feed is its most efficient feed, and thus, will reduce infrastructure costs for both the Exchange and those who utilize the feed. Any Member or non-member that has entered into the appropriate agreements with the Exchange is permitted to receive Multicast PITCH Spin Server Ports and GRP Ports from the Exchange.

Members and non-members to establish sufficient connectivity for business continuity purposes.

Similarly, the Exchange proposes to modify its fee schedule in order to allow Members and non-members to take redundant Multicast PITCH data feeds from the Exchange. The Exchange's Multicast PITCH data feed for both BATS Equities and BATS Options is currently offered through two primary feeds, identified as the "A feed" and the "C feed", which contain the same information but differ only in the way such feeds are received. The Exchange is in the process of commencing to offer redundant versions of the Multicast PITCH data feed and does not intend for Members and non-members that connect to such feeds to incur additional port fees. As such, the Exchange is proposing to modify its description of Multicast PITCH logical port fees so that only ports necessary to take a primary feed (either A or C), and not redundant versions of such feed, are subject to logical port fees. Again, the Exchange wishes to encourage Members and non-members to establish connectivity for business continuity purposes, including in the event the Exchange's data center is fully operational but a specific version of an Exchange data feed becomes unavailable.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, Sponsored Participants sponsored by Members to receive direct access to the Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients.

## 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.<sup>12</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>13</sup> 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 believes that its proposed changes to logical port fees are reasonable in light of the fact that all such changes are intended to ensure that Members and non-members are able to establish redundant connections to the Exchange without incurring additional logical port fees. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the cost savings for redundant connectivity will be available to all such constituents. The Exchange reiterates that the change to limit logical port fees to logical port fees at the primary data center is not a substantive change in that Exchange constituents currently receive without charge a corresponding port at the secondary data center for any port established at the primary data center.

The Exchange also believes that providing financial incentives to use Exchange technology that the Exchange believes is the most technologically efficient for the Exchange and its constituents is a fair and equitable approach to pricing. Accordingly, the Exchange believes that promotion of its Multicast PITCH data feed through the continued offering of free logical ports is fair and equitable. The Multicast PITCH data feed is available to all Members, and as such, all Members have the ability to receive applicable Multicast PITCH ports free of charge. Further, the Exchange believes that

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<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(4).

promoting the use of redundant connectivity is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and non-members and should enable such participants to enhance their business continuity planning.

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

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. As discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including logical port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>15</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

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f).

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 No. SR-BATS-2013-026 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-2013-026. 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-2013-026 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>16</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

BATS BZX Exchange Fee Schedule  
Effective May [1] 7, 2013

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The following is the Schedule of Fees (pursuant to Rule 15.1(a) and (c)) for BATS Exchange, Inc. (“BZX Exchange” or “BZX”). The Schedule of Fees is divided into Equities Pricing, Options Pricing and Physical Connection Charges.

\* \* \* \* \*

Equities Pricing:

All references to “per share” mean “per share executed.”

\* \* \* \* \*

Equities Logical Port Fees<sup>\*</sup>

\$400.00 per month per [pair (primary and secondary data center) of any] logical port other than a Multicast PITCH Spin Server Port or GRP Port

Multicast PITCH customers: 32 free [pairs of] primary (A or C feed) Multicast PITCH Spin Server Ports, and, if such ports are used, one free [pair of] primary (A or C feed) GRP Port[s]; \$400.00 per month per additional set of 32 [pairs of] primary Multicast PITCH Spin Server Ports or additional [pair of] primary GRP Port[s]<sup>\*\*</sup>

\* \* \* \* \*

<sup>\*</sup>Logical port fees are limited to logical ports within the primary data center. No logical port fees will be assessed for redundant secondary data center ports.

<sup>\*\*</sup>Multicast PITCH is available through one of two primary feeds, either the A or C feed. All secondary feed Multicast PITCH Spin Server and GRP Ports are provided for redundancy at no additional cost.

Options Pricing:

\* \* \* \* \*

Options Logical Port Fees<sup>\*</sup>

- \$400.00 per month per logical port other than a Multicast PITCH Spin Server Port, GRP Port or logical port with bulk-quoting capabilities
- Multicast PITCH customers: 32 free primary (A or C feed) Multicast PITCH Spin Server Ports and one free primary (A or C feed) GRP Port; \$400.00 per month per

additional set of 32 primary Multicast PITCH Spin Server Ports or additional primary GRP Port\*\*

- \$1,500.00 per month for any logical port with bulk-quoting capabilities

\*Logical port fees are limited to logical ports within the primary data center. No logical port fees will be assessed for redundant secondary data center ports.

\*\*Multicast PITCH is available through one of two primary feeds, either the A or C feed. All secondary feed Multicast PITCH Spin Server and GRP Ports are provided for redundancy at no additional cost.

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