that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange’s market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it establishes a fee structure in a manner that encourages market participants to direct their order flow, to provide liquidity, and to attract additional transaction volume to the Exchange.

G. 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.

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)(ii) of the Act. 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

- Use the Commission’s Internet comment form (http://www.sec.gov/rules/sro.shtml);
- Send an email to rule-comments@sec.gov. Please include File Number SR-MIAAX–2015–45 on the subject line.

Paper Comments

Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAAX–2015–45. This file number should be included on the subject line if email 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 Web site (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 Web site 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAAX–2015–45, and should be submitted on or before August 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Brent J. Fields,
Secretary.

[FR Doc. 2015–17296 Filed 7–14–15; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Data Section of Its Fee Schedule

July 9, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), and Rule 19b–4 thereunder, notice is hereby given that on July 1, 2015, BATS Y-Exchange, Inc. (the “Exchange” or “BYX”) 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 and Rule 19b–4(f)(2) thereunder, 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the Market Data section of its fee schedule to: (i) Adopt User fees, an Enterprise fee, and a Digital Media Enterprise fee for the BYX Top and BYX Last Sale feeds; and (ii) make a non-substantive change to the description of the BAT5 One Feed Enterprise Fee as well as correct a cross-reference within the definition of “Non-Professional User”.

The text of the proposed rule change is available at the Exchange’s Web site at www.batstrading.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend the Market Data section of its fee schedule to: (i) Adopt User fees, an Enterprise fee, and a Digital Media Enterprise fee for the BYX Top and BYX Last Sale fees; and (ii) make a non-substantive change to the description of the BATS One Feed Enterprise Fee as well as correct a cross-reference within the definition of “Non-Professional User”.

BYX Top and Last Sale Fees

BYX Top is a market data feed that includes top of book quotations and execution information for all equity securities traded on the Exchange.5 BYX Last Sale is a market data feed that includes last sale information for all equity securities traded on Exchange.6

Currently, the Exchange only charges fees for both internal and external distribution of the BYX Last Sale and BYX Top fees. The cost of BYX Last Sale for an Internal Distributor7 is $500 per month. Similarly, the cost of BYX Top for an Internal Distributor is also $500 per month. The Exchange currently does not charge per User8 fees for either BYX Last Sale or BYX Top. Therefore, the Exchange does not currently require an External Distributor9 of BYX Last Sale or BYX Top to count, classify (e.g., professional or non-professional), or report to the Exchange information regarding the customers to which they provide the data. Instead, the Exchange charges an External Distributor of BYX Last Sale a flat fee of $1,250 per month. The Exchange also separately charges an External Distributor of BYX Top a flat fee of $1,250 per month. End Users currently do not pay the Exchange for BYX Last Sale or BYX Top, nor are End Users required to enter into contracts with the Exchange.

Subscribers to either BYX Top or BYX Last Sale are able to receive, upon request and at no additional cost, BYX Last Sale or BYX Top, as applicable. The Exchange also offers a New External Distributor Credit under which new External Distributors of BYX Top or BYX Last Sale will not be charged a Distributor Fee for their first three (3) months.

The Exchange now proposes to amend its fee schedule to incorporate additional fees related to the BYX Top or BYX Last Sale feeds.10 These fees include the following, each of which are described in detail below: (i) Usage Fees for both Professional and Non-Professional Users; and (ii) Enterprise Fees.

User Fees. The Exchange proposes to charge those who receive either BYX Top or BYX Last Sale from External Distributors different fees for both their Professional Users and Non-Professional Users. The Exchange will assess a monthly fee for Professional Users of $2.00 per User. Non-Professional Users will be assessed a monthly fee of $0.05 per User.15 The Exchange does not propose to charge per User fees to Internal Distributors.

External Distributors would be required to count every Professional User and Non-Professional User to

5 See Exchange Rule 11.22(d).
6 See Exchange Rule 11.22(g).
7 An “Internal Distributor” is defined as “a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor’s own entity.” See the Exchange Fee Schedule available at http://batstrading.com/support/fee_schedule/byx/. A “Distributor” is defined as “any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.” Id.
8 A “User” is defined as “a natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data.” Id.
9 An “External Distributor” is defined as “a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor’s own entity.” Id.
10 The Exchange notes that EDGA Exchange, Inc. (“EDGA”), EDGX Exchange, Inc. (“EDGX”) and BATS Exchange, Inc. (“BZX”), together with the Exchange, EDGA and EDGX, the “BATS Exchanges” also filed proposed rule changes with Commission to adopt similar fees for their respective Top and Last Sale market data product. See File Nos. SR-EDGA-2015-25, SR-EDGX-2015-28, and SR-BATS-2015-48. The Exchange represents that the proposed fees will not cause the combined cost of subscribing to each of the BATS Exchanges’ individual Top and Last Sale fees to be greater than those currently charged to subscribe to the BATS One Feed. See Securities Exchange Act Release Nos. 74282 (February 18, 2015), 70 FR 9928 (February 24, 2015) (SR-BATS-2015-11); 74283 (February 18, 2015), 80 FR 9909 (February 24, 2015) (SR-EDGA-2015-09); 74282 (February 17, 2015), 80 FR 9487 (February 23, 2015) (SR-EDGX-2015-09); and 74286 (February 18, 2015), 80 FR 9792 (February 24, 2015) (SR-BYX-2015-09) (“Initial BATS One Feed Fee Filings”). In these filings, the Exchange represented that the cost of subscribing to each of the underlying individual feeds necessary to create the BATS One Feed would not be greater than the cost of subscribing to the BATS One Feed. Id.

11 A “Professional User” is defined as “any User other than a Non-Professional User.” See the Exchange Fee Schedule available at http://batstrading.com/support/fee_schedule/byx/.
which they provide BYX Top and/or BYX Last Sale, the requirements for which are identical to that currently in place for the BATS One Feed.\(^\text{(16)}\) Thus, the External Distributor’s count will include every person and device that accesses the data regardless of the purpose for which the individual or device uses the data. External Distributors must report all Professional and Non-Professional Users in accordance with the following:

- In connection with an External Distributor’s distribution of BYX Top or BYX Last Sale, the Distributor should count as one User each unique User that the Distributor has entitled to have access to BYX Top or BYX Last Sale. However, where a device is dedicated specifically to a single individual, the Distributor should count only the individual and need not count the device.

- The External Distributor should identify and report each unique User. If a User uses the same unique method to gain access to BYX Top or BYX Last Sale, the Distributor should count that as one User. However, if a unique User uses multiple methods to gain access to BYX Top or BYX Last Sale (e.g., a single User has multiple passwords and user identifications), the External Distributor should report all of those methods as an individual User.

- External Distributors should report each unique individual person who receives access through multiple devices as one User so long as each device is dedicated specifically to that individual.

- If an External Distributor entitles one or more individuals to use the same device, the External Distributor should include only the individuals, and not the device, in the count.

Each External Distributor will receive a credit against its monthly Distributor Fee for BYX Top or BYX Last Sale equal to the amount of its monthly Usage Fees up to a maximum of the Distributor Fee for BYX Top or BYX Last Sale. For example, an External Distributor will be subject to a $1,250 monthly Distributor Fee where they elect to receive BYX Top. If that External Distributor reports User quantities totaling $1,250 or more of monthly usage of BYX Top, it will pay no net Distributor Fee, whereas if that same External Distributor were to report User quantities totaling $1,000 of monthly usage, it will pay a net of $250 for the Distributor Fee. External Distributors will remain subject to the per User fees discussed above. The same would apply to receipt of BYX Last Sale.

**Enterprise Fee.** The Exchange also proposes to establish a $10,000 per month Enterprise Fee that will permit a recipient firm who receives BYX Top or BYX Last Sale from an External Distributor to receive the data for an unlimited number of Professional and Non-Professional Users.\(^\text{(17)}\) For example, if a recipient firm had 15,000 Professional Users who each receive BYX Top or BYX Last Sale at $2.00 per month, then that recipient firm will pay $30,000 per month in Professional Users fees. Under the proposed Enterprise Fee, the recipient firm will pay a flat fee of $10,000 for an unlimited number of Professional and Non-Professional Users for BYX Top or BYX Last Sale. A recipient firm must pay a separate Enterprise Fee for each External Distributor that controls display of BYX Top or BYX Last Sale if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. However, every six months, a recipient firm must provide the Exchange with a count of the total number of natural person users of each product, including both Professional and Non-Professional Users. Lastly, the proposed Enterprise Fee would be counted towards the Distributor Fee credit described above, under which an External Distributor receives a credit against its Distributor Fee equal to the amount of its monthly BYX Top or BYX Last Sale usage fees.

**Digital Media Enterprise Fee.** The Exchange proposes to adopt a Digital Media Enterprise Fee of $2,500 per month for BYX Top and BYX Last Sale.\(^\text{(18)}\) As an alternative to proposed User fees discussed above, a recipient firm may purchase a monthly Digital Media Enterprise license to receive BYX Top and BYX Last Sale from an External Distributor to distribute to an unlimited number of Professional and Non-Professional Users for viewing via television, Web sites, and mobile devices for informational and non-trading purposes only without having to account for the extent of access to the data or the report the number of Users to the Exchange. Lastly, the proposed Digital Media Enterprise Fee would be counted towards the Distributor Fee credit described above, under which an External Distributor receives a credit towards its Distributor Fee equal to the amount of its monthly BYX Top and/or BYX Last Sale usage fees.

**Non-Substantive, Corrective Changes**

The Exchange proposes to make a non-substantive change to the description of the BATS One Feed Enterprise Fee as well as correct a cross-reference within the definition of “Non-Professional User.”

First, the proposed change to the description of the BATS One Feed \(^\text{(19)}\) Enterprise Fee is intended to align with the description of the Enterprise Fees for their respective Top and Last Sale feeds. A vendor that wishes to create a product like the BATS One Summary Feed could subscribe to each of the BATS Exchanges’ Top and Last Sale feeds. See the Initial BATS One Feed Fee Filings, supra note 11 [sic]. Should a vendor subscribe to each of the BATS Exchanges’ Top and Last Sale feeds, it would be charged a total monthly Digital Media Enterprise Fee of $10,000. This amount is less than the Digital Media Enterprise Fee charged for the BATS One Summary Feed. See Securities Exchange Act Release Nos. 74598 (March 27, 2015), 80 FR 17791 (April 2, 2015) (SR–BATS–2015–24); 74600 (March 27, 2014), 80 FR 17804 (April 2, 2015) (SR–BATS–2015–14) (adopting a monthly Digital Media Enterprise Fee of $15,000 for the BATS One Summary Feed).

16 See the Initial BATS One Feed Fee Filings, supra note 11 [sic].

17 The Exchange notes that EDGA, EDGX and BZX also filed proposed rule changes with Commission to adopt Enterprise Fees for their respective Top and Last Sale market data product. See File Nos. SR–EDGA–2015–25; SR–EDGX–2015–28 and SR–BATS–2015–48 (proposing a monthly Enterprise Fee of $10,000 for EDGA Top and EDGA Last Sale and $15,000 for EDGX Top and Last Sale as well as BZX Top and Last Sale). A vendor that wishes to create a product like the BATS One Summary Feed could subscribe to each of the BATS Exchanges’ Top and Last Sale feeds. See the Initial BATS One Feed Fee Filings, supra note 11 [sic]. Should a vendor subscribe to each of the BATS Exchanges’ Top and Last Sale feeds, it would be charged a total monthly Enterprise Fee of $50,000. This amount is equal to, if not greater than the Enterprise Fee charged for the BYX Last Sale for the BATS One Summary Feed. Id. (adopting a monthly Enterprise Fee of $50,000 as well as a separate $1,000 per month Data Consolidation Fee for the BATS One Summary Feed).

18 The Exchange notes that EDGA, EDGX and BATS also filed proposed rule changes with Commission to adopt Enterprise Fee for their respective Top and Last Sale market data product. See File Nos. SR–EDGA–2015–25; SR–EDGX–2015–28 and SR–BATS–2015–48 (proposing a monthly Digital Media Enterprise Fee of $2,500 for their respective Top and Last Sale market data product. Notice of Amendments No. 1 and 2, to Establish a New Market Data Product called the BATS One Feed ("BATS One Approval Order")
for BYX Top and BYX Last Sale proposed above. The fee schedule currently states that:

[as an alternative to User fees, a recipient firm may purchase a monthly Enterprise license to receive the BATS One Feed from an External Distributor to an unlimited number of Professional and Non-Professional Users. A recipient firm must pay a separate Enterprise Fee for each External Distributor that controls the display of the BATS One Feed if it wishes such User to be covered by the Enterprise Fee. The Enterprise Fee is in addition to the Distributor Fee.

The Exchange proposes to delete the last sentence of the above description stating that the Enterprise Fee is in addition to the Distributor Fee. The original purpose of this sentence was to clarify that the Distributor Fee and Enterprise Fee were separate fees. However, the Exchange understands that this sentence has led to confusion for the following reason. As is the case for the proposed Enterprise Fees for BYX Top and BYX Last Sale described above, the BATS One Feed Enterprise Fee is counted towards the Distributor Fee credit, under which an External Distributor receives a credit towards its Distributor Fee equal to the amount of its monthly BATS One Feed Usage Fees. Stating that the Enterprise and Distributor fees were separate fees has caused confusion regarding the application of the Distributor Fee Usage Fee credit.

Therefore, the Exchange proposes to delete the last sentence stating that the Enterprise Fee is in addition to the Distributor Fee. Deleting this sentence does not alter the manner in which the Enterprise Fee is charged. Rather, it is intended to avoid confusion and align the description with that of the proposed Enterprise Fees for BYX Top and BYX Last Sale described above.

Second, the Exchange proposes to correct a cross-reference within the definition of “Non-Professional User”. In part, a “Non-Professional User” is currently defined as “a natural person who is not: . . . engaged as an “investment adviser” as that term is defined in Section 201(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act) . . . “. The definition incorrectly states that the term “investment adviser” is defined under Section 201(11) of the Investment Advisers Act of 1940, when in fact, defined under Section 202(a)(11) of the Investment Advisers Act of 1940.

Therefore, the Exchange proposes to replace the reference to Section 201(11) with Section 202(a)(11) within the definition of Non-Professional User.
User Fees. The Exchange believes that implementing the Professional and Non-Professional User fees for BYX Top and BYX Last Sale is equitable and reasonable because it will result in greater availability to Professional and Non-Professional Users. Moreover, introducing a modest Non-Professional User fee for BYX Top and BYX Last Sale is reasonable because it provides an additional method for retail investors to access BYX Top and BYX Last Sale data by providing the same data that is available to Professional Users. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The fee structure of differentiated Professional and Non-Professional fees is utilized by the Exchange for the BATS One Feed and has long been used by other exchanges for their proprietary data products, and by the Nasdaq UTP and the CTA and CQ Plans in order to reduce the price of data to retail investors and make it more broadly available.\footnote{See the Initial BATS One Feed Fee Filings, supra note 24. See also Securities Exchange Act Release No. 73816 (December 17, 2014) (SR-NYSE-2014-64) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish an Access Fee for the NYSE Best Quote and Trades Data Feed, Operative December 1, 2014).} Offering BYX Top and BYX Last Sale to Non-Professional Users with the same data available to Professional Users results in greater equity among data recipients.

In addition, the proposed fees are reasonable when compared to similar fees for comparable products offered by the NYSE. Specifically, NYSE offers NYSE BBO, which includes best bid and offer for NYSE traded securities, for a monthly fee of $4.00 per professional subscriber and $0.20 per non-professional subscriber.\footnote{See the Initial BATS One Feed Fee Filings, supra note 24. See also Securities Exchange Act Release No. 73816 (December 17, 2014) (SR-NYSE-2014-64) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish an Access Fee for the NYSE Best Quote and Trades Data Feed, Operative December 1, 2014).} NYSE also offers NYSE Trades, which is a data feed that provides the last sale information for NYSE traded securities, for the same price as NYSE BBO. The Exchange’s proposed per User Fees for BYX Top and BYX Last Sale are less than the NYSE’s fees for NYSE Trades and NYSE BBO.

Enterprise Fee. The proposed Enterprise Fee for BYX Top and BYX Last Sale are equitable and reasonable as the fees proposed are less than the enterprise fees currently charged for NYSE Trades and NYSE BBO. The NYSE charges a separate enterprise fee of $190,000 per month for NYSE Trades and NYSE BBO.\footnote{See Nasdaq Rule 7039(b).} In addition, the Enterprise Fee proposed by the Exchange could result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm has a smaller number of Professional Users of BYX Top or BYX Last Sale, then it may continue using the per User structure and benefit from the per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute the BYX Top or BYX Last Sale, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count natural person users every six months, which is a significant reduction in administrative burden. Finally, the Exchange believes that it is equitable and not unfairly discriminatory to establish an Enterprise Fee because it reduces the Exchange’s costs and the Distributor’s administrative burdens in tracking and auditing large numbers of Users.

Digital Media Enterprise Fee. The proposed Digital Media Enterprise Fee for BYX Top and BYX Last Sale provides for an equitable allocation of reasonable fees among recipients of the data and is not designed to permit unfair discrimination among customers, brokers, or dealers. In establishing the Digital Media Enterprise Fee, the Exchange recognizes that there is demand for a more seamless and easier-to-administer data distribution model that takes into account the expanded variety of media and communication devices that investors utilize today. The Exchange believes the Digital Media Enterprise Fee will be easy to administer because data recipients that purchase it would not be required to differentiate between Professional and Non-Professional Users, account for the extent of access to the data, or report the number of Users. This is a significant reduction in a recipient firm’s administrative burdens and is a significant value to investors. For example, a television broadcaster could display BYX Top and/or BYX Last Sale data during market-related programming and on its Web site or allow viewers to view the data via their mobile devices, creating a more seamless distribution model that will allow investors more choice in how they receive and view market data, all without having to account for and/or measure who accesses the data and how often they do so.

The proposed Digital Media Enterprise Fee is equitable and reasonable because it will also enable recipient firms to more widely distribute data from BYX Top and BYX Last Sale to investors for informational purposes at a lower cost than is available today. For example, a recipient firm may purchase an Enterprise license in the amount of $10,000 per month for to receive BYX Top and/or BYX Last Sale from an External Distributor for an unlimited number of Professional and Non-Professional Users, which is greater than the proposed Digital Media Enterprise Fee. The Exchange also believes the amount of the Digital Media Enterprise Fee is reasonable as compared to the existing enterprise fees discussed above because the distribution of BYX Top and BYX Last Sale data is limited to television, Web sites, and mobile devices for informational purposes only, while distribution of BYX Top and BYX Last Sale data pursuant to an Enterprise license contains no such limitation. The Exchange also believes that the proposed Digital Media Enterprise Fee is equitable and reasonable because it is less than similar fees charged by other exchanges.\footnote{The Nasdaq Stock Market offers proprietary data products for distribution over the internet and television under alternative fee schedules that are subject to maximum fee of $50,000 per month. See Nasdaq Rule 7039(b). The NYSE charges a Digit Media Enterprise fee of $40,000 per month for the NYSE Trade Digital Media product. See Securities Exchange Act Release No. 69272 (April 2, 2013), 78 FR 20983 (April 8, 2013) (SR-NYSE-2013-23).}
of reasonable fees among recipients of the data and is not designed to permit unfair discrimination among customers, brokers, or dealers. These proposed changes are equitable and reasonable because the changes are designed to clarify the fee schedule and avoid potential investor confusion. The amendment to the BATS One Enterprise Fee is also intended to align the description with that of the proposed Enterprise Fees for BYX Top and BYX Last Sale described above. The proposed changes are also non-discriminatory as they would apply to all recipient firms uniformly.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. BYX Top and BYX Last Sale

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange’s ability to price BYX Last Sale and BYX Top are constrained by: (i) Competition among exchanges, other trading platforms, and Trade Reporting Facilities (“TRF”) that compete with each other in a variety of dimensions; (ii) the existence of inexpensive real-time consolidated data and market-specific data and free delayed data; and (iii) the inherent contestability of the market for proprietary data.

The Exchange and its market data products are subject to significant competitive forces and the proposed fees represent responses to that competition. To start, the Exchange competes intensely for order flow. It competes with the other national securities exchanges that currently trade equities, with electronic communication networks, with quoted posted in FINRA’s Alternative Display Facility, with alternative trading systems, and with securities firms that primarily trade as principal with their customer order flow.

In addition, BYX Last Sale and BYX Top compete with a number of alternative products. For instance, BYX Last Sale and BYX Top do not provide a complete picture of all trading activity in a security. Rather, the other national securities exchanges, the several TRFs of FINRA, and Electronic Communication Networks (“ECN”) that produce proprietary data all produce trades and trade reports. Each is currently permitted to produce last sale information products, and many currently do, including Nasdaq and NYSE. In addition, market participants can gain access to BYX last sale prices and top-of-book quotations, though integrated with the prices of other markets, on feeds made available through the SIPs.

In sum, the availability of a variety of alternative sources of information imposes significant competitive pressures on Exchange data products and the Exchange’s compelling need to attract order flow imposes significant competitive pressure on the Exchange to act equitably, fairly, and reasonably in setting the proposed data product fees. The proposed data product fees are, in part, responses to that pressure. The Exchange believes that the proposed fees would reflect an equitable allocation of its overall costs to users of its facilities.

In addition, when establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all Users. The existence of alternatives to BYX Last Sale and BYX Top, including existing similar feeds by other exchanges, consolidated data, and proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

Non-Substantive, Corrective Changes

The proposed non-substantive, corrective changes to the fee schedule will not have any impact on completion. The proposed changes are designed to clarify the fee schedule and avoid potential investor confusion.

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 Act31 and paragraph (f) of Rule 19b–4 thereunder.32 At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission’s Internet comment form (http://www.sec.gov/rules/sro.shtml);
• Send an email to rule-comments@sec.gov. Please include File Number SR-BYX-2015-30 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. All submissions should refer to File Number SR-BYX–2015–30. This file number should be included on the subject line if email 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 Web site (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 Web site 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 also will be available for

SECONdARY BUSINESS

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; NASDAQ OMX PHXL LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to SPY Position Limits

July 9, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), and Rule 19b–4 thereunder, notice is hereby given that on July 8, 2015, NASDAQ OMX PHXL LLC (“PHXL” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 the Substance of the Proposed Rule Change

The Exchange proposes to extend for another twelve (12) month time period the pilot program to eliminate position limits for options on the SPDR® S&P 500® exchange-traded fund (“SPY ETF” or “SPY”), which list and trade under the symbol SPY (“SPY Pilot Program”). The text of the proposed rule change is available on the Exchange’s Web site at http://nasdaqomxphlx.chcwallstreet.com/, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement Concerning 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 aspects 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 rule change is to amend Rule 1001, entitled “Position Limits,” to extend the current pilot, which expires on July 12, 2015 for an additional twelve (12) month time period to July 12, 2016 (“Extended Pilot”). This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits; (2) the liquidity of the option and the underlying security; (3) the market capitalization of the underlying security and the related index; (4) the reporting of large positions and requirements surrounding margin; and (5) the potential for market on close volatility. The Exchange submitted a report to the Commission on June 11, 2015, which report reflects, during the time period from December 2014 through May 2015, the trading of standardized SPY options with no position limits consistent with option exchange provisions. The report was prepared in the manner specified in Phlx’s prior filing extending the SPY Pilot Program. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. The proposed extension will allow the Exchange and the Commission additional time to further evaluate the pilot program and its effect on the market.

As with the original proposal, related to the SPY Pilot Program, the Exchange represents that a Pilot Report will be submitted at least thirty (30) days before the end of the Extended Pilot and would analyze that period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the Extended Pilot. The Pilot Report will


3 The report is attached as Exhibit 3.