given to a simpler rule in which more
onus is placed on the dealer that fails to
deliver the securities by forcing those
dealers to take responsibility for
resolving the short, even suggesting the
seller break the trade or resolve a fail
through a buy-back. Currently the rule
places more emphasis on the buyer,
allowing the buyer to control the
execution and agree to the terms of the
close-out in the event the seller does not
resolve the fail. SIFMA noted that it is
not uncommon for dealers to simply
allow the delivery deadline to pass,
thereby forcing the buyers to do all the
“heavy lifting.” In response to this
comment the proposed rule change
would amend Rule G–12(b)(3)(D) to
specifically address “seller’s
responsibilities,” which will further
clarify that the seller is expected to use
its best efforts to locate the securities
referred to in the notice. Currently, the
Manual on Close-out Procedures
interprets any change in market price as
attributable to the seller. The proposed
amendments would further clarify that
any financial burden as the result of the
purchaser effecting a “buy-in” is borne
by the seller, but any benefit remains
with the purchaser.

Guidance for Customer Accounts

SIFMA would like guidance on how
to close-out a short position that results
from an inter-dealer fail when that
position is in a customer’s self-directed
account where the dealer may not have
the discretion to sell or cancel a position
in that account or purchase a
comparable security for that account.
The MSRB believes the guidance
requested by SIFMA is outside the
scope of the Request for Comments
because the proposal does not impose
an obligation on dealers to effect
transactions in customer accounts in
order to resolve inter-dealer fails and
should a customer want to retain a
position that effectively requires a
dealer to pay substitute interest, that
issue is one outside the scope of MSRB
rules.

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

Within 45 days of the date of
publication of this notice in the Federal
Register or within such longer period of
up to 90 days (i) as the Commission may
designate if it finds such longer period
to be appropriate and publishes its
reasons for so finding or (ii) as to which
the self-regulatory organization
consents, the Commission will:

(A) By order approve or disapprove
such proposed rule change, or

(B) institute proceedings to determine
whether the proposed rule change
should be 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:

Electronic Comments

• Use the Commission’s Internet
comment form (http://www.sec.gov/
rules/sro.shtml); or

• Send an email to rule-comments@
sec.gov. Please include File Number SR–
MSRB–2016–07 on the subject line.

Paper Comments

• Send paper comments in triplicate
to Secretary, Securities and Exchange
Commission, 100 F Street NE.,
Washington, DC 20549.

All submissions should refer to File
Number SR–MSRB–2016–07. 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 the
filing also will be available for
inspection and copying at the principal
office of the MSRB. 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–MSRB–
2016–07 and should be submitted on or
before June 22, 2016.

SECURITIES AND EXCHANGE
COMMISSION

[Release No. 34–77911; File No. SR–
NYSEMKT–2016–42]

Self-Regulatory Organizations; NYSE
MKT LLC; Notice of Designation of
Longer Period for Commission Action
on Proposed Rule Change To Amend
Rule 952NY With Respect to Opening
Trading in an Options Series

May 25, 2016.

On March 23, 2016, NYSE MKT LLC
(“Exchange”) filed with the Securities
and Exchange Commission
(“Commission”), pursuant to Section
19(b)(1) of the Securities Exchange Act
of 1934 (“Act”) 1 and Rule 19b–4
thereunder, 2 a proposed rule change to
amend the Exchange’s process for
opening trading in an options series.
The proposed rule change was
published for comment in the Federal
Register on April 12, 2016.3 The
Commission has received no comment
letters on the proposal.

Section 19(b)(2) of the Act 4 provides
that within 45 days of the publication of
notice of the filing of a proposed rule
change, or within such longer period up
to 90 days as the Commission may
designate if it finds such longer period
to be appropriate and publishes its
reasons for so finding or as to which the
self-regulatory organization consents,
the Commission shall either approve the
proposed rule change, disapprove the
proposed rule change, or institute
proceedings to determine whether these
proposed rule changes should be
disapproved. The 45th day for this filing
is May 27, 2016.

The Commission is extending the 45-
day period for Commission action on
the proposed rule change. The
Commission finds that it is appropriate
to designate a longer period within
which to take action on the proposed
rule change so that it has sufficient
time to consider and take action on the
Exchange’s proposed rule change.

Accordingly, pursuant to Section
19(b)(2)(A)(ii)(I) of the Act 5 and for the


SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77919; File No. SR–BatsBYX–2016–09]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.23, Opening Process

May 25, 2016.

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 May 20, 2016, Bats BYX Exchange, Inc. (the “Exchange” or “BYX”) 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 Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder, which renders it 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 Rule 11.23, Opening Process, to await a two-sided quotation from the listing exchange prior to opening a security for trading during Regular Trading Hours.

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 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 Rule 11.23, Opening Process, to await a two-sided quotation from the listing exchange prior to opening a security for trading during Regular Trading Hours. Exchange Rule 11.23 describes the Exchange’s current opening process. Subparagraph (a) to Rule 11.23 states that prior to the beginning of the Regular Trading Hours, Users who wish to participate in the Opening Process may enter orders to buy or sell. Subparagraph (a)(2) to Rule 11.23 provides that, with certain exceptions, all orders with a time-in-force instruction of Regular Hours Only may participate in the Opening Process. Subparagraph (b) to Rule 11.23 states that the Exchange will open by performing the Opening Process in which the System will attempt to match buy and sell orders that are executable at the midpoint of the National Best Bid and Offer (“NBBO”). Subparagraph (c) to Exchange Rule 11.23 sets forth the process by which the System sets the opening price of the Opening Process.

Current rules 5 set the price of the Opening Process at the midpoint of the first NBBO after 9:30:00 a.m. Eastern Time. However, for securities listed on either the New York Stock Exchange, Inc. (“NYSE”) or NYSE MKT LLC (“NYSE MKT”), the System currently sets the price of the Opening Process at the midpoint of the first NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time. The Exchange may alternatively set the price of the Opening Process for securities listed on either the NYSE or NYSE MKT at the midpoint of the then prevailing NBBO when the first two-sided quotation published by the relevant listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. The System waits to set the price at the midpoint of the first NBBO as set forth above because securities listed on the NYSE or NYSE MKT may not open at precisely 9:30:00 a.m. Eastern Time.

Pursuant to subparagraph (b) of Rule 11.23, all orders executable at the midpoint of the NBBO will continue to be processed in time sequence, beginning with the order with the oldest time stamp. Matches occur until there are no remaining contra-side orders or there is an imbalance of orders. An imbalance of orders may result in orders that cannot be executed in whole or in part. Any unexecuted orders may then be placed by the System on the BYX Book, 6 cancelled, executed, or routed to away Trading Centers in accordance with the Users’ instructions pursuant to Exchange Rule 11.13(a)(2).

The Exchange proposes to amend subparagraph (c) to Rule 11.23 to now await a two-sided quotation from the listing exchange prior to opening a security for trading during Regular Trading Hours. As amended, subparagraph (c)(2) to Rule 11.23 would state that the System would set the price of the Opening Process at the midpoint of the first NBBO subsequent to the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time. For securities listed on either the NYSE or NYSE MKT, subparagraph (c)(2)(i) to Rule 11.23 would state that the System would set the price of the Opening Process at the midpoint of the first NBBO subsequent to the first reported trade and first

10 See Exchange Rule 1.5(aa).
11 The term “BYX Book” is defined as “the System’s electronic file of orders.” See Exchange Rule 1.5(e).