

#### IV. Proceedings To Determine Whether To Approve or Disapprove SR-DTC-2016-003, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>52</sup> to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change, and provide arguments to support the Commission's analysis as to whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>53</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder. Specifically, the Commission believes that DTC's proposed rule change raises questions as to whether it is consistent with: (i) Section 17A(b)(3)(F) of the Act,<sup>54</sup> which requires, in part, that clearing agency rules be designed to assure the safeguarding of securities in the custody or control of the clearing agency and, in general, protect investors and the public interest; and (ii) Section 17A(b)(3)(H) of the Act,<sup>55</sup> which requires clearing agency rules to be in accordance with the provisions of Section 17A(b)(5)(B) of the Act, and, in general, provide a fair procedure with respect to the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency.<sup>56</sup> Section 17A(b)(5)(B) of the Act<sup>57</sup> requires that, in any proceeding by a registered clearing agency to determine whether a person shall be denied participation or prohibited or limited with respect to access to services offered by the clearing agency, the clearing agency shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for denial or prohibition or limitation

under consideration and keep a record.<sup>58</sup> A determination by the clearing agency to deny participation or prohibit or limit a person with respect to access to services offered by the clearing agency shall be supported by a statement setting forth the specific grounds on which the denial or prohibition or limitation is based.<sup>59</sup>

#### V. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the changes to the proposed rule change as set forth in Amendment No. 1, as well as any others they may have identified with the proposed rule change, as amended. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with Sections 17A(b)(3)(F) and 17A(b)(3)(H) of the Act, or any other provision of the Act, or the rules and regulations thereunder.

Interested persons are invited to submit written data, views, and arguments on or before October 3, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal on or before October 17, 2016. 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](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2016-003 on the subject line.

##### *Paper Statements*

- 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-DTC-2016-003. 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 DTC and on DTCC's Web site (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-DTC-2016-003 and should be submitted on or before October 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>60</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78770; File No. SR-NYSEArca-2016-101]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to the Listing and Trading of Shares of SolidX Bitcoin Trust Under NYSE Arca Equities Rule 8.201

September 6, 2016.

On July 13, 2016, NYSE Arca, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares of the SolidX Bitcoin Trust under NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on August 2, 2016.<sup>3</sup> The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication

<sup>52</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>53</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>54</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>55</sup> 15 U.S.C. 78q-1(b)(3)(H).

<sup>56</sup> 15 U.S.C. 78q-1(b)(3)(H).

<sup>57</sup> 15 U.S.C. 78q-1(b)(5)(B).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 78426 (Jul. 27, 2016), 81 FR 50763.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

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 the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 16, 2016. The Commission is extending this 45-day time period.

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 the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates October 31, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-NYSEArca-2016-101).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78771; File No. SR-BatsEDGX-2016-49]

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

September 6, 2016.

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 August 22, 2016, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at [www.batstrading.com](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 Exchange proposes to amend its marketing fee program to institute a monthly cap of \$250,000 on undisbursed funds and reimburse excess funds on a pro-rata basis, as further described below.

The Exchange assesses a marketing fee to all Market Makers for contracts they execute in their assigned classes when the contra-party to the execution is a Customer.<sup>6</sup> The marketing fee is

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

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

<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

<sup>6</sup> The amount of the marketing fee depends upon whether the affected option class is a Penny Pilot Security. A marketing fee of \$0.25 per contract is assessed to Market Makers for transactions in Penny

charged only in a Market Maker's assigned classes because it is in these classes that the Market Maker has the general obligation to attract order flow to the Exchange. Each Primary Market Maker ("PMM")<sup>7</sup> and Directed Market Maker ("DMM")<sup>8</sup> has a marketing fee pool into which the Exchange will deposit the applicable per-contract marketing fee. For orders directed to DMMs, the applicable marketing fees are allocated to the DMM pool. For non-directed orders, the applicable marketing fees are allocated to the PMM pool. All Market Makers that participated in such transaction will pay the applicable marketing fees to the Exchange, which allocates such funds to the Market Maker that controls the distribution of the marketing fee pool. Each month the Market Maker provides instruction to the Exchange describing how the Exchange is to distribute the marketing fees in the pool to the order flow provider, who submit as agent, Customer orders to the Exchange.

The Exchange proposes to now require that the total balance of the undisbursed marketing fees for a PMM pool and DMM pool cannot exceed \$250,000. When the pool balance exceeds this threshold level, the Exchange will rebate funds proportionately to those who have paid the marketing fee during the preceding month. Today, undisbursed marketing fees are reimbursed to the Market Makers that contributed to the pool based upon their pro-rata portion of the entire amount of marketing fee collected. As proposed, each month, undisbursed marketing fees in excess of \$250,000 will be reimbursed to the Market Makers that contributed to the pool based upon a one month look back and their pro-rata portion of the entire amount of marketing fee collected during that month. The Exchange will closely monitor the levels of the cap to ensure that there are adequate funds available to Market Makers to be competitive. The Exchange believes the proposed cap and reimbursement process would assist Market Makers in better managing their respective marketing fee pools and incentivize them to allocate those funds to order flow providers accordingly on a monthly basis.

Pilot Securities. A Marketing Fee of \$0.70 per contract is assessed to Market Makers for transactions in Non-Penny Pilot Securities. A list of option classes included in the Penny Pilot Program is available on the Exchange's Web site.

<sup>7</sup> See Exchange Rule 21.8(g).

<sup>8</sup> See Exchange Rule 21.8(f).

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

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