

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-2016-013 and should be submitted on or before December 9, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79306; File No. SR-BatsEDGX-2016-63]

### 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.

November 14, 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 November 1, 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 EDGA 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose Fee Code Z

The Exchange proposes to increase the fee for orders yielding fee code Z, which is yielded on orders routed to a non-exchange destination using ROUZ<sup>6</sup> routing strategy, from \$0.00100 to \$0.00120 per share for securities priced at or above \$1.00. The Exchange does not propose to amend the rate for orders

yielding fee code Z in securities priced below \$1.00.

###### Fee Code O

The Exchange also proposes to amend footnote 5 of its Fee Schedule to increase the fee cap for orders yielding fee code O from \$20,000 to \$35,000 per month per Member. Fee code O is appended to orders that are touted to participate in the listing market's opening or re-opening cross and are charged a fee of \$0.00100 per share for orders in securities priced at or above \$1.00 and 0.30% of the transaction dollar value for securities priced below \$1.00. When the Exchange routes to a listing exchange's opening cross, such as the Nasdaq Stock Market LLC ("Nasdaq"), the Exchange passes through the tier saving that Bats Trading, Inc. ("Bats Trading"), the Exchange's routing broker-dealer, achieves on an away exchange to its Members. This tier savings takes the form of a cap of Member's fees at \$20,000 per month for using fee code O. The proposed increase in the fee cap under footnote 5 is in response to the September 2016 fee cap change by Nasdaq for orders that participate in their opening cross processes.<sup>7</sup> Nasdaq's September 2016 fee cap increase requires that members add, at a minimum, one million shares of liquidity to Nasdaq, on average per day, during the month to be eligible for its existing fee cap of \$35,000 for orders that participate in the opening cross. When Bats Trading routes to Nasdaq's opening cross, it will now be subject to the increase fee cap and new tier requirement. The proposed increase to the fee cap under footnote 5 would enable the Exchange to equitably allocate its costs among all Members utilizing fee code O. Therefore, the Exchange proposes to amend footnote 5 to increase the fee cap for orders yielding fee code O from \$20,000 to \$35,000 per month per Member in response to Nasdaq's September 2016 increased fee cap and related requirements.

###### Implementation Date

The Exchange proposes to implement this amendment to its Fee Schedule November 1, 2016.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

<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> See Exchange Rule 11.11(g)(3).

<sup>7</sup> See Securities Exchange Act Release No. 78977 (September 29, 2016), 81 FR 691140 [sic] (October 5, 2016) (SR-Nasdaq-2016-132) (increasing the fee cap for orders executed in its opening cross from \$30,000 to \$35,000).

<sup>26</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.

the objectives of Section 6 of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>9</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

#### Fee Code Z

The Exchange believes that its proposal to increase the fee for orders routed to a non-exchange destination that yield fee code Z represents an equitable allocation of reasonable dues, fees, and other charges among Members and other person using its facilities in that they are designed in part to cover the costs of routing. While Members that route to a non-exchange destination using ROUZ routing strategy will be paying higher fees due to the proposal, the increased revenue received by the Exchange will be used to fund the Exchange generally, including the cost of maintaining and improving the technology used to handle and route orders from the Exchange as well as programs that the Exchange believes help to attract additional liquidity and thus improve the depth of liquidity available on the Exchange. Accordingly, although the cost of routing is increasing, the Exchange believes that the increase is a modest increase and that higher routing fees will benefit Members in other ways. Furthermore, the Exchange notes that routing through the Exchange is voluntary. Lastly the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

#### Fee Code O

The Exchange believes that its proposal to amend footnote 5 to increase the fee cap for orders yielding fee code O from \$20,000 to \$35,000 per month per Member represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. The proposed increase in the fee cap under footnote 5 is in response to September 2016 fee cap increase by Nasdaq for orders that participate in their opening cross process. Prior to Nasdaq's September 2016 fee cap increase, Nasdaq capped Bats Trading monthly fees for participating in its opening cross at \$30,000. Nasdaq capped Bats Trading monthly fees for participating in its opening cross at \$30,000. Nasdaq has now increased that cap to \$35,000.<sup>10</sup> The proposed increase to the fee cap

under footnote 5 would enable the Exchange to equitably allocate its costs among all Member who utilize fee code O. Therefore, the Exchange believes that the proposed change to footnote 5 is equitable and reasonable because it accounts for the increased Nasdaq fee cap, which enables the Exchange to apply to its Member similar fee caps. The Exchange notes that routing through Bats Trading is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or from pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal would not burden intramarket competition because the proposed rates would apply uniformly to all Members.

#### C. 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.

#### 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>11</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>12</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

investors, or otherwise in furtherance of the purposes of the Act.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-BatsEDGX-2016-63 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-BatsEDGX-2016-63. 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 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-BatsEDGX-2016-63, and should be submitted on or before December 9, 2016.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> See *supra* note 7.

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

<sup>12</sup> 17 CFR 240.19b-4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Brent J. Fields,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79297; File No. SR-DTC-2016-012]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the DTC Settlement Service Guide With Respect to Settlement Instructions Provided to DTC by Matching Utilities

November 14, 2016.

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> notice is hereby given that on November 3, 2016, The Depository Trust Company (“DTC”) 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 clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(4)<sup>4</sup> thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by DTC would make technical and clarifying changes to text in the DTC Settlement Service Guide (“Guide”)<sup>5</sup> with respect to settlement instructions provided to DTC by Matching Utilities (as defined below) on behalf of Participants.<sup>6</sup>

#### II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### (A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

DTC may accept eligible affirmed institutional transactions (“Institutional Transactions”)<sup>7</sup> from an entity providing a matching service<sup>8</sup> (“Matching Utility”) that is (i) a clearing agency registered pursuant to Section 17A of the Act, (ii) an entity that has obtained an exemption from such registration from the Commission, or (iii) a “qualified vendor” for trade confirmation/affirmation services as defined by the rules of a self-regulatory organization.<sup>9</sup> In addition, a Matching Utility must establish a connection to DTC in accordance with DTC’s reasonable requirements in order to be able to submit Affirmed Transactions.

Currently, Omgeo Global Joint Venture Matching Services—US, LLC (hereinafter “Omgeo”)<sup>10</sup> is the only Matching Utility that has established a connection with DTC. This is reflected in the text of the Guide which contains specific references to Omgeo with respect to DTC functions that are

<sup>7</sup> An Institutional Transaction is a securities transaction between a broker-dealer and its institutional customer (e.g., sell-side firms, buy-side institutions, and custodians).

<sup>8</sup> A matching service is an electronic service by which an intermediary matches (i.e., reconciles) trade information from the counterparties to an Institutional Transaction, to generate an affirmed transaction (“Affirmed Transaction”) which is then used to provide settlement instructions for the Affirmed Transactions to the central securities depository, such as DTC, at which the Affirmed Transaction settles.

<sup>9</sup> See Securities Exchange Act Release No. 39829 (April 6, 1998), 63 FR 17943 (April 13, 1998) at 17946 (providing interpretive guidance on types of entities that may provide a matching service).

<sup>10</sup> See [sic] Securities Exchange Act Release No. 44188 (April 17, 2001), 66 FR 20494 (April 23, 2001) (600-31) for the order of the Commission granting Omgeo an exemption from registration as a clearing agency. Omgeo is a global provider of post-trade, pre-settlement processing services for the institutional market.

accessible to any Matching Utility that satisfies the connection requirements.

The Commission recently approved two applications by two separate entities, for exemption from registration as a Clearing Agency to provide post-trade matching services for fixed income and equity trades (“Approved Exemptions”).<sup>11</sup> According to the Commission’s notice of the Approved Exemptions, these entities each indicated an intention to offer matching services that connect to DTC for settlement.<sup>12</sup>

DTC proposes to revise the Guide to generalize references to Matching Utilities and make other changes, as set forth below.

First, DTC would replace specific references to Omgeo in sections describing procedures for the ID Net Service (“ID Net”) and Shareholder Tracking Service to refer to a “Matching Utility” and delete provisions referencing to Omgeo by name.<sup>13</sup>

Second, text in the ID Net section of the Guide regarding DTC’s acceptance of affirmed institutional transactions from Matching Utilities would be moved to a new section describing Affirmed Transactions more generally. The proposed new section would incorporate the definition of Affirmed Transactions, and expressly state DTC’s current requirement that in order for a Matching Utility to establish and maintain a connection with DTC the Matching Utility must be able to balance with DTC in an automated way<sup>14</sup> and

<sup>11</sup> Securities Exchange Act Release No. 76514 (November 24, 2015), 80 FR 75387 (December 1, 2015) (600-33, 600-34) (Bloomberg STP LLC; SS&C Technologies, Inc.; Order of the Commission Approving Applications for an Exemption from Registration as a Clearing Agency; Notice).

<sup>12</sup> *Id.*

<sup>13</sup> In this regard, the term Matching Utility would be defined in the Guide reflecting the definition provided above in this Form 19b-4. The Commission notes that Form 19b-4 is attached to the filing, not to this Notice. The definition of Affirming Agency which appears in the ID Net section of the Guide and is the functional equivalent of the definition of Matching Utility as it relates to ID Net would be removed. Consistent with this change, references in the Guide to the term Affirming Agency would be replaced to use the term Matching Utility.

<sup>14</sup> For each Matching Utility interfacing with DTC, DTC would require the Matching Utility to deliver a daily message on each business day shortly after noon from the Matching Utility with their accepted item counts of institutional delivery and ID Net (defined below) transaction totals for Settlement Date minus one transactions. DTC’s system would compare the totals from the Matching Utility to its accepted item counts. If the totals match, an “acknowledged balance” balance file would be sent to the Matching Utility. If the totals do not match, DTC would respond with the list of Settlement Date minus one control numbers received from the Matching Utility, along with their respective transaction types for the originating Matching Utility to compare.

<sup>13</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> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> Available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.pdf>.

<sup>6</sup> Capitalized Terms not otherwise defined herein have the meaning set forth in the DTC Rules, By-laws and Organization Certificate (“DTC Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>, and the Guide, *supra* note 5.