

CUBE Pilot permanent would continue to foster competition among liquidity providers and maintain execution quality on the Exchange. The CUBE Auction for small orders, as modified herein, would continue to operate to create tighter markets and ensure that each order receives the best possible price, which benefits investors by increasing competition thereby maximizing opportunities for price improvement.

The Exchange notes that it operates in a highly competitive market in which market participants can easily direct their orders to competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**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 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 the 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2016-120 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-NYSEMKT-2016-120. 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-NYSEMKT-2016-120 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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<sup>21</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-79603; File No. SR-BatsBYX-2016-41]

**Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.9, Orders and Modifiers, and Rule 11.13, Order Execution and Routing, To Enhance the Exchange's Midpoint Routing Functionality**

December 19, 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 December 16, 2016, Bats BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission (the "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 this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> 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 the Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend Rule 11.9, Orders and Modifiers, and Rule 11.13, Order Execution and Routing, to enhance the Exchange's midpoint routing functionality.

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.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

<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)(6)(iii).

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 11.9, Orders and Modifiers, and Rule 11.13, Order Execution and Routing, to enhance the Exchange's midpoint routing functionality. Specifically, the Exchange proposes to amend Rule 11.13(b)(3)(Q) to adopt a new midpoint routing strategy known as RMPL. The Exchange also proposes to amend Rule 11.9(c)(9) to expand the routing strategies that Mid-Point Peg Orders may be coupled with to include the Destination Specific routing strategy described under Rule 11.13(b)(3)(E) and the proposed RMPL routing strategy described below.

RMPL Routing Strategy

The Exchange proposes to amend Rule 11.13(b)(3)(Q) to adopt a new midpoint routing strategy known as RMPL. Currently, the Exchange offers the RMPT routing strategy, which is described under Rule 11.13(b)(3)(Q). RMPT is a routing strategy under which a Mid-Point Peg Order<sup>5</sup> checks the System<sup>6</sup> for available shares and any remaining shares are then sent to destinations on the System routing table<sup>7</sup> that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the BYX Book<sup>8</sup> as a Mid-Point Peg Order,

<sup>5</sup> In sum, a Mid-Point Peg Order is a limit order that after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order. See Exchange Rule 11.9(c)(9).

<sup>6</sup> The term "System" is defined as "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away." See Exchange Rule 1.5(aa).

<sup>7</sup> The term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. See Exchange Rule 11.13(b)(3). While the process for determining the specific trading venues to which orders are routed is proprietary, the Exchange publicly discloses the trading venues associated with each routing strategy via its Web site at [http://cdn.batstrading.com/resources/features/bats\\_exchange\\_routing-strategies.pdf](http://cdn.batstrading.com/resources/features/bats_exchange_routing-strategies.pdf).

<sup>8</sup> The term "BYX Book" is defined as the "System's electronic file of orders." See Exchange Rule 1.5(e).

unless otherwise instructed by the User.<sup>9</sup>

The Exchange now proposes RMPL as an alternative to the RMPT routing strategy for those seeking to route Mid-Point Peg Orders to destinations that support midpoint eligible executions that are not included under the current RMPT routing strategy. Like RMPT, RMPL would be a routing strategy under which a Mid-Point Peg Order checks the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the BYX Book as a Mid-Point Peg Order, unless otherwise instructed by the User. As it does for RMPT, the Exchange would determine via the System routing table the specific trading venues that support midpoint eligible orders to which the System would route RMPL orders. While RMPL will operate in an identical manner as RMPT, the trading venues that each routing strategy would route to and the order in which it routes them will differ. As is the case for RMPT, the Exchange may alter the trading venues included under RMPL and the order in which they are routed to from time to time in accordance with its System routing table.<sup>10</sup>

The Exchange proposes to revise Rule 11.13(b)(3)(Q) to describe both the RMPT and proposed RMPL routing strategies. As a result of these revision, the construct of paragraph (b)(3)(Q) of Rule 11.13 would be similar to paragraph (b)(3)(G) of Rule 11.13, which also delineates routing strategies that include different sets of destinations as determined by the System routing table.

Mid-Point Peg Order Routing

The Exchange also proposes to amend Rule 11.9(c)(9) to expand the routing strategies that Mid-Point Peg Orders may be coupled with. Currently, Exchange Rule 11.9(c)(9) states that Mid-Point Peg Orders are not eligible for routing pursuant to Rule 11.13 unless routed utilizing the RMPT routing

<sup>9</sup> The term "User" is defined as "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3." See Exchange Rule 1.5(cc).

<sup>10</sup> The Exchange notes that the trading venues to which other of its routing strategies route orders to are also determined in accordance with the System routing table. See e.g., Exchange Rule 11.13(b)(3)(C) (listing a series of routing options whose destinations are determined by the System routing table, like the proposed revisions to Exchange Rule 11.13(b)(3)(Q)). See also subparagraphs (A), (B), (C), (D) and (I) of Exchange Rule 11.9(b)(3) [sic] (describing routing strategies that route orders to destinations on the System routing table).

strategy.<sup>11</sup> The Exchange now proposes to amend Rule 11.9(c)(9) to expand the routing strategies that Mid-Point Peg Orders may be coupled with to include the Destination Specific routing strategy described under Rule 11.13(b)(3)(E) and the proposed RMPL routing strategy described above.

Destination Specific is a routing option under which an order checks the System for available shares and then is sent to an away trading center or centers specified by the User.<sup>12</sup> As proposed, a User entering a Mid-Point Peg Order may select the Destination Specific routing strategy to route such order to a specific trading center or center that supports midpoint executions after being exposed to the BYX Book. This differs from RMPT and the proposed RMPL routing strategies in that the destinations orders subject to the RMPT and RMPL routing strategies are selected by the Exchange via the System routing table and not the User itself.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>15</sup> of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The proposed rule change promotes just and equitable principles of trade because it would enhance the Exchange's midpoint routing functionality and provide Users with greater flexibility in routing Mid-Point Peg Orders to trading venues that support midpoint executions. This would save such Users from developing complicated order routing strategies on their own. The Exchange believes that the proposed rule change will also accomplish those ends by providing market participants with an additional voluntary routing strategies and options that will enable

<sup>11</sup> The Exchange also proposes to amend the second to last sentence of Rule 11.9(c)(9) to correct an erroneous reference to Rule 11.13(a)(3)(Q) by replacing it with "Rule 11.13(b)(3)".

<sup>12</sup> See Rule 11.13(b)(3)(E).

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

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> 15 U.S.C. 78k-1(a)(1).

them to easily access midpoint liquidity available on the Exchange and other trading venues. The Exchange notes that routing through the Exchange is voluntary and those seeking to access midpoint liquidity on other trading venues may do so directly and without the involvement of the Exchange. Therefore, the Exchange believes the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

#### *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. The Exchange provides routing services in a highly competitive market in which participants may avail themselves of a wide variety of routing options offered by self-regulatory organizations, alternative trading systems, other broker-dealers, market participants' own proprietary routing systems, and service bureaus. System enhancements, such as the changes proposed in this rule filing, do not burden competition, but rather encourage competition because they are designed to attract additional order flow to the Exchange through enhanced midpoint routing functionality. Such changes are intended to offer investors higher quality and better value than services offered by others. Encouraging competitors to provide higher quality and better value is the essence of a well-functioning competitive marketplace. Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No comments were solicited or received on the proposed rule change.

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

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective

pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>17</sup> the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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:

##### *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-BatsBYX-2016-41 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-BatsBYX-2016-41. 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-BatsBYX-2016-41, and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-79595; File No. SR-BatsEDGX-2016-73]

### **Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Data Section of Its Fee Schedule To Adopt Fees for EDGX Summary Depth and Amend Fees for EDGX Depth**

December 19, 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 December 6, 2016, Bats EDGX Exchange, Inc. ("EDGX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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

<sup>18</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)(ii).

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

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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