

enhancement to all OTPs, regardless of size, and would not impose a competitive burden on any participant. The Exchange does not believe that the proposed enhancement to the existing risk limitation mechanism would impose a burden on competing options exchanges. Rather, the availability of this mechanism may foster more competition. Specifically, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. When an exchange offers enhanced functionality that distinguishes it from the competition and participants find it useful, it has been the Exchange's experience that competing exchanges will move to adopt similar functionality. Thus, the Exchange believes that this type of competition amongst exchanges is beneficial to the market place as a whole as it can result in enhanced processes, functionality, and technologies.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²⁸ and Rule 19b-4(f)(6) thereunder.²⁹ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)³⁰ of the Act to determine whether the proposed rule change 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. Please include File Number SR-NYSEArca-2016-155 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-NYSEArca-2016-155. 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-NYSEArca-2016-155, and should be submitted on or before December 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016-29467 Filed 12-8-16; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79467; File No. SR-BatsBZX-2016-81]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to BZX Rule 11.23, Auctions, To Amend How the Official Auction Prices Are Calculated and Add Additional Specificity Regarding the Handling of RHO Orders During an Opening Auction for a BZX Listed Security

December 5, 2016

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 30, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") 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 Act³ and Rule 19b-4(f)(6) thereunder,⁴ 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 Exchange Rule 11.23, Auctions, to: (i) Amend how the official auction prices are calculated and make related changes to the definitions of Indicative Price and Auction Only Price; and (ii)

²⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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. The Exchange has satisfied this requirement.

³⁰ 15 U.S.C. 78s(b)(2)(B).

³¹ 17 CFR 200.30-3(a)(12).

¹ 5 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

add additional specificity regarding the handling of Regular Hours Only ("RHO") Orders⁵ during an Opening Auction for a BZX listed security⁶ by describing situations in which RHO limit orders may be modified prior to the auction and cancelled after an auction.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 11.23, Auctions, to: (i)

Amend how the official auction prices are calculated and make related changes to the definitions of Indicative Price and Auction Only Price; and (ii) add additional specificity regarding the handling of RHO Orders during an Opening Auction for a BZX listed security by describing situations in which RHO limit orders may be modified prior to the auction and cancelled after an auction.

Official Auction Prices, Indicative Price, and Auction Only Price

In general, the price for the Opening, Closing, IPO, Halt, and Volatility Closing auctions is established by determining the price level that maximizes the number of shares executed.⁷ In determining the auction price, the Exchange takes into account all buy and sell interest at each price level on the Auction Book⁸ and the Continuous Book.⁹ Today, in the event of a volume based tie at multiple price levels, the price of the Opening and Closing auctions will be the price closest to the Volume Based Tie Breaker.¹⁰ In the event of a volume based tie at multiple price levels for an IPO, Halt, and Volatility Closing auctions, the price closest to the issuing price will be used for IPO Auctions and the price level closest to the final last sale eligible trade will be used for Halt and the Volatility Closing Auctions.

The Exchange proposes to amend Exchange Rules 11.23(b)(2)(B), (c)(2)(B), (d)(2)(D), and (e)(2)(D) to state that the

prices of the Opening Auction, Closing Auction, IPO Auction, Halt Auction, and Volatility Closing Auction, respectively, will also occur at a price that not only maximizes the number of shares executed, but also minimizes the total imbalance. In all auctions, the auction price will first be established by determining the price level within the Collar Price Range¹¹ that maximizes the number of shares executed. In the event of a volume based tie at multiple price levels, the auction price will be the price level that results in the minimum total imbalance. Lastly, should there be both a volume based tie and a tie in minimum total imbalance at multiple price levels, the auction price of the: (i) Opening and Closing auctions will be the price closest to the Volume Based Tie Breaker; (ii) Halt and Volatility Closing auctions will be the price closest to the final last sale eligible trade; and (iii) IPO auction will be the price closest to the issuing price.

The below examples illustrate how the auction price, Auction Only Price and Indicative Price is selected today and how these prices will be selected under the proposed rule change. This first example illustrates current behavior. Assume that the NBBO is \$24.90 × \$25.10, which means that the Volume Based Tie Breaker is \$25.00.

Total buy shares	Buy shares	Price	Sell shares	Total sell shares	Paired shares	Imbalance
0 .....	.....	25.05	.....	300	0	- 300
500	500	25.01	.....	300	300	200
700	200	25.00	100	300	300	400
1,200	500	24.95	200	200	200	1,000

In this example, current behavior would dictate that \$25.00 would be selected as the auction price, Auction Only Price, and the Indicative Price, as applicable, because at \$25.00 the maximum number of shares would be executed (300 shares, in a tie with \$25.01) and of the two price levels at which 300 shares would be executed,

\$25.00 is closest to the Volume Based Tie Breaker.

Under the same scenario described above, but using the price level that minimizes the total imbalance where there is a tie for the maximum number of shares executed in the auction at multiple price levels instead of the Volume Based Tie Breaker, the price

chosen as the auction price, Auction Only Price, and Indicative Price would be \$25.01. \$25.01 would be used because, as noted above, 300 shares would be executed at both \$25.00 and \$25.01, but the imbalance at \$25.01 is 200 shares while the imbalance at \$25.00 is 400 shares. Stated another way, less executable interest would

⁵ An RHO Order is "[a] limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions for BZX listed securities and the Opening Process for non-BZX-listed securities (as such terms are defined in Rule 11.23 and 11.24). Any portion of a market RHO order will be cancelled immediately following any auction in which it is not executed." See Exchange Rule 11.9(b)(7).

⁶ A BZX listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange's

Rules and includes both corporate listed securities and Exchange Traded Products ("ETPs").

⁷ See Exchange Rules 11.23(b)(2)(B), (c)(2)(B), (d)(2)(D), and (e)(2)(D).

⁸ See Exchange Rule 11.23(a)(1).

⁹ See Exchange Rule 11.23(a)(7).

¹⁰ "Volume Based Tie Breaker" is defined as "the midpoint of the NBBO for a particular security where the NBBO is a Valid NBBO. A NBBO is a Valid NBBO where: (i) There is both a NBB and NBO for the security; (ii) the NBBO is not crossed;

and (iii) the midpoint of the NBBO is less than the Maximum Percentage away from both the NBB and the NBO. The Maximum Percentage will be determined by the Exchange and will be published in a circular distributed to Members with reasonable advance notice prior to initial implementation and any change thereto. Where the NBBO is not a Valid NBBO, the price of the Final Last Sale Eligible Trade will be used." See Exchange Rule 11.23(a)(23).

¹¹ See Exchange Rule 11.23(a)(6).

remain unexecuted at \$25.01 (200 shares) than at \$25.00 (400 shares).

Total buy shares	Buy shares	Price	Sell shares	Total sell shares	Paired shares	Imbalance
0 .....	.....	25.05	.....	300	0	- 300
500	500	25.01	.....	300	300	200
700	200	25.00	100	300	300	400
1,200	500	24.95	200	200	200	1,000

This third example illustrates the proposed behavior when there is a tie for the maximum number of shares executed in the auction at multiple

price levels and a tie in minimum total imbalance within those price levels. In such a situation, the price level closest to the Volume Based Tie Breaker will be

used. Under this example, assume that the NBBO is \$24.94 × \$25.16, which means that the Volume Based Tie Breaker is \$25.05.

Total buy shares	Buy shares	Price	Sell shares	Total sell shares	Paired shares	Imbalance
500	500	25.08	.....	200	200	300
500 .....	.....	25.07	.....	200	200	300
500 .....	.....	25.06	.....	200	200	300
1,000	500	25.05	.....	200	200	800
1,200	200	25.00	.....	200	200	1,000
1,700	500	24.95	200	200	200	1,500

In this example, there is a tie for the maximum number of shares executed in the auction at 200 shares for every price level from \$24.95 to \$25.08. Looking at the imbalance, there is also a tie at 300 shares at each of \$25.06, \$25.07, and \$25.08. As such, the proposed behavior would look to the Volume Based Tie Breaker to determine the auction price, Auction Only Price, and Indicative Price. Because the Volume Based Tie Breaker is \$25.05, \$25.06 is selected because it is the closest of \$25.06, \$25.07, and \$25.08 to the Volume Based Tie Breaker.

The Exchange believes the proposed amendments are necessary to ensure that the price selected for the auction is reasonably based on all buying and selling interest for that security and is the price at which the most orders may be matched resulting in the minimal imbalance. Selecting a price that would minimize the imbalance best reflects the value of the security based on the auction's price discovery process because it is the price level where the amount of buy and sell interest is closest to equal. As noted above, minimizing the imbalance at the price levels at which the most shares will execute in the auction will result in the price closest to equilibrium because that price level has the least amount of executable interest that remains unexecuted. As a result, the proposed rule changes should also enhance the Exchange's auction processes resulting in improved price discovery of BZX listed securities.

As a result of the above changes to the determination of the official auction

price, the Exchange also proposes to make a related change to the definition of Indicative Price under paragraph (a)(10) of Rule 11.23. Indicative Price is currently defined as the price at which the most shares from the Auction Book and the Continuous Book would match.¹² The Indicative Price is disseminated publicly beginning at 8:00 a.m. Eastern Time for an Opening¹³ and IPO Auction,¹⁴ 3:00 p.m. Eastern Time for a Closing Auction,¹⁵ five (5) minutes prior to the commencement of a Halt Auction,¹⁶ and at the time a security is halted after 3:50 p.m. Eastern Time for a Volatility Closing Auction.¹⁷ The Indicative Price is designed to facilitate price discovery and transparency while helping resolve order imbalances in the time leading up to an auction and the determination of the auction price.

Today, the Exchange will publish the price at which the most shares may be executed as the Indicative Price by taking into account all buy and sell interest at each price level. Like the determination of each of the auction prices discussed above, the Indicative Price reflects the price at which the maximum number of shares may be executed, but may not reflect the price which would result in the minimum total imbalance where there are multiple price levels at which the most shares may be executed. Therefore, like the

amendments to the determination of auction prices above, the Exchange proposes to amend the definition of Indicative Price to ensure that the maximum number of shares will ultimately be executed in the auction resulting in the minimum total imbalance. Indicative Price will continue to be defined as "the price at which the most shares from the Auction Book and the Continuous Book would match." However, the definition of Indicative Price would be expanded to state that in the event of a volume based tie at multiple price levels, the Indicative Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Indicative Price will be the price closest to the Volume Based Tie Breaker.

Lastly, the Exchange also publishes an Auction Only Price, which is the price at which the most shares from the Auction Book would match. Currently, in the event of a volume based tie at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker. Auction Only Price will continue to be defined under Exchange Rule 11.23(a)(2) to state that the Auction Only Price will be the price at which the most shares from the Auction Book would match. However, the definition will be expanded to harmonize the calculation of the Auction Only Price with the above changes. As amended, in the event of a volume based tie at multiple price levels, the Auction Only Price will be the price which results in the minimum

¹² See Exchange Rule 11.23(a)(10).

¹³ See Exchange Rule 11.23(b)(2)(A).

¹⁴ See Exchange Rule 11.23(d)(2)(A).

¹⁵ See Exchange Rule 11.23(c)(2)(A).

¹⁶ See Exchange Rule 11.23(d)(2)(A).

¹⁷ See Exchange Rule 11.23(e)(2)(A).

total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Auction Only Price will be the price closest to the Volume Based Tie Breaker.

RHO Orders

An RHO Order is “[a] limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions for BZX listed securities and the Opening Process for non-BZX-listed securities (as such terms are defined in Rule 11.23 and 11.24). RHO orders are also Eligible Auction Orders¹⁸ and may participate in the Opening Auction.¹⁹ Any Eligible Auction Orders designated for the Opening Auction will be queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. Any portion of a RHO market order will be cancelled immediately following any auction in which it is not executed.”²⁰ However, any portion of an RHO limit order that is not executed in the auction will be placed on the Continuous Book at the conclusion of the auction and commencement of Regular Trading Hours (subject to the cancelling of certain RHO limit orders are described below).

In general, Eligible Auction Orders designated for the Opening Auction may not be cancelled or modified between 9:28 a.m. and 9:30 a.m.²¹ The Exchange now proposes to add additional specificity to Rule 11.23(b)(1) regarding how RHO limit orders are handled in the Opening Auction. Specifically, the Exchange proposes to amend Rule 11.23(b)(1)(B) to describe current behavior that allows Members to modify, but not cancel, RHO limit orders designated for the Opening Auction between 9:28 a.m. and 9:30 a.m.²²

The rule text currently provides that RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. are treated as Late-Limit-On-Open (“LLOO”)²³ orders until the Opening Auction has concluded. The Exchange proposes to amend Rule 11.23(b)(1)(B) to state that RHO limit orders that are modified

between 9:28 a.m. and 9:30 a.m. will also be treated as LLOO orders until the Opening Auction is concluded. During the Opening Auction, RHO limit orders will be priced in accordance with the operation of LLOO orders as described in Rule 11.23(a)(12),²⁴ subject to the order’s limit price. At the conclusion of the Opening Auction, any unexecuted portion of a RHO limit order will be placed on the Continuous Book at its limit price (subject to the cancelling of certain RHO limit orders are described below). The Exchange believes that such treatment is consistent with the existing treatment of RHO limit orders submitted between 9:28 a.m. and 9:30 a.m. which are subject to the pricing restrictions applicable to LLOO orders. However, because, unlike LLOO orders, RHO limit orders will be added to the Continuous Book at the conclusion of the Opening Auction at their limit price, Members should be able to modify such orders between 9:28 a.m. and 9:30 a.m. Such functionality provides Members the price protections necessary to incentivize early entry of orders for participation in the Opening Auction while simultaneously allowing a Member to control an order that will be entered onto the Continuous Book if it is not executed in the Opening Auction.

The Exchange also proposes to describe within Exchange Rule 11.23(b)(1) how RHO orders with a limit price outside of the Collar Price Range are handled. Where the Opening Auction would have occurred at a price level but for such price level being greater than (less than) the high (low) range of the Collar Price Range (*i.e.*, outside the Collar Price Range), all buy (sell) limit RHO orders with a limit price more aggressive than the BZX Official Opening Price that are not executed in the Opening Auction will be cancelled.

The Collar Price Range is utilized to help limit volatility during the auction

process and to reduce the possibility that an auction would occur at a price that would qualify as clearly erroneous under Exchange Rule 11.17(c)(1) and that may result in cancelled executions.²⁵ The process to select the price of an Opening Auction as described above could lead to a price that is outside of the Collar Price Range. In that case, the Exchange will then look to find a price to execute the auction within the Collar Price Range and in accordance with the price selection process set forth above. The Exchange selecting a less aggressive price for the auction within the Collar Price Range can result in the unexecuted RHO limit orders priced more aggressively than the auction price being placed on the Continuous Book upon conclusion of the Opening Auction.

The Exchange believes that it is necessary and appropriate to cancel RHO orders with a limit price that is more aggressive than the auction price in such circumstances. Other than RHO limit orders, all Eligible Auction Orders will simply be cancelled if they do not execute in the Opening Auction. RHO limit orders, however, are unique in that they rest on the Auction Book until the conclusion of the Opening Auction, at which point any unexecuted portion is added to the Continuous Book. This could result in unexecuted RHO limit orders priced more aggressively than the auction price to be added to the Continuous Book, immediately applying price pressure in the direction of the price that the Opening Auction would have initially occurred but for the Exchange selecting a price within the Collar Price Range, thereby contravening the purpose of the Collar Price Range. Further, such a set of circumstances would also undermine the value of the price discovery process of the Opening Auction and could result in executions eligible for review as

²⁵ As set forth under Exchange Rule 11.23(a)(6), the “Collar Price Range” is the range from a set percentage below the Collar Midpoint (as defined below) to above the Collar Midpoint, such set percentage being dependent on the value of the Collar Midpoint at the time of the auction, as described below. The Collar Midpoint will be the Volume Based Tie Breaker for all applicable auctions, except for IPO Auctions in ETPs (as defined in Rule 11.8, Interpretation and Policy .02(d)(2)), for which the Collar Midpoint will be the issue price. Specifically, the Collar Price Range will be determined as follows: Where the Collar Midpoint is \$25.00 or less, the Collar Price Range shall be the range from 10% below the Collar Midpoint to 10% above the Collar Midpoint; where the Collar Midpoint is greater than \$25.00 but less than or equal to \$50.00, the Collar Price Range shall be the range from 5% below the Collar Midpoint to 5% above the Collar Midpoint; and where the Collar Midpoint is greater than \$50.00, the Collar Price Range shall be the range from 3% below the Collar Midpoint to 3% above the Collar Midpoint.

¹⁸ See Exchange Rule 11.23(a)(8).

¹⁹ See *id.*

²⁰ See Exchange Rule 11.9(b)(7).

²¹ See Exchange Rule 11.23(b)(1)(B).

²² Currently, RHO market orders submitted between 9:28 a.m. and 9:30 a.m. are rejected. See Exchange Rule 11.23(b)(1)(A). Modifications to RHO limit orders between 9:28 a.m. and 9:30 a.m. would not be limited by Exchange Rule 11.9(e)(3) as such orders are not active until the Opening Auction occurs at 9:30 a.m.

²³ See Exchange Rule 11.23(a)(12).

²⁴ Under Exchange Rule 11.23(a)(12), LLOO orders are priced as follows: to the extent a LLOO bid or offer received by the Exchange has a limit price that is more aggressive than the NBB or NBO, the price of such bid or offer is adjusted to be equal to the NBB or NBO, respectively, at the time of receipt by the Exchange. Where the NBB or NBO becomes more aggressive, the limit price of the LLOO bid or offer will be adjusted to the more aggressive price, only to the extent that the more aggressive price is not more aggressive than the original User entered limit price. The limit price will never be adjusted to a less aggressive price. If there is no NBB or NBO, the LLOO bid or offer, respectively, will assume its entered limit price. Notwithstanding the foregoing, a LLOO order entered during the Quote-Only Period of an IPO will be converted to a limit order with a limit price equal to the original User entered limit price and any LLOO orders not executed in their entirety during the IPO Auction will be cancelled upon completion of the IPO Auction.

clearly erroneous under Exchange Rule 11.17. The Exchange notes that Members whose RHO limit orders are cancelled because the price of the order is more aggressive than the Collar Price Range may always resubmit such orders at less aggressive prices or after regular trading begins.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.²⁶ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,²⁷ because it is designed to promote just and equitable principles of trade, 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 will enhance the Exchange's auction processes resulting in improved price discovery of BZX listed securities. Specifically, the Exchange believes amending the calculations of auction prices and the definitions of Indicative Price and Auction Only Price promotes just and equitable principles of trade by ensuring that the maximum number of shares will ultimately be executed in the auction resulting in the minimum total imbalance generally because selecting a price that would minimize the imbalance best reflects the value of the security based on the auction's price discovery process because it is the price level where the amount of buy and sell interest is closest to equal. Further, minimizing the imbalance at the price levels at which the most shares will execute in the auction will result in the price closest to equilibrium because that price level has the least amount of executable interest that remains unexecuted. These proposed amendments are similar to auction price selection process of other exchanges²⁸ and would enhance the price discovery and transparency while helping resolve order imbalances in the time leading up to an auction and the determination of the ultimate auction price.

The Exchange believes allowing Members to modify RHO limit orders between 9:28 a.m. and 9:30 a.m. promotes just and equitable principles of trade, removes impediments to, and

perfects the mechanism of, a free and open market and a national market system. Such functionality provides Members the price protections necessary to incentivize early entry of orders for participation in the Opening Auction while simultaneously allowing a Member to control an order that will be entered onto the Continuous Book if it is not executed in the Opening Auction. In addition, the modification of a RHO limit order between 9:28 a.m. and 9:30 a.m. would have no impact on the pricing of the Opening Auction as such order are priced in accordance with the operation of LLOO orders as described in Rule 11.23(a)(12),²⁹ subject to the order's limit price, on the Continuous Book.

The proposal also supports the objectives of perfecting the mechanism of a free and open market and the national market system because not cancelling RHO orders with limit prices more aggressive than the Collar Price Range would result in executions vastly different from the auction price shortly after the regular trading commences. As such, the proposal also protects investors because it would prevent the executions of orders at prices not related to the current market for the security and possibly not in line with the investor's intent at the time they entered the orders prior to the commencement of the auction process. The Exchange believes this undermines the price discovery process of the auction and could result in executions eligible for review as clearly erroneous under Exchange Rule 11.17. The Exchange notes that Members whose RHO limit orders are cancelled because the price of the order is more aggressive than the Collar Price Range may always resubmit such orders at less aggressive prices or after regular trading begins. Therefore, the Exchange believes the proposed rule change promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the proposal will promote competition because the Exchange believes the proposal improves and enhances the Exchange's auction processes, thereby attracting additional order flow to the Exchange. The

proposed rule change is, in effect, pro-competition as it promotes fair and orderly markets and protects investors through enhanced auction processes.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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 Act³⁰ and Rule 19b-4(f)(6) thereunder.³¹

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 change 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. Please include File No. SR-BatsBZX-2016-81 on the subject line.

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ See e.g., Nasdaq Stock Market LLC ("Nasdaq") Rules 4752(a)(2)(A) and 4752(d)(2) (outlining the selection of the Nasdaq Current Reference Price and auction price).

²⁹ See *supra* note 24.

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 No. SR–BatsBZX–2016–81. 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 No. SR–BatsBZX–2016–81, and should be submitted on or before December 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2016–29465 Filed 12–8–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9796]

60-Day Notice of Proposed Information Collection: Birth Affidavit

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the

information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to February 7, 2017.

ADDRESSES: You may submit comments by any of the following methods:

- **Web:** Persons with access to the Internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering “Docket Number: DOS–2016–0076” in the Search field. Then click the “Comment Now” button and complete the comment form.

- **Email:** PPTFormsOfficer@state.gov. You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, by mail to PPT Forms Officer, U.S. Department of State, CA/PPT/S/L 44132 Mercure Cir, P.O. Box 1227, Sterling, VA 20166–1227, or PPTFormsOfficer@state.gov.

SUPPLEMENTARY INFORMATION:

- **Title of Information Collection:** Birth Affidavit.

- **OMB Control Number:** 1405–0132.

- **Type of Request:** Revision of a Currently Approved Collection.

- **Originating Office:** Department of State, Bureau of Consular Affairs, Passport Services, Office of Legal Affairs and Law Enforcement Liaison (CA/PPT/S/L/LA).

- **Form Number:** DS–10.

- **Respondents:** Individuals.

- **Estimated Number of Respondents:** 22,056.

- **Estimated Number of Responses:** 22,056.

- **Average Time Per Response:** 40 minutes.

- **Total Estimated Burden Time:** 14,711 hours.

- **Frequency:** On Occasion.

- **Obligation to Respond:** Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for

this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The Birth Affidavit is submitted in conjunction with an application for a U.S. passport, and is used by Passport Services to collect information for the purpose of establishing the U.S. nationality of a passport applicant who has not submitted an acceptable United States birth certificate with his/her passport application. The Secretary of State is authorized to issue U.S. passports under 22 U.S.C. 211a *et seq.*, 8 U.S.C. 1104, and Executive Order 11295 (August 5, 1966). Pursuant to 22 U.S.C. 212 and 22 CFR 51.2, only U.S. nationals may be issued a U.S. passport. Most passport applicants show U.S. nationality by providing a birth certificate showing the applicant was born in the United States. Some applicants, however, may have been born in the United States (and subject to its jurisdiction), but were never issued a birth certificate. Form DS–10 is a form affidavit for completion by a witness to the birth of such an applicant; it collects information relevant to establishing the identity of the affiant, and the birth circumstances of the passport applicant. If credible, the affidavit may permit the applicant to show U.S. nationality based on the applicant's birth in the United States, despite never having been issued a U.S. birth certificate. We use the information collected on the person completing the affidavit to confirm that individual's identity, which is relevant to confirming his or her relationship to the applicant and the likelihood that the affiant has actual knowledge of the circumstances of the applicant's birth.

Methodology: When needed, a Birth Affidavit is completed at the time a person applies for a U.S. passport.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016–29533 Filed 12–8–16; 8:45 am]

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³² 17 CFR 200.30–3(a)(12).