

cause the COA to end.<sup>14</sup> The Exchange believes that these provisions prevent an order that was entered after the initiation of a COA from trading ahead of an order with the same price that may have executed or entered the COB if it did not COA. Similarly, the Exchange believes it is fair for a COA-eligible order that was entered at a better price than an order that was resting in the COB prior to initiation of the COA to execute against leg markets that become marketable against the COA-eligible order and resting order during the COA, because the Trading Permit Holder who entered the COA-eligible order was willing to pay a better price than that of the resting order.<sup>15</sup>

Third, the Exchange proposes to amend CBOE Rule 6.53C(c)(ii)(3) and Interpretation and Policy .06(c) to provide that all Trading Permit Holders and PAR Officials may submit orders or quotes to trade against orders in the COB, as opposed to market participants,<sup>16</sup> as the Rule currently states.<sup>17</sup> In addition, the Exchange proposes to amend Rule 6.53C(c)(ii)(3) to provide that order and quote types (not just quote types) not eligible to rest or trade against the COB will be automatically cancelled.<sup>18</sup>

Finally, the Exchange proposes to make technical and other nonsubstantive changes, which are described in the Notice.<sup>19</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>20</sup> In particular, the Commission finds that the proposed

rule change is consistent with Section 6(b)(5) of the Act,<sup>21</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 Commission believes that it is reasonable for CBOE to require that incoming two-legged COA-eligible orders be COA'd by default unless a Trading Permit Holder requests, on an order-by-order basis, that such orders not COA. The Commission notes that, should a Trading Permit Holder not wish its orders to be COA'd, the proposed rule will allow the Trading Permit Holder to request that its orders not be COA'd on an order-by-order basis. In addition, the Commission notes that the rules of another options exchange provide that certain complex orders be routed to a complex order auction unless a member designates that such orders not initiate a complex order auction on that exchange.<sup>22</sup>

The Commission also believes that it is reasonable for the Exchange to add new provisions regarding how incoming orders with "do-not-COA" requests or that are not COA-eligible, as well as how changes in the leg markets, may impact ongoing COAs. Such additions enhance the description of current COA functionality and the circumstances that may cause a COA to end early to help ensure investors understand how "do-not-COA" orders may impact a COA. As noted above, these rules provide that if entry of a "do-not-COA" order causes a COA to end, any executions that occur following the COA will occur in accordance with allocation principles in place, subject to an exception that the original COA-eligible order will receive time priority.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>23</sup> that the proposed rule change (SR-CBOE-2015-089), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> See NASDAQ OMX PHLX LLC ("PHLX") Rule 1080, Commentary .07(a)(viii) and (e) (describing the complex order live auction ("COLA") process and "do not auction" orders).

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> 17 CFR 200.30-3(a)(12).

Robert W. Errett,  
Deputy Secretary.

[FR Doc. 2015-31682 Filed 12-16-15; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76625; File No. SR-BYX-2015-49]

### Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.13(b)(4)(A), Amending Aggressive Re-Route Instruction

December 11, 2015.

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 2, 2015, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) 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 is proposing to amend the Aggressive Re-Route instruction under Exchange Rule 11.13(b)(4)(A) to route such orders where that order has been locked or crossed by other Trading Centers.

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

<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).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 67460.

<sup>16</sup> *Id.* at 67459. CBOE Rules 6.45A and 6.45B define market participants as Market-Makers, Designated Primary Market-Makers with an appointment in the subject class, and floor brokers and PAR Officials representing orders in the trading crowd. The Exchange explains that Trading Permit Holders and PAR Officials as a group is larger than market participants as a group, as the term market participants does not include other types of Trading Permit Holders (such as electronic proprietary traders or brokers submitting electronic orders on behalf of customers from off of the trading floor). *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 67460. The Exchange notes that first several sentences of CBOE Rule 6.53C(c)(ii)(3) reference both orders and quotes eligible to rest on the COB. The Exchange intended for Rule to provide that both orders and quotes that are not eligible to rest on the COB be cancelled. *Id.*

<sup>19</sup> *Id.* at 64759.

<sup>20</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 currently allows Users to submit various types of limit orders to the Exchange that are processed pursuant to Exchange Rules 11.13(a) and 11.13(b), as set forth below. Rule 11.13(a) describes the process by which an incoming order would execute against the BATS Book. To the extent an order has not been executed in its entirety against the BATS Book, Rule 11.13(b) then describes the process of routing marketable limit orders to one or more Trading Centers, including a description of how the Exchange treats any unfilled balance that returns to the Exchange following the first attempt to fill the order through the routing process. If not filled through routing, and based on the order instructions, the unfilled balance of the order may be posted to the BATS Book.

Under previous Exchange rules,<sup>5</sup> to the extent the unfilled balance of an order had been posted to the BATS Book, should the order subsequently be *locked* or crossed by another accessible Trading Center, the System<sup>6</sup> would route the order to the locking or crossing Trading Center if instructed to do so by the User (the "RECYCLE Option"). The Exchange then filed a proposed rule change with the Commission for immediate effectiveness to modify the RECYCLE Option and rename it as the Aggressive and Super-Aggressive Re-Route instruction.<sup>7</sup>

<sup>5</sup> See Securities Exchange Act Release No. 63097 (October 13, 2010), 75 FR 64767 (October 20, 2010) (SR-BATS-2010-002 [sic]) (naming the designation of an order as eligible for re-routing after being posted to the BATS Book if another Trading Center has locked or crossed the posted order as the RECYCLE routing option).

<sup>6</sup> As defined in Rule 1.5(aa), the System is 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.

<sup>7</sup> See Securities Exchange Act Release No. 73295 (October 3, 2014), 79 FR 61117 (October 9, 2014) (SR-BYX-2014-026) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 11.13) (adopting the Aggressive Re-Route instruction). In SR-BYX-2014-026, the RECYCLE Option was renamed Super Aggressive Re-Route instruction, under which a routable order

The Aggressive Re-Route instruction subjects an order to the routing process after being posted to the BATS Book only if the order is subsequently crossed by another Trading Center (rather than if the order is locked or crossed). Further, a routable non-displayed limit order posted to the BATS Book that is crossed by another accessible Trading Center will be automatically routed to the crossing Trading Center. The Exchange proposes to modify the Aggressive Re-Route instruction to also provide that, where the order is locked by another accessible Trading Center, it would be automatically routed to the locking Trading Center. The proposed amendment would also apply to non-displayed orders with the Aggressive Re-Route instruction.<sup>8</sup>

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> 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, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. Specifically, the proposed changes are designed to provide Users with additional control over their orders in the context of a national market system where quotations may lock or cross orders posted to the BATS Book and to facilitate executions on the Exchange

posted to the BATS Book routes to away Trading Centers to remove liquidity from such Trading Centers any time such order is locked or crossed. The Exchange subsequently expanded the Super Aggressive Re-Route instruction to provide that when any order with a Super Aggressive Re-Route instruction is locked by an incoming BATS Post Only Order or Partial Post Only at Limit Order that does not remove liquidity pursuant to Rule 11.9(c)(6) or Rule 11.9(c)(7), respectively, the Re-Route order is converted to an executable order when displayed shares become available on the opposite side of the market and will remove liquidity against such shares ("liquidity swap functionality"). See Securities Exchange Act Release No. 74739 (April 16, 2015), 80 FR 22567 (April 22, 2015) (SR-BYX-2015-07). Once amended, the only difference between the Aggressive and Super Aggressive Re-Route instructions would be that the liquidity swap functionality described above would be available to an order subject to the Super Aggressive Re-Route instruction and not available to an order subject to the Aggressive Re-Route instruction.

<sup>8</sup> In April 2015, the Aggressive Re-Route instruction was expanded to apply to non-displayed orders. See Securities Exchange Act Release No. 74739 (April 16, 2015), 80 FR 22567 (April 22, 2015) (SR-BYX-2015-07).

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

consistent with User instructions. Thus, the proposals are directly targeted at removing impediments to and perfecting the mechanism of a free and open market and national market system. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>11</sup> of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. Lastly, the Exchange notes that the proposed amendments to the Aggressive Re-Route instruction previously existed on the Exchange as the RECYCLE routing option.<sup>12</sup>

*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. The Exchange believes that proposed amendment to the Aggressive Re-Route functionality encourages competition by increasing the likelihood of executions of orders that have been posted to the Exchange. The increased likelihood of an execution where the order is locked by a quotation on a Trading Center should attract additional order flow to the Exchange.

*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 Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the

<sup>11</sup> 15 U.S.C. 78k-1(a)(1).

<sup>12</sup> See *supra* notes 5 and 7.

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

<sup>14</sup> 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.

Act<sup>15</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>16</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of the operative delay will allow the Exchange to immediately provide Users with additional control over their orders in the context of a national market system where quotations may lock or cross orders posted to the BATS Book and to facilitate executions on the Exchange consistent with User instructions.<sup>17</sup> The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>18</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. 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](mailto:rule-comments@sec.gov). Please include File Number SR-BYX-2015-49 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-BYX-2015-49. 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-BYX-2015-49, and should be submitted on or before January 7, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76627; File No. SR-NYSEArca-2015-118]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule

December 11, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 1, 2015, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 self-regulatory organization. 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 proposes to amend the NYSE Arca Options Fee Schedule ("Fee Schedule"). The Exchange proposes to implement the fee changes effective December 1, 2015. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> The Exchange further stated that it will provide Members with reasonable advance notice of the proposed rule change's implementation date.

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>19</sup> 17 CFR 200.30-3(a)(12).