

Dated: November 14, 2013.

Elizabeth M. Murphy,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70852; File No. SR-BYX-2013-038]

### Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

November 13, 2013.

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 October 31, 2013, 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, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the proposed changes will become operative on November 1, 2013.

The text of the proposed rule change is available at the Exchange’s Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to modify its fee schedule applicable to the use of the Exchange effective November 1, 2013, in order to modify pricing related to executions that occur on BATS Exchange, Inc. (“BZX”) through the Exchange’s TRIM<sup>6</sup> and SLIM routing strategies.<sup>7</sup> BZX implemented certain pricing changes effective October 1, 2013, including modification of the fee of \$0.0029 per share when removing liquidity to a fee of \$0.0030 per share when removing liquidity. To create a direct pass through of the applicable economics of executions at BZX through the TRIM and SLIM routing strategies, the Exchange proposes to charge \$0.0030 per share for orders routed through such strategies and executed on BZX, rather than the \$0.0029 per share that it currently charges for such orders. The Exchange is not proposing any other changes to its routing fees at this time.

###### 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 of the Act.<sup>8</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>9</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or

controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive. The Exchange believes that the proposed changes to the Exchange’s routing fee for orders executed on BZX through the TRIM and SLIM routing strategies are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the fee applicable to the execution if such routed orders were executed directly by the Member at BZX.

##### 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, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange’s routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at BZX through the TRIM and SLIM routing strategies, the proposed fee change is designed to equal the fee that a Member would have received if such routed orders would have been executed directly by a Member at BZX.

##### 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.

#### 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>10</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>11</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,

<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>5</sup> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

<sup>6</sup> As defined in BYX Rule 11.13(a)(3)(G).

<sup>7</sup> As defined in BYX Rule 11.13(a)(3)(H).

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

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f).

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-2013-038 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-BYX-2013-038. 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-2013-038 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70854; File No. SR-NYSEMKT-2013-90]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .09 to Rule 903 To Modify the Quarterly Option Series Program To Eliminate the Cap on the Number of Additional Series That May Be Listed Per Expiration Month for Each QOS in Exchange-Traded Fund Options

November 13, 2013.

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 November 5, 2013, NYSE MKT LLC (the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II 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 Commentary .09 to Rule 903 to modify the Quarterly Option Series ("QOS") Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in exchange-traded fund ("ETF") options. The text of 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.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange is proposing to amend Commentary .09(d) to Rule 903 related to the QOS Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in ETF options.<sup>4</sup> As set out in Commentary .09, the Exchange may list QOS for up to five currently listed options classes that are either index options or options on ETFs. The Exchange may also list QOS on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. Currently, for each QOS in ETF options that has been initially listed on the Exchange, the Exchange may list up to 60 additional series per expiration month.

The Exchange is proposing to amend Commentary .09(d) to make the treatment of QOS in ETF options consistent with the treatment of QOS in stock index options. Rule 900C(a)(iv) [sic] governs the QOS Program in stock index options. A stock index option is "an option contract on a specific stock index group."<sup>5</sup> Options on ETFs are similar to index options because ETFs hold securities based on an index or portfolio of securities.<sup>6</sup> The requirements and conditions of the QOS Program in index options, moreover, parallel those of the QOS Program in ETF options. For example, like the QOS Program in ETF options, the QOS Program in index options permits QOS in up to five currently-listed options

<sup>4</sup> A Quarterly Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day, and that expires at the close of business on the last business day of a calendar quarter. The Exchange lists series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. See Rules 900C(26) and 903, Commentary .09(a).

<sup>5</sup> Rule 900C(b)(2). "Stock index group" means: "[A] group of stocks each of whose inclusion and relative representation in the group is determined by the inclusion and relative representation of their current market values or market prices in a widely disseminated stock index. A stock index group may relate to a stock index which reflects representative stock market values or prices of either a broad segment of the stock market ("broad stock index group") or stocks representing a particular industry or related industries ("stock index industry group")." Rule 900C(b)(1).

<sup>6</sup> Rule 900.2NY(24) defines "Exchange-Traded Fund Share" as "Exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies that hold securities (including fixed income securities) based on an index or a portfolio of securities."

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