

the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (e.g., if the software can be downloaded over the internet after being purchased).³⁸ It is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or of distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and are each subject to significant scale economies.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products. The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including SRO markets, as well as internalizing BDs and various forms of alternative trading systems ("ATs"), including dark pools and electronic communication networks ("ECNs"). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, BDs, and ATs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATs, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including Nasdaq, NYSE, NYSE MKT, NYSE Arca, and the BATS exchanges.

In this case, the proposed rule change enhances competition by introducing a new product that increases transparency into options transactions and democratizes information by providing the benefits of sophisticated analytical techniques to firms without the technology, staff or wherewithal to conduct a comparable analysis on their

own. If the price were to become unattractive, those firms would opt not to purchase the product. The net effect of introducing this product into the market is to make market sentiment information more widely available to a broader array of investors, and lower the cost of accessing such information, thereby increasing market efficiency. For all of these reasons, the Exchange does not believe that the proposed changes will impair competition in the financial markets.

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

No written comments were either solicited or received.

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 within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such 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. Please include File Number SR-Phlx-2017-74 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-Phlx-2017-74. 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-Phlx-2017-74 and should be submitted on or before October 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁹

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81749; File No. SR-BatsBYX-2017-23]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.23, Opening Process, and Rule 11.26, Usage of Data Feeds, To Reflect the Name Change of NYSE MKT to NYSE American

September 28, 2017.

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 September 25, 2017, Bats BYX 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.

³⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³⁸ See William J. Baumol and Daniel G. Swanson, "The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power," *Antitrust Law Journal*, Vol. 70, No. 3 (2003).

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)(iii) 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 paragraph (c)(1) of Rule 11.23, Opening Process, and paragraph (a) of Rule 11.26, Usage of Data Feeds, to reflect the name change of NYSE MKT to NYSE American.

The text of the proposed rule change is available at the Exchange’s Web site at www.bats.com, at the principal [sic] 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

On March 21, 2017, NYSE MKT LLC filed a proposed rule change to change its name to NYSE American LLC.⁵ The Exchange now proposes to replace references to NYSE MKT within its rules with NYSE American. In particular, the Exchange proposes to replace references to NYSE MKT with NYSE American in Rule 11.23(c)(1), Opening Process; and Rule 11.26(a), Usage of Data Feeds. The Exchange does not propose [sic] to amend the operation of these rules in any other respect.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ 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 non-substantive amendments to Rules 11.23(c)(1) and 11.26(a) are intended solely to reflect the name change from NYSE MKT to NYSE American. The proposed rule change, therefore, removes impediments to and perfects the mechanism of a free and open market and a national market system because it updates the rule to reflect the name change and does not alter the way in which orders in NYSE American listed securities are handled and routed.

(B) Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will have any impact on competition as it affect competition [sic] as it is not designed to alter the way in which orders in NYSE American listed securities are handled and routed. It is simply intended to reflect the name change from NYSE MKT to NYSE American.

(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 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 Act⁸ and paragraph (f)(6) of Rule 19b-4 thereunder,⁹ 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. Please include File Number SR-BatsBYX-2017-23 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-BatsBYX-2017-23. 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

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

⁵ See Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR-NYSEMKT-2017-14).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4.

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-BatsBYX-2017-23 and should be submitted on or before October 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81755; File No. SR-NYSEAMER-2017-19]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE American Rule 5.2E (j)(6)

September 28, 2017.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the “Act”) ² and Rule 19b-4 thereunder, ³ notice is hereby given that on September 18, 2017, NYSE American LLC (the “Exchange” or “NYSE American”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 NYSE American Rule 5.2E(j)(6) to exclude Investment Company Units, securities defined in Section 2 of NYSE American Rule 8E and Index-Linked Securities when applying the quantitative generic listing criteria

applicable to Equity Index-Linked Securities. The proposed rule change is available on the Exchange’s Web site at 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE American Rule 5.2E(j)(6) to exclude Investment Company Units (“Units”) and securities defined in Section 2 of NYSE American Rule 8E (collectively, together with Units, “Derivative Securities Products”), ⁴ as well as Index-Linked Securities, ⁵ when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities. ⁶

⁴ Units are securities that represent an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity, that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities or securities in another registered investment company that holds such securities. See NYSE American Rule 5.2E(j)(3). The following securities currently are included in Section 2 of NYSE American Rule 8E: Portfolio Depositary Receipts (Rule 8.100E); Trust Issued Receipts (Rule 8.200E); Commodity-Based Trust Shares (Rule 8.201E); Currency Trust Shares (Rule 8.202E); Commodity Index Trust Shares (Rule 8.203E); Commodity Futures Trust Shares (Rule 8.204E); Partnership Units (Rule 8.300E); Paired Trust Shares (Rule 8.400E); Trust Units (Rule 8.500E); Managed Fund Shares (Rule 8.600E); and Managed Trust Securities (Rule 8.700E).

⁵ Index-Linked Securities are securities that qualify for Exchange listing and trading under NYSE American Rule 5.2E(j)(6). The securities described in Rule 5.2E(j)(3), Rule 5.2E(j)(6) and Section 2 of Rule 8E, as referenced above, would include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

⁶ The Commission has approved amendments to NYSE Arca Rule 5.2E(j)(6) that are substantially identical to those proposed herein. See Securities Exchange Act Release No. 81442 (August 18, 2017), 82 FR 40178 (August 24, 2017) (SR-NYSEArca-2017-54) (order approving a proposed rule change

Equity Index-Linked Securities are securities that provide for the payment at maturity (or earlier redemption) based on the performance of an underlying index or indexes of equity securities, securities of closed end management investment companies registered under the Investment Company Act of 1940 ⁷ and/or Units. ⁸ In addition to certain other generic listing criteria, Equity Index-Linked Securities must satisfy the generic quantitative initial and continued listing criteria under NYSE American Rule 5.2E(j)(6)(B)(I) in order to become, and continue to be, listed and traded on the Exchange. Certain of the applicable quantitative criteria specify minimum or maximum thresholds that must be satisfied with respect to, for example, market value, trading volume, and dollar weight of the index represented by a single component or groups of components.

The applicable initial quantitative listing criteria include (i) that each underlying index is required to have at least ten component securities; ⁹ (ii) that each component security has a minimum market value of at least \$75 million, except that for each of the lowest dollar weighted component securities in the index that in the aggregate account for no more than 10% of the dollar weight of the index, the market value can be at least \$50 million; (iii) that component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (iv) that no underlying component security represents more than 25% of the dollar weight of the index, and the five highest dollar weighted component securities in the index do not in the aggregate account for more than 50% of the dollar weight of the index (60% for an index consisting of fewer than 25 component securities); and (v) that 90% of the index’s numerical value and at least 80% of the total number of component securities meet the then current criteria for standardized option trading set forth in Rule 915; except that an index will not be subject to this last requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index

to amend the generic listing criteria applicable to Equity Index-Linked Securities).

⁷ 15 U.S.C. 80-1.

⁸ See Rule 5.2E(j)(6)(B)(I)(1).

⁹ See Rule 5.2E(j)(6)(B)(I)(1)(a).

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.