Act [12] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[13] that the proposed rule change (SR–OCC–2016–009) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–25234 Filed 10–18–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79091; File No. SR–BatsEDGX–2016–57]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use of Bats EDGX Exchange, Inc. Options Platform

October 13, 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 October 6, 2016, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [3] and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''EDGX Options'') to: (i) Add definition of OCC Customer Volume or OCV, to the Definitions section of the fee schedule; and (ii) modify the criteria for the Customer Volume, Market Maker Volume, and Firm Penny Pilot Cross-Asset Tiers to reflect the new definition of OCV; and (iii) to make a non-substantive change.

OCC Customer Volume Definition

The Exchange proposes to add the definition of ''OCC Customer Volume'' or ''OCV'' to the definition section of its fee schedule. OCC Customer Volume or OCV will be defined as the total equity and Exchange Traded Fund (''ETF'') options volume that clears in the Customer [4] range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption [5] and on any day with a scheduled early market close.

Tier Qualifications Change

The Exchange proposes to replace current tier qualifications which refer to Total Consolidated Volume (''TCV'') [6] with a reference to OCV in the Customer Volume Tier, Market Maker Volume Tier and Firm Penny Pilot Cross-Asset Tier, in Footnotes 1, 2 and 4, respectively. Because OCV generally makes up a smaller range than the prior TCV, the Exchange also proposes to amend the percentage of OCV necessary to achieve the tier so that it is substantially identical to the previously required percentage of TCV. Doing so will keep each tier's criteria relatively unchanged from its current requirements. The rates for each tier are unchanged. Changes to each tier are described below.

Customer Volume Tiers

Customer orders that yield fee codes NC [7] or PC [8] and are given a standard rebate of $0.05 per contract. Footnote 1 of the fee schedule sets forth five tiers, each providing enhanced rebates, ranging from $0.10 to $0.25 per contract, to a Member's order that yield fee codes NC or PC upon satisfying monthly volume criteria based on an ADV [9] in Customer orders equal to or greater than a percentage of average TCV.

- Tier 1 currently requires that a Member have an ADV in Customer orders equal to or greater than 0.15% of average TCV. As amended, a Member must have an ADV in Customer orders equal to or greater than 0.20% of average OCV.
- Tier 2 currently requires that a Member have an ADV in Customer orders equal to or greater than 0.30% of average TCV. As amended, a Member must have an ADV in Customer orders equal to or greater than 0.40% of average OCV.
- Tier 3 currently requires that a Member have an ADV in Customer orders equal to or greater than 0.50% of average TCV. As amended, a Member must have an ADV in Customer orders equal to or greater than 0.65% of average OCV.
- Tier 4 currently requires that a Member has an ADV in Customer orders equal to or greater than 0.80% of average TCV. As amended, a Member must have an ADV in Customer orders equal to or greater than 1.05% of average OCV.
- Tier 5 currently requires that a Member have an ADV in Customer orders equal to or greater than 0.05% of average TCV, and an ADV in Customer or Market Maker [10] orders equal to or greater than 0.25% of average TCV. As amended, a Member must have an ADV in Customer orders equal to or greater than 0.05% of average OCV, and an

[12] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[4] As defined in the Exchange's fee schedule available at *http://www.batsoptions.com/support/fee_schedule/edgx/.*

[5] An ''Exchange System Disruption'' means ''any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours.'' *Id.*

[6] *Id.*

[7] Fee code NC is appended to a Member's order which removes liquidity (Customer), Non-Penny. *Id.*

[8] Fee code PC is appended to a Member's order which removes liquidity (Customer) Penny Pilot. *Id.*

[9] As defined in the Exchange's fee schedule available at *http://www.batsoptions.com/support/fee_schedule/edgx/.*

[10] *Id.*

ADV in Customer or Market Maker orders equal to or greater than 0.35% of average OCV.

Market Marker Volume Tier

Market Maker orders yield fee codes PM [11] or NM [12] and are charged a standard fee of $0.19 per contract. Footnote 2 of the fee schedule sets forth seven tiers, each providing a reduced fee ranging from $0.01 to $0.16 per contract to a Member's order that yield fee code PM or NM upon satisfying monthly volume criteria based on a Member having an ADV in Market Maker orders equal to or greater than a percentage of average TCV.

- Tier 1 currently requires that a Member have an ADV in Market Maker orders equal to or greater than 0.05% of average TCV. As amended, a Member must have an ADV in Market Maker orders equal to or greater than 0.05% of average OCV.[13]
- Tier 2 currently requires that a Member have an ADV in Market Maker orders equal to or greater than 0.10% of average TCV. The equivalent proposed calculation would require that a Member has an ADV in Market Maker orders equal to or greater than 0.15% of average OCV.
- Tier 3 Currently requires that a Member have an ADV in Market Maker orders equal to or greater than 0.20% of average TCV. As amended, a Member must have an ADV in Market Maker orders equal to or greater than 0.25% of average OCV.
- Tier 4 currently requires that a Member have an ADV in Market Maker orders equal to or greater than 0.30% of average TCV. As amended, a Member must have an ADV in Market Maker orders equal to or greater than 0.40% of average OCV.
- Tier 5 currently requires that a Member have an ADV in Market Maker orders equal to or greater than 0.70% of average TCV. As amended, a Member must have an ADV in Market Maker orders equal to or greater than 0.95% of average OCV.
- Tier 6 currently requires that a Member have an ADV in Market Maker orders equal to or greater than 1.10% of average TCV. As amended, a Member must have an ADV in Market Maker orders equal to or greater than 1.45% of average OCV.
- Tier 7 currently requires that a Member have an ADV in Customer orders equal to or greater than 0.05% of average TCV, and an ADV in Customer or Market Maker orders equal to or greater than 0.25% of average TCV. As amended, a Member must have an ADV in Customer orders equal to or greater than 0.05% of average OCV, and an ADV in Customer or Market Maker orders equal to or greater than 0.35% of average OCV.

Firm Penny Pilot Cross-Asset Tier

Firm [14] Penny Pilot [15] orders yield fee code PF [16] and are charged a standard fee of $0.45 per contract. Footnote 4 of the fee schedule sets forth a Cross-Asset Tier, providing a reduced fee of $0.32 per contract for Member's order that yield fee code PF where that Member has an ADV in Firm orders equal to or greater than 0.10% of average TCV and an ADAV [17] on the Exchange's equity platform (''EDGX Equities'') equal to or greater than 0.12% of average TCV. As amended, a Member must have an ADV in Firm orders equal to or greater than 0.15% of average OCV, and on EDGX Equities an ADAV equal to or greater than 0.12% of average TCV.

Non-Substantive Change

The header of each tier described on the Fee Schedule denotes three columns, the first of which is labeled as ''Tier'' in Footnotes 1 and 2, and labeled as ''Description'' in Footnote 3 and footnote 4. To harmonize the labeling of the tiers and promote clarity throughout the fee schedule the Exchange proposes to label the first columns of Footnotes 3 and 4, ''Tier.''

Implementation Date

The Exchange proposes to implement the amendments to its fee schedule immediately.[18]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[19] in general, and furthers the objectives of Section 6(b)(4),[20] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also 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 levels at a particular venue to be excessive. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members.

The proposed fee structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange. Volume-based rebates such as that described herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes.

The Exchange believes adopting a definition of OCV and utilizing OCV in lieu of TCV is reasonable, fair and equitable, and non-discriminatory because the Exchange also proposed to modify the tier's related criteria in order to maintain substantially identical requirements to qualify for the tier without changing the rate provided for by the tiers. In addition, the amount of OCV historically tends to remain reasonably consistent from month to month, as opposed to TCV which is less consistent. OCV is also more consistent than options volume that clears in the Market Maker or Firm range at the OCC, as Market Maker and Firm volume may vary drastically from month to month based on market events, as opposed to Customer options volume which remains relatively consistent. Therefore, the Exchange believes utilizing OCV would result in consistent tier criteria as OCV is a relatively static monthly number which would enable market participants to better predict whether they may achieve a tier criteria each month and qualify for that tier's preferred pricing.

The Exchange also believes that the use OCV provides a calculation that is reasonably identical to and is not a significant departure from previous tier qualifications conventions offered by

[11] Fee code PM is appended to a Members order which adds liquidity (MM), Penny Pilot. *Id.*

[12] Fee code NM is appended to a Members order which adds liquidity (MM), Non-Penny. *Id.*

[13] The Exchange proposes to retain the 0.05% requirement as adjusting that number to reflect replacing TCV with OCV will result in a de minimmis change in the percentage.

[14] As defined in the Exchange's fee schedule available at *http://www.batsoptions.com/support/fee_schedule/edgx/.*

[15] *Id.*

[16] Fee code PF is appended to a Members order which adds liquidity (Firm/BD/JBO), Penny Pilot.

[17] As defined in the Exchange's fee schedule available at *http://www.batsoptions.com/support/fee_schedule/edgx/.*

[18] The Exchange initially filed the proposed amendments to its fee schedule on September 30, 1016 (SR–BatsEDGX–2016–56). On October 6, 2016, the Exchange withdrew SR–BatsEDGX–2016–56 and submitted this filing.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(4).

other exchanges [21] The Exchange believes that the proposed definitions of OCV is reasonable, fair and equitable, and non-discriminatory, and will provide additional transparency to Members regarding the calculations used to determine volume levels for purposes of the proposed tiered pricing model.

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

The Exchange does not believe its proposed amendment to its fee schedule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed changes represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. The Exchange believes that its proposal to amend the qualification criteria and to incorporate OCV as proposed would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange also proposed to modify the tier's related criteria in order to maintain substantially identical requirements to qualify for each tier. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal would not burden intramarket competition because the proposed rates would continue to apply uniformly to all Members. As stated above, 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 to be unreasonable or excessive. The Exchange does not believe the proposed tiers and standard rates would burden intramarket competition as they would apply to all Members uniformly.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 [22] and paragraph (f) of Rule 19b–4 thereunder.[23] 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, 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–BatsEDGX–2016–57 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–BatsEDGX–2016–57. 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–BatsEDGX–2016–57, and should be submitted on or before November 9, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Robert W. Errett,

Deputy Secretary.

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[21] *See* the NYSE MKT LLC (''NYSE MKT'') fee schedule *available at https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf* (setting forth tiers that provide preferred pricing to options market makers who meet certain criteria, including achieving a specific ''Monthly Volume as a % of Industry Customer Equity and Exchange Traded Fund (''ETF'') Option Volume''); NYSE Arca, Inc. (''NYSE ARCA'') options fee schedule *available at https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (setting forth a Market Maker Incentive tier that provides preferred pricing to market makers who meet certain criteria, including achieving a specific percentage of ''Total Industry Customer equity and ETF option ADV''); Nasdaq Stock Market LLC (''Nasdaq'') options fee schedule *available at http://www.nasdaqtrader.com/Micro.aspx?id=optionsPricing* (setting forth tiers that provide preferred pricing to market makers who meet certain criteria, including achieving a specific percentage of ''total industry customer equity and ETF option ADV contracts per month''); *and* Nasdaq BX LLC (''BX'') options fee schedule *available at http://www.nasdaqtrader.com/Micro.aspx?id=BXOptionsPricing* (setting forth tiers that provide preferred pricing to market makers who meet certain criteria, including achieving a specific percentage of ''total industry customer equity and ETF option ADV contracts per month'').

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79089; File No. SR–NYSEMKT–2016–91]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE Amex Options Fee Schedule

October 13, 2016.

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 October 3, 2016, NYSE MKT LLC (the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.