

unsolicited 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<sup>12</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>13</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, 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-BatsBYX-2017-04 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-BatsBYX-2017-04. 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-BatsBYX-2017-04 and should be submitted on or before March 2, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79956; File No. SR-BatsBZX-2017-05]

### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Type of Logical Port Known as a Purge Port

February 3, 2017.

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 January 23, 2017, 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 Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) 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 Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Exchange Rule 22.11, Mass Cancellation of Trading Interest, to

reflect the proposed Purge Port functionality.

The text of the proposed changes to Exchange Rule 22.11 is attached as Exhibit 5A. The proposed changes to the fee schedule are attached as Exhibit 5B. The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.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 also offers a bulk-quoting interface which allows Users of BZX Options to submit and update multiple bids and offers in one message through logical ports enabled for bulk-quoting.

###### Purge Ports

The Exchange now proposes to modify the BZX Options fee schedule to identify fees for Purge Ports, a new type of logical port which would enable Options Members<sup>5</sup> to cancel/purge all open orders, or a subset thereof, across multiple logical ports through a single cancel/purge message. The Exchange also proposes to amend Exchange Rule 22.11, Mass Cancellation of Trading Interest, to reflect the proposed Purge Port functionality. The proposed ports are designed to assist Options Members, including Market Makers, in the management of, and risk control over, their quotes, particularly if the Options Member is dealing with a large number of options. For example, if an Options Member detects market indications that may influence the direction or bias of

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

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

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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).

<sup>5</sup> "Options Member" is defined as "a firm, or organization that is registered with the Exchange pursuant to Chapter XVII of these Rules for purposes of participating in options trading on EDGX Options as an 'Options Order Entry Firm' or 'Options Market Maker.'" See Exchange Rule 16.1(a)(38).

his or her quotes the Options Member may use the proposed Purge Port(s) to reduce uncertainty and to manage risk by purging all quotes in a number of options seamlessly to avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports will be available to all Options Members, the Exchange anticipates they will be used primarily by Market Makers.

Options Members may currently cancel orders through their existing logical ports and may send a mass cancel message pertaining to multiple contracts cancelling all orders sent through a particular logical port. The Exchange now proposes to expand the ability of Options Members to cancel orders through the proposed Purge Ports, which would enable them to cancel/purge all open orders, or a subset thereof, across multiple logical ports through a single cancel/purge message. The mass cancel request may be limited to a subset of orders by identifying the range of orders to be purged.<sup>6</sup> An Options Member may also request via a Purge Port that the Exchange block all or a subset of its new inbound bids, offers, and orders in all series of options or in all options for a specified underlying security. The block will remain in effect until the Options Member requests the Exchange remove the block. The Exchange proposes to modify the Options Logical Port Fee section of the BZX Options fee schedule to adopt a fee for Purge Ports of \$750 per port/per month.

The Exchange also proposes to amend Exchange Rule 22.11, Mass Cancellation of Trading Interest, to reflect the proposed Purge Port functionality. Exchange Rule 22.11 currently states that an Options Member may simultaneously cancel all its bids, offers, and orders in all series of options or in all options for a specified underlying security by requesting the Exchange staff to effect such cancellation. First, the Exchange proposes to amend Rule 22.11 to state that an Options Member may also cancel all or a subset of its bids, offers, and orders in all series of options or in all options for a specified underlying security by requesting the Exchange to effect such cancellation.<sup>7</sup> The Exchange further proposes to amend Rule 22.11 to state that an Options Member may also

request that the Exchange block all or a subset of its new inbound bids, offers, and orders in all series of options or in all options for a specified underlying security. Rule 22.11 will further state that the block will remain in effect until the Options Member requests the Exchange remove the block.

#### Ministerial Change

The Exchange proposes to remove language from the Option Logical Port Fees section of its fee schedule regarding the summing of logical ports for billing purposes. The fee schedule currently states that the, “[e]xcept for bulk quoting ports, which will be separately evaluated, BZX Options will sum logical ports across all classifications in order to determine applicable fees.” This language was adopted in October 2015 when the Exchange began charging different rates based on the number of logical ports a User utilized.<sup>8</sup> Thereafter, in June 2016, the Exchange proposed to no longer charge different rates based on the number of logical ports and moved to a single rate for all logical ports, but for ports with bulk quoting capabilities.<sup>9</sup> At that time, the above language should have also been removed from the fee schedule and the Exchange now proposes to remove it in this filing as such language is no longer necessary.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>11</sup> 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 Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>12</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 believes that the proposed rule change would promote

just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Options Members, including Market Makers, designated Purge Ports would enhance their ability to manage quotes, quote traffic, and their quoting obligations,<sup>13</sup> which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purges only may encourage better use of such dedicated ports. This may, concurrent with the logical ports that carry quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers’ resources. Because Purge Ports, as the name suggests, are only available for purging and not for activities such as order or quote entry, the Purge Ports are not designed to permit unfair discrimination but rather are designed to enable Market Makers to manage their quoting risk and meet their heightened quoting obligations that other market participants are not subject to, which, in turn, benefits all market participants. The Exchange also notes that similar connectivity and functionality is offered by other exchanges.<sup>14</sup>

The Exchange notes that the proposed rule change will not relieve Market Makers of their continuous quoting obligations under Exchange Rule 22.6 and under Regulation NMS Rule 602.<sup>15</sup> Specifically, any interest that is executable against an Options Member’s or Market Maker’s quotes and orders that is received by the Exchange prior to the time the removal of quotes request will automatically execute at that price, up to the quote’s size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their

<sup>13</sup> See Exchange Rules 22.5 and 22.6.

<sup>14</sup> See Chapter VII of the NASDAQ PHLX LLC (“Phlx”) pricing schedule (setting forth fees for SQF Purge Ports, which only allow for the mass purging of quotations). See also Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016) (SR-Phlx-2016-45). See Miami International Securities Exchange LLC (“MIAX”) Rule 519C, Mass Cancellation of Trading Interest (allowing members to remove all or a subset of its quotations in and to block new inbound quotations). See also Securities Exchange Act Release No. 78974 (September 29, 2016), 81 FR 69090 (October 5, 2016) (SR-MIAX-2016-34).

<sup>15</sup> 17 CFR 242.602.

<sup>6</sup> The Options Member may identify a subset of orders based on their own risk profile by selecting orders across series, strike price, and/or expiration date.

<sup>7</sup> The Exchange also proposes to remove reference to the Exchange “staff” as such cancellation request may also be through the logical ports or the proposed Purge Ports.

<sup>8</sup> See Securities Exchange Act Release No. 76120 (October 9, 2015), 80 FR 62588 (October 16, 2015) (SR-BATS-2015-83).

<sup>9</sup> See Securities Exchange Act Release No. 77884 (May 23, 2016), 81 FR 33718 (May 27, 2016) (SR-BatsBZX-2016-17).

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

continuous quoting obligation each trading day.

The Exchange believes that its proposed fees should facilitate the ability of the Exchange to recoup some costs associated with Purge Ports as well as provide, maintain, and improve Purge Ports.<sup>16</sup> The Exchange operates in a highly competitive market in which exchanges offer connectivity services as a means to facilitate the trading activities of Members and other participants. Accordingly, fees charged for connectivity are constrained by the active competition for the order flow of such participants as well as demand for market data from the Exchange. If a particular exchange charges excessive fees for connectivity, affected Members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, the exchange charging excessive fees would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it by affected Members, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange also believes the proposed fee for the Purge Ports is equitable and reasonable as compared to the Exchange's other fees for logical port connectivity. The Exchange currently charges \$650 per port/per month for logical ports, Multicast PITCH Spin Server, and GRP Ports. With regard to ports with bulk quoting capabilities, the Exchange charges \$1,500 per month for the first five ports and \$2,000 per month for each port in excess of five. The Exchange believes it is equitable and reasonable to charge \$750 per month for the proposed Purge Ports as such ports are more similar to ports with bulk quoting capabilities than to standard logical ports because both Purge Ports and bulk quoting ports allow for the sending of a single message to impact multiple orders. Additionally, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. The proposed rate is competitive with that charged by competitor exchanges for

similar functionality. For example, Phlx charges a rate of \$500 per month for the first five SQF Purge Ports, which only allow for the mass purging of quotations and not the purging of a subset of orders and the blocking of new orders as proposed herein.<sup>17</sup>

The Exchange also believes that the proposed amendments to its fee schedule are non-discriminatory because they will apply uniformly to all Members. The proposed Purge Ports are completely voluntary and no Member is required or under any regulatory obligation to utilize them. All Members that voluntarily select this service options will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

Lastly, the Exchange believes the ministerial change to its fee schedule is also equitable, reasonable and not unfairly discriminatory in that it removes unnecessary language to avoid potential investor confusion.

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

The Exchange believes its proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable it to offer similar connectivity and functionality as its competitor exchanges.<sup>18</sup> In addition, the proposed Purge Ports are completely voluntary and no Member is required or under any regulatory obligation to utilize them. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. 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 change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange believes that fees for the proposed Purge Ports and connectivity, in general, are constrained

by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including Purge Port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition. The Exchange also does not believe the proposed rule change would impact intramarket competition as it would apply to all Members and non-Members equally.

Lastly, the ministerial change to its fee schedule will have no impact on competition as it does not change any fee or rate. It simply removes unnecessary language to avoid potential investor confusion.

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

No comments were solicited or received 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 Act<sup>19</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>20</sup> 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.

<sup>16</sup> Purge Ports will be fee liable on a monthly basis (and not only when such ports are active), which will help the Exchange to recoup the cost of these ports.

<sup>17</sup> See Chapter VII of the Phlx pricing schedule (setting forth fees for SQF Purge Ports). See also Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016) (SR-Phlx-2016-45).

<sup>18</sup> See *supra* note 14.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-BatsBZX-2017-05 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 No. SR-BatsBZX-2017-05. 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 will also 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-2017-05 and should be submitted on or before March 2, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-79967; File No. SR-ISE-2017-08]**

#### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Adopt Chapter 9**

February 3, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 2, 2017, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange.<sup>3</sup> 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 Adopt Chapter 9. The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.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 aspects of such statements.

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

##### **1. Purpose**

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors' Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, MIAx PEARL, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, the "Participants") filed with the Commission, pursuant to Section 11A of the Exchange Act<sup>4</sup> and Rule 608 of Regulation NMS thereunder,<sup>5</sup> the CAT NMS Plan.<sup>6</sup> The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,<sup>7</sup> and approved by the Commission, as modified, on November 15, 2016.<sup>8</sup>

The Plan is designed to create, implement and maintain a consolidated audit trail ("CAT") that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant is required to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their

<sup>4</sup> 15 U.S.C. 78k-1.

<sup>5</sup> 17 CFR 242.608.

<sup>6</sup> See Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. See Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

<sup>7</sup> Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

<sup>8</sup> Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) ("Approval Order").

<sup>21</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Exchange originally filed this proposed rule change on January 17, 2017 under File No. SR-ISE-2017-04. The Exchange withdrew that filing on January 31, 2017 and filed ISE-2017-05. The Exchange withdrew that filing on February 2, 2017 and filed this proposed rule change.