

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78369; File No. SR-BatsEDGX-2016-32]

### Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as They Apply to the Recently Adopted Step Up Mechanism on Its Equity Options Platform

July 20, 2016.

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 July 11, 2016, Bats EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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 Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> 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](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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to modify the fee schedule applicable to the Exchange’s options platform (“EDGX Options”) to adopt fees for its recently adopted Step Up Mechanism (“SUM”).<sup>6</sup> SUM is a feature within the Exchange’s System<sup>7</sup> that will provide automated order handling in designated classes for qualifying orders that are not automatically executed by the System. For order handling and responses regarding SUM, orders that are received by SUM shall be electronically exposed at the NBBO immediately upon receipt. The exposure shall be for a period of time determined by the Exchange on a class-by-class basis, which period of time shall not exceed one second. All Users will be permitted to submit responses to the exposure message during the exposure period.<sup>8</sup> The Exchange proposes to provide an additional rebate per contract for orders submitted by Users in response to a SUM auction, as described below.

In order to encourage Users to respond to SUM auctions, the Exchange proposes to adopt footnote 3 to the Fee Schedule, under which the Exchange would provide an additional rebate of \$0.05 per contract for any order submitted in response to a SUM auction. As with all other fees and rebates on EDGX Options, this rebate would only apply to orders that are executed; and in this case, to orders that are specifically executed against orders exposed via SUM.

As noted above, all Users are permitted to submit orders in response to a SUM auction, and thus, the Exchange proposes to append footnote 3 to all fee codes on the Exchange’s fee schedule other than those specific to routing away from the Exchange and the Exchange’s opening process. Specifically, the additional rebate per contract for responding to and executing

against an order exposed through a SUM auction would apply to fee codes: NB, NC, NF, NM, NN, NO, NP, PB, PC, PF, PM, PN, PO and PP.

The proposed rebate is an additional rebate per contract, and would therefore be applied on top of any existing fee or rebate currently provided for in the Exchange’s fee schedule. For example, pursuant to fee code NB, the Exchange charges a standard fee of \$0.75 per contract for Broker Dealer<sup>9</sup> orders in Non-Penny Pilot Securities.<sup>10</sup> If a User were to submit a Broker Dealer order in a Non-Penny Pilot Security in response to a SUM auction, the resulting transaction fee would be \$0.70 per contract after applying the proposed \$0.05 per contract rebate for SUM responses.

The additional SUM rebate would also apply in addition to any tiered pricing rate otherwise achieved by a Member. For instance, pursuant to footnote 2 of the Exchange’s fee schedule, a Member’s Market Maker<sup>11</sup> orders are eligible for reduced fees or even a rebate to the extent the Member reaches certain volume thresholds. The additional rebate per contract would apply in addition to this reduced fee or rebate (e.g., Tier 1, which normally yields a decreased fee of \$0.16 per contract for qualifying Members’ Market Maker orders would instead yield a fee of \$0.11 per contract for a SUM response; Tier 5, which normally yields a decreased fee of \$0.02 per contract for qualifying Members’ Market Maker orders would instead yield a rebate of \$0.03 per contract for a SUM response; and so forth).

###### Implementation Date

The Exchange proposes to implement the proposed changes on July 11, 2016.

###### 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>12</sup> Specifically, the Exchange believes that

<sup>9</sup> The term “Broker Dealer” applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the OCC.

<sup>10</sup> The term “Non-Penny Pilot Security” applies to those issues that are not Penny Pilot Securities quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

<sup>11</sup> The term “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37).

<sup>12</sup> 15 U.S.C. 78f.

<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> 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).

<sup>6</sup> See SR-BatsEDGX-2016-29 (“Step Up Mechanism Filing”), available at: [http://cdn.batstrading.com/resources/regulation/rule\\_filings/approved/2016/SR-BatsEDGX-2016-29.pdf](http://cdn.batstrading.com/resources/regulation/rule_filings/approved/2016/SR-BatsEDGX-2016-29.pdf).

<sup>7</sup> See Exchange Rule 16.1(a)(59) (defining the term System as the automated trading system used by EDGX Options for the trading of options contracts).

<sup>8</sup> See Step Up Mechanism Filing, *supra* note 6.

the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>13</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 or providers of routing services if they deem fee levels to be excessive.

The Exchange believes the proposed rebate is equitable and not unfairly discriminatory because it would be equally available and objectively applied to all Members orders submitted and executed in response to SUM auctions on the Exchange. The Exchange further believes the proposed rebate is equitable and reasonable as it is an additional rebate per contract designed to encourage Members to enter orders in response to SUM auctions on the Exchange. The Exchange further believes that the rebate is reasonable because the proposed additional rebate per contract does not represent a significant departure from pricing previously offered by the Exchange or other options exchanges. Lastly, the Exchange believes the proposed rebate is not unfairly discriminatory as all Members may enter orders in response to a SUM auction and receive the proposed rebate if their order is executed.

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

The Exchange believes the proposed rebate would not 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 rebate represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Rather, the Exchange believes the proposal will enhance competition as it is a competitive proposal that seeks to further the growth of the Exchange by encouraging Members to enter orders in response to SUM auctions.

#### *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<sup>14</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>15</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 No. SR-BatsEDGX-2016-32 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-BatsEDGX-2016-32. 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 No. SR-BatsEDGX-2016-32, and should be submitted on or before August 16, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-17582 Filed 7-25-16; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78367; File No. SR-NYSEMKT-2016-49]

### **Self-Regulatory Organizations; NYSE MKT LLC; Notice of Withdrawal of Proposed Rule Change Amending the Definition of "Block" for Purposes of Rule 72(d)—Equities and the Size of a Proposed Cross Transaction Eligible for the Cross Function in Rule 76—Equities**

July 20, 2016.

On April 22, 2016, NYSE MKT LLC ("Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend its rules relating to pre-opening indications and opening procedures. The proposed rule change was published for comment in the **Federal Register** on May 3, 2016.<sup>3</sup> The Commission received no comments on the proposed rule change. On May 31, 2016, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup>

<sup>16</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> See Securities Exchange Act Release No. 77734 (Apr. 27, 2016), 81 FR 26598.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 77951, 81 FR 36367 (June 6, 2016). The Commission designated August 1, 2016, as the date by which it should approve, disapprove, or institute

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

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