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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74173; File No. SR-BATS-2015-06)

January 29, 2015

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fees Applicable to Securities Listed on BATS Exchange, Inc. pursuant to Rule 14.13

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 January 22, 2015, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 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 fees applicable to securities listed on the Exchange pursuant to BATS Rule 14.13. Changes to the Exchange’s fees pursuant to this proposal are effective upon filing. Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange’s website 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

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

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

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 August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,<sup>3</sup> which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products ("ETPs")<sup>4</sup> on the Exchange,<sup>5</sup> which it subsequently modified again on June 4, 2014,<sup>6</sup> and October 16, 2014.<sup>7</sup> The Exchange proposes to modify Rule 14.13, entitled "Company Listing Fees," to modify how the Exchange administers the billing of the application fee applicable to the listing of ETPs to more closely align with the Exchange's typical billing cycle, which is administered on a monthly basis. Currently, the issuer of an ETP is required to pay the \$5,000 application fee to the Exchange with the application to list the ETP on the Exchange. The Exchange is

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<sup>3</sup> See Securities Exchange Act Release No. 65225 (August 30, 2011) 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>4</sup> As defined in BATS Rule 11.8(e)(1)(A), the term "ETP" means any security listed pursuant to Exchange Rule 14.11.

<sup>5</sup> See Securities Exchange Act Release No. 66422 (February 17, 2012) 77 FR 11179 (February 24, 2012) (SR-BATS-2012-010).

<sup>6</sup> See Securities Exchange Act Release No. 72377 (June 12, 2014) 79 FR 34822 (June 18, 2014) (SR-BATS-2014-024).

<sup>7</sup> See Securities Exchange Act Release No. 73414 (October 23, 2014) 79 FR 64434 (October 29, 2014) (SR-BATS-2014-050)

proposing to amend the language in Rule 14.13(b)(1)(C) such that the application fee for ETPs becomes billable to the issuer for the month during which the ETP is first listed on the Exchange. As proposed, instead of requiring the Exchange to take payment without issuing any bill, the Exchange would bill application fees to issuers on a monthly basis, which is in line with how the Exchange applies most other aspects of its billing. The Exchange notes that it is not proposing to amend the \$5,000 application fee for ETPs.

## 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) and 6(b)(5) of the Act,<sup>9</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed changes are a reasonable, equitable, and non-discriminatory allocation of fees to issuers because the proposal is designed only to amend the timing and method with which issuers are billed for the application fee for ETPs and not to make any changes to the amount of the \$5,000 application fee. Further, the proposal will benefit all ETP issuers because it will allow them to pay their application fee at a later date than they are required to pay the application fee today. The Exchange also notes that the proposed changes will apply equally to all issuers that list ETPs on the Exchange. Based on the foregoing, the

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

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

Exchange believes that the proposed amendment to the billing associated with application fees for ETPs is a reasonable, equitable, and non-discriminatory allocation of fees to issuers.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. With respect to the proposed new billing method for the application fee related to ETPs, the Exchange does not believe that the changes burden competition, but instead, enhance competition, as it is intended to increase the competitiveness of the Exchange's listings program by allowing the Exchange to offer ETPs the ability to pay their application fees after an ETP is already listed and trading on the Exchange instead of requiring the issuer to pay the application fee upon submission of their application. As such, the proposal is a competitive proposal that is intended to make the Exchange a more attractive venue for ETP listings, which will, in turn, benefit the Exchange and all other BATS-listed ETPs.

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>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

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

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

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BATS-2015-06 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-BATS-2015-06. This file number should be included on the subject line if e-mail 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 website (<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 website 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 offices 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-BATS-2015-06, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Jill M. Peterson  
Assistant Secretary

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