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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-77416; File No. SR-BatsEDGX-2016-01]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc. f/k/a EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Exchange Rule 11.27 to Implement the Regulation NMS Plan to Implement a Tick Size Pilot Program

March 22, 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 March 15, 2016, Bats EDGX Exchange, Inc. f/k/a EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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[3] 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 adopt Exchange Rule 11.27 to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan"). Specifically, the Exchange proposed Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. The proposed rule change is

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

2 17 CFR 240.19b-4.

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

4 17 CFR 240.19b-4(f)(6)(iii).

substantially similar to proposed rule changes recently approved or published by the Commission by the Bats BZX Exchange, Inc. f/k/a BATS Exchange, Inc. ("BZX") to adopt BZX Rule 11.27(b) which also sets forth requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan.[5]

The text of the proposed rule change is available at the Exchange's website 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 25, 2014, NYSE Group, Inc., on behalf of the Exchange, BZX, Bats BYX Exchange, Inc., Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Financial Industry Regulatory Authority, Inc. ("FINRA"), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC ("NYSE"), NYSE MKT LLC, and NYSE Arca, Inc. (collectively "Participants"), filed with the Commission, pursuant to

5 See Securities Exchange Act Release Nos. 77105 (February 10, 2016), 81 FR 8112 (February 17, 2016) (order approving SR-BATS-2015-102); and 77310 (March 7, 2016) (notice for comment and immediate effectiveness of SR-BATS-2016-27).

Section 11A of the Act[6] and Rule 608 of Regulation NMS thereunder,[7] the Plan to Implement a Tick Size Pilot Program ("Pilot").[8] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014.[9] The Plan[10] was published for comment in the Federal Register on November 7, 2014, and approved by the Commission, as modified, on May 6, 2015.[11]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small-capitalization companies. Each Participant is required to comply, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan. As is described more fully below, the proposed rules would require Members[12] to comply with the applicable data collection requirements of the Plan.[13]

The Pilot will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average

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6 15 U.S.C. 78k-1.

7 17 CFR 242.608.

8 See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

9 See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

10 Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

11 See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order").

12 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).

13 The Exchange proposes Interpretations and Policies .11 to Rule 11.27 to provide that the Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

price of at least $2.00 for every trading day. The Pilot will consist of a control group of approximately 1400 Pilot Securities and three test groups with 400 Pilot Securities in each (selected by a stratified random sampling process).[14] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group ("Test Group One") will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[15] Pilot Securities in the second test group ("Test Group Two") will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor order exception, and a negotiated trade exception.[16] Pilot Securities in the third test group ("Test Group Three") will be subject to the same quoting and trading increments as Test Group Two and also will be subject to the "Trade-at" requirement to prevent price matching by a market participant that is not displaying at a Trading Center's "Best Protected Bid" or "Best Protected Offer," unless an enumerated exception applies.[17] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that mirror those under Rule 611 of Regulation NMS[18] will apply to the Trade-at requirement.

In approving the Plan, the Commission noted that the Trading Center data reporting requirements would facilitate an analysis of the effects of the Pilot on liquidity (e.g., transaction

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14 See Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

15 See Section VI(B) of the Plan.

16 See Section VI(C) of the Plan.

17 See Section VI(D) of the Plan.

18 17 CFR 242.611.

costs by order size), execution quality (e.g., speed of order executions), market maker activity, competition between trading venues (e.g., routing frequency of market orders), transparency (e.g., choice between displayed and hidden orders), and market dynamics (e.g., rates and speed of order cancellations).[19] The Commission noted that Market Maker profitability data would assist the Commission in evaluating the effect, if any, of a widened tick increment on market marker profits and any corresponding changes in the liquidity of small-capitalization securities.[20]

Compliance with the Data Collection Requirements of the Plan

The Plan contains requirements for collecting and transmitting data to the Commission and to the public.[21] Specifically, Appendix B.I of the Plan (Market Quality Statistics) requires Trading Centers[22] to submit variety of market quality statistics, including information about an order's original size, whether the order was displayable or not, the cumulative number of orders, the cumulative number of shares of orders, and the cumulative number of shares executed within specific time increments, e.g., from 30 seconds to less than 60 seconds after the time of order receipt. This information shall be categorized by security, order type, original order size, hidden

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19 See Approval Order, 80 FR at 27543.

20 Id.

21 The Exchange is also required by the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange intends to separately propose rules that would require compliance by its Members with the applicable quoting and trading requirements specified in the Plan, and has reserved Paragraph (a) for such rules.

22 The Plan incorporates the definition of a "Trading Center" from Rule 600(b)(78) of Regulation NMS. Regulation NMS defines a "Trading Center" as "a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent." See 17 CFR 242.600(b).

status, and coverage under Rule 605.[23] Appendix B.I of the Plan also contains additional requirements for market orders and marketable limit orders, including the share-weighted average effective spread for executions of orders; the cumulative number of shares of orders executed with price improvement; and, for shares executed with price improvement, the share-weighted average amount per share that prices were improved.

Appendix B.II of the Plan (Market and Marketable Limit Order Data) requires Trading Centers to submit information relating to market orders and marketable limit orders, including the time of order receipt, order type, the order size, the National Best Bid and National Best Offer ("NBBO") quoted price, the NBBO quoted depth, the average execution price-share-weighted average, and the average execution time-share-weighted average.

The Plan requires Appendix B.I and B.II data to be submitted by Participants that operate a Trading Center, and by members of the Participants that operate Trading Centers. The Plan provides that each Participant that is the Designated Examining Authority ("DEA") for a member of the Participant that operates a Trading Center shall collect such data in a pipe delimited format, beginning six months prior to the Pilot Period and ending six months after the end of the Pilot Period. The Plan also requires the Participant, operating as DEA, to transmit this information to the SEC within 30 calendar days following month end.

The Exchange is therefore proposing Rule 11.27(b) to set forth the requirements for the collection and transmission of data pursuant to Appendices B and C of the Plan. Proposed Rule 11.27(b) is substantially similar to proposed rule changes by BZX that were recently approved or published by the Commission to adopt BZX Rule 11.27(b) which also sets forth requirements for

[23] 17 CFR 242.605.

the collection and transmission of data pursuant to Appendices B and C of the Plan.[24]

Proposed Rule 11.27(b)(1) requires that a Member that operates a Trading Center shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Items I and II to Appendix B of the Plan, and a Member that is a Market Maker shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Item IV of Appendix B of the Plan and Item I of Appendix C of the Plan.

Proposed Rule 11.27(b)(2) provides that the Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Securities and Pilot Securities on a Trading Center operated by the Exchange. The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for: (i) each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period. The Exchange also shall make such data publicly available on the Exchange website on a monthly basis at no charge and will not identify the Member that generated the data.

Appendix B.IV (Daily Market Maker Participation Statistics) requires a Participant to collect data related to Market Maker participation from each Market Maker[25] engaging in trading

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24 See supra note 5.

25 The Plan defines a Market Maker as "a dealer registered with any self-regulatory organization, in accordance with the rules thereof, as (i) a market maker or (ii) a liquidity provider with an obligation to maintain continuous, two-sided trading interest."

activity on a Trading Center operated by the Participant. The Exchange is therefore proposing Rule 11.27(b)(3) to gather data about a Market Maker's participation in Pilot Securities and Pre-Pilot Data Collection Securities. Proposed Rule 11.27(b)(3)(A) provides that a Member that is a Market Maker shall collect and transmit to their DEA data relating to Item IV of Appendix B of the Plan with respect to activity conducted on any Trading Center in Pilot Securities and Pre-Pilot Data Collection Securities in furtherance of its status as a registered Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. The proposed rule requires Market Makers to transmit such data in a format required by their DEA, by 12:00 p.m. EST on T+4 for: (i) transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) for transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange understands that some Members may utilize a DEA that is not a Participant to the Plan and that their DEA would not be subject to the Plan's data collection requirements. In such case, a DEA that is not a Participant of the Plan would not be required to collect the required data and may not establish procedures for which Members it acts a DEA for to report the data required under subparagraphs (b)(3)(A) of Rule 11.27 and in accordance with Item IV of Appendix B of the Plan. Therefore, the Exchange proposes to adopt subparagraph (b)(3)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (3)(A) of Rule 11.27(b) to FINRA, which is a Participant to the Plan and is to collect data relating to Item IV of Appendix B of the Plan on behalf of the Participants. For Market Makers for which it is the

DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[26]

Proposed Rule 11.27(b)(3)(C) provides that the Exchange shall transmit the data collected by the DEA or FINRA pursuant to Rule 11.27(b)(3)(A) and (B) above relating to Market Maker activity on a Trading Center operated by the Exchange to the SEC in a pipe delimited format within 30 calendar days following month end. The Exchange shall also make such data publicly available on the Exchange website on a monthly basis at no charge and shall not identify the Trading Center that generated the data.

Appendix C.I (Market Maker Profitability) requires a Participant to collect data related to Market Maker profitability from each Market Maker for which it is the DEA. Specifically, the Participant is required to collect the total number of shares of orders executed by the Market Maker; the raw Market Maker realized trading profits, and the raw Market Maker unrealized trading profits. Data shall be collected for dates starting six months prior to the Pilot Period through six months after the end of the Pilot Period. This data shall be collected on a monthly basis, to be provided in a pipe delimited format to the Participant, as DEA, within 30 calendar days following month end. Appendix C.II (Aggregated Market Maker Profitability) requires the Participant, as DEA, to aggregate the Appendix C.I data, and to categorize this data by security as well as by the control group and each Test Group. That aggregated data shall contain information relating to total raw Market Maker realized trading profits, volume-weighted average of raw Market Maker realized trading profits, the total raw Market Maker unrealized

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[26] FINRA members for which FINRA is their DEA should refer to the Market Maker Transaction Data Technical Specification on the FINRA website at http://www.finra.org/sites/default/files/market-maker-transaction-data-tech-specs.pdf.

trading profits, and the volume-weighted average of Market Maker unrealized trading profits.

The Exchange is therefore proposing Rule 11.27(b)(4) to set forth the requirements for the collection and transmission of data pursuant to Appendix C.I of the Plan. Proposed Rule 11.27(b)(4)(A) requires that a Member that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions in Pilot Securities that have settled or reached settlement date that were executed on any Trading Center. The proposed rule also requires Members to provide such data in a format required by their DEA by 12 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each: (i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

For the same reasons set forth above for subparagraph (b)(3)(B) to Rule 11.27, the Exchange proposes to adopt subparagraph (b)(4)(B) to Rule 11.27 to require a Member that is a Market Maker whose DEA is not a Participant to the Plan to transmit the data collected pursuant to paragraph (4)(A) of Rule 11.27(b) to FINRA. As stated above, FINRA is a Participant to the Plan and is to collect data relating to Item I of Appendix C of the Plan on behalf of the Participants. For Market Makers for which it is the DEA, FINRA issued a Market Maker Transaction Data Technical Specification to collect data on Pre-Pilot Data Collection Securities and Pilot Securities from Trading Centers to comply with the Plan's data collection requirements.[27]

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[27] Id.

The Exchange is also adopting a rule setting forth the manner in which Market Maker participation will be calculated. Item III of Appendix B of the Plan requires each Participant that is a national securities exchange to collect daily Market Maker registration statistics categorized by security, including the following information: (i) ticker symbol; (ii) the Participant exchange; (iii) number of registered market makers; and (iv) the number of other registered liquidity providers. Therefore, the Exchange proposes to adopt Rule 11.27(b)(5) providing that the Exchange shall collect and transmit to the SEC the data described in Item III of Appendix B of the Plan relating to daily Market Maker registration statistics in a pipe delimited format within 30 calendar days following month end for: (i) transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and (ii) transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange is also proposing, through Interpretations and Policies, to clarify other aspects of the data collection requirements.[28] Proposed Interpretations and Policies .02 relates to the use of the retail investor order flag for purposes of Appendix B.II(n) reporting. The Plan currently states that market and marketable limit orders shall include a "yes/no" field relating to the Retail Investor Order flag. The Exchange is proposing Interpretations and Policies .02 to clarify that, for purposes of the reporting requirement in Appendix B.II(n), a Trading Center shall report "y" to their DEA where it is relying upon the Retail Investor Order exception to Test

[28] The Exchange is also proposing Interpretations and Policies .01 to Rule 11.27 to clarify that certain enumerated terms used throughout Rule 11.27 shall have the same meaning as set forth in the Plan.

Groups Two and Three, and "n" for all other instances.[29] The Exchange believes that requiring the identification of a Retail Investor Orders only where the exception may apply (i.e., Pilot Securities in Test Groups Two and Three) is consistent with Appendix B.II(n).

Interpretations and Policies .03 requires that Members populate a field to identify to their DEA whether an order is affected by the bands in place pursuant to the National Market System Plan to Address Extraordinary Market Volatility.[30] Pursuant to the Limit-Up Limit-Down Plan, between 9:30 a.m. and 4:00 p.m., the Securities Information Processor ("SIP") calculates a lower price band and an upper price band for each NMS stock. These price bands represent a specified percentage above or below the stock's reference price, which generally is calculated based on reported transactions in that stock over the preceding five minutes. When one side of the market for an individual security is outside the applicable price band, the SIP identifies that quotation as non-executable. When the other side of the market reaches the applicable price band (e.g., the offer reaches the lower price band), the security enters a Limit State. The stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the security does not exit a Limit State within 15

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29 FINRA, on behalf of the Plan Participants submitted a letter to Commission requesting exemption from certain provisions of the Plan related to data collection. See letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated December 9, 2015 to Robert W. Errett, Deputy Secretary, Commission ("Exemption Request"). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted BZX a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the letter and noted herein. See letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Eric Swanson, General Counsel, BZX, dated February 10, 2016 ("Exemption Letter").

30 See National Market System Plan to Address Extraordinary Market Volatility, Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) ("Limit-Up Limit-Down Plan").

seconds, then the primary listing exchange declares a five-minute trading pause, which would be applicable to all markets trading the security.

The Exchange and the other Participants have determined that it is appropriate to create a new flag for reporting orders that are affected by the Limit-Up Limit-Down bands. Accordingly, a Trading Center shall report a value of "Y" to their DEA when the ability of an order to execute has been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt. A Trading Center shall report a value of "N" to their DEA when the ability of an order to execute has not been affected by the Limit-Up Limit-Down bands in effect at the time of order receipt.

Interpretations and Policies .03 also requires, for securities that may trade in a foreign market, that the Participant indicate whether the order was handled domestically, or routed to a foreign venue. Accordingly, the Participant will indicate, for purposes of Appendix B.I, whether the order was: (1) fully executed domestically, or (2) fully or partially executed on a foreign market. For purposes of Appendix B.II, the Participant will classify all orders in securities that may trade in a foreign market Pilot and Pre-Pilot Securities as: (1) directed to a domestic venue for execution; (2) may only be directed to a foreign venue for execution; or (3) was fully or partially directed to a foreign venue at the discretion of the member. The Exchange believes that this proposed flag will better identify orders in securities that may trade in a foreign market, as such orders that were routed to foreign venues would not be subject to the Plan's quoting and trading requirements, and could otherwise compromise the integrity of the data.

Interpretations and Policies .04 relates to the time ranges specified in Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22).[31] The Exchange and the other Participants have determined

[31] Specifically, Appendix B.I.a(14) requires reporting of the cumulative number of shares of orders executed from 0 to less than 100 microseconds after the time of order receipt;

that it is appropriate to change the reporting times in these provisions to require more granular reporting for these categories. Accordingly, the Exchange proposes to add Appendix B.I.a(14A), which will require Trading Centers to report the cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(15) will be changed to require the cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange also proposes to add Appendix B.I.a(21A), which will require Trading Centers to report the cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt. Appendix B.I.a(22) will be changed to require the cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt. The Exchange believes that these new reporting requirements will contribute to a meaningful analysis of the Pilot by producing more granular data on these points.[32]

Interpretations and Policies .05 relates to the relevant measurement for purposes of Appendix B.I.a(31)-(33) reporting. Currently, the Plan states that this data shall be reported as of the time of order execution. The Exchange and the other Participants believe that this information should more properly be captured at the time of order receipt as evaluating share-weighted average prices at the time of order receipt is more consistent with the goal of observing

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Appendix B.I.a(15) requires reporting of the cumulative number of shares of orders executed from 100 microseconds to less than 100 milliseconds after the time of order receipt; Appendix B.I.a(21) requires reporting of the cumulative number of shares of orders cancelled from 0 to less than 100 microseconds after the time of order receipt; and Appendix B.I.a(22) requires reporting of the cumulative number of shares of orders cancelled from 100 microseconds to less than 100 milliseconds after the time of order receipt.

[32] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, supra note 29.

the effect of the Pilot on the liquidity of Pilot Securities. The Exchange is therefore proposing to make this change through Interpretations and Policies .05.[33] This change will make these provisions consistent with the remainder of the statistics in Appendix B.I.a, which are all based on order receipt.

Interpretations and Policies .06 addresses the status of not-held and auction orders for purposes of Appendix B.I reporting. Currently, Appendix B.I sets forth eight categories of orders, including market orders, marketable limit orders, and inside-the-quote resting limit orders, for which daily market quality statistics must be reported. Currently, Appendix B.I does not provide a category for not held orders, clean cross orders, auction orders, or orders received when the NBBO is crossed. The Exchange and the other Participants have determined that it is appropriate to include separate categories for these orders types for purposes of Appendix B reporting. The Exchange is therefore proposing Interpretations and Policies .06 to provide that not held orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (18). Clean cross orders shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (19); auction orders shall be included an as order type for purposes of Appendix B reporting, and shall be assigned the number (20); and orders that cannot otherwise be classified, including, for example, orders received when the NBBO is crossed shall be included as an order type for purposes of Appendix B reporting, and shall be assigned the number (21). All of these orders already are included in the scope of Appendix B; however, without this proposed change, these order types would be categorized with other orders, such as regular held orders, that should be able to be fully

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[33] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, supra note 29.

executed upon receipt, which would compromise the value of this data.

The Exchange is proposing Interpretations and Policies .07 to clarify the scope of the Plan as it relates to Members that only execute orders limited purposes. Specifically, The Exchange and the other Participants believe that a Member that only executes orders otherwise than on a national securities exchange for the purpose of: (1) correcting a bona fide error related to the execution of a customer order; (2) purchasing a security from a customer at a nominal price solely for purposes of liquidating the customer's position; or (3) completing the fractional share portion of an order[34] shall not be deemed a Trading Center for purposes of Appendix B to the Plan. The Exchange is therefore proposing Supplementary Material .09 to make this clarification.

The Exchange is proposing Interpretations and Policies .08 to clarify that, for purposes of the Plan, Trading Centers must begin the data collection required pursuant to Appendix B.I.a(1) through B.II.(y) of the Plan and Item I of Appendix C of the Plan on April 4, 2016. While the Exchange or the Member's DEA will provide the information required by Appendix B and C of the Plan during the Pilot Period, the requirement that the Exchange or their DEA provide information to the SEC within 30 days following month end and make such data publicly available on its website pursuant to Appendix B and C shall commence six months prior to the beginning of the Pilot Period.[35]

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34 The Exchange notes that where a Member purchases a fractional share from a customer, the Trading Center that executes the remaining whole shares of that customer order would subject to subject to Appendix B of the Plan.

35 In its order approving the Plan, the SEC noted that the Pilot shall be implemented within one year of the date of publication of its order, e.g., by May 6, 2016. See Approval Order, 80 FR at 27545. However, on November 6, 2015, the SEC extended the implementation date approximately five months to October 3, 2016. See Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4-657)

The Exchange is proposing Interpretations and Policies .09 to address the requirement in Appendix C.I(b) of the Plan that the calculation of raw Market Maker realized trading profits utilize a last in, first out ("LIFO")-like method to determine which share prices shall be used in that calculation. The Exchange and the other Participants believe that it is more appropriate to utilize a methodology that yields LIFO-like results, rather than utilizing a LIFO-like method, and the Exchange is therefore proposing Interpretations and Policies .09 to make this change.[36] The Exchange is proposing that, for purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily LIFO basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the volume weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume

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(Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program). See also Letter from Brendon J. Weiss, Co-Head, Government Affairs, Intercontinental Exchange/NYSE, to Brent J. Fields, Secretary, Commission, dated November 4, 2015 (requesting the data collection period be extended until six months after the requisite SRO rules are approved, and the implementation data of the Tick Size Pilot until six months thereafter).

36 Appendix C.I currently requires Market Maker profitability statistics to include (1) the total number of shares of orders executed by the Market Maker; (2) raw Market Maker realized trading profits, which is the difference between the market value of Market Maker shares and the market value of Market Maker purchases, using a LIFO-like method; and (3) raw Market Maker unrealized trading profits, which is the difference between the purchase or sale price of the end-of-day inventory position of the Market Maker and the Closing Price. In the case of a short position, the Closing Price from the sale will be subtracted; in the case of a long position, the purchase price will be subtracted from the Closing Price.

weighted average price compared to the closing price of the security as reported by the primary listing exchange. In reporting unrealized trading profits, the Participant shall also report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit) and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.[37]

Finally, the Exchange is proposing Interpretations and Policies .10 to address the securities that will be used for data collection purposes prior to the commencement of the Pilot. The Exchange and the other Participants have determined that it is appropriate to collect data for a group of securities that is larger, and using different quantitative thresholds, than the group of securities that will be Pilot Securities. The Exchange is therefore proposing Interpretations and Policies .10 to define "Pre-Pilot Data Collection Securities" as the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the period beginning six months prior to the Pilot Period and ending on the trading day immediately preceding the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of $5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of $1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last day of the Pre-Pilot measurement period, and the CADV threshold shall be applied to the duration of the Pre-Pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data

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[37] The Commission granted BZX an exemption from Rule 608(c) related to this provision. See Exemption Letter, supra note 29.

Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period. On the trading day that is the first trading day of the Pilot Period through six months after the end of the Pilot Period, the data collection requirements will become applicable to the Pilot Securities only. A Pilot Security will only be eligible to be included in a Test Group if it was a Pre-Pilot Security.

Implementation Date

The proposed rule change will be effective on April 4, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[38] in general, and furthers the objectives of Section 6(b)(5) of the Act[39] 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 this proposal is consistent with the Act because it implements and clarifies the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. In approving the Plan, the SEC noted that the Pilot was an appropriate, data-driven test that was designed to evaluate the impact of a wider tick size on trading, liquidity, and the market quality of securities of smaller capitalization companies, and was therefore in furtherance of the purposes of the Act. The Exchange believes that this proposal is in furtherance of the objectives of the Plan, as identified by the SEC, and is therefore

38 15 U.S.C. 78f(b).

39 15 U.S.C. 78f(b)(5).

consistent with the Act because the proposal implements and clarifies the requirements of the Plan and applies specific obligations to Members in furtherance of compliance with the Plan.

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. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant of the Plan. The Exchange also notes that the data collection requirements for Members that operate Trading Centers will apply equally to all such Members, as will the data collection requirements for Market Makers.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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[40] and Rule 19b-4(f)(6) thereunder.[41]

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40 15 U.S.C. 78s(b)(3)(A).

41 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act[42] normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)[43] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to implement the proposed amendments by April 4, 2016, the date upon which the data collection requirements of the Plan become effective.[44] Therefore, the Commission hereby waives the operative delay and designates the proposal operative as of the date of this Notice.[45]

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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42 17 CFR 240.19b-4(f)(6).

43 17 CFR 240.19b-4(f)(6)(iii).

44 See Securities Exchange Act Release No. 76382 (November 6, 2015), 80 FR 70284 (File No. 4-657) (Order Granting Exemption From Compliance With the National Market System Plan To Implement a Tick Size Pilot Program).

45 For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. Please include File Number SR-BatsEDGX-2016-01 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-2016-01. 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 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-BatsEDGX-2016-01, 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.[46]

Brent J. Fields,
Secretary.

[46] 17 CFR 200.30-3(a)(12).

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