

## Summary of the Application

1. Applicants request an order to permit (a) a Fund<sup>1</sup> (each a “Fund of Funds”) to acquire shares of Underlying Funds<sup>2</sup> in excess of the limits in sections 12(d)(1)(A) and (B) of the Act and (b) each Underlying Fund that is a registered open-end investment company or series thereof, the Distributor or any principal underwriter and any broker or dealer registered under the Exchange Act to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act. Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.<sup>3</sup> Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential

(i) undue influence over an Underlying Fund that is not in the same “group of investment companies” as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

3. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76849; File No. SR–BATS–2015–121]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Changes to Rules 11.5, Registration of Market Makers, 11.6, Obligations of Market Maker Authorized Traders, 11.7, Registration of Market Makers in a Security, and 11.8, Obligations of Market Makers

January 7, 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 December 29, 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 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rules 11.5, Registration of Market Makers, 11.6, Obligations of Market Maker Authorized Traders, 11.7, Registration of Market Makers in a Security, and 11.8, Obligations of Market Makers, in order to update certain provisions and conform to the rules of EDGA Exchange, Inc. (“EDGA”), EDGX Exchange, Inc. (“EDGX”), Exchange’s equity options trading platform (“BZX Options”), EDGX’s equity options trading platform (“EDGX Options”), and the Nasdaq Stock Market LLC (“Nasdaq”).<sup>5</sup>

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.

<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).

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

<sup>5</sup> See EDGA and EDGX Rules 11.17, 11.18, 11.19, and 11.20; BZX Options Rule 22.6(d)(4), (5), and (7); EDGX Options Rule 22.6(d)(4), (5), and (7); and Nasdaq Rules Rule 4613(a)(2)(ii) [sic], 4613(a)(2)(D) and (E).

<sup>1</sup> Applicants request that the order apply to each existing and future series of Columbia Funds Series Trust I and Columbia Funds Variable Insurance Trust, and to each existing and future registered open-end management investment company or series thereof which is advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser and which is part of the same “group of investment companies” as Columbia Funds Series Trust I and Columbia Funds Variable Insurance Trust (each, a “Fund”). For purposes of the request for relief, the term “group of investment companies” means any two or more investment companies that hold themselves out to investors as related companies for purposes of investment and investor services.

<sup>2</sup> Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (“ETFs”).

<sup>3</sup> A Fund of Funds generally would purchase and sell shares of an Unaffiliated Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Unaffiliated Fund. To the extent that a Fund of Funds purchases or redeems shares from an ETF that is an affiliated person of the Fund of Funds in exchange for a basket of specified securities as described in the Application for the exemptive order upon which the ETF relies, Applicants also request relief from Section 17(a) for those in-kind transactions. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF is also an investment adviser to the Fund of Funds.

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

1. Purpose

In early 2014, the Exchange and its affiliate, BATS Y-Exchange, Inc. ("BYX"), received approval to effect a merger (the "Merger") of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX and EDGA (together with BZX, BYX and EDGX, the "BGM Affiliated Exchanges").<sup>6</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to align their rules, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the Exchange proposes to amend Rules 11.5, Registration of Market Makers, 11.6, Obligations of Market Maker Authorized Traders, 11.7, Registration of Market Makers in a Security, and 11.8, Obligations of Market Makers, in order to update certain provisions and conform to the rules of EDGA and EDGX and provide a consistent rule set across each of the BGM Affiliated Exchanges.<sup>7</sup> As amended, Exchange Rules 11.5, 11.6, 11.7, and 11.8 would be identical to EDGA and EDGX Rules 11.17, 11.18, 11.19, and 11.20 but for different cross references to Exchange Rules that are due to the different rule numbering amongst the Exchange, EDGA and EDGX.<sup>8</sup>

Rule 11.5, Registration of Market Makers

Like EDGA and EDGX Rule 11.17, Exchange Rule 11.5 governs the registration of Market Makers on the Exchange. In particular, paragraphs (a) and (b) of Rule 11.5 sets forth the application process for Members seeking to register as Market Makers on the Exchange. The Exchange proposes to amend paragraphs (c) and (d) of Rule 11.5 to harmonize Rule 11.5 with EDGA and EDGX Rule 11.17.

Paragraph (c) sets for [sic] the scenarios under which the Exchange

may suspend or terminate a Market Maker's registration which include where the Market Maker has: (i) substantially of [sic] continuously failed to engage in dealings in accordance with Rule 11.8 (discussed below); (ii) failed to meet the minimum net capital requirements set forth under paragraph (a) of the Rule; and [sic] (iii) maintain a fair and orderly market. Rule 11.5(c) is substantially similar to EDGA and EDGX Rules 11.17(c)(1) thru (3). EDGA and EDGX contain an additional provision under Rule 11.17(c)(4) allowing them to suspend or terminate a Market Maker's registration where it does not have at least one registered Market Maker Authorized Trader ("MMAT") qualified to perform market making activities as set forth in EDGA and EDGX Rule 11.18(b)(5).<sup>9</sup> Under proposed Rule 11.5(c)(4), a MMAT whose registration is suspended pursuant to Exchange Rule 11.6(c) shall not be deemed qualified within the meaning of Exchange Rule 11.6(c). In order to harmonize the scenarios under which the Exchange may suspend or terminate a Market Maker's registration under Rule 11.5(c) with EDGA and EDGX, the Exchange proposes to adopt the provisions under EDGA and EDGX Rule 11.17(c)(4) as new subparagraph (c)(4) under Rule 11.5. The Exchange believes it is reasonable to suspend or terminate a Market Maker's registration where it does not have at least one registered MMAT qualified to perform market making activities as the absence of a qualified MMAT would impede its ability to satisfy its market making obligations. To accommodate the addition of subparagraph (c)(4) under Rule 11.5, the Exchange also proposes to relocate the "or" from the end of subparagraph (c)(2) to the end of subparagraph (c)(3).

Lastly, to conform to EDGA and EDGX Rules 11.17(d), the Exchange proposes to amend paragraph (d) or [sic] Rule 11.5 to remove the letter "s" from after the word "interests".

Rule 11.6, Obligations of Market Maker Authorized Traders

Like EDGA and EDGX Rules 11.18, Exchange Rule 11.6 governs the

registration of MMATs. The Exchange proposes to amend paragraph (b)(4) to remove the letter "s" from after the word "interests" to harmonize Rule 11.6 with EDGA and EDGX Rule 11.18.

Rule 11.7, Registration of Market Makers in a Security

Like EDGA and EDGX Rules 11.19, Exchange Rule 11.7 sets forth the process for a Market Maker to become registered in a newly authorized security or in a security already admitted to dealings on the Exchange. The Exchange proposes to make the following changes to harmonize Rule 11.7 with EDGA and EDGX Rule 11.19:

- Amend paragraph (a) to state that registration in a security shall become effective on the same day as the Exchange's approval of the registration, unless otherwise provided by the Exchange; rather than the day following the following the Exchange's approval of the registration. This proposed amendment would harmonize Exchange Rule 11.7(a) with EDGA and EDGX Rules 11.19(a) in order to provide for consistent timeframes within which a registration may become effective across each of the BGM Affiliated Exchanges. Also, allowing for a registration to become effective on the same day as Exchange approval would enable a Market Maker to immediately provide liquidity in a security, rather than waiting until the following trading day. The Exchange would continue to maintain the authority to delay the effectiveness of the registration due to the Market Maker satisfying additional procedural requirements, such as the daily notification to the Exchange of the symbols to which it will make a market in on a particular trading day;

- Amend paragraph (a)(4) to replace the term "they are" with "Market Maker is";

- amend paragraph (a)(5) to add an "and" to the end of the paragraph; and

- amend paragraph (b) to remove the letter "s" from after the word "interests".

The changes proposed above would harmonize Exchange Rule 11.7 with EDGA and EDGX Rules 11.19.

Rule 11.8, Obligations of Market Makers

Like EDGA and EDGX Rules 11.20, Exchange Rule 11.8 sets forth the obligations of Market Makers. In short, Members who are registered as Market Makers in one or more securities traded on the Exchange must engage in a course of dealings for their own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets on the Exchange in accordance with these Rules. The

<sup>6</sup> See Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039).

<sup>7</sup> The Exchange notes that BYX intends to file an identical proposal with the Commission to amend its Rules 11.5, 11.6, 11.7, and 11.8 to updated certain provisions and conform to EDGA and EDGX Rules 11.17, 11.18, 11.19, and 11.20. The Exchange also notes that EDGA and EDGX intend to file proposals with the Commission to amend Rules 11.17, 11.18, 11.19, and 11.20 to update certain provisions to harmonize with the changes to Exchange Rules 11.5, 11.6, 11.7, and 11.8 proposed herein.

<sup>8</sup> The Exchange notes that the substance of the rules that are cross-referenced in Rule 11.5, 11.6, 11.7 and 11.8 are identical or substantially similar to the corresponding EDGA and EDGX Rules.

<sup>9</sup> Under Exchange Rule 11.6(b)(5), a Market Maker must ensure that a MMAT is properly qualified to perform market making activities, including but not limited to ensuring the MMAT has met the requirements set forth in Exchange Rule 11.6(b)(2). In addition, the Exchange notes that EDGA and EDGX Rules [sic] Rule 11.17(c)(4) currently reference EDGA and EDGX Rules 11.19(b)(5). The Exchange notes that this reference should be to EDGA and EDGX Rules 11.18(b)(5) and that EDGA and EDGX intend to include this correction in an upcoming rule filing to be submitted to the Commission.

Exchange proposes to make the following changes to harmonize Rule 11.8(a), (c), and (d) with EDGA and EDGX Rule 11.19:

- Amend subparagraph (a)(1) to clarify that the Market Maker must maintain continuous, *two-sided* quotations;<sup>10</sup>
- amend paragraph (c) to: (i) Replace in the first sentence “or” with “including, but without limitation” and “the” with “its”; (ii) delete the “other” from the second sentence; and (iii) add an “s” to the word “power” in the second sentence;
- amend paragraph (d)(1) to: (i) Add “Continuous” to the title “Two-Sided Quote Obligations”;<sup>11</sup>
- amend paragraphs (d)(2) and (d)(2)(C) to replace the word “under” with “of” before Regulation NMS;
- amend paragraph (d)(2)(A) to replace “from” with “as reported by” before reference to the responsible single plan processor; and
- amend paragraph (d)(2)(B) to replace “received from” with “reported by” before reference to the responsible single plan processor.

The Exchange also proposes to amend Rule 11.8(d)(1) to clarify the scenarios in which a Market Maker’s two-sided quoting obligation may be temporarily suspended or alleviated. The provisions proposed to be added are each substantially similar to the rules of BZX Options and EDGX Options.<sup>12</sup> Proposed Rule 11.8(d)(1)(A) addresses a Market Maker’s ability to satisfy the quoting standard in the event of a technical failure or system limitation. In particular, if a technical failure or limitation of a system of the Exchange prevents the Market Maker from maintaining or communicating to the Exchange timely and accurate quotes in each security in which a Member is registered as a Market Maker, the duration of such failure shall not be considered in determining whether the Market Maker has satisfied the quoting standard with respect to that security.<sup>13</sup>

In addition, proposed Rule 11.8(d)(1)(B) addresses a Market Maker’s ability to satisfy the quoting standard during a halt, suspension or pause. A

Market Maker’s quoting obligation under Rule 11.8 would be suspended during a trading halt, suspension, or pause in the security.<sup>14</sup> A Market Maker’s quoting obligation would recommence after the first regular way transaction on the primary listing market following such halt, suspension, or pause in the security, as reported by the responsible single plan processor.<sup>15</sup> A Market Maker’s quoting obligation would also be suspended under Rule 11.8(d)(1)(B) for the duration that an NMS stock is in a Limit State or a Straddle State declared pursuant to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or “Plan”).<sup>16</sup>

Under proposed Rule 11.8(d)(1)(C), the Exchange would have the ability to consider other exceptions to the Two-Sided Obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances. For example, a Market Maker must implement the pre-trade and other risk controls required by Rule 15c3–5 of the Act (the “Market Access Rule”) with respect to all of their quoting activity. These pre-trade risk controls must be reasonably designed to systemically limit financial exposure and ensure compliance with all regulatory requirements. The risk controls a Market Maker may have in place to comply with the Market Access Rule may prevent that Market Maker from satisfying its quoting obligation. In such case, the Exchange would consider whether the Market Maker’s failure to satisfy its quoting obligation due to its compliance with the Market Access Rule was proper.

Lastly, the Exchange proposes to amend its definitions of “Designated Percentage” and “Defined Limit” under Rules 11.8(d)(2)(D) and (E) respectively to be substantially similar to Nasdaq Rules 4613(a)(2)(D) and (E). The pricing obligations applicable to quotations of Market Makers are based on the Designated Percentage and the Defined Limit, which are determined based on the applicable trigger percentage. The amended definitions would include revised percentages and updated

descriptions of the categories of securities that are subject to those percentages. The Exchange notes that the percentages discussed below in the proposed definitions of Designated Percentage and Defined Limit are currently included in Interpretation and Policy .01 to Rule 11.8. Therefore, the Exchange is not proposing new percentages governing a Market Maker’s quoting obligations; it is seeking to adopt revised definitions that are substantially similar to that of Nasdaq in order to provide consistent rules with regard to Market Maker’s quoting obligations.<sup>17</sup> The Exchange believes consistent definitions would avoid confusion amongst market participants that make markets on multiple venues.

The Exchange currently defines Designated Percentage under Rule 11.8(d)(2)(D) as the individual stock pause trigger percentage under the applicable rules of a primary listing market less: Two (2) percentage points for securities that are included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products and for all other NMS stocks with a price equal to or greater than \$1.00 per share; and twenty (20) percentage points for all NMS stocks with a price less than \$1.00 per share that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products. Exchange Rule 11.8(d)(2)(D) also states that for times during Regular Trading Hours<sup>18</sup> when stock pause triggers are not in effect under the rules of the primary listing market, the Designated Percentage will be 20% for securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products. The Designated Percentage will remain the same throughout Regular Trading Hours for all other NMS stocks.

As amended, Designated Percentage would be defined as 8% for Tier 1 NMS Stocks under the Limit Up-Limit Down

<sup>10</sup> The Exchange does not propose to amend a Market Maker’s quoting obligations. The proposed change is simply intended to make clear that the obligation is to maintain a *continuous, two-sided* quotation.

<sup>11</sup> *Id.*

<sup>12</sup> See BZX Options Rule 22.6(d)(4), (5), and (7). See also EDGX Options Rule 22.6(d)(4), (5), and (7).

<sup>13</sup> See Securities Exchange Act Release No. 71229 [sic] (December 18, 2013), 78 FR 77736 (December 24, 2013) (SR-BATS–2013–062) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify BATS Options Market Maker Continuous Quoting Obligation Rules).

<sup>14</sup> The Exchange notes that proposed Rule 11.8(d)(B) would differ from BZX Options and EDGX Options Rules 22.6(d)(5) in so far as proposed Rule 11.8(d)(B) references “security” rather than “underlying security” in order to conform to the equities markets.

<sup>15</sup> See also Nasdaq Stock Market LLC (“Nasdaq”) Rule 4613(a)(2)(ii).

<sup>16</sup> See BZX and BYX Rules 11.18(e). See also EDGA and EDGX Rules 11.16(e). See also Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the “Limit Up-Limit Down Release”).

<sup>17</sup> The Exchange proposed to categorize securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products as Tier 1 NMS Stocks under the under the Limit Up-Limit Down Plan. Securities not included in the S&P 500® Index, Russell 1000® Index, or in the pilot list of Exchange Traded Products would be categorized as Tier 2 NMS Stocks under the under the Limit Up-Limit Down Plan. Nasdaq Rule 4613(a)(2)(D) and (E) references securities as included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products as such and those that are not as Tier 2 NMS Stocks. The Exchange notes that EDGA and EDGX also intent [sic] to amend their definitions of Designated Percentage and Defined Limit to mirror that proposed herein.

<sup>18</sup> See Exchange Rule 1.5(w).

Plan,<sup>19</sup> 28% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan<sup>20</sup> with a price equal to or greater than \$1.00, and 30% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price less than \$1.00, except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Exchange Rule 11.18(b) is not in effect, the Designated Percentage shall be 20% for Tier 1 NMS Stocks under the Limit Up-Limit Down Plan, 28% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price equal to or greater than \$1.00, and 30% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price less than \$1.00.

The Exchange currently defines Defined Limit under Rule 11.8(d)(2)(E) as the individual stock pause trigger percentage under the applicable rules of a primary listing market less one-half (1/2) percentage point for securities that are included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products and for all other NMS stocks with a price equal to or greater than \$1.00 per share; and eighteen and one-half (18.5) percentage points for all NMS stocks with a price less than \$1.00 per share that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products. As amended, Defined Limit would be defined as 9.5% for Tier 1 NMS Stocks under the Limit Up-Limit Down Plan, 29.5% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price equal to or greater than \$1.00, and 31.5% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price less than \$1.00, except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Exchange Rule 11.18(b) is not in effect, the Defined Limit shall be 21.5% for Tier 1 NMS Stocks under the Limit Up-Limit Down Plan, 29.5% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price equal to or greater than \$1.00, and 31.5% for Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price less than \$1.00. Exchange Rule 11.8(d)(2)(E) also states that for times during Regular Trading Hours when stock pause triggers are not in effect under the rules of the primary listing market, the Defined Limit will be

21.5% for securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products. The Defined Limit will remain the same throughout Regular Trading Hours for all other NMS stocks.

The Exchange proposes to delete Interpretation and Policy .01 to Rule 11.8 as its content would now be duplicative with the definitions of Designated Percentage and Defined Limit under proposed Rules 11.8(d)(2)(D) and (E).

## 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(b) of the Act.<sup>21</sup> Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,<sup>22</sup> because it is designed to promote just and equitable principles of trade, 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. As mentioned above, the proposed rule changes, combined with the planned filing for the BYX, EDGA, and EDGX, would allow the BGM Affiliated Exchanges to provide a consistent set of rules as it relates to the registration and obligations of Market Makers. Consistent rules, in turn, will simplify the regulatory requirements for Market Makers on the Exchange that are also Market Makers on EDGA, EDGX and/or BYX. The proposed rule change would provide greater harmonization between rules of similar purpose on the BGM Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance and understanding of Exchange Rules. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. Similarly, the Exchange also believes that, by harmonizing the rules across each BGM Affiliated Exchange, the proposal will enhance the Exchange's ability to fairly and efficiently regulate its Market Makers by utilizing a consistent rule set and obligations across each of the BGM Affiliated Exchanges. Consistent rules would enable the Exchange to apply identical standards to that of its

affiliates, alleviating confusion by Market Makers on who may also be registered as such on BYX, EDGA, or EDGX, thereby promoting just and equitable principles of trade in accordance with Section 6(b)(5) of the Act.<sup>23</sup>

The Exchange also believes the proposed amendments to Rule 11.8(d) are consistent with Section 6(b)(5) of the Act,<sup>24</sup> because they are designed to promote just and equitable principles of trade, 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 proposed amendments to Rule 11.8(d)(1) are meant to clarify the scenarios in which a Market Maker's two-sided quoting obligation may be temporarily suspended or alleviated. The provisions proposed to be added are each substantially similar to the rules of the BZX Options, EDGX Options and Nasdaq.<sup>25</sup> The Exchange believes it is appropriate to have consistent rules across its equities and options platforms. Consistent rules would aid in alleviating confusion amongst those that are Members on both platforms. The Exchange believes it is reasonable to suspend or alleviate a Market Maker's quoting obligations in the event of a technical or system limitation, during a trading halt, suspension or pause, as well as where demonstrated legal or regulatory requirements prevent the Market Maker from quoting. In each scenario, the Exchange will review the reasons behind the Market Maker inability to quote for compliance with the Rule. In addition, the percentages included in the proposed definitions of Designated Percentage and Defined Limit are currently included in Interpretation and Policy .01 to Rule 11.8. Therefore, the Exchange is not proposing to new percentages governing a Market Maker's quoting obligations; it is seeking to adopt revised definitions that are substantially similar to that of Nasdaq in order to provide a consistent rules with regard to Market Makers quoting obligations.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, allowing the Exchange to

<sup>19</sup> Tier 1 NMS Stocks under the Limit Up-Limit Down Plan are securities that are included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products. See the Limit Up-Limit Down Release *supra* note 16.

<sup>20</sup> Tier 2 NMS Stocks under the Limit Up-Limit Down Plan are securities that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products. *Id.*

<sup>21</sup> 15 U.S.C. 78f(b).

<sup>22</sup> 15 U.S.C. 78f(b)(5).

<sup>23</sup> *Id.*

<sup>24</sup> 15 U.S.C. 78f(b)(5).

<sup>25</sup> See *supra* notes 12 and 15.

implement substantively identical rules across each of the BGM Affiliated Exchanges regarding Market Maker registration and their obligations does not present any competitive issues, but rather is designed to provide greater harmonization among Exchange, BYX, EDGX, and EDGA rules of similar purpose. The proposed rule change should, therefore, result in less burdensome and more efficient regulatory compliance and understanding of Exchange Rules for common members of the BGM Affiliated Exchanges and an enhanced ability of the BGM Affiliated Exchanges to fairly and efficiently regulate Market Makers.

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

The Exchange has neither solicited nor received written comments 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>26</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>27</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.

**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-BATS-2015-121 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-BATS-2015-121. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BATS-2015-121, and should be submitted on or before February 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

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

[FR Doc. 2016-00464 Filed 1-12-16; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76852; File No. SR-BYX-2015-53]

**Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rules 11.5, Registration of Market Makers, 11.6, Obligations of Market Maker Authorized Traders, 11.7, Registration of Market Makers in a Security, and 11.8, Obligations of Market Makers**

January 7, 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 December 29, 2015, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") 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 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 the Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend Rules 11.5, Registration of Market Makers, 11.6, Obligations of Market Maker Authorized Traders, 11.7, Registration of Market Makers in a Security, and 11.8, Obligations of Market Makers, in order to update certain provisions and conform to the rules of EDGA Exchange, Inc. ("EDGA"), EDGX Exchange, Inc. ("EDGX"), BATS Exchange, Inc.'s ("BZX") equity options trading platform ("BZX Options"), EDGX's equity options trading platform

<sup>28</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> 15 U.S.C. 78s(b)(3)(A).

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

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4.