

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>69</sup>

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Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77790; File No. SR-BatsBYX-2016-06]

### Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.13, Order Execution and Routing, To Delete the IOCM and ICMT Routing Options

May 10, 2016.

Pursuant to the provisions of 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 May 2, 2016, Bats BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act <sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.13, Order Execution and Routing, to delete the IOCM and ICMT routing options. The Exchange also proposes to amend its fee schedule to delete: (i) References to the IOCM and ICMT routing options under footnote 8; and (ii) fee code PX, which is yielded on orders routed using the RMPT routing option or routed to Bats EDGX Exchange, Inc. (“EDGX”) to execute against MidPoint Peg Orders <sup>5</sup> on EDGX using ICMT or IOCM routing options.

The text of the proposed rule change is available at the Exchange’s Web site at [www.batstrading.com](http://www.batstrading.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The Exchange proposes to amend Rule 11.13, Order Execution and Routing, to delete the IOCM and ICMT routing options. The Exchange also proposes to amend its fee schedule to delete: (i) References to the IOCM and ICMT routing options under footnote 8; and (ii) fee code PX, which is yielded on orders routed using the RMPT routing option or routed to EDGX to execute against MidPoint Peg Orders on EDGX using ICMT or IOCM routing options.

Under Rule 11.13(b)(3)(O), an order utilizing the IOCM routing option checks the System <sup>6</sup> for available shares and then is sent, as MidPoint Peg Order with a Time-in-Force of IOC, to EDGX. Under Rule 11.13(b)(3)(P), an order utilizing the ICMT routing option checks the System for available shares, then is sent to destinations on the System routing table and then is sent, as MidPoint Peg Order with a Time-in-Force of IOC, to EDGX. If shares remain unexecuted after routing pursuant to both the IOCM and ICMT routing options, they are posted on the book, unless otherwise instructed by the User.<sup>7</sup>

<sup>6</sup> The “System” is the Exchange’s electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Exchange Rule 1.5(aa).

<sup>7</sup> The term “User” is defined as “any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.” See Exchange Rule 1.5(cc).

Footnote 8 of the fee schedule states that orders in securities priced below \$1.00 that remove liquidity utilizing certain routing strategies, including IOCM and ICMT, are charged a fee of \$0.29% of the trade’s total dollar value. Fee code PX is yielded on orders routed using the RMPT routing option or routed to EDGX to execute against MidPoint Peg Orders on EDGX using ICMT or IOCM routing options. Orders that yield fee code PX pay a fee of \$0.0012 per share in securities priced at or above \$1.00 and 0.29% of the trade’s dollar value for securities priced below \$1.00.

Because few Users elect the IOCM or ICMT routing options, the Exchange has determined that the current demand does not warrant the infrastructure and ongoing maintenance expenses required to support the products. Therefore, the Exchange proposes to delete the IOCM and ICMT routing options under Rule 11.13(b)(3)(O) and (P) as well as a reference to the IOCM and ICMT routing options under Rule 11.13(b)(3)(H). The Exchange also proposes to amend its fee schedule to delete: (i) References to the IOCM and ICMT routing options under footnote 8; and (ii) fee code PX, which is yielded on orders routed using the RMPT routing option or routed to EDGX to execute against MidPoint Peg Orders on EDGX using ICMT or IOCM routing options. Users seeking to route midpoint eligible orders to EDGX may use alternative methods, such as connecting to EDGX directly or through a third party service provider, or electing another routing option offered by the Exchange that enables a User to post an order to certain primary listing markets.<sup>8</sup>

The Exchange intends to implement the proposed rule change on May 5, 2016.<sup>9</sup>

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act <sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act <sup>11</sup> in particular, in that it is designed to promote just and equitable principles of

<sup>8</sup> See e.g., Rule 11.13(b)(3)(Q) (describing the RMPT routing option under which a Mid-Point Peg Order checks the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the BYX book as a MidPoint Peg Order, unless otherwise instructed by the User).

<sup>9</sup> See *Bats to Decommission ICMT, IOCM, and TRIM3 Routing Strategies*, issued April 18, 2016, available at [http://cdn.batstrading.com/resources/release\\_notes/2016/Bats-to-Decommission-ICMT-IOCM-and-TRIM3-Routing-Strategies.pdf](http://cdn.batstrading.com/resources/release_notes/2016/Bats-to-Decommission-ICMT-IOCM-and-TRIM3-Routing-Strategies.pdf).

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

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

<sup>69</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>5</sup> See EDGX Rule 11.8(d). The BYX fee schedule uses the term “EDGX MPM” for fee code PX. EDGX MPM is intended to refer to contra side MidPoint Peg Orders on EDGX.

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 does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because the IOCM and ICMT routing options will no longer be available to all Users. The Exchange has few Users electing the IOCM and ICMT routing options and has determined that the current demand does not warrant the infrastructure and ongoing maintenance expense required to support the products. Routing through the Exchange is voluntary and alternative routing options offered by the Exchange as well as other methods remain available to Users that wish to route midpoint eligible orders to EDGX.<sup>12</sup> In addition, the IOCM and ICMT routing options are not core product offerings by the Exchange, nor is the Exchange required by the Act to offer such products. Therefore, the Exchange believes the proposed rule change would make its rules clearer and less confusing for investors by removing routing options that will no longer be offered by the Exchange; thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather avoid investor confusion by eliminating the IOCM and ICMT routing options that are to be discontinued by the Exchange.

#### *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 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<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>15</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>16</sup> 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 so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would allow the Exchange to modify its rules in a timely manner by: (i) Eliminating a rule that accounts for services with few subscribers that the Exchange intends to discontinue; and (ii) accurately describing the alternative routing options available to Users, thereby avoiding potential investor confusion during the operative delay period. Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>17</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 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.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> 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).

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BatsBYX-2016-06 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 No. SR-BatsBYX-2016-06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsBYX-2016-06, and should be submitted on or before June 6, 2016.

<sup>12</sup> See *supra* note 8 and accompanying text.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77801; File No. SR-Phlx-2016-55]

### Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Maximum Number of Times an Order on PSX May Be Updated Before the System Cancels the Order

May 10, 2016.

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 May 2, 2016, NASDAQ PHLX LLC (“Phlx” or “Exchange”) 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 proposes to modify the maximum number of times an Order on PSX may be updated before the System cancels the Order.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

##### Background

The Exchange will cancel an Order if it is updated a certain number of times during any given day. Pursuant to Rule 3301A(a), an Order will be cancelled if it is repriced and/or reentered 10,000 times for any reason.<sup>3</sup>

Pursuant to Rule 3301A(b)(5)(A), a Market Maker Peg Order will be canceled if it is repriced 1,000 times. Pursuant to Rule 3301B(d), an Order with Primary Pegging will be cancelled if it is updated 1,000 times, and an Order with Market Pegging will be cancelled if it is updated 10,000 times.

The Exchange applies these limits to conserve System resources by limiting the persistence of Orders that update repeatedly without execution. These limits are applied daily to each order entered into the System. Orders that have a Time-in-Force<sup>4</sup> that allows them to persist longer than a single trading day will have their count reset each day. For example, if an Order with a Time-in-Force of Good-till-Canceled<sup>5</sup> is repriced 9,999 times during any given day, the Order will not be canceled due to the number of updates. Starting the next day, the Order would be again allowed to reprice up to 9,999 times before it would be canceled by the System.

##### Proposed Changes

First, the Exchange is proposing to eliminate rule text under Rules 3301A(a), 3301A(b)(5)(A), and 3301B(d) concerning cancellation based on Order updates and consolidate the concept under a new Rule 3306(a)(4).

Second, the Exchange is proposing to no longer state the specific number of times a particular Order Type may be

updated before it is canceled in the new rule and is, instead, noting that the number of permissible changes may vary by Order Type or Order Attribute and may change from time to time. Further, the proposed rule will note that the Exchange will post on its Web site what is considered a change for a particular Order Type and Order Attribute, and the current limits on the number of such changes.

The Exchange is changing the process by which it counts updates, which will allow it to identify a wider range of updates to an Order. Using the new process, the Exchange will be able to track the following Order updates: (1) System-generated child Orders; (2) display size refreshes from reserve; (3) replaces of System-generated child Orders (which include Orders with a Pegging Attribute); and (4) cancellation requests of System-generated child Orders. The Exchange notes that all updates identified by the current process will be counted under the new process. The Exchange believes these changes will provide it with greater flexibility in addressing changes in volume, market participant behavior, and the Exchange’s capacity to handle the message volume caused by Orders that update a significant number of times throughout the trading day.

The Exchange will provide at least one day’s advanced notice to the public of any changes to the number of updates permitted before an Order is canceled. Initially, the Exchange will keep the number of updates consistent with what is currently noted in the rules; however, the Exchange may shortly thereafter change the number of updates as needed to address market conditions.

Phlx is also making minor technical corrections to Rule 3301B(d) to change the word “they” to the word “the” in the first full paragraph below the bulleted list under the rule and to delete an erroneous quote from the end of the same paragraph.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(5) of the Act,<sup>7</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to

<sup>18</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> Orders entered through OUCH and FLITE ports generally are not repriced or reentered. As explained in rule 3301A(b)(1)(B), orders entered through OUCH and FLITE may be updated for display once. Further, OUCH and FLITE Orders may only be decremented in size, which is not considered repricing or reentry of the Order. See <http://www.nasdaqtrader.com/Trader.aspx?id=TradingSpecs> for a description of the various order entry port specifications.

<sup>4</sup> The “Time-in-Force” assigned to an Order means the period of time that the System will hold the Order for potential execution. See Rule 3301B(a).

<sup>5</sup> An Order that is designated to deactivate one year after entry may be referred to as a “Good-till-Cancelled.” See Rule 3301B(a)(3).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(5).