

was maintained by FINRA Dispute Resolution before the merger, will be maintained by FINRA Regulation, and the composition of the NAMC will not change. At least 50 percent of the members must be non-industry members. The Commission believes that the foregoing should help to ensure the maintenance of a fair and neutral forum.

With respect to concerns raised by commenters regarding the public perception of fairness if the merger is approved, the Commission notes that the dispute resolution forum will continue to be subject to the same Commission oversight as other departments of FINRA, which includes the requirement to file all rule changes, which include changes to the By-Laws, with the Commission,<sup>57</sup> and the forum will continue to be subject to inspections by the Commission and by the Government Accountability Office, which performs audits at the request of the United States Congress.<sup>58</sup> In addition, the Commission expects FINRA to continue to work closely with investors, members, and other interested parties in looking at ways to strengthen the dispute resolution process and serve the needs of the investing public, and to consider any recommendations raised by its Dispute Resolution Task Force<sup>59</sup> for improving the effectiveness, transparency, impartiality and efficiency of its arbitration forums.

PIABA also questioned the actual cost savings generated by the proposed merger. FINRA indicated that the merger will reduce unnecessary administrative burdens that result from the need to maintain separate legal entities, such as costs and resources associated with complying with multiple-entity regulatory and tax filings and maintaining separate accounting protocols. The merger will allow FINRA to streamline its operational procedures and re-allocate staff involved in such processes, which should make FINRA's operations more efficient.

FINRA states that the increase to the maximum number of FINRA Regulation board seats from 15 to 17 will provide

it with additional flexibility to manage its board committee assignments and meet the compositional requirements under the FINRA Regulation By-Laws. The Commission notes that following the increase, the FINRA Regulation board compositional requirements will continue to provide for the fair representation of FINRA's members and the numerical dominance of public directors, consistent with the requirements of the Act.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>60</sup> that the proposed rule change (SR-FINRA-2015-034), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>61</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76664; File No. SR-BATS-2015-110]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 13.3, Forwarding of Proxy and Other Issuer Materials; Proxy Voting

December 16, 2015.

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 2, 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 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) 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 is proposing to amend paragraph (a) of Rule 13.3, Forwarding or Proxy and other Issuer Materials; Proxy Voting, to conform to the rules of EDGA Exchange, Inc. ("EDGA") and EDGX Exchange, Inc. ("EDGX").<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.

#### 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.

EDGA and EDGX recently filed proposed rule changes with the Commission to restructure and amend their Rules 3.22. Proxy Voting, and 13.3, Forwarding of Proxy and Other Issuer Materials, to conform to BYX and BZX Rule 13.3.<sup>7</sup> In order to provide a consistent rule set across each of the

<sup>57</sup> The arbitration program and services will continue to be governed by the FINRA Codes of Arbitration Procedure and the mediation program and services by the FINRA Code of Mediation Procedure. See FINRA Rule 12000, 13000 and 14000 Series.

<sup>58</sup> See Notice, *supra* note 3, at 61547. Moreover, FINRA has represented that a decision not to take enforcement action against a member has no evidentiary weight and further, that FINRA would consider it unethical and potentially misleading to suggest that such a determination is probative evidence in a dispute on the merits of a related claim.

<sup>59</sup> See *supra* note 43.

<sup>60</sup> 15 U.S.C. 78s(b)(2).

<sup>61</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).

<sup>5</sup> See Securities Exchange Act Release Nos. 76329 (November 3, 2015), 80 FR 69259 (November 9, 2015); 76330 (November 3, 2015), 80 FR 69264 (November 9, 2015) (SR-EDGX-2015-51; SR-EDGA-2015-41).

<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> See *supra* note 3.

BGM Affiliated Exchanges, the Exchange proposes to amend paragraph (a) of Rule 13.3, Forwarding of Proxy and Other Issuer Materials; Proxy Voting, to make two revisions to conform to the recently amended rules of EDGA and EDGX.<sup>8</sup>

In sum, paragraph (a) of Rule 13.3 requires Members to transmit proxy materials and other communications to beneficial owners of securities. The Exchange notes paragraph (a) of Rule 13.3 is substantially similar to EDGA and EDGX Rules 13.3(a) which also requires Members to transmit proxy materials to beneficial owners of securities. Nonetheless, the Exchange proposes two revisions to make the rule identical to the corresponding amended EDGA and EDGX Rules 13.3(a). These revisions to paragraph (a) of Rule 13.3 are: (i) Pluralize the reference to “proxy material” in the first sentence; and (ii) specify that the “designated investment advisor” is defined in Interpretation and Policy .01 to this Rule 13.3. Otherwise, the Exchange does not propose any additional changes to Rule 3.22. As amended, Exchange Rule 13.3 would be identical to amended EDGA and EDGX Rules 13.3. The Exchange believes that the changes described above will help avoid confusion amongst Members of the Exchange that are also members of EDGA, BYX, and EDGX by adopting identical rules across the BGM Affiliated Exchanges with regard to proxy delivery.

## 2. Statutory Basis

The Exchange believes that the proposed rule changes are 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>9</sup> Specifically, the proposed changes are consistent with Section 6(b)(5) of the Act,<sup>10</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. None of these changes alter the Exchange's current proxy delivery and voting requirements. Rather, as mentioned above, the proposed rule changes, combined with the planned filing for BYX, would allow the BGM Affiliated

Exchanges to provide an identical set of rules as it relates to proxy delivery and voting. Consistent rules, in turn, will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA, BYZ and/or EDGX. 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 Members, meaning that the proposed rule change would promote just and equitable principles of trade in accordance with Section 6(b)(5) of the Act.<sup>11</sup> [sic] Finally, the Exchange believes that the non-substantive changes discussed above will contribute to the protection of investors and the public interest by helping to avoid confusion with respect to Exchange Rules.

## 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 implement identical rules across each of the BGM Affiliated Exchanges does not present any competitive issues, but rather is designed to provide greater harmonization among Exchange, EDGX, BYX, and EDGA rules of similar purpose. The proposed rule change should, therefore, result in less burdensome and more efficient regulatory compliance as well as a better understanding of Exchange Rules for common members of the BGM Affiliated Exchanges.

## 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) 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>12</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>13</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: (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 Number SR-BATS-2015-110 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BATS-2015-110. 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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</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>8</sup> The Exchange notes that BYX intends to file an identical proposal with the Commission to amend paragraph (a) of Rule 13.3, Forwarding of Proxy and Other Issuer Materials; Proxy Voting, to conform to the rules of EDGA and EDGX.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

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

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 Number SR-BATS-2015-110, and should be submitted on or before January 12, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

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

[FR Doc. 2015-32045 Filed 12-21-15; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-31943; 812-14593]

### Third Avenue Trust and Third Avenue Management LLC; Notice of Application and Temporary Order

December 16, 2015.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application and a temporary order under Section 22(e)(3) of the Investment Company Act of 1940 (the "Act").

**SUMMARY OF APPLICATION:** Applicants request a temporary order to permit Third Avenue Focused Credit Fund (the "Fund"), a series of Third Avenue Trust (the "Trust"), to suspend the right of redemption of its outstanding redeemable securities.

**APPLICANTS:** The Trust, on behalf of the Fund, and Third Avenue Management LLC (the "Adviser," together with the Trust, the "Applicants").

**FILING DATE:** The application was filed on December 16, 2015.

**HEARING OR NOTIFICATION OF HEARING:** Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 7, 2016, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants, c/o Third Avenue Management LLC 622 Third Avenue, 32nd Floor, New York, NY 10017.

**FOR FURTHER INFORMATION CONTACT:** David Joire, Senior Special Counsel, at (202) 551-6866 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Background

1. The Adviser is the investment adviser to the Fund. The Adviser is a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser managed assets of approximately \$8 billion as of September 30, 2015.

2. The Trust is a Delaware statutory trust and is registered with the Commission under the 1940 Act as an open-end management investment company with five series. Each series of the Trust has a different investment objective and different investment policies. The Fund is one such series.

3. The Fund is a non-diversified open-end investment company. Its investment objective is to seek long-term total return, which may include investment returns from a combination of sources including capital appreciation, fees and interest income.

4. The Fund has been subject to a significant level of redemption requests by the Fund's investors over the past six months. For example, the Fund has

experienced a total of \$1.1 billion in estimated net outflows for the year to date through December 9, 2015, which was more than 145% of its remaining net asset value at that date. In November 2015, the Fund experienced a total of \$317 million in estimated net redemptions, and the Fund's Institutional Class net asset value per share fell from \$7.81 to \$7.08 and its Retail Class net asset value per share fell from \$7.82 to \$7.09.

5. The ongoing reduction in liquidity in the Fund's portfolio securities is related to a number of factors, including an imbalance between selling interest and buying interest. The Fund increased its cash position to over \$200 million by early December 2015 in anticipation of tax selling and other redemptions.

6. During this period, Fund management also kept the Board of Trustees of the Trust (the "Board") informed and reevaluated contingency plans. On December 9, 2015, after considering the environment the Fund was in and the likelihood that incremental sales of portfolio securities to satisfy additional redemptions would have to be made at prices that would unfairly disadvantage all remaining shareholders, the Board determined that the fairest action on behalf of all shareholders would be to adopt a plan of liquidation. The Board determined to implement this plan by placing the remaining noncash assets in a liquidating trust for the benefit of all Fund shareholders and distributing available cash. Relief from the Commission in connection with the plan's implementation was not sought by the Fund and the Adviser.

7. On December 9, 2015, the Board adopted a plan of liquidation for the Fund (the "Plan of Liquidation"), pursuant to which the Board declared two distributions, one of the remaining net cash and one of the beneficial interests in a liquidating trust ("Liquidating Trust"). These distributions were scheduled to be paid on December 16, 2015. Interests in the Liquidating Trust would not trade and would, in general, be transferable only by operation of law. The Adviser would manage the Liquidating Trust's assets without charge and there would be periodic distributions from the Liquidating Trust as income is received and assets are sold at fair prices. All redemption requests as of December 9, 2015, were met by the Fund and the sales of the shares of the Fund were suspended as of December 10, 2015.

8. Upon announcement of the Plan of Liquidation, the Commission staff expressed concerns during discussions with the Fund and the Adviser. In

<sup>14</sup> 17 CFR 200.30-3(a)(12).