

*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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>10</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 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NASDAQ-2010-130 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-NASDAQ-2010-130. 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 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NASDAQ. 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-NASDAQ-2010-130 and should be submitted on or before November 10, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-26336 Filed 10-19-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63113; File No. 4-616]

### Self-Regulatory Organizations; Order Approving Minor Rule Violation Plan for BATS Y-Exchange, Inc.

October 15, 2010.

On September 10, 2010, BATS Y-Exchange, Inc. ("BATS Y-Exchange" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") a proposed minor rule violation plan ("MRVP") pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19d-1(c)(2) thereunder.<sup>2</sup> The proposed MRVP was published for public comment on September 23, 2010.<sup>3</sup> The Commission received no comments on the proposal. This order approves BATS Y-Exchange's proposed MRVP.

BATS Y-Exchange's MRVP specifies those uncontested minor rule violations with sanctions not exceeding \$2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) of the

Act<sup>4</sup> requiring that a self-regulatory organization promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.<sup>5</sup> In accordance with Rule 19d-1(c)(2) under the Act, the Exchange proposed to designate certain specified rule violations as minor rule violations, and requested that it be relieved of the reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis. BATS Y-Exchange included in its proposed MRVP the policies and procedures currently included in BATS Y-Exchange Rule 8.15 ("Imposition of Fines for Minor Violation(s) of Rules") and the rule violations included in BATS Y-Exchange Rule 8.15.01.<sup>6</sup>

Pursuant to the Exchange's proposed MRVP, under Rule 8.15, the Exchange may impose a fine (not to exceed \$2,500) on a member or an associated person of a member, or a registered or non-registered employee of a member with respect to any rule listed in Rule 8.15.01. The Exchange shall serve the person against whom a fine is imposed with a written statement setting forth the rule or rules violated, the act or omission constituting each such violation, the fine imposed, and the date by which such determination becomes final or by which such determination

<sup>4</sup> 17 CFR 240.19d-1(c)(1).

<sup>5</sup> The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with the Commission shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

<sup>6</sup> On August 13, 2010, the Exchange's application for registration as a national securities exchange, including the rules governing the BATS Y-Exchange, was approved. See Securities Exchange Act Release No. 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10-198). In the approval order, the Commission noted that BATS Y-Exchange Rule 8.15 provides for the imposition of fines for minor rule violations pursuant to a minor rule violation plan. Accordingly, the Commission noted that as a condition to the operation of BATS Y-Exchange, the Exchange must file a minor rule violation plan with the Commission. BATS Y-Exchange represented that modifications may be made to Rule 8.15.01 in the future. BATS Y-Exchange proposed that, when amendments to Rule 8.15.01 are made pursuant to a rule filing submitted pursuant to Rule 19b-4 under the Act, such filing would automatically be deemed a request by BATS Y-Exchange for Commission approval of a modification to its MRVP.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19d-1(c)(2).

<sup>3</sup> See Securities Exchange Act Release No. 62924 (September 16, 2010), 75 FR 58011. The notice was published under File No. 10-198 used for BATS Y-Exchange's Form 1 application, however the order will be published under File No. 4-616.

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

must be contested. If the person against whom the fine is imposed pays the fine, such payment shall be deemed to be a waiver of such person's right to a disciplinary proceeding and any review of the matter under Exchange rules. Any person against whom a fine is imposed may contest the Exchange's determination by filing with the Exchange a written response, at which point the matter shall become a disciplinary proceeding.

Upon approval of the plan, the Exchange will provide the Commission a quarterly report of actions taken on minor rule violations under the plan. The quarterly report will include the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred, and the date of disposition.<sup>7</sup>

The Commission finds that the proposed MRVP is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act<sup>9</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules. In addition, because the MRVP offers procedural rights to a person sanctioned under Rule 8.15, the Commission believes that Rule 8.15 provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.<sup>10</sup>

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,<sup>11</sup> because the MRVP strengthens BATS Y-Exchange's ability to carry out its oversight and

enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposal, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Rule 8.15. The Commission believes that the violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Rule 8.15 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that BATS Y-Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, whether a sanction under the MRVP is appropriate, or whether a violation requires formal disciplinary action.

*It is therefore ordered*, pursuant to Rule 19d-1(c)(2) under the Act,<sup>12</sup> that the proposed MRVP for BATS Y-Exchange, File No. 4-616, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-26359 Filed 10-19-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63105; File No. SR-BX-2010-059]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Create a Listing Market on the Exchange

October 14, 2010.

On August 20, 2010, NASDAQ OMX BX, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to

create a listing market, which will be called "BX." The proposed rule change was published for comment in the **Federal Register** on September 8, 2010.<sup>4</sup> The Commission received two comment letters on this proposal.<sup>5</sup>

Section 19(b)(2) of the Act<sup>6</sup> provides that within forty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period up to ninety days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is October 23, 2010. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would create a new listing market on the Exchange, and to consider the comment letters that have been submitted in connection with this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> designates December 7, 2010, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-26358 Filed 10-19-10; 8:45 am]

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<sup>4</sup> See Securities Exchange Act Release No. 62818 (September 1, 2010), 75 FR 54665.

<sup>5</sup> See Letter to Elizabeth M. Murphy, Secretary, Commission, from William F. Galvin, Secretary of the Commonwealth, Commonwealth of Massachusetts, dated September 28, 2010; and Letter to Elizabeth M. Murphy, Secretary, Commission, from Michael R. Trocchio, Bingham McCutchen LLP, on behalf of Pink OTC Markets Inc., dated October 3, 2010.

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(31).

<sup>7</sup> BATS Y-Exchange attached a sample form of the quarterly report with its submission to the Commission.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>10</sup> 15 U.S.C. 78f(b)(7) and 78f(d)(1).

<sup>11</sup> 17 CFR 240.19d-1(c)(2).

<sup>12</sup> *Id.*

<sup>13</sup> 17 CFR 200.30-3(a)(44).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.