

19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rule 652 (“Limitation of Exchange Liability and Reimbursement of Certain Expenses”) to require member organizations on the Exchange’s trading floor to procure and maintain liability insurance. The proposed rule change was published for comment in the **Federal Register** on September 17, 2010.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

The Exchange proposes to require that member organizations located on the Exchange’s trading floor procure and maintain liability insurance by December 31, 2010. The insurance would provide defense and indemnity coverage for the member organization, any person associated with the member organization and the Exchange for any action or proceeding brought, or claim made, to impose liability upon the member organization, associated person or the Exchange which results from the member organization’s or associated person’s conduct.

According to the Exchange, it does not intend this amendment to provide relief associated with financial loss related to buying and selling securities; the insurance coverage is intended to provide coverage to the Exchange for its sole, concurrent, or contributory negligence or other wrongdoing connected to a claim arising from the member organization’s or associated person’s conduct. The member organization would be required to maintain insurance with a limit that is not less than \$1,000,000 without erosion by defense costs. Each member organization located on the trading floor would be required to provide a certificate of insurance to be issued directly to the Exchange demonstrating the insurance was procured and is maintained. The Exchange also proposes to expand the language in Rule 652 to apply the rule to individuals of the Exchange, specifically officers, directors and employees. The Exchange believes that this change will clarify that individuals serving as officers, directors or employees are also the subject of Rule 652.

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules

and regulations thereunder applicable to a national securities exchange.<sup>4</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the proposed rule change be 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 Commission believes that the proposed rule change is a reasonable means of protecting the Exchange’s financial resources that are normally used to support the Exchange’s surveillance and self-regulatory responsibilities, rather than having this capital diverted to defending litigation claims.

The Commission believes that requiring member organizations to obtain insurance coverage to protect the Exchange from claims resulting from their own conduct is not an undue burden. Furthermore, the Commission believes that the proposed rule change may conserve Exchange capital resources, and will provide additional coverage for member organizations since the member organizations are within the scope of the required insurance’s coverage.

Finally, the Commission believes that amending Exchange Rule 652 to add officers, directors and employees in addition to the Exchange will remove any ambiguity or confusion by explicitly stating that the word “Exchange” as used in Rule 652 includes such individuals.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-Phlx-2010-119) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

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

[FR Doc. 2010-26676 Filed 10-21-10; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63122; File No. SR-BATS-2010-028]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposal To Make Clean Up Changes by Amending Certain Rules

October 18, 2010.

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 October 6, 2010, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (the “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 is proposing to amend BATS Rule 2.3 to clarify that a broker or dealer must be a member of another national securities exchange or association other than BATS Y-Exchange, Inc. (“BYX”) in order to become or remain a Member of the Exchange, to remove the text of Rule 2.4 because the waive-in period for the Exchange has expired, and to make a technical correction to BATS Rule 14.5. The text of the proposed rule change is available at the Exchange’s Web site at <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

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

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

<sup>7</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>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 62892 (September 10, 2010), 75 FR 57090.

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

The Exchange proposes to amend BATS Rule 2.3 to clarify that a broker or dealer be a member of another national securities exchange or association other than or in addition to the Exchange's affiliate, BYX, in order to become or remain a Member of the Exchange. The Exchange also proposes to remove the text of BATS Rule 2.4 because the rule has become obsolete as the period for submission of a waive-in membership application has expired. Lastly, the Exchange proposes to make a technical correction to BATS Rule 14.5(c) to replace a reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

*Amend Rule 2.3 To Reflect Existence of BATS Y-Exchange*

The Exchange requires all of its Members to be a member of at least one other national securities association or national securities exchange. The proposed change would make clear that this requirement is not satisfied simply by joining the Exchange's affiliated exchange, BYX. Rather, as the proposed language indicates, each Member that is a registered broker or dealer must be a member of another registered national securities exchange or association other than or in addition to BYX.

*Deletion of Obsolete Rule—BATS Rule 2.4*

As approved by the Commission as part of the Exchange's Form 1 application, BATS Rules include provisions that permitted current or former subscribers to the electronic communications network formerly operated by BATS Trading, Inc. to apply to become a Member of the Exchange by submitting a "waive-in application" within ninety (90) days of approval of the Form 1 by the Commission. The Commission approved the Exchange's Form 1 application on August 18, 2008, meaning that waive-in membership applications must have been received by the Exchange on or prior to November 16, 2008. Accordingly, BATS Rule 2.4 is obsolete, and thus, the Exchange proposes to delete such rule.

*Correct Improper Term in BATS Rule 14.5(c)*

Lastly, the Exchange proposes to correct language in BATS Rule 14.5(c) to replace an incorrect reference to "Commodity-Based Trust Shares" with "Currency Trust Shares".

2. Statutory Basis

The rule change proposed in this submission 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>5</sup> Specifically, the Exchange believes that the proposed changes are consistent with Section 6(b)(5) of the Act,<sup>6</sup> because they would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

*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: (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>7</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission

waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>9</sup> which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>10</sup> Such waiver will result in immediate improvement to the Exchange's rules by clarifying vague language, removing inoperative language, and correcting a technical inaccuracy. The Commission believes such improvements should be implemented immediately, rather than delayed for 30 days. Additionally, the proposed rule change does not raise any new regulatory issues. For these reasons, the Commission designates the proposed rule change as operative upon filing.

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.

**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 Number SR-BATS-2010-028 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-BATS-2010-028. 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

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</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).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BATS-2010-028 and should be submitted on or before November 12, 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. 2010-26677 Filed 10-21-10; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice: 7213]

### Notice Convening an Accountability Review Board To Examine the Circumstances of the Death of Three DoD Personnel Assigned to the U.S. Embassy's Office of Defense Representative Pakistan (ODRP) on February 3, 2010

Pursuant to Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended (22 U.S.C. 4831 *et seq.*), the Secretary of State has determined that a recent attack on three Department of Defense personnel assigned to the U.S. Embassy's Office of Defense Representative Pakistan (ODRP) involved loss of life that was at or related to a U.S. mission abroad. Therefore, the Secretary has convened an Accountability Review Board to examine the facts and the circumstances of the attacks and to report to me such

findings and recommendations as it deems appropriate.

The Secretary has appointed Joseph Lake, a retired U.S. ambassador, as Chair of the Board. He will be assisted by Robert Bryson, Lewis Atherton, Barbara Martin, Wayne Rychak and by the Executive Secretary to the Board, Linda Hartley. They bring to their deliberations distinguished backgrounds in government service and/or the private sector.

The Board will submit its conclusions and recommendations to Secretary Clinton within 60 days of its first meeting, unless the Chair determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the Board.

Anyone with information relevant to the Board's examination of these incidents should contact the Board promptly at (202) 647-5204 or send a fax to the Board at (202) 647-3282.

This notice shall be published in the **Federal Register**.

Dated: October 8, 2010.

**Patrick F. Kennedy,**  
Under Secretary for Management.

[FR Doc. 2010-26791 Filed 10-21-10; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2010-0135]

### Reports, Forms, and Recordkeeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Request for extension of a currently approved collection of information.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Comments must be received on or before December 21, 2010.

**ADDRESSES:** Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590, by any of the following methods.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Agency Web Site:** <http://dms.dot.gov>. Follow the instructions for submitting comments on the Docket Management System.

- **Fax:** (202) 493-2251.

- **Mail:** Docket Management Facility; U. S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- **Hand Delivery/Courier:** 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. Telephone: 1-800-647-5527.

**Instructions:** All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. *Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room W12-140 on the ground level of the DOT Building, 1200 New Jersey Avenue, SE., West Building Ground Floor, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

### FOR FURTHER INFORMATION CONTACT:

Complete copies of each request for collection of information may be obtained at no charge from Mr. Hisham Mohamed, NHTSA, 1200 New Jersey Avenue, SE., West Building, Room # W43-437, NVS-131, Washington, DC 20590. Mr. Mohamed's telephone number is (202) 366-0307. Please identify the relevant collection of information by referring to its OMB Control Number.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information.

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