

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-NYSEArca-2013-118. 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 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-NYSEArca-2013-118 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70865; File No. SR-BATS-2013-057]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BATS Competitive Liquidity Provider Program

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 12, 2013, 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 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 Interpretation and Policy .02 to Rule 11.8, entitled "Competitive Liquidity Provider Program."

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 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

On August 30, 2011, the Exchange received approval of rules applicable to

the qualification, listing and delisting of securities of issuers on the Exchange.³ More recently, the Exchange received approval to operate a program that is designed to incentivize certain market makers registered with the Exchange as Competitive Liquidity Providers ("CLPs") to enhance liquidity on the Exchange in Exchange-listed securities (the "Competitive Liquidity Provider Program" or "CLP Program").⁴ The Exchange subsequently adopted financial incentives for the CLP Program⁵ and thereafter amended certain of the financial incentives and criteria for the CLP Program.⁶

The purpose of this filing is to modify Interpretation and Policy .02 of Rule 11.8 regarding certain details around the implementation of the CLP Program. Specifically, effective December 1, 2013, the Exchange proposes to: (1) Award up to three CLPs, or more in the case of a tie, at each size event test ("SET") with credits ("SET Credits") based on their rank in aggregate size at the NBB or NBO at the time of the SET; (2) base the allocation of daily financial rewards on the number of SET Credits awarded to CLPs; (3) change the allocation of the daily financial rewards to a set dollar value per CLP in each class of security; and (4) make certain cleanup and clarifying changes to Interpretation and Policy .02 to Rule 11.8.

Increasing Winning SETs and Awarding SET Credits

The Exchange is proposing to award Winning Bid SETs⁷ and Winning Offer SETs⁸ (collectively, "Winning SETs") along with SET Credits to at least three CLPs each for the bid ("Bid SET Credits") and offer ("Offer SET Credits") based on a CLP's rank in aggregate size at the NBB or NBO at the time of a SET. Currently, only the CLP with the greatest aggregate size at the NBB and the CLP with the greatest aggregate size at the NBO at the time of a SET are considered to have a Winning Bid SET and a Winning Offer SET, respectively.

³ See Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

⁴ See Securities Exchange Act Release No. 66307 (February 2, 2012), 77 FR 6608 (February 8, 2012) (SR-BATS-2011-051).

⁵ See Securities Exchange Act Release No. 66427 (February 21, 2012), 77 FR 11608 (February 27, 2012) (SR-BATS-2012-011).

⁶ See Securities Exchange Act Release Nos. 67854 (September 13, 2012), 77 FR 58198 (September 19, 2012) (SR-BATS-2012-036) and 69190 (March 20, 2013), 78 FR 18384 (March 26, 2013) (SR-BATS-2013-005).

⁷ As defined in Interpretation and Policy .02 (g)(1) to BATS Rule 11.8.

⁸ *Id.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁵ 17 CFR 200.30-3(a)(12).

CLPs are not currently awarded SET Credits.

The Exchange is proposing to amend Interpretation and Policy .02(g)(1) to Rule 11.8 such that the three CLPs with the greatest aggregate size at the NBB and the three CLPs with the greatest aggregate size at the NBO at the time of each SET will be considered to have a Winning SET. Where there is a tie, all CLPs with the same aggregate size at the NBB (NBO) will be considered to have a Winning Bid (Offer) SET if there are two or less CLPs that have greater aggregate size at the NBB (NBO). Additionally, all CLPs with a Winning SET will be awarded SET Credits based on the following: all CLPs with the greatest aggregate size at the NBB or NBO will receive three SET Credits; all CLPs with the second greatest aggregate size at the NBB or NBO will receive two SET Credits; and all CLPs with the third greatest aggregate size at the NBB will receive one SET Credit.

For example:

CLP	Shares at NBB
CLP1	1,000
CLP2	900
CLP3	800
CLP4	800

Here, all four CLPs will have a Winning Bid SET because CLP1 and CLP2 are both two of the top three CLPs with the greatest aggregate size at the NBB, while CLP3 and CLP4 are tied at 800 shares and there are only two CLPs that have greater aggregate size at the NBB than 800 shares. CLP1 would receive three Bid SET Credits, CLP2 would receive two Bid SET Credits, and CLP3 and CLP4 would each receive one Bid SET Credit.

However, if CLP3 had 900 shares at the NBB and all other CLPs remained the same, only CLP1, CLP2, and CLP3 would have a Winning SET because CLP2 and CLP3 would be tied and there is only one CLP that has greater aggregate size than 900 shares (CLP1). CLP4 would have the fourth greatest aggregate size at the NBB among CLPs and thus would not qualify for a Winning SET. In this instance, CLP1 would receive three Bid SET Credits, CLP2 and CLP3 would each receive two Bid SET Credits, and CLP4 would not receive any Bid SET Credits.

Finally, if CLP1, CLP2, CLP3, and CLP4 all had 1,000 shares at the NBB, the four CLPs would each receive three Bid SET Credits. In this scenario, if another CLP ("CLP5") had 900 shares at the NBB, CLP5 would not qualify for a Winning SET and would not receive any Bid SET Credits because more than two

CLPs have greater aggregate size at the NBB than the 900 shares posted by CLP5.

The above examples would operate in an identical fashion for the NBO.

Determining the Recipients of the Daily Financial Rewards

The Exchange is also proposing to amend its Rules in order to base the allocation of daily financial rewards associated with the CLP Program on SET Credits instead of Winning SETs. Currently, the daily financial reward for Tier I securities⁹ and ETPs¹⁰ is awarded to the two CLPs with the most Winning Bid SETs and the two CLPs with the most Winning Offer SETs. For Tier II securities,¹¹ the daily financial reward is awarded to the CLP with the most Winning Bid SETs and the CLP with the most Winning Offer SETs.

The Exchange proposes to amend Interpretation and Policy .02 (k)(1) of BATS Rule 11.8 to provide that the daily financial reward for all securities participating in the Program will be based on SET Credits. Specifically, the Exchange proposes that the daily financial reward for Tier I securities and ETPs be awarded to the two CLPs with the most Bid SET Credits and the two CLPs with the most Offer SET Credits and for the daily financial reward for Tier II securities to be awarded to the CLP with the most Bid Set Credits and the CLP with the most Offer SET Credits. The Exchange notes that it is not proposing to change the daily quoting requirement that a CLP have Winning Bid SETs or Winning Offer SETs equal to at least 10% of the total Bid SETs or total Offer SETs in a security in order to be eligible for the daily financial reward.

Allocating the Daily Financial Rewards

The Exchange also proposes to change the allocation of the daily financial rewards to a specified amount per CLP in each class of security. Currently, the daily financial rewards for Tier I securities and ETPs are allocated to the two CLPs with the most Winning Bid SETs and the two CLPs with the most Winning Offer SETs on a pro rata basis, based on the combined sum of the two CLPs' Winning SETs. The financial rewards for Tier II securities are allocated to the single CLP with the most Winning Bid SETs and the single CLP with the most Winning Offer SETs.

The Exchange proposes to amend Interpretation and Policy .02 (k)(1) of

BATS Rule 11.8 in order to allocate the daily financial rewards to CLPs on a pre-determined basis rather than on a pro rata basis. Specifically, the Exchange is proposing to allocate the daily financial rewards as follows: (i) For the six months after initial listing on the Exchange in Tier I securities, the CLPs with the most and second most SET Credits will receive \$150 and \$100, respectively, for both the bid and the offer; and (ii) for Tier I securities that have been listed on the Exchange for more than six months and for ETPs, the CLPs with the most and second most SET Credits will receive \$75 and \$50, respectively, for both the bid and the offer. For Tier II securities, the CLP with the most SET Credits will continue to receive 100% of the daily financial reward for both the bid and the offer.

Cleanup Changes

The Exchange also proposes to make several cleanup and clarifying changes to Interpretation and Policy .02 of BATS Rule 11.8. These changes include the following: (i) adding "the time of" between "aggregate size at the NBB at" and "each SET" to paragraph (g)(1); (ii) adding "the time of" between "aggregate size at the NBO at" and "each SET" to paragraph (g)(1); (iii) adding the word "to" between the words "order" and "meet" in paragraph (g)(1)(A); (iv) to capitalize the "b" in each instance of "bid SET" that is not capitalized in paragraph (k)(1); and (v) to capitalize the "o" in each instance of "offer SET" that is not capitalized in paragraph (k)(1).

2. Statutory Basis

The Exchange believes that its proposal 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.¹² In particular, the proposal is consistent with Section 6(b)(5) of the Act,¹³ because it 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. The Exchange also believes that the combination of fixed financial rewards (rather than awarding financial rewards on a pro rata basis) and awarding SET Credits to three CLPs per SET for the bid and offer will promote tighter spreads and deeper liquidity for all market participants by incentivizing multiple CLPs to quote at the NBBO. More

⁹ As defined in BATS Rule 14.8.

¹⁰ As defined in Interpretation and Policy .02(d)(2) of BATS Rule 11.8.

¹¹ As defined in BATS Rule 14.9.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

specifically, the Exchange believes that implementing fixed financial rewards will incentivize additional CLPs to continue to provide liquidity even where one CLP is winning the majority of SETs, while awarding three CLPs with SET Credits for each SET will incentivize multiple CLPs to add liquidity at or inside the NBBO even if another CLP consistently has greater liquidity at the NBBO than the other CLP. The Exchange believes that this will foster greater competition and participation among CLPs which, as outlined above, will enhance market quality to the benefit of all market participants.

Further, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁴ in that it provides for the equitable allocation of reasonable dues, fees and other charges, and is not unfairly discriminatory. The Exchange believes that the proposed changes are reasonable and equitably allocated because, while the proposal does lower the potential high-end of the daily financial reward available to the CLP with the most SET Credits, it will incentivize additional CLPs to continue to provide liquidity even where one CLP is winning the majority of SETs, which, as described above, will foster greater competition among CLPs and enhance market quality to the benefit of all market participants. The Exchange also believes that the proposal is not unfairly discriminatory because registration as a market maker and, in turn, a CLP, is equally available to all Members that satisfy the requirements of Rule 11.8.

(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. The Exchange believes that the proposal will merely improve the incentives and, in turn, the results, of its CLP Program. The Exchange believes that the proposed changes will enhance competition amongst participants in the CLP Program.

(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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative on December 1, 2013. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Doing so will allow the Exchange to promptly implement the proposed amendments to the CLP Program, which amendments the Exchange believes will benefit both CLPs and market participants generally by incentivizing CLPs to provide tighter spreads and deeper liquidity, as well as by providing additional clarity around existing Exchange rules. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹⁷

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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Exchange has satisfied this requirement.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. Please include File No. SR-BATS-2013-057 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.

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

Kevin M. O'Neill,

Deputy Secretary.

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¹⁴ 15 U.S.C. 78f(b)(4).

¹⁸ 17 CFR 200.30-3(a)(12).