

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71284; File No. SR-BATS-2014-002]

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

January 10, 2014.

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 January 3, 2014, 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

The purpose of this filing is to amend Interpretation and Policy .02 to Rule

11.8 in order to allow both corporate issues and ETPs<sup>3</sup> listed on the Exchange (collectively, "CLP Securities") to participate in the CLP program (the "Program") for a maximum of three years instead of two years. Currently, a CLP Security is eligible to participate in the Program unless and until such CLP Security has: (i) Had a consolidated average daily volume ("CADV") of equal to or greater than 2 million shares for two consecutive calendar months; or (ii) where the CLP Security has been subject to the Program for two years. The Exchange is proposing to extend the period during which a CLP Security is eligible for participation in the Program from two years to three years and to make the necessary corresponding changes so that a CLP Security will still be ineligible for participation in the Program where it has a CADV of equal to or greater than 2 million shares for two consecutive calendar months.

When the Program was first proposed,<sup>4</sup> the Exchange did not want to allow CLP Securities to participate in the Program indefinitely and, thus, needed to create a threshold for CLP Securities at which point they would no longer be eligible for the Program. The Exchange decided to implement a two year limit on the basis that it was a reasonable length of time during which the Exchange could evaluate the Program and its listings program generally. Since the Program was implemented, the Program has been at least partly responsible for attracting and retaining the listing of certain CLP Securities on the Exchange and the Exchange believes that allowing CLP Securities to continue to participate in the Program is integral to continue to expand the listings program and to retain existing listings. As such, the Exchange is proposing to extend the maximum eligibility window for CLP Securities to three years from the date of the CLP Security has been subject to the Program. The Exchange is proposing that these changes apply both to newly listed CLP Securities and CLP Securities already listed on the Exchange, meaning that any CLP Securities currently listed on the Exchange will also be eligible for participation in the Program for an additional year.<sup>5</sup>

<sup>3</sup> As defined in paragraph (d)(2) of Interpretation and Policy .02 to Rule 11.8, ETPs means any-Exchange listed security that is listed on the Exchange pursuant to Rule 14.11.

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

<sup>5</sup> The first Exchange-listed securities began participating in the Program on February 9, 2012 and, under the current rules, would be ineligible for participation in the Program beginning on February 9, 2014.

###### 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.<sup>6</sup> Specifically, the proposal is consistent with Section 6(b)(5) of the Act<sup>7</sup> because it would promote just and equitable principles of trade, and, in general, protect investors and the public interest. The Exchange believes that the proposal is not unfairly discriminatory because it is merely a continuation of the Program as it is implemented today and will apply equally to all participating CLP Securities and issuers. The Exchange believes that lengthening the period during which a CLP Security is eligible for the Program will continue to encourage the development of new financial products, provide a better trading environment for investors in Exchange-listed securities, and generally encourage greater competition between listing venues.

The proposal is designed to maintain and further enhance the Exchange's competitiveness as a listing venue and its market quality for Exchange-listed securities. The Exchange believes that the proposed change will enhance market quality by extending the period of eligibility for CLP Securities to participate in the Program, which will further incent Exchange Market Makers to register as CLPs and quote in Exchange-listed securities, thus maintaining or improving the quality of quoting in Exchange-listed securities subject to the Program and helping to reduce imbalances in Exchange auctions. The Exchange also believes that the proposed change will further assist the Exchange in competing as a listing venue by providing an even longer window during which the Program is applied and competitive quoting is incented on the Exchange. Accordingly, the Exchange believes that the proposal will enhance the existing Program for CLP Securities subject to the Program, which will, in turn, provide issuers of CLP Securities with another option for raising capital in the public markets, thereby promoting the principles discussed in Section 6(b)(5) of the Act.<sup>8</sup>

##### (B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The

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

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

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

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

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

Exchange believes that the proposal will extend the period during which CLP Securities will be eligible to participate in the Program and which will enhance the result of the Program, thereby enhancing competition both among listing venues as well as among 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 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, 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 Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<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.

**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:

*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 No. SR-BATS-2014-002 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-BATS-2014-002. 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 changes 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 will also 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-BATS-2014-002 and should be submitted on or before February 6, 2014.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-71286; File No. SR-BX-2013-065]

**Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule Under Exchange Rule 7018(a) With Respect to Transactions in Securities Priced at \$1 per Share or More**

January 10, 2014.

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 December 30, 2013, NASDAQ OMX BX, Inc. ("BX" 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 amend the fee schedule under Exchange Rule 7018(a) with respect to transactions in securities priced at \$1 per share or more. The Exchange will implement the proposed rule change on January 2, 2014.

The text of the proposed rule change is also available on the Exchange's Web site at <http://nasdaqomxbx.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.

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

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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 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.

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