

authorizes the Clearing Agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The Clearing Agency shall post notice on its Web site of proposed changes that are implemented.

The proposed change shall not take effect until all regulatory actions required with respect to the proposal are complete.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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-FICC-2014-801 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.
- All submissions should refer to File Number SR-FICC-2014-801. 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 of submission. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at <http://www.dtcc.com/legal/sec-rule-filings.aspx>. 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-FICC-2014-801 and should be submitted on or before October 14, 2014.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73176; File No. SR-BYX-2014-021]

### Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rules 11.9 and 11.13 of BATS Y-Exchange, Inc.

September 22, 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 September 11, 2014, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") 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)(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 filed a proposal to amend Rules 11.9 and 11.13 to add an additional routing strategy.

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

Earlier this year, the Exchange and its affiliate BATS Exchange, Inc. ("BZX") 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 Exchange, Inc. ("EDGX") and EDGA Exchange, Inc. ("EDGA"), and together with BZX, BYX and EDGX, the "BGM Affiliated Exchanges").<sup>5</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to add certain system functionality currently offered by EDGA in order to provide a consistent technology offering for users of the BGM Affiliated Exchanges.

The specific proposal set forth in more detail below would amend Rule 11.13, which describes the Exchange's routing processes, to add the RMPT routing strategy, specifically RMPT. Currently, Mid-Point Peg Orders are not eligible for routing. As described in proposed Rule 11.13(a)(3)(I), however, RMPT is a routing option under which a Mid-Point Peg Order checks the System<sup>6</sup> for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted to the BATS Book<sup>7</sup> as a Mid-Point Peg Order, unless otherwise instructed<sup>8</sup> by the User.<sup>9</sup> As mentioned above, orders routed pursuant to RMPT are only sent to those destinations on the System routing table that support midpoint eligible orders, which means that a destination is not

<sup>5</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>6</sup> System is defined in Rule 1.5(aa).

<sup>7</sup> BATS Book is defined in Rule 1.5(e).

<sup>8</sup> As set forth in Rule 11.13(a)(3), the term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.

<sup>9</sup> User is defined in Rule 1.5(cc).

<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).

necessarily included in the RMPT routing strategy by virtue of supporting midpoint eligible orders. Rather, a destination must be included in the System routing table to be included in RMPT routing.

The Exchange is also proposing to amend Rule 11.9, which describes the Exchange's order types, in order to allow for Mid-Point Peg Orders<sup>10</sup> to be routed pursuant to RMPT. As described above, Mid-Point Peg Orders are not currently eligible for routing, so, in conjunction with the proposed addition of the RMPT routing strategy, the Exchange is also proposing to amend Rule 11.9(c)(9) to provide that Mid-Point Peg Orders may be eligible for routing where the User elects to route the order pursuant to the RMPT Routing Option defined in proposed Rule 11.13(a)(3)(f).

The Exchange notes that the proposed rule text is based on the current rules of EDGA<sup>11</sup> and is different only to the extent necessary to conform to the Exchange's current rules. The Exchange also notes that the proposed implementation of the RMPT routing strategy is substantively identical to the RMPT routing strategy offered by EDGA.<sup>12</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act<sup>13</sup> and further the objectives of Section 6(b)(5) of the Act<sup>14</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, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>15</sup> of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. In particular, the proposed change to introduce additional routing strategies and allow for the routing of Mid-Point Peg Orders will provide market participants with greater flexibility in routing orders consistent with

Regulation NMS without developing order routing strategies on their own.

As noted above, the proposed rule changes to add functionality are generally intended to add certain system functionality currently offered by EDGA in order to provide a consistent technology offering for the BGM Affiliated Exchanges, which the Exchange believes is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. Further to this point, a consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on BYX, EDGA and/or EDGX. The proposed rule changes would also provide Users with access to functionality that may result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users, further removing impediments to and perfecting the mechanism of a free and open market and a national market system. As explained elsewhere in this proposal, the proposed RMPT routing option is similar to routing strategies on other market centers, including EDGA.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange provides routing services in a highly competitive market in which participants may avail themselves of a wide variety of routing options offered by self-regulatory organizations, alternative trading systems, other broker-dealers, market participants' own proprietary routing systems, and service bureaus. In such an environment, system enhancements such as the changes proposed in this rule filing do not burden competition, because they can succeed in attracting order flow to the Exchange only if they offer investors higher quality and better value than services offered by others. The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the BGM Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it is one of several changes necessary to

achieve a consistent technology offering by 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 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 prior to 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>16</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>17</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement would allow the Exchange to continue to strive towards a complete integration of the BGM Affiliated Exchanges, with gradual roll-outs of new functionality to ensure stability of the System. The Exchange also stated that its proposed variations of the RMPT routing strategy, which it noted are directly based on the rules of EDGA, would benefit market participants and their customers by allowing them greater flexibility in their efforts to fill orders and minimize trading costs, and that expected benefits to Exchange Users from the proposed rule change should not be delayed. The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>18</sup>

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii). 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>18</sup> 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).

<sup>10</sup> Mid-Point Peg Order is defined in Rule 11.9(c)(9).

<sup>11</sup> See EDGA Rules 11.5(c)(7) and 11.9(b)(2)(t).

<sup>12</sup> See Exchange Act Release No. 66557 (March 9, 2012), 77 FR 15405 (March 15, 2012) (SR-EDGA-2012-006); EDGA Rules 11.5(c)(7) and 11.9(b)(2)(t).

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> 15 U.S.C. 78k-1(a)(1).

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>19</sup> of the Act to determine whether the proposed rule change 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-BYX-2014-021 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-BYX-2014-021. 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 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 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 Number SR-BYX-2014-021 and should be submitted on or before October 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73178; File No. SR-NASDAQ-2014-090]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Proposed Rule Change Relating to the Listing and Trading of the Shares of the Validea Market Legends ETF of the ETF Series Solutions ETF Trust

September 22, 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 September 11, 2014, The NASDAQ Stock Market LLC ("Nasdaq" or the "Exchange") 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 Nasdaq. 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

Nasdaq proposes to list and trade the shares of the Validea Market Legends ETF (the "Fund") of ETF Series Solutions (the "Trust") under Nasdaq Rule 5735 ("Managed Fund Shares").<sup>3</sup>

<sup>20</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> The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR-NASDAQ-2008-039). There are already multiple actively-managed funds listed on the Exchange; see e.g., Securities Exchange Act Release No. 72411 (June 17, 2014), 79 FR 35598 (June 23, 2014) (SR-NASDAQ-2014-40) (order approving listing and trading of Calamos Focus Growth ETF). The Exchange believes the proposed rule change raises

The shares of the Fund are collectively referred to herein as the "Shares."

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at Nasdaq's principal office, 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares<sup>4</sup> on the Exchange. The Fund will be an actively-managed exchange-traded fund ("ETF"). The Shares will be offered by the Trust, which was established as a Delaware business trust on February 9, 2012.<sup>5</sup> The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N-1A ("Registration Statement") with the Commission.<sup>6</sup> The Fund is a series of the Trust.

no significant issues not previously addressed in those prior Commission orders.

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> The Trust has obtained, or will obtain prior to listing Shares of the Fund on the Exchange, from the Commission an order (the "Exemptive Order") on which the Trust may rely, granting certain exemptive relief to the Trust under the 1940 Act. See Application for an Order (June 16, 2014) (File No. 812-14322).

<sup>6</sup> See Post-Effective Amendment No. 14 to the Registration Statement on Form N-1A for the Trust, dated July 16, 2014 (File Nos. 333-179562 and 811-22668). The descriptions of the Fund and the

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).