

definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. Similarly, while Market Maker orders may receive higher or lower rebates depending on the tier achieved, the Exchange does not believe that this is unfairly discriminatory as it reflects the different mix of benefits and obligations applicable to Market Makers that trade on the Exchange. Market Makers currently receive tiered rebates based on their volume executed on the Exchange, without the additional requirement that those orders improve the NBBO. As such, the Exchange believes that it is not unfairly discriminatory to provide potentially higher rebates to other market participants that have demonstrated a high level of commitment to the Exchange by entering orders that improve the NBBO.

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

In accordance with Section 6(b)(8) of the Act,¹⁶ the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee change is designed to provide more attractive rebates to ISE Gemini members, and will compete with rebate programs offered by competitor exchanges such as BATS. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any

unsolicited written comments from members or other interested parties.

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,¹⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹⁸ because it establishes a due, fee, or other charge imposed by ISE Gemini.

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 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 email to rule-comments@sec.gov. Please include File Number SR-ISEGemini-2015-21 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-ISEGemini-2015-21. 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 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-ISEGemini-2015-21, and should be submitted on or before November 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76204; File No. SR-BATS-2015-69]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rules 1.5(r), 11.1(a), 11.23, 14.6, 14.11, and 14.12 and Adopt Rule 11.1(a)(1)

October 21, 2015.

On September 1, 2015, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend rules related to the Pre-Opening Session, including revising: (1) Exchange Rule 1.5(r) to state that the Pre-Opening Session will start at 7 a.m. rather than 8 a.m. Eastern Time; (2) Exchange Rule 11.1(a) regarding the hours of trading and trading days of the Exchange to account for the Pre-Opening Session starting at 7 a.m. Eastern Time; and (3) Exchange Rules 11.23, 14.6, 14.11, and 14.12 to make related changes. The

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁶ 15 U.S.C. 78f(b)(8).

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 17 CFR 240.19b-4(f)(2).

Exchange also proposes to adopt new Exchange Rule 11.1(a)(1) to define Effective Start Time, an order instruction that would allow Members³ to indicate a time upon which their order may become eligible for execution. The proposed rule change was published for comment in the **Federal Register** on September 10, 2015.⁴

Section 19(b)(2) of the Act⁵ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 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 Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁶ designates December 9, 2015, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-BATS-2015-69).

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

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76208; File No. SR-NYSEMKT-2015-78]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the NYSE Amex Options Fee Schedule Related to the Amex Customer Engagement Program

October 21, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 15, 2015, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Amex Options Fee Schedule ("Fee Schedule") related to the Amex Customer Engagement ("ACE") Program. The Exchange proposes to implement the fee change effective October 15, 2015. The text of the proposed rule change is available on the Exchange's Web site at www.nyse.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 self-regulatory organization 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 those 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 increase the credits available to participants that achieve Tier 2 of the ACE Program as described below.

Section I.E. of the Fee Schedule describes the ACE Program,⁴ which features five tiers expressed as a percentage of total industry Customer equity and ETF option average daily volume ("ADV").⁵ Order Flow Providers ("OFPs") receive per contract credits solely for Electronic Customer volume that the OFP, as agent, submits to the Exchange.⁶ The ACE Program offers the following two methods for OFPs to receive credits:

1. By calculating, on a monthly basis, the average daily Customer contract volume an OFP executes Electronically on the Exchange as a percentage of total average daily industry Customer equity and ETF options volume;⁷ or

2. By calculating, on a monthly basis, the average daily contract volume an OFP executes Electronically in all participant types (*i.e.*, Customer, Firm, Broker-Dealer, NYSE Amex Options Market Maker, Non-NYSE Amex Options Market Maker, and Professional Customer) on the Exchange, as a percentage of total average daily industry Customer equity and ETF option volume,⁸ with the further requirement that a specified percentage of the minimum volume required to qualify for the Tier must be Customer volume.

Upon reaching a higher tier, an OFP would receive for all eligible Customer

⁴ See NYSE Amex Options Fee Schedule, available here, https://www.theice.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf.

⁵ In calculating ADV, the Exchange utilizes monthly reports published by the OCC for equity options and ETF options that show cleared volume by account type. See OCC Monthly Statistics Reports, available here, <http://www.theocc.com/webapps/monthly-volume-reports> (including for equity options and ETF options volume, subtotaled by exchange, along with OCC total industry volume). The Exchange calculates the total OCC volume for equity and ETF options that clear in the Customer account type and divide this total by the number of trading days for that month (*i.e.*, any day the Exchange is open for business). For example, in a month having 21 trading days where there were 252,000,000 equity option and ETF option contracts that cleared in the Customer account type, the calculated ADV would be 12,000,000 (252,000,000/21 = 12,000,000).

⁶ Electronic Customer volume is volume executed electronically through the Exchange System, on behalf of an individual or organization that is not a Broker-Dealer and who does not meet the definition of a Professional Customer.

⁷ See *supra* n. 5.

⁸ *Id.*

³ The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

⁴ See Securities Exchange Act Release No. 75832 (September 3, 2015), 80 FR 54614 (SR-BATS-2015-69).

⁵ 15 U.S.C. 78s(b)(2).

⁶ *Id.*

⁷ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.