

necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the amendment, by increasing the level of participation in the Program, will increase the level of competition around retail executions. The Exchange believes that the transparency and competitiveness of operating a program such as the Program on an exchange market would result in better prices for retail investors and benefits retail investors by expanding the capabilities of Exchanges to encompass practices currently allowed on non-exchange venues.

*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**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>17</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>18</sup> The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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>19</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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.

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4.

<sup>19</sup> The Exchange has satisfied this requirement.

**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-2015-45 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-2015-45. 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 a.m. and 3 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-BYX-2015-45, and should be submitted on or before November 17, 2015.

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

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015-27219 Filed 10-26-15; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76215; File No. SR-NYSEMKT-2015-79]

**Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the NYSE Amex Options Fee Schedule**

October 21, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> 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. 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](http://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,

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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 change the Section I.C.—NYSE Amex Options Market Maker Sliding Scale—Electronic (“Market Maker Sliding Scale”) to reduce the per contract rate for each tier by \$0.03 if volume from posted liquidity exceeds a threshold, effective on October 15, 2015.

Section I.C. of the Fee Schedule currently provides a discount to NYSE Amex Options Market Maker transaction fees based on a sliding volume scale.<sup>4</sup> Specifically, an NYSE Amex Options Market Maker that has monthly volume on the Exchange of less than or equal to 0.10% of total industry Customer equity and exchange traded fund (“ETF”) options volume<sup>5</sup> is charged a base rate of \$0.23. An NYSE Amex Options Market Maker that reaches higher volume thresholds, or Tiers, receives a reduction of this per contract rate.<sup>6</sup>

The Exchange is proposing to offer Market Makers the ability to reduce the per contract rate charged per Tier of the Market Maker Sliding Scale—Electronic by \$0.03. Specifically, a Market Maker would receive the additional \$0.03 discount if its monthly volume includes contracts traded as a result of posted trading interest that is in excess of 0.85% of Industry Customer Equity and ETF Option Volume.<sup>7</sup> Accordingly, if a Market Maker meets this additional threshold, the following per contract

rates would apply: Tier 1—\$0.20; Tier 2—\$0.17; Tier 3—\$0.07; Tier 4—\$0.05; Tier 5—\$0.02; Tier 6—\$0.00; and for each contract qualifying for Tier 7 the Market Maker will receive a \$0.01 credit.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>9</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposal to offer an additional rebate to Market Makers eligible for the Sliding Scale is reasonable, equitable and not unfairly discriminatory because it would incentivize Market Makers to increase posted liquidity on the Exchange, which would benefit all Exchange participants, including ATP Holders, through increased opportunities to trade as well as enhancing price discovery. In addition, the proposed changes are equitable and not unfairly discriminatory because the credits offered would be based on the amount of business transacted on the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,<sup>10</sup> the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed amendments to the Market Maker Sliding Scale is pro-competitive as the credits may incentivize Market Makers to increase posted liquidity on the Exchange and any resulting increase in volume and liquidity to the Exchange would benefit all of Exchange participants through increased opportunities to trade as well as enhancing price discovery.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must

continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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>13</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-NYSEMKT-2015-79 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSEMKT-2015-79. This

<sup>4</sup> See Fee Schedule, Section I.C.(NYSE Amex Options Market Maker Sliding Scale—Electronic), available here, [https://www.theice.com/publicdocs/nyse/markets/amex-options/NYSE\\_Amex\\_Options\\_Fee\\_Schedule.pdf](https://www.theice.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf).

<sup>5</sup> The volume thresholds are based on an NYSE Amex Options Market Makers' volume transacted Electronically as a percentage of total industry Customer equity and ETF options volumes as reported by the Options Clearing Corporation (the “OCC”). Total industry Customer equity and ETF option volume is comprised of those equity and ETF contracts that clear in the Customer account type at OCC and does not include contracts that clear in either the Firm or Market Maker account type at OCC or contracts overlying a security other than an equity or ETF security. See OCC Monthly Statistics Reports, available here, <http://www.theocc.com/webapps/monthly-volume-reports>.

<sup>6</sup> In calculating an NYSE Amex Options Market Maker Electronic volumes, the Exchange proposes to exclude any volumes attributable to Mini Options, QCC trades, CUBE Auctions, and Strategy Execution Fee Caps, as these transactions are subject to separate pricing described in proposed [sic] Fee Schedule Sections I.B., I.F., I.G., and I.J, respectively.

<sup>7</sup> The same exclusions apply to posted volumes as set forth *supra* n. 6.

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

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>10</sup> 15 U.S.C. 78f(b)(8).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).

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-NYSEMKT-2015-79, and should be submitted on or before November 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2015-27223 Filed 10-26-15; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76205; File No. SR-BATS-2015-90]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.25, Retail Order Attribution Program

October 21, 2015.

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 14, 2015, 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 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) 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.25, which governs the Exchange's Retail Order Attribution Program ("Retail Program"), to distinguish between retail orders routed on behalf of other broker-dealers and retail orders that are routed on behalf of introduced retail accounts that are carried on a fully disclosed basis, as further described below.

The text of the proposed rule change is available at the Exchange's Web site at [www.batstrading.com](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 Exchange proposes to amend Rule 11.25, which governs the Exchange's Retail Program,<sup>5</sup> to

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

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

<sup>5</sup> The Exchange adopted the Retail Program as Rule 11.24 in 2014. See Securities Exchange Act Release No. 73237 (September 26, 2014), 79 FR 59537 (October 2, 2014) (SR-BATS-2014-043). The Retail Program was subsequently re-numbered as 11.25. See Securities Exchange Act Release No.

distinguish between orders routed on behalf of other broker-dealers and orders routed on behalf of introduced retail accounts that are carried on a fully disclosed basis, as further described below.

The Exchange established the Retail Program in an attempt to attract retail order flow to the Exchange, primarily by offering pricing incentives. Under the Retail Program, Retail Member Organizations<sup>6</sup> ("RMOs") are permitted to submit Retail Orders,<sup>7</sup> and receive rebates for added liquidity that are higher than the exchanges standard rebates for added liquidity.<sup>8</sup> In addition, RMOs may optionally designate Retail Orders to be identified as Retail on the Exchange's proprietary data feeds.<sup>9</sup>

Exchange Rule 11.25(b)(1) currently states that "[t]o qualify as a Retail Member Organization, a Member must conduct a retail business or *handle* retail orders on behalf of another broker-dealer."<sup>10</sup> Rather than stating that one way to qualify as an RMO is to "handle" retail orders on behalf of another broker-dealer, the Exchange proposes to state that a Member may qualify as an RMO if it "routes" retail orders on behalf of another broker-dealer. The Exchange believes that providing routing services on behalf of other broker-dealers with retail order flow was the intended meaning of the provision and that the term "handle" is vague. Thus, the Exchange believes that the description would be better if it referred to routing services provided to another broker-dealer with retail customers. The Exchange also proposes to distinguish such routing services on behalf of another broker-dealer from services provided by broker-dealers that carry retail customer accounts on a fully disclosed basis, as described below.

As background with respect to the proposed change, the Exchange first would like to describe the terms "introducing broker", "carrying firm" or "carrying broker-dealer", and "fully disclosed," as such terms are commonly used in the securities industry. An "introducing" broker-dealer is "one that

73677 (November 24, 2014), 79 FR 71150 (December 1, 2014) (SR-BATS-2014-058).

<sup>6</sup> A Retail Member Organization is a Member (or a division thereof) that has been approved by the Exchange under Rule 11.25 to submit Retail Orders.

<sup>7</sup> A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by a RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any computerized methodology.

<sup>8</sup> See BZX Exchange Fee Schedule, available at [http://batstrading.com/support/fee\\_schedule/bzx/](http://batstrading.com/support/fee_schedule/bzx/).

<sup>9</sup> See Rule 11.25(e).

<sup>10</sup> Emphasis added.

<sup>14</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.