

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-ICEEU-2013-11 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 Number SR-ICEEU-2013-11. 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 filings also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at [https://www.theice.com/publicdocs/regulatory\\_filings/ICEU\\_SEC\\_081313.pdf](https://www.theice.com/publicdocs/regulatory_filings/ICEU_SEC_081313.pdf).

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-ICEEU-2013-11 and should be submitted on or before September 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

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

[FR Doc. 2013-20218 Filed 8-19-13; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-70199; File No. SR-BATS-2013-036]**

### **Self-Regulatory Organizations; BATS Exchange, Inc.; Order Approving a Proposed Rule Change To Introduce a Connectivity Option Through Points of Presence**

August 14, 2013.

#### **I. Introduction**

On June 19, 2013, BATS Exchange, Inc. ("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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to introduce a connectivity option through Points of Presence (PoPs). The proposed rule change was published for comment in the **Federal Register** on July 3, 2013.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### **II. Description of the Proposal**

The Exchange currently maintains a presence in two third-party data centers: (i) the primary data center where the Exchange's business is primarily conducted on a daily basis, and (ii) a secondary data center, which is predominantly maintained for business continuity purposes. Exchange participants, including participants trading on the Exchange and market data recipients, are required to connect directly to the Exchange at the primary or secondary data centers where the Exchange currently maintains servers. If an Exchange participant does not have a presence within these data centers, then the participant is required to obtain connectivity from the participant's location, or data center, to the data centers where the Exchange's servers are located. The Exchange is proposing to provide market participants with the ability to access the Exchange's network via physical ports at data center entry

points, or PoPs, at data centers other than the Exchange's primary or secondary data center ("Remote Data Centers").

PoP ports will be located at Remote Data Centers in order to provide participants connectivity to the Exchange. In the Notice, the Exchange represented that connectivity established via PoP ports will allow market participants to perform all of the operations that they would typically perform when connecting directly to the Exchange, including order entry and receipt of market data. Participants would establish a physical connection to a PoP port in the Remote Data Center, from which the Exchange would provide the requisite connectivity to allow participants to access the Exchange's servers.<sup>4</sup>

Participants that do not maintain a presence in either of the Exchange's data centers must currently establish connectivity to such data centers themselves through third party telecommunications providers. By making PoP entry points available, the Exchange is reducing or eliminating the need for participants to contract themselves for third party connectivity located in the same data center as such PoP ports. The Exchange believes that some participants may choose to connect to the Exchange at a PoP location to the extent that the Exchange's service offering makes connecting to the Exchange in this manner more easily established or more cost effective. In the Notice, the Exchange suggested that the PoPs may be most attractive to smaller market participants that otherwise may not connect to the Exchange.

The Exchange proposes to provide the option to connect to the Exchange via PoPs to any member or non-member that has been approved to connect to the Exchange. Any member or non-member opting not to access the Exchange at a PoP location would still be able to access the Exchange in the existing data centers as they do currently.

#### **III. Discussion and Commission's Findings**

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>5</sup> and the rules and regulations thereunder applicable to a national securities exchange. Additionally, in approving this proposed rule change, the Commission

<sup>9</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> Securities Exchange Act Release No. 69877 (June 27, 2013), 78 FR 40241 ("Notice").

<sup>4</sup> The Exchange would contract with a third party telecommunications provider to supply connectivity to the Exchange to its participants.

<sup>5</sup> 15 U.S.C. 78f.

has considered the proposed rule's impact on efficiency, competition, and capital formation.<sup>6</sup> The Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes that competition for customers and order flow amongst exchanges and other non-exchange market participants is considerable and that the Exchange is offering this new connectivity option to keep pace with changes in the industry and evolving customer needs. The Exchange further states that the offering is entirely optional and is geared towards attracting new customers, as well as retaining existing customers. Additionally, the Exchange has represented that it will make PoPs equally available to any Exchange member or non-member that has been approved to connect to the Exchange.<sup>8</sup> Finally, the Exchange does not believe that demand will exceed the capacity planned for PoP access. However, in the event that demand does exceed the capacity planned for PoP access, the Exchange represented that it would expand its infrastructure as necessary in order to meet demand.<sup>9</sup> For the reasons noted above, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-BATS-2013-036) be, and it hereby is, approved.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-20203 Filed 8-19-13; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70193; File No. SR-NYSE-2013-56]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Changes to the Price List

August 14, 2013.

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 July 31, 2013, New York Stock Exchange LLC (the "Exchange" or "NYSE") 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 its Price List to (i) add a new credit for agency cross trades, (ii) revise the fees for executions at the close, (iii) revise the fees for market at-the-close ("MOC") and limit at-the-close ("LOC") orders, (iv) revise the fees for Floor broker Discretionary e-Quotes ("d-Quotes"), and (v) revise the fees for certain other Floor broker transactions. The Exchange proposes to implement the fee changes effective August 1, 2013. 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, 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 its Price List to (i) add a new credit for agency cross trades, (ii) revise the fees for executions at the close, (iii) revise the fees for MOC and LOC orders, (iv) revise the fees for d-Quotes, and (v) revise the fees for certain other Floor broker transactions. The proposed transaction fee changes described below apply to transactions in stocks with a per share stock price of \$1.00 or more. The Exchange proposes to implement the fee changes effective August 1, 2013.

##### Agency Cross Trades

Currently, the Exchange does not charge member organizations a fee for agency cross trades (*i.e.*, a trade where a member organization has customer orders to buy and sell an equivalent amount of the same security). The Exchange proposes to offer a per share credit per transaction of \$0.0003, which will be credited to both sides of the transaction.

##### Executions at the Close

Currently, the Exchange does not charge member organizations a fee for (i) executions at the close (except MOC and LOC orders) or (ii) Floor broker executions swept into the close. The Exchange proposes that if a member organization executes an average daily trading volume ("ADV") on the Exchange during the billing month of at least 1,000,000 shares in (i) executions at the close (except MOC and LOC orders), and/or (ii) Floor broker executions swept into the close, then the Exchange will charge such member organization \$0.0001 per share per transaction (charged to both sides).<sup>3</sup> Such executions will continue to be free of charge if the member organization

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

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

<sup>8</sup> See Notice, *supra* note 3, at 40242. The Exchange notes that this would include any Member, non-member service bureau that acts as a conduit for orders entered by Exchange Members, Sponsored Participant, or market data recipient. *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</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> For example, a fee would be charged if a member organization executed an ADV on the Exchange during the billing month of (1) 1,000,000 shares in executions at the close (excluding MOC and LOC orders), but had no Floor broker executions swept into the close; (2) 1,000,000 shares in Floor broker executions swept into the close, but had no other closing executions; or (3) 500,000 shares in executions at the close (excluding MOC and LOC orders) and 500,000 shares in Floor broker executions swept into the close.