

Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Follow-On Investments made in accordance with this condition. In all other cases, the applicable Adviser will provide its written recommendation as to the Regulated Fund's participation to the Regulated Fund's Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the Follow-On Investment is not based on the Co-Investment Affiliates' and the Regulated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and Co-Investment Affiliates, collectively, in the same transaction, exceeds the amount of the investment opportunity; then the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the maximum amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by the Co-Investment Affiliates and the other Regulated Funds that the Regulated Fund considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new

and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Independent Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the Act), of any Co-Investment Affiliate.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) will, to the extent not payable by the Advisers under their respective advisory agreements with the Co-Investment Affiliates and the Regulated Funds, be shared by the participating Co-Investment Affiliates and the participating Regulated Funds in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee<sup>12</sup> (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Co-Investment Affiliates and Regulated Funds on a pro rata basis based on the amount they each invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Co-Investment Affiliates and Regulated Funds based on the amount each invests in such Co-Investment Transaction. None of the Co-Investment Affiliates, the Regulated Funds, the Advisers nor any affiliated person of the Regulated Funds or Co-Investment Affiliates will receive additional compensation or remuneration of any kind as a result of

<sup>12</sup> Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

or in connection with a Co-Investment Transaction (other than (a) in the case of the Co-Investment Affiliates and the Regulated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C), and (b) in the case of the Advisers, investment advisory fees paid in accordance with their respective investment advisory agreements with the Regulated Funds and Co-Investment Affiliates).

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable state law affecting the Board's composition, size or manner of election.

For the Commission, by the Division of Investment Management, under delegated authority.

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 7, 2016 at 4 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551-5400.

Dated: March 31, 2016.

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-07829 Filed 4-1-16; 11:15 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77476; File No. SR-BATS-2016-17]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend BATS' Rules Regarding the Auction Process for Securities Subject to an Initial Public Offering

March 30, 2016.

#### I. Introduction

On February 10, 2016, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("SEC" or "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 amend BATS Rule 11.23, entitled "Auctions," with regard to the handling of orders during an initial public offering ("IPO") auction. On February 22, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on February 29, 2016.<sup>4</sup> The Commission has received no comment letters regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

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

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

<sup>3</sup> In Amendment No. 1, the Exchange corrected a technical error regarding incorrect terminology used in a footnote and clarified a sentence regarding an order with a time-in-force of "Regular Hours Only" ("RHO") that would be converted to an order with a time-in-force of "Day" under the proposed rule change.

<sup>4</sup> See Securities Exchange Act Release No. 77222 (February 24, 2016), 81 FR 10345 (SR-BATS-2016-17) ("Notice").

#### II. Description of the Proposal

The Exchange proposes to: (1) Amend BATS Rule 11.23(a)(8) to modify the term "Eligible Auction Order" to delineate the types of orders that may participate in an auction for a BATS listed corporate security<sup>5</sup> in an IPO on the Exchange ("IPO Auction");<sup>6</sup> and (2) amend subparagraphs (d)(1)(A) and (d)(2) of BATS Rule 11.23 to modify the rules governing the Quote-Only Period<sup>7</sup> during an Auction.

##### A. Changes to the Definition of Eligible Auction Order

Currently, "Eligible Auction Order" is defined as any Market-On-Open ("MOO"),<sup>8</sup> Limit-On-Open ("LOO"),<sup>9</sup> Late-Limit-On-Open ("LLOO"),<sup>10</sup> Market-On-Close ("MOC"),<sup>11</sup> Limit-On-Close ("LOC"),<sup>12</sup> or Late-Limit-On-Close ("LLOC")<sup>13</sup> order that is entered in compliance with its respective cutoff for an Opening or Closing Auction,<sup>14</sup> any RHO<sup>15</sup> order prior to the Opening Auction, any Limit Order<sup>16</sup> or Market Order<sup>17</sup> not designated to exclusively participate in the Closing Auction entered during the Quote-Only Period of an IPO Auction,<sup>18</sup> and any Limit or Market Order not designated to exclusively participate in the Opening or Closing Auction entered during the Quote-Only Period of a Halt Auction.<sup>19</sup> The Exchange proposes to amend the

<sup>5</sup> A BATS listed corporate security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange's Rules that is not an Exchange Traded Product ("ETP") listed on the Exchange pursuant to Exchange Rule 14.11.

<sup>6</sup> See Notice, *supra* note 4, at 10345-48. The Exchange also proposes a conforming change to BATS Rule 11.1, entitled "Hours of Trading and Trading Days." See Notice, *supra* note 4, at 10346, n.19.

<sup>7</sup> See BATS Rule 11.23(a)(17) (defining "Quote-Only Period" as a designated period of time prior to a Halt Auction, a Volatility Closing Auction, or an IPO Auction during which Users may submit orders to the Exchange for participation in the auction). A "User" is means any Member or Sponsored Participant who is authorized to obtain access to the Exchange's system pursuant to BATS Rule 11.3. See BATS Rule 1.5(cc).

<sup>8</sup> See BATS Rule 11.23(a)(16).

<sup>9</sup> See BATS Rule 11.23(a)(14).

<sup>10</sup> See BATS Rule 11.23(a)(12).

<sup>11</sup> See BATS Rule 11.23(a)(15).

<sup>12</sup> See BATS Rule 11.23(a)(13).

<sup>13</sup> See BATS Rule 11.23(a)(11).

<sup>14</sup> The Opening and Closing Auction processes are described in BATS Rules 11.23(b) and (c).

<sup>15</sup> See BATS Rule 11.9(b)(7).

<sup>16</sup> See BATS Rule 11.9(a)(1).

<sup>17</sup> See BATS Rule 11.9(a)(2).

<sup>18</sup> See BATS Rule 11.23(d)(1)(A) (describing Quote-Only Period).

<sup>19</sup> See BATS Rule 11.23(a)(8). The Exchange also proposes to amend BATS Rule 11.1(a) to make clear that it will not accept BATS Market Orders that are not Eligible Auction Orders prior to 8:00 a.m. Eastern Time, see Notice, *supra* note 4, at 10346, n.19, and to make conforming changes to BATS Rules 11.23(b) and 11.23(c).

definition of Eligible Auction Orders to either reject, convert, or ignore certain types of orders.<sup>20</sup> As proposed, Limit Orders and BATS Market Orders, the two main types of orders offered by the Exchange, that are entered during the Quote-Only Period would be allowed to participate in an IPO Auction for a BATS listed corporate security provided they do not also include one or more of the modifiers described below.<sup>21</sup>

##### Types of Orders to be Accepted or Rejected

The Exchange proposes to exclude the following types of orders from participation in an IPO Auction and would reject such orders: (1) Stop Orders<sup>22</sup> and Stop Limit Orders;<sup>23</sup> (2) Pegged Orders,<sup>24</sup> Mid-Point Peg Orders,<sup>25</sup> Market Maker Peg Orders<sup>26</sup> and Supplemental Peg Orders;<sup>27</sup> (3) Minimum Quantity Orders<sup>28</sup> and Discretionary Orders;<sup>29</sup> (4) MOC, LOC and LLOC orders; and (5) orders with a time-in-force of Fill-or-Kill ("FOK")<sup>30</sup> and orders with a time-in-force of Good-'til-Day ("GTD")<sup>31</sup> with an expiration time earlier than 4:00 p.m. Eastern Time. Such orders entered to participate in an IPO Auction would be rejected.<sup>32</sup>

##### Types of Orders to be Converted

The Exchange also proposes to specify the types of orders that would be converted by the Exchange for purposes of participating in the IPO Auction for a BATS listed corporate security.<sup>33</sup> Specifically, under the proposal, the following types of orders would be converted: (1) Market Orders with a time-in-force of Immediate-or-Cancel ("IOC")<sup>34</sup> would be converted to a MOO and a Limit Order with a time-in-force of IOC would be converted to a LOO; (2) orders with a time-in-force of RHO would be converted to orders with a time-in-force of Day; and (3) any orders eligible to be routed would be

<sup>20</sup> See Notice, *supra* note 4, at 10345.

<sup>21</sup> See Notice, *supra* note 4, at 10345-48. The Exchange does not propose to amend the types of Eligible Auction Orders that may participate in an auction for a newly listed ETP. See *id.* at 10345. An Exchange Traded Product is a security that is listed on the Exchange pursuant to BATS Rule 14.11.

<sup>22</sup> See BATS Rule 11.9(c)(17).

<sup>23</sup> See BATS Rule 11.9(c)(18).

<sup>24</sup> See BATS Rule 11.9(c)(8).

<sup>25</sup> See BATS Rule 11.9(c)(9).

<sup>26</sup> See BATS Rule 11.9(c)(16).

<sup>27</sup> See BATS Rule 11.9(c)(19).

<sup>28</sup> See BATS Rule 11.9(c)(5).

<sup>29</sup> See BATS Rule 11.9(c)(10).

<sup>30</sup> See BATS Rule 11.9(b)(6).

<sup>31</sup> See BATS Rule 11.9(b)(4).

<sup>32</sup> See proposed BATS Rule 11.23(a)(8)(A). See also Notice, *supra* note 4, at 10346.

<sup>33</sup> See proposed BATS Rule 11.23(a)(8)(B). See also Notice, *supra* note 4, at 10346-47.

<sup>34</sup> See BATS Rule 11.9(b)(1).