market participants, to the benefit of investors and the marketplace.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–BatsBZX–2016–01 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2016–01. 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 No. SR–BatsBZX–2016–01 and should be submitted on or before May 9, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–08825 Filed 4–15–16; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77589; File No. SR–BatsEDGX–2016–04]**

## Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 8.17 To Provide a Process for an Expedited Suspension Proceeding and Rule 12.15 To Prohibit Layering and Spoofing

April 12, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2016, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II 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 filed a proposal to adopt a new rule to clearly prohibit disruptive quoting and trading activity on the Exchange, as further described below. Further, the Exchange proposes to amend Exchange Rules to permit the Exchange to take prompt action to suspend Members or their clients that violate such rule.

The text of the proposed rule change is available at the Exchange's Web site at *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

Introduction

The Exchange is filing this proposal to adopt a new rule to clearly prohibit disruptive quoting and trading activity on the Exchange and to amend Exchange Rules to permit the Exchange to take prompt action to suspend Members or their clients that violate such rule. The proposal is identical to the proposal of Bats BZX Exchange, Inc., formerly known as BATS Exchange, Inc. (''BZX''),[3] which was recently approved by the Commission.[4]

Background

As a national securities exchange registered pursuant to Section 6 of the

[40] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that the membership of the Exchange and the membership of BZX is nearly identical. BZX members and the public had the opportunity to comment—and did comment—on an identical BZX proposal to the current proposal before the Staff approved the BZX proposal. *See https://www.sec.gov/comments/sr-bats-2015-101/bats2015101.shtml.*

[4] *See* Securities Exchange Act Release No. 77171 (February 18, 2016) (SR–BATS–2015–101).

Act, the Exchange is required to be organized and to have the capacity to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the Exchange's Rules.[5] Further, the Exchange's Rules are required to be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade. . . . and, in general, to protect investors and the public interest.'' [6] In fulfilling these requirements, the Exchange has developed a comprehensive regulatory program that includes automated surveillance of trading activity that is both operated directly by Exchange staff and by staff of the Financial Industry Regulatory Authority (''FINRA'') pursuant to a Regulatory Services Agreement (''RSA''). When disruptive and potentially manipulative or improper quoting and trading activity is identified, the Exchange or FINRA (acting as an agent of the Exchange) conducts an investigation into the activity, requesting additional information from the Member or Members involved. To the extent violations of the Act, the rules and regulations thereunder, or Exchange Rules have been identified and confirmed, the Exchange or FINRA as its agent will commence the enforcement process, which might result in, among other things, a censure, a requirement to take certain remedial actions, one or more restrictions on future business activities, a monetary fine, or even a temporary or permanent ban from the securities industry.

The process described above, from the identification of disruptive and potentially manipulative or improper quoting and trading activity to a final resolution of the matter, can often take several years. The Exchange believes that this time period is generally necessary and appropriate to afford the subject Member adequate due process, particularly in complex cases. However, as described below, the Exchange believes that there are certain obvious and uncomplicated cases of disruptive and manipulative behavior or cases where the potential harm to investors is so large that the Exchange should have the authority to initiate an expedited suspension proceeding in order to stop the behavior from continuing on the Exchange.

In recent years, several cases have been brought and resolved by an affiliate of the Exchange and other SROs that involved allegations of wide-spread market manipulation, much of which was ultimately being conducted by foreign persons and entities using relatively rudimentary technology to access the markets and over which the Exchange and other SROs had no direct jurisdiction. In each case, the conduct involved a pattern of disruptive quoting and trading activity indicative of manipulative layering [7] or spoofing.[8] An affiliate of the Exchange and other SROs were able to identify the disruptive quoting and trading activity in real-time or near real-time; nonetheless, in accordance with Exchange Rules and the Act, the Members responsible for such conduct or responsible for their customers' conduct were allowed to continue the disruptive quoting and trading activity during the entirety of the subsequent lengthy investigation and enforcement process. The Exchange believes that it should have the authority to initiate an expedited suspension proceeding in order to stop the behavior from continuing on the Exchange if a Member is engaging in or facilitating disruptive quoting and trading activity and the Member has received sufficient notice with an opportunity to respond, but such activity has not ceased.

The following two examples are instructive on the Exchange's rationale for the proposed rule change.

In July 2012, Biremis Corp. (formerly Swift Trade Securities USA, Inc.) (the ''Firm'') and its CEO were barred from the industry for, among other things, supervisory violations related to a failure by the Firm to detect and prevent disruptive and allegedly manipulative trading activities, including layering, short sale violations, and anti-money laundering violations.[9] The Firm's sole business was to provide trade execution services via a proprietary day trading platform and order management system to day traders located in foreign jurisdictions. Thus, the disruptive and allegedly manipulative trading activity introduced by the Firm to U.S. markets originated directly or indirectly from foreign clients of the Firm. The pattern of disruptive and allegedly manipulative quoting and trading activity was widespread across multiple exchanges, and FINRA and other SROs identified clear patterns of the behavior in 2007 and 2008. Although the Firm and its principals were on notice of the disruptive and allegedly manipulative quoting and trading activity that was occurring, the Firm took little to no action to attempt to supervise or prevent such quoting and trading activity until at least 2009. Even when it put some controls in place, they were deficient and the pattern of disruptive and allegedly manipulative trading activity continued to occur. As noted above, the final resolution of the enforcement action to bar the Firm and its CEO from the industry was not concluded until 2012, four years after the disruptive and allegedly manipulative trading activity was first identified.

In September of 2012, Hold Brothers On-Line Investment Services, Inc. (the ''Firm'') settled a regulatory action in connection with the Firm's provision of a trading platform, trade software and trade execution, support and clearing services for day traders.[10] Many traders using the Firm's services were located in foreign jurisdictions. The Firm ultimately settled the action with FINRA and several exchanges for a total monetary fine of $3.4 million. In a separate action, the Firm settled with the Commission for a monetary fine of $2.5 million.[11] Among the alleged violations in the case were disruptive and allegedly manipulative quoting and trading activity, including spoofing, layering, wash trading, and pre-arranged trading. Through its conduct and insufficient procedures and controls, the Firm also allegedly committed anti-money laundering violations by failing to detect and report manipulative and suspicious trading activity. The Firm was alleged to have not only provided foreign traders with access to the U.S. markets to engage in such activities, but that its principals also owned and funded foreign subsidiaries that engaged in the disruptive and allegedly manipulative quoting and trading activity. Although the pattern of disruptive and allegedly manipulative quoting and trading activity was identified in 2009, as noted above, the enforcement action was not concluded until 2012. Thus, although disruptive

[5] 15 U.S.C. 78f(b)(1).

[6] 15 U.S.C. 78f(b)(5).

[7] ''Layering'' is a form of market manipulation in which multiple, non-bona fide limit orders are entered on one side of the market at various price levels in order to create the appearance of a change in the levels of supply and demand, thereby artificially moving the price of the security. An order is then executed on the opposite side of the market at the artificially created price, and the non-bona fide orders are cancelled.

[8] ''Spoofing'' is a form of market manipulation that involves the market manipulator placing non-bona fide orders that are intended to trigger some type of market movement and/or response from other market participants, from which the market manipulator might benefit by trading bona fide orders.

[9] *See Biremis Corp. and Peter Beck,* FINRA Letter of Acceptance, Waiver and Consent No. 2010021162202, July 30, 2012.

[10] *See Hold Brothers On-Line Investment Services, LLC,* FINRA Letter of Acceptance, Waiver and Consent No. 20100237710001, September 25, 2012.

[11] *In the Matter of Hold Brothers On-Line Investment Services, LLC,* Exchange Act Release No. 67924, September 25, 2012.

and allegedly manipulative quoting and trading was promptly detected, it continued for several years.

The Exchange also notes the current criminal proceedings that have commenced against Navinder Singh Sarao. Mr. Sarao's allegedly manipulative trading activity, which included forms of layering and spoofing in the futures markets, has been linked as a contributing factor to the ''Flash Crash'' of 2010, and yet continued through 2015.

The Exchange believes that the activities described in the cases above provide justification for the proposed rule change, which is described below.

Rule 8.17—Expedited Client Suspension Proceeding

The Exchange proposes to adopt new Rule 8.17 to set forth procedures for issuing suspension orders, immediately prohibiting a Member from conducting continued disruptive quoting and trading activity on the Exchange. Importantly, these procedures would also provide the Exchange the authority to order a Member to cease and desist from providing access to the Exchange to a client of the Member that is conducting disruptive quoting and trading activity in violation of proposed Rule 12.15.

Under proposed paragraph (a) of Rule 8.17, with the prior written authorization of the Chief Regulatory Officer (''CRO'') or such other senior officers as the CRO may designate, the Office of General Counsel or Regulatory Department of the Exchange (such departments generally referred to as the ''Exchange'' for purposes of proposed Rule 8.17) may initiate an expedited suspension proceeding with respect to alleged violations of Rule 12.15, which is proposed as part of this filing and described in detail below. Proposed paragraph (a) would also set forth the requirements for notice and service of such notice pursuant to the Rule, including the required method of service and the content of notice.

Proposed paragraph (b) of Rule 8.17 would govern the appointment of a Hearing Panel as well as potential disqualification or recusal of Hearing Officers. The proposed provision is consistent with existing Exchange Rule 8.6 and includes the requirement for a Hearing Officer to be recused in the event he or she has a conflict of interest or bias or other circumstances exist where his or her fairness might reasonably be questioned. In addition to recusal initiated by such a Hearing Officer, a party to the proceeding will be permitted to file a motion to disqualify a Hearing Officer. However, due to the compressed schedule pursuant to which the process would operate under Rule 8.17, the proposed rule would require such motion to be filed no later than 5 days after the announcement of the Hearing Panel and the Exchange's brief in opposition to such motion would be required to be filed no later than 5 days after service thereof. Pursuant to existing Rule 8.6(b), if the Hearing Panel believes the Respondent has provided satisfactory evidence in support of the motion to disqualify, the applicable Hearing Officer shall remove himself or herself and request the Chief Executive Officer to reassign the hearing to another Hearing Officer such that the Hearing Panel still meets the compositional requirements described in Rule 8.6(a). If the Hearing Panel determines that the Respondent's grounds for disqualification are insufficient, it shall deny the Respondent's motion for disqualification by setting forth the reasons for the denial in writing and the Hearing Panel will proceed with the hearing.

Under paragraph (c) of the proposed Rule, the hearing would be held not later than 15 days after service of the notice initiating the suspension proceeding, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. In the event of a recusal or disqualification of a Hearing Officer the hearing shall be held not later than five days after a replacement Hearing Officer is appointed. Proposed paragraph (c) would also govern how the hearing is conducted, including the authority of Hearing Officers, witnesses, additional information that may be required by the Hearing Panel, the requirement that a transcript of the proceeding be created and details related to such transcript, and details regarding the creation and maintenance of the record of the proceeding. Proposed paragraph (c) would also state that if a Respondent fails to appear at a hearing for which it has notice, the allegations in the notice and accompanying declaration may be deemed admitted, and the Hearing Panel may issue a suspension order without further proceedings. Finally, as proposed, if the Exchange fails to appear at a hearing for which it has notice, the Hearing Panel may order that the suspension proceeding be dismissed.

Under paragraph (d) of the proposed Rule, the Hearing Panel would be authorized to issue a written decision stating whether a suspension order would be imposed. The Hearing Panel would be required to issue the decision not later than 10 days after receipt of the hearing transcript, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. The Rule would state that a suspension order shall be imposed if the Hearing Panel finds by a preponderance of the evidence that the alleged violation specified in the notice has occurred and that the violative conduct or continuation thereof is likely to result in significant market disruption or other significant harm to investors.

Proposed paragraph (d) would also describe the content, scope and form of a suspension order. As proposed, a suspension order shall be limited to ordering a Respondent to cease and desist from violating proposed Rule 12.15, and/or to ordering a Respondent to cease and desist from providing access to the Exchange to a client of Respondent that is causing violations of Rule 12.15. Under the proposed rule, a suspension order shall also set forth the alleged violation and the significant market disruption or other significant harm to investors that is likely to result without the issuance of an order. The order shall describe in reasonable detail the act or acts the Respondent is to take or refrain from taking, and suspend such Respondent unless and until such action is taken or refrained from. Finally, the order shall include the date and hour of its issuance. As proposed, a suspension order would remain effective and enforceable unless modified, set aside, limited, or revoked pursuant to proposed paragraph (e), as described below. Finally, paragraph (d) would require service of the Hearing Panel's decision and any suspension order consistent with other portions of the proposed rule related to service.

Proposed paragraph (e) of Rule 8.17 would state that at any time after the Office of Hearing Officers served the Respondent with a suspension order, a Party could apply to the Hearing Panel to have the order modified, set aside, limited, or revoked. If any part of a suspension order is modified, set aside, limited, or revoked, proposed paragraph (e) of Rule 8.17 provides the Hearing Panel discretion to leave the cease and desist part of the order in place. For example, if a suspension order suspends Respondent unless and until Respondent ceases and desists providing access to the Exchange to a client of Respondent, and after the order is entered the Respondent complies, the Hearing Panel is permitted to modify the order to lift the suspension portion of the order while keeping in place the cease and desist portion of the order. With its broad modification powers, the Hearing Panel also maintains the

discretion to impose conditions upon the removal of a suspension—for example, the Hearing Panel could modify an order to lift the suspension portion of the order in the event a Respondent complies with the cease and desist portion of the order but additionally order that the suspension will be re-imposed if Respondent violates the cease and desist provisions modified order in the future. The Hearing Panel generally would be required to respond to the request in writing within 10 days after receipt of the request. An application to modify, set aside, limit or revoke a suspension order would not stay the effectiveness of the suspension order.

Finally, proposed paragraph (f) would provide that sanctions issued under the proposed Rule 8.17 would constitute final and immediately effective disciplinary sanctions imposed by the Exchange, and that the right to have any action under the Rule reviewed by the Commission would be governed by Section 19 of the Act. The filing of an application for review would not stay the effectiveness of a suspension order unless the Commission otherwise ordered.

Rule 12.15—Disruptive Quoting and Trading Activity Prohibited

The Exchange currently has authority to prohibit and take action against manipulative trading activity, including disruptive quoting and trading activity, pursuant to its general market manipulation rules, including Rule 3.1. The Exchange proposes to adopt new Rule 12.15, which would more specifically define and prohibit disruptive quoting and trading activity on the Exchange. As noted above, the Exchange also proposes to apply the proposed suspension rules to proposed Rule 12.15.

Proposed Rule 12.15 would prohibit Members from engaging in or facilitating disruptive quoting and trading activity on the Exchange, as described in proposed Interpretation and Policies .01 and .02 of the Rule, including acting in concert with other persons to effect such activity. The Exchange believes that it is necessary to extend the prohibition to situations when persons are acting in concert to avoid a potential loophole where disruptive quoting and trading activity is simply split between several brokers or customers.

To provide proper context for the situations in which the Exchange proposes to utilize its proposed authority, the Exchange believes it is necessary to describe the types of disruptive quoting and trading activity that would cause the Exchange to use its authority. Accordingly, the Exchange proposes to adopt Interpretation and Policy .01 and .02, providing additional details regarding disruptive quoting and trading activity. Proposed Interpretation and Policy .01(a), which describes disruptive quoting and trading activity containing many of the elements indicative of layering, would describe disruptive quoting and trading activity as a frequent pattern in which the following facts are present: (a) A party enters multiple limit orders on one side of the market at various price levels (the ''Displayed Orders''); and (b) following the entry of the Displayed Orders, the level of supply and demand for the security changes; and (c) the party enters one or more orders on the opposite side of the market of the Displayed Orders (the ''Contra-Side Orders'') that are subsequently executed; and (d) following the execution of the Contra-Side Orders, the party cancels the Displayed Orders. Proposed Interpretation and Policy .01(b), which describes disruptive quoting and trading activity containing many of the elements indicative of spoofing, would describe disruptive quoting and trading activity as a frequent pattern in which the following facts are present: (a) A party narrows the spread for a security by placing an order inside the national best bid or offer; and (b) the party then submits an order on the opposite side of the market that executes against another market participant that joined the new inside market established by the order described in (a) that narrowed the spread. The Exchange believes that the proposed descriptions of disruptive quoting and trading activity articulated in the rule are consistent with the activities that have been identified and described in the client access cases described above. The Exchange further believes that the proposed descriptions will provide Members with clear descriptions of disruptive quoting and trading activity that will help them to avoid engaging in such activities or allowing their clients to engage in such activities.

The Exchange proposes to make clear in Interpretation and Policy .02 that, unless otherwise indicated, the descriptions of disruptive quoting and trading activity do not require the facts to occur in a specific order in order for the rule to apply. For instance, with respect to the pattern defined in proposed Interpretation and Policy .01(a) it is of no consequence whether a party first enters Displayed Orders and then Contra-side Orders or vice-versa. However, as proposed, it is required for supply and demand to change following the entry of the Displayed Orders. The Exchange also proposes to make clear that disruptive quoting and trading activity includes a pattern or practice in which some portion of the disruptive quoting and trading activity is conducted on the Exchange and the other portions of the disruptive quoting and trading activity are conducted on one or more other exchanges. The Exchange believes that this authority is necessary to address market participants who would otherwise seek to avoid the prohibitions of the proposed Rule by spreading their activity amongst various execution venues.

In sum, proposed Rule 12.15 coupled with proposed Rule 8.17 would provide the Exchange with authority to promptly act to prevent disruptive quoting and trading activity from continuing on the Exchange. Below is an example of how the proposed rule would operate.

Assume that through its surveillance program, Exchange staff identifies a pattern of potentially disruptive quoting and trading activity. After an initial investigation the Exchange would then contact the Member responsible for the orders that caused the activity to request an explanation of the activity as well as any additional relevant information, including the source of the activity. If the Exchange were to continue to see the same pattern from the same Member and the source of the activity is the same or has been previously identified as a frequent source of disruptive quoting and trading activity then the Exchange could initiate an expedited suspension proceeding by serving notice on the Member that would include details regarding the alleged violations as well as the proposed sanction. In such a case the proposed sanction would likely be to order the Member to cease and desist providing access to the Exchange to the client that is responsible for the disruptive quoting and trading activity and to suspend such Member unless and until such action is taken. The Member would have the opportunity to be heard in front of a Hearing Panel at a hearing to be conducted within 15 days of the notice. If the Hearing Panel determined that the violation alleged in the notice did not occur or that the conduct or its continuation would not have the potential to result in significant market disruption or other significant harm to investors, then the Hearing Panel would dismiss the suspension order proceeding. If the Hearing Panel determined that the violation alleged in the notice did occur and that the conduct or its continuation is likely to

result in significant market disruption or other significant harm to investors, then the Hearing Panel would issue the order including the proposed sanction, ordering the Member to cease providing access to the client at issue and suspending such Member unless and until such action is taken. If such Member wished for the suspension to be lifted because the client ultimately responsible for the activity no longer would be provided access to the Exchange, then such Member could apply to the Hearing Panel to have the order modified, set aside, limited or revoked. The Exchange notes that the issuance of a suspension order would not alter the Exchange's ability to further investigate the matter and/or later sanction the Member pursuant to the Exchange's standard disciplinary process for supervisory violations or other violations of Exchange rules or the Act.[12]

The Exchange reiterates that it already has broad authority to take action against a Member in the event that such Member is engaging in or facilitating disruptive or manipulative trading activity on the Exchange. For the reasons described above, and in light of recent cases like the client access cases described above, as well as other cases currently under investigation, the Exchange believes that it is equally important for the Exchange to have the authority to promptly initiate expedited suspension proceedings against any Member who has demonstrated a clear pattern or practice of disruptive quoting and trading activity, as described above, and to take action including ordering such Member to terminate access to the Exchange to one or more of such Member's clients if such clients are responsible for the activity. The Exchange recognizes that its proposed authority to issue a suspension order is a powerful measure that should be used very cautiously. Consequently, the proposed rules have been designed to ensure that the proceedings are used to address only the most clear and serious types of disruptive quoting and trading activity and that the interests of Respondents are protected. For example, to ensure that proceedings are used appropriately and that the decision to initiate a proceeding is made only at the highest staff levels, the proposed rules require the CRO or another senior officer of the Exchange to issue written authorization before the Exchange can institute an expedited suspension proceeding. In addition, the Exchange believes that it would use this authority in limited circumstances, when necessary to protect investors, other Members and the Exchange. Further, the Exchange believes that the proposed expedited suspension provisions described above that provide the opportunity to respond as well as a Hearing Panel determination prior to taking action will ensure that the Exchange would not utilize its authority in the absence of a clear pattern or practice of disruptive quoting and trading activity.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act[13] and further the objectives of Section 6(b)(5) of the Act[14] because they are 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 regulating 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. Pursuant to the proposal, the Exchange will have a mechanism to promptly initiate expedited suspension proceedings in the event the Exchange believes that it has sufficient proof that a violation of Rule 12.15 has occurred and is ongoing.

Further, the Exchange believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[15] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules. The Exchange also believes that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act because the proposal helps to strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where awaiting the conclusion of a full disciplinary proceeding is unsuitable in view of the potential harm to other Members and their customers as well as the Exchange if conduct is allowed to continue on the Exchange. As explained above, the Exchange notes that it has defined the prohibited disruptive quoting and trading activity by modifying the traditional definitions of layering and spoofing[16] to eliminate an express intent element that would not be proven on an expedited basis and would instead require a thorough investigation into the activity. As noted throughout this filing, the Exchange believes it is necessary for the protection of investors to make such modifications in order to adopt an expedited process rather than allowing disruptive quoting and trading activity to occur for several years. Through this proposal, the Exchange does not intend to modify the definitions of spoofing and layering that have generally been used by the Exchange and other regulators in connection with actions like those cited above.

The Exchange further believes that the proposal is consistent with Section 6(b)(7) of the Act,[17] which requires that the rules of an exchange ''provide a fair procedure for the disciplining of members and persons associated with persons . . . and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof.'' Finally, the Exchange also believes the proposal is consistent with Sections 6(d)(1) and 6(d)(2) of the Act,[18] which require that the rules of an exchange with respect to a disciplinary proceeding or proceeding that would limit or prohibit access to or membership in the exchange require the exchange to: Provide adequate and specific notice of the charges brought against a member or person associated with a member, provide an opportunity to defend against such charges, keep a record, and provide details regarding the findings and applicable sanctions in the event a determination to impose a disciplinary sanction is made. The Exchange believes that each of these requirements is addressed by the notice and due process provisions included within proposed Rule 8.17. Importantly, as noted above, the Exchange anticipates using the authority proposed in this filing only in clear and egregious cases when necessary to protect

[12] The proposal will not supplant the Exchange's current investigative and enforcement process. Currently, when Exchange surveillance staff identifies a pattern of potentially disruptive quoting and trading activity, the staff conducts an initial analysis and investigation of that activity. After the initial investigation, the Exchange then contacts the Member responsible for the orders that caused the activity to request an explanation of the activity as well as any additional relevant information, including the source of the activity. The Exchange will continue this practice after this proposal becomes operative. The Exchange will only seek an expedited suspension when—after multiple requests to a Member for an explanation of activity—it continues to see the same pattern of manipulation from the same Member and the source of the activity is the same or has been previously identified as a frequent source of disruptive quoting and trading activity.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[16] *See supra,* notes 7 and 8.

[17] 15 U.S.C. 78f(b)(7).

[18] 15 U.S.C. 78f(d)(1).

investors, other Members and the Exchange, and even in such cases, the Respondent will be afforded due process in connection with the suspension proceedings.

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

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that each self-regulatory organization should be empowered to regulate trading occurring on their market consistent with the Act and without regard to competitive issues. The Exchange is requesting authority to take appropriate action if necessary for the protection of investors, other Members and the Exchange.

*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 filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20] 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 for 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 [21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6) [23] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[24] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange asserts that the waiver of the 30-day operative delay will allow the Exchange to immediately enforce the proposed rules to protect its members and market participants from the behavior proscribed by the proposed rules. The Exchange further states that waiver of the operative delay is consistent with the protection of investors and the public interest because it is designed to protect investors and the public from disruptive quoting and trading activity. Furthermore, the Commission notes that it recently approved an identical expedited disciplinary procedure for an affiliate of the Exchange, BatsBZX,[25] and the Exchange represents above that the membership of the Exchange and the membership of BatsBZX is nearly identical.[26] Based on the foregoing, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[27]

At any time within 60 days of the filing of the 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 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.* Please include File Number SR–BatsEDGX–2016–04 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–BatsEDGX–2016–04. 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–BatsEDGX–2016–04, and should be submitted on or before May 9, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Robert W. Errett,**

*Deputy Secretary.*

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[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] *See supra* note 4.

[26] *See supra* note 3.

[27] 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).

[28] 17 CFR 200.30–3(a)(12), (59).