

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–NYSEMKT–2017–44. 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 the 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–2017–44 and should be submitted on or before August 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81152; File No. SR–BatsBZX–2017–45]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to BZX Rule 14.13, Company Listing Fees, To Amend the Fees Applicable to Securities Listed on the Exchange

July 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 3, 2017, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) 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 filed a proposed rule change to amend the fees applicable to securities listed on the Exchange, which are set forth in Exchange Rule 14.13. Changes to the Exchange's fees pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at www.bats.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

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,³ which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products (“ETPs”) ⁴ on the Exchange,⁵ which it subsequently modified again on June 4, 2014.⁶ On October 16, 2014, the Exchange modified Rule 14.13, “Company Listing Fees,” to eliminate the annual fees for ETPs not participating in the Exchange's Competitive Liquidity Provider Program pursuant to Rule 11.8, Interpretations and Policies .02 (the “CLP Program”).⁷ On May 22, 2015, the Exchange further modified Rule 14.13 to eliminate the application fee for ETPs, effectively eliminating any compulsory fees for both new ETP issues and transfer listings onto the Exchange.⁸ On September 30, 2015, the Exchange began offering an incentive payment to ETPs that are listed on the Exchange based on the consolidated average daily volume (the “CADV”) of the ETP (the “Issuer Incentive Program”).⁹ The Exchange subsequently made an administrative change to the Issuer Incentive Program that required an issuer to enroll in order to receive payment.¹⁰

The Exchange submits this proposal to decommission the Issuer Incentive Program. Currently, under Exchange Rule 14.13(b)(2)(C), the issuer of each class of securities that is a domestic or foreign issue listed on the Exchange as an ETP is eligible to receive payments from the Exchange on a quarterly basis based on the CADV of the ETP for each trading day of the preceding calendar

³ See Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

⁴ As defined in Exchange Rule 11.8(e)(1)(A), the term “ETP” means any security listed pursuant to Exchange Rule 14.11.

⁵ See Securities Exchange Act Release No. 66422 (February 17, 2012), 77 FR 11179 (February 24, 2012) (SR–BATS–2012–010).

⁶ See Securities Exchange Act Release No. 72377 (June 12, 2014), 79 FR 34822 (June 18, 2014) (SR–BATS–2014–024).

⁷ See Securities Exchange Act Release No. 73414 (October 23, 2014), 79 FR 64434 (October 29, 2014) (SR–BATS–2014–050).

⁸ See Securities Exchange Act Release No. 75085 (June 1, 2015), 80 FR 32190 (June 5, 2015) (SR–BATS–2015–39).

⁹ See Securities Exchange Act Release No. 76113 (October 8, 2015), 80 FR 62142 (October 15, 2015) (SR–BATS–2015–80).

¹⁰ See Securities Exchange Act Release No. 77960 (June 1, 2016), 81 FR 36632 (June 7, 2016) (SR–BatsBZX–2016–20).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

¹⁸ 17 CFR 200.30–3(a)(12).

quarter that the ETP was listed on the Exchange. The annualized payments range from the lowest bracket of \$3,000 for CADV between 1–3 million shares to the highest bracket of \$400,000 for CADV greater than 35 million shares. The Exchange is proposing to eliminate such payments.

Implementation Date

The Exchange proposes to implement the amendments to Rule 14.13(b)(2)(C) effective July 3, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.¹¹ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,¹² in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and is designed 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 is proposing to decommission the Issuer Incentive Program, which established payments from the Exchange to ETP issuers that list on the Exchange and achieve a particular CADV threshold. The Exchange believes that the proposal is equitable, reasonable, and non-discriminatory because decommissioning the Issuer Incentive Program will affect all ETP issuers listing on the Exchange equally. The Exchange also believes that the proposal to eliminate the Issuer Incentive Program is reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and other charges because it would apply equally to all Issuers and eliminating the payment will allow the Exchange to better allocate its resources in order to make it a more attractive listing venue for ETPs. Additionally, the payments under the Issuer Incentive Program have not had the impact that the Exchange sought when it was implemented.

Based on the foregoing, the Exchange believes that the proposed amendment to Rule 14.13(b)(2)(C) to eliminate the Issuer Incentive Program is a reasonable, equitable, and non-discriminatory allocation of fees and other charges to issuers.

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

The Exchange believes that the proposal would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange acknowledges that it operates in a highly competitive environment, and that ETP issuers may opt to disfavor listing on the Exchange if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of ETP issuers or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed changes to the Exchange's standard fees, rebates and tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and paragraph (f) of Rule 19b–4 thereunder.¹⁴ 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.

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–2017–45 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.

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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Jill M. Peterson,

Assistant Secretary.

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¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(4) and (5).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b–4(f).

¹⁵ 17 CFR 200.30–3(a)(12).