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 BYX. 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–2013–23 and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–16534 Filed 7–9–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69933; File No. SR–BATS–2013–040]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

July 3, 2013.

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 June 28, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b-4(f)(2) thereunder,[4] which renders the proposed rule change 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 the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on July 1, 2013.

The text of the proposed rule change is available at the Exchange's Web site at *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 purpose of the proposed rule change is to begin charging a monthly fee for the Multicast PITCH Spin Server Port and GRP Port, each of which are logical ports[6] used to receive data from the Exchange.[7] Currently, the Exchange charges a monthly fee for all other port types used to enter orders in the Exchange's system and to receive data from the Exchange;[8] however, for both BATS Equities and BATS Options,[9] the Exchange provides 32 primary Multicast PITCH Spin Server Ports free of charge (32 ports currently makes a complete set of Spin Server Ports) and, if such ports are used, one free primary GRP Port. In addition, all redundant Multicast PITCH Spin Server Ports and GRP Ports are provided free of charge.[10] Currently, the Exchange charges $400 per month per additional set of primary Multicast PITCH Spin Server Ports and $400 per month per additional primary GRP Port.

Beginning July 1, 2013, the Exchange proposes to charge $400 per month per set of primary Multicast PITCH Spin Server Ports and $400 per month per primary GRP Port for BATS Equities and BATS Options. The Exchange is also proposing to eliminate the reference to the exact number of ports that makes a complete set of Multicast Spin Server Ports, as this number has changed in the past and could again change in the future. A complete set of Multicast Spin Server Ports is the number of ports necessary to get one full set of information from the Exchange based on load balancing by the Exchange.[11] The Exchange believes that this concept is clearly understood amongst recipients of Multicast data, and, therefore, does not believe that eliminating the fee schedule reference to the exact number of ports necessary to receive Exchange PITCH data via Multicast will cause

---

[26] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] A logical port is commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt. Logical port fees are limited to logical ports in the Exchange's primary data center and no logical port fees are assessed for redundant secondary data center ports.

[7] BATS FIX ports are the only ports that may be used to send orders and related instructions to the Exchange. All other port types, including the Multicast PITCH Spin Server Port and GRP Port, permit Members and non-members to receive information from the Exchange.

[8] The Exchange currently charges a monthly fee for all other Exchange FIX, FIXDROP, BOE, DROP, TCP PITCH, and TOP ports.

[9] BATS Equities is the Exchange's platform for trading cash equity securities whereas BATS Options is the Exchange's platform for trading equity options.

[10] Exchange Multicast PITCH data feed for both BATS Equities and BATS Options is currently offered through two primary feeds, identified as the ''A feed'' and the ''C feed'', which contain the same information but differ only in the way such feeds are received. The Exchange offers for free the ports necessary to receive the Exchange's redundant Multicast ''B feed'' and ''D feed'', as well as all ports made available in the Exchange's secondary data center. Accordingly, this proposal only applies to ports used to receive an Exchange primary Multicast Feed at the Exchange's primary data center.

[11] The Exchange load balances information regarding securities traded on the Exchange across multiple channels (today 32) with each channel requiring a separate Multicast PITCH Spin Server Port.

confusion amongst recipients of Multicast data.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, Sponsored Participants sponsored by Members to receive direct access to the Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients.

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.[12] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[13] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

The Exchange operates in a highly competitive market in which exchanges offer connectivity services as a means to facilitate the trading activities of members and other participants. Accordingly, fees charged for connectivity are constrained by the active competition for the order flow of such participants as well as demand for market data from the Exchange. If a particular exchange charges excessive fees for connectivity, affected members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, the exchange charging excessive fees would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it by affected members, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange believes that its proposed changes to logical port fees are reasonable in light of the benefits to Exchange participants of direct market access and receipt of data.[14] In addition, the Exchange believes that its fees are equitably allocated among Exchange constituents based upon the number of access ports that they require to receive data from the Exchange. Further, the Exchange believes that its fees are not unreasonably discriminatory because all market participants are charged standard fees for port usage. The Exchange notes that it believes its prior fee structure, under which ports necessary for receipt of Multicast data were provided free of charge, was reasonable, equitably allocated and not unreasonably discriminatory because it was available to all market participants and was intended to encourage the use of Multicast PITCH. However, by moving towards a more uniform approach to ports billing, the Exchange believes that its fees are even more equitably allocated and nondiscriminatory. The Exchange also believes that its fees for access services will enable it to better cover its infrastructure costs and to improve its market technology and services.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including logical port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and paragraph (f) of Rule 19b–4 thereunder.[16] 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 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–BATS–2013–040 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–BATS–2013–040. 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–BATS–

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] Through a different filing, beginning July 1, 2013, the Exchange has proposed to implement fees for the BATS Equities PITCH (including both TCP PITCH and Multicast PITCH) and TOP data products, and to revise the fee for the Last Sale Feed data product.

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

[16] 17 CFR 240.19b–4(f).

2013–040 and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–16532 Filed 7–9–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69929; File No. SR–NASDAQ–2013–091]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Penny Pilot Option Rebates To Add Liquidity

July 3, 2013.

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 June 27, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. 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

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend certain Customer,[3] Professional [4] and NOM Market Maker [5] Rebates to Add Liquidity in Penny Pilot Options.[6]

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on July 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.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. 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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2(1) governing the rebates and fees assessed for option orders entered into NOM. The Exchange proposes to amend the Customer, Professional and NOM Market Maker Penny Pilot Options Rebates to Add Liquidity and make other technical amendments to the Section 2(1) as described more fully below.

Today, the Exchange offers an eight-tiered Rebate to Add Liquidity in Penny Pilot Options to Customers and Professionals as follows:

	Monthly volume	Rebate to add liquidity
Tier 1	Participant adds Customer and Professional liquidity of up to 0.20% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.	$0.25
Tier 2	Participant adds Customer and Professional liquidity of 0.21% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month.	0.40
Tier 3	Participant adds Customer and Professional liquidity of 0.31% to 0.49% of total industry customer equity and ETF option ADV contracts per day in a month.	0.43
Tier 4	Participant adds Customer and Professional liquidity of 0.5% or more of total industry customer equity and ETF option ADV contracts per day in a month.	0.45
Tier 5	Participant adds (1) Customer and Professional liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market.	0.42

[17] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Chapter I, Section 1(a)(48)).

[4] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[5] The term ''NOM Market Maker'' is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[6] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through June 30, 2013. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); and 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013). *See also* NOM Rules, Chapter VI, Section 5. The Exchange recently filed a proposed rule change to extend the pilot through December 31, 2013. *See* SR–Phlx–2013–64, which is not yet published.