

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73180; File No. SR-NASDAQ-2012-129]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program Until December 31, 2014

September 23, 2014.

On February 15, 2013, the Commission issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")<sup>1</sup> that granted the NASDAQ Stock Market LLC ("NASDAQ") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement Program ("Program").<sup>2</sup> The limited exemptions were granted concurrently with the Commission's approval of the Exchange's proposals to adopt the Program for a one-year pilot term.<sup>3</sup> The exemption was granted coterminous with the effectiveness of the pilot Program; both the pilot Program and the exemption are scheduled to expire on September 30, 2014.

The Exchange now seeks to extend the exemption until December 31, 2014.<sup>4</sup> The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until December 31, 2014.<sup>5</sup> In its request to extend the exemption, the Exchange notes that given the gradual implementation of the Program and the preliminary participation and results, extending the exemption would provide additional opportunities for greater participation and assessment of the results. Accordingly, the Exchange has asked for additional time to allow it and the Commission to analyze data concerning the Program, which the Exchange committed to provide to the Commission.<sup>6</sup> For this reason and the reasons stated in the RPI Approval Order originally granting the limited exemption, the Commission finds that

extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

Therefore, it is hereby ordered that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted an extension of the limited exemption from Rule 612 of Regulation NMS that allows it to accept and rank orders priced equal to or greater than \$1.00 per share in increments of \$0.001, in connection with the operation of its Retail Price Improvement Program, until December 31, 2014.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. Responsibility for compliance with any applicable provisions of the federal securities laws must rest with the persons relying on the exemption that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Kevin M. O'Neill,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73188; File No. SR-BATS-2014-041]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.9 of BATS Exchange, Inc.

September 23, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 12, 2014, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii)

thereunder,<sup>4</sup> which renders it 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 provide additional functionality with respect to Primary Pegged Orders offered by the Exchange pursuant to Rule 11.9(c)(8).

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

Earlier this year, the Exchange and its affiliate BATS Y-Exchange, Inc. ("BYX") received approval to effect a merger (the "Merger") of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX Exchange, Inc. ("EDGX") and EDGA Exchange, Inc. ("EDGA", and together with BZX, BYX and EDGX, the "BGM Affiliated Exchanges").<sup>5</sup> In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposals set forth below are intended to add certain system functionality currently offered by EDGA and EDGX in order to provide a consistent technology offering for users of the BGM Affiliated Exchanges.

<sup>1</sup> 17 CFR 242.612(c).

<sup>2</sup> See Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR-NASDAQ-2012-129) ("RPI Approval Order").

<sup>3</sup> See *id.*

<sup>4</sup> See Letter from Jeffrey S. Davis, Vice President & Deputy General Counsel, NASDAQ to Elizabeth M. Murphy, Secretary, Commission dated September 11, 2014.

<sup>5</sup> See SR-NASDAQ-2014-094.

<sup>6</sup> See RPI Approval Order, *supra* note 2, 78 FR at 12399.

<sup>7</sup> 17 CFR 200.30-3(a)(83).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>5</sup> See Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR-BATS-2013-059; SR-BYX-2013-039).