



## New U.S. Exchange – “It’s Better Than A Magic Lantern Show”

August 26, 2011 by [Keith Paul Bishop](#)

What’s the third largest securities exchange operator in the United States and where is it located? The answers may surprise you. The exchange operator is called [BATS](#) and it is based outside of Kansas City. BATS is derived from an initialization of **Better Alternative Trading System**.

### What Next! What Next?

BATS was formed less than a decade ago as an alternative to the NYSE and The NASDAQ Stock Market. Currently, companies cannot list their securities on BATS. In May, the exchange submitted to the SEC this [proposal](#) to adopt rules for the qualification, listing and delisting of companies (Form 19b-4) on one of the U.S. exchanges that BATS operates, BATS Exchange, Inc. (BZX). According to the proposal, the BZX is proposing to adopt:

two distinct tiers of securities to be listed on the Exchange, Tier I and Tier II. The proposed standards for a security’s initial and continued listing on Tier I are nearly identical to the existing standards applicable to listing on the Nasdaq Global Market (“NGM”). The proposed standards for a security’s initial and continued listing on Tier II are nearly identical to the existing standards applicable to listing on the Nasdaq Capital Market (“NCM”). While the quantitative standards for Tier I and II differ, the qualitative standards for both tiers are the same, and are based on Nasdaq’s existing qualitative standards . . . .

To date, no comments have been submitted with respect the BATS proposal. The company’s [website](#) states that it is slated to launch listings in the fourth quarter of 2011.

### Everything’s Up To Date In Kansas City

The proposal states that BZX intends to enter the listing market with generally lower fees than incumbent exchanges in order to compete with them. For example, BZX asserts that issuers listing on the Nasdaq Global Market pay between \$125,000 and \$225,000 initially (depending on the number of shares) and between \$35,000 and \$99,500 annually, compared to its proposed Tier I fees of \$100,000 initially and \$35,000 annually. BATS does acknowledge that its pricing will not necessarily be less expensive for all issuers at all other markets.

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My understanding is that the BATS trading platforms are aimed at hedge funds and others who trade often and want to trade quickly. "Quick" in today's computer driven world means superhumanly fast. BATS, for example, asserts that in the second quarter of this year its average latency period, which measures the time that it takes for BATS to process an order message, was 120 microseconds. A microsecond is one millionth of a second.

### **Nothing But Blue Skies From Now On?**

BATS has also petitioned the SEC to add BZX to the list of exchanges in Rule 146. The SEC has responded with this [proposed rule](#). Addition of BZX to the Rule 146 list will make securities that are listed or authorized for listing on BZX "covered securities" for purposes of the Securities Act of 1933. State qualification requirements would therefore be preempted as to any security listed or authorized for listing on the BZX exchange and any securities of the same issuer that are equal or senior to the security listed or authorized for listing. Section 18(b)(1) of the Securities Act of 1933 and California Corporations Code Section 251001.1(a). The SEC is also proposing to update some of the names of existing exchanges in Rule 146. This is something that I [petitioned](#) the SEC to do two years ago.

### **It May Soon Be Public**

In May, BATS Global Markets, Inc., the parent of BZX, also filed a registration statement on Form S-1 with the SEC with respect to a proposed public offering of its Class A Common Shares. Although headquartered in Kansas, the company is incorporated in Delaware.

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