

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61931; File No. SR-BX-2010-030]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ OMX BX Equities System

April 16, 2010.

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 April 13, 2010, NASDAQ OMX BX, Inc. ("BX") 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 BX. Pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ BX has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing. 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

BX proposes to modify pricing for BX members using the NASDAQ OMX BX Equities System. BX will implement the proposed change on April 15, 2010. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com>, at BX's principal office, 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, BX 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. BX 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

BX is proposing to modify its fees for orders that execute at prices below \$1. Currently, BX charges 0.3% (30 basis points) of the total dollar value of the execution to members accessing liquidity, and provides a rebate of 0.25% (25 basis points) of the total dollar value to members providing liquidity. Through this filing, BX will reduce the fee to access liquidity to 0.15% (15 basis points) of the total dollar value and the rebate for providing liquidity to 0.05% (5 basis points) of the total dollar value. The change is a competitive response to several other transaction venues that have made mid-April changes to fees for securities priced under \$1.⁵ The new fees are consistent with the limitations of Regulation NMS, SEC Rule 610(c), for securities with a price of less than \$1.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Section 6(b)(4) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which BX operates or controls. The impact of the price changes upon the net fees paid by a particular market participant will depend upon a number of variables, including the relative availability of liquidity on BX and other venues, the prices of the market participant's quotes and orders relative to the national best bid and offer (*i.e.*, its propensity to add or remove liquidity), and the types of securities that it trades. BX believes that the proposed changes are reasonable

and equitable in that they apply uniformly to all similarly situated members.

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

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily direct orders to BX's competitors if they object to the proposed rule change.

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

Written comments were neither solicited nor received.

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)(ii) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2010-030 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-BX-2010-030. This file

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 See [http://apps.nyse.com/commdata/pub19b4.nsf/docs/50B8C6B6842FEA1E85257700006A989D/\\$FILE/NYSEArca-2010-26.pdf](http://apps.nyse.com/commdata/pub19b4.nsf/docs/50B8C6B6842FEA1E85257700006A989D/$FILE/NYSEArca-2010-26.pdf) (NYSE Arca); <http://www.nsx.com/resources/content/5/1/documents/SR-NSX-2010-04.pdf> (National Stock Exchange); [http://www.ise.com/assets/documents/OptionsExchange/legal/proposed_rule_changes/2010/SR-ISE-2010-29\\$Proposed_Rule_Change_Relating_to_Direct_Edge%20ECN_Fee_Change_for_ISE_Members\\$20100405.pdf](http://www.ise.com/assets/documents/OptionsExchange/legal/proposed_rule_changes/2010/SR-ISE-2010-29$Proposed_Rule_Change_Relating_to_Direct_Edge%20ECN_Fee_Change_for_ISE_Members$20100405.pdf) (Direct Edge).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(a)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-BX-2010-030 and should be submitted on or before May 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61936; File No. SR-NYSEAmex-2010-35]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change To Establish the NYSE Amex Trades Service and the NYSE Amex BBO Service and Related Fees

April 16, 2010.

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 April 1, 2010, the NYSE Amex LLC ("NYSE Amex" or "Exchange"), 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

NYSE Amex proposes to introduce its NYSE Amex Trades and NYSE Amex BBO services and to establish fees for those services. The text of the proposed rule change is available on the Exchange's Web site at <http://www.nyse.com>, on the Commission's Web site at <http://www.sec.gov>, at NYSE Amex, 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 self-regulatory organization 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 those 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

a. The Services.

NYSE Amex Trades is a new NYSE Amex-only market data service. It allows a vendor to redistribute on a real-time basis the same last sale information that NYSE Amex reports under the CTA Plan and "Nasdaq/UTP Plan"³ for inclusion in those Plans' consolidated data streams and certain other related data elements ("NYSE Amex Last Sale Information"). NYSE Amex Last Sale Information would include last sale information for all securities that are traded on the Exchange and for which NYSE Amex reports quotes under the CTA Plan or the Nasdaq/UTP Plan. In addition to the information that the Exchange provides under the CTA Plan and the Nasdaq/UTP Plan, NYSE Amex Last Sale Information will also include

a unique sequence number that the Exchange assigns to each trade. It allows an investor to track the context of the trade through such other Exchange market data products as NYSE Amex OpenBook®. NYSE Amex will make the NYSE Amex Trades service available over a single datafeed, regardless of the markets on which the securities are listed.

NYSE Amex BBO is a new NYSE Amex-only market data service that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE Amex reports under the CQ Plan and the Nasdaq/UTP Plan for inclusion in those Plans' consolidated quotation information data streams ("NYSE Amex BBO Information"). NYSE Amex BBO information would include the best bids and offers for all securities that are traded on the Exchange and for which NYSE Amex reports quotes under the CQ Plan or the Nasdaq/UTP Plan. NYSE Amex will make the NYSE Amex BBO service available over a single datafeed, regardless of the markets on which the securities are listed.

Both services (collectively, the "NYSE Amex Trade and BBO Services") would allow vendors, broker-dealers, private network providers and other entities ("NYSE AMEX-Only Vendors") to make available NYSE Amex Last Sale Information and NYSE Amex BBO Information (collectively, "NYSE Amex Market Data") on a real-time basis. NYSE Amex-Only Vendors may distribute the NYSE Amex Trade and BBO Services to both professional and nonprofessional subscribers.

The Exchange would make NYSE Amex Last Sale Information available through its new NYSE Amex Trades service no earlier than it provides last sale information to the processors under the CTA Plan and the Reporting Plan for Nasdaq/National Market System Securities Traded on an Exchange on an Unlisted or Listed Basis (the "Nasdaq/UTP Plan"), as appropriate. It would make NYSE Amex BBO Information available through its new NYSE Amex BBO service no earlier than it makes that information available to the processors under the CQ Plan and the Nasdaq/UTP Plan.

b. Fees

i. Access Fee.

For the receipt of access to the NYSE Amex Trades and NYSE Amex BBO datafeeds, the Exchange proposes to charge \$750 per month. One \$750 monthly access fee entitles an NYSE Amex-Only Vendor to receive both the NYSE Amex Trades datafeed as well as the NYSE Amex BBO datafeed. The fee

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Formally referred to as "the Reporting Plan for Nasdaq/National Market System Securities Traded on an Exchange on an Unlisted or Listed Basis."