

- d. Dispute Resolution  
Not applicable.

## II. Rule 601(a)

### A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

### B. Reporting Requirements

Not applicable.

### C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

### D. Manner of Consolidation

Not applicable.

### E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

### F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

### G. Terms of Access to Transaction Reports

Not applicable.

### H. Identification of Marketplace Execution

Not applicable.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are 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](mailto:rule-comments@sec.gov). Please include File Number SR-CTA/CQ-2009-03 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-CTA/CQ-2009-03. This file 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 Amendments that are filed with the Commission, and all written communications relating to the Amendments 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 Amendments also will be available for inspection and copying at the principal office of the CTA. 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-CTA/CQ-2009-03 and should be submitted on or before March 1, 2010.

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

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-2586 Filed 2-5-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 9105; Release No. 61468]

### Securities Act of 1933; Securities Exchange Act of 1934; Order Regarding Review of FASB Accounting Support Fee for 2010 Under Section 109 of the Sarbanes-Oxley Act of 2002

February 2, 2010.

The Sarbanes-Oxley Act of 2002 (the "Act") provides that the Securities and Exchange Commission (the "Commission") may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and

provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the "recoverable budget expenses" of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board ("FASB") and its parent organization, the Financial Accounting Foundation ("FAF"), satisfied the criteria for an accounting standard setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as "generally accepted" under Section 108 of the Act.<sup>1</sup> As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2010. In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2010.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB and the Governmental Accounting Standards Board ("GASB"), the FASB's sister organization, which sets accounting standards used by state and local governmental entities. The Commission has been advised by the FAF that neither the FAF, the FASB nor the GASB accept contributions from the accounting profession.

After its review, the Commission determined that the 2010 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

*It is ordered*, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

<sup>7</sup> 17 CFR 200.30-3(a)(27).

<sup>1</sup> Financial Reporting Release No. 70.

By the Commission.

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2010-2591 Filed 2-5-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61452; File No. SR-BX-2010-010]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Describing the BX Ouch BBO Feed

February 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 22, 2010, NASDAQ OMX BX, Inc. (“BX” or the “Exchange”) 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 BX. BX has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which renders the proposal 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 Substance of the Proposed Rule Change

BX submits this proposal regarding the availability of the BX Ouch BBO Feed, a data feed that represents BX's internal view of the best bid and offer among all market centers other than BX (the “BBO”), which is provided at no cost.

#### 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 submits this proposal regarding the availability of the BX Ouch BBO Feed, a data feed that represents BX's internal view of the best bid and offer among all market centers other than BX. The BX Ouch BBO Feed is available to all BX members equally at no charge, and offers all firms transparent, real-time data concerning BX's internal view of the BBO. This data feed reflects BX's view of the BBO, at any given time, based on orders executed on BX and updated quote information from the SIPs. BX makes the BX Ouch BBO Feed available to all market participants via subscription through an established connection to BX through extranets, direct connection, and Internet-based virtual private networks.

The BX Ouch BBO Feed contains the following data elements: symbol, bid price, and ask price.<sup>4</sup> Unlike the BX TotalView feed, the Ouch BBO feed does not contain information about individual orders, either those residing within the BX system or those executed or routed by BX. Unlike the SIP feeds containing the National Best Bid and Offer (“NBBO”), the Ouch BBO Feed does not identify either the market center quoting the BBO or the size of the BBO quotes. It merely contains the symbol and bid and offer prices.

By making the BX Ouch BBO Feed data available, BX enhances market transparency and fosters competition among orders and markets. Member firms may use the BX Ouch BBO Feed to more accurately price their orders based on BX's view of what the BBO is at any point in time, which may not be reflected in the official NBBO due to latencies inherent in the NBBO's dissemination. As a consequence, member firms may more accurately price their orders on BX, thus avoiding price adjustments by BX based on a quote that is no longer available. Additionally, members can price orders more aggressively to narrow the NBBO and provide better reference prices for investors.

At this time, BX does not have plans to charge an additional fee associated with the receipt of the BX Ouch BBO Feed. Should BX determine to charge fees associated with the BX Ouch BBO Feed, BX will submit a proposed rule change to the Commission in order to implement those fees.

<sup>4</sup> BX also provides a time stamp and message type field for reference.

##### 2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general and with Sections 6(b)(5) of the Act,<sup>6</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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. BX believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of BX Ouch BBO Feed data and by clarifying its availability.

#### 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.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>9</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)<sup>10</sup>

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. BX has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).