

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67068; File No. SR-NASDAQ-2012-064]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation Date for Its Excess Order Fee

May 29, 2012.

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 May 22, 2012, The NASDAQ Stock Market LLC (“NASDAQ” 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 the Substance of the Proposed Rule Change

The Exchange proposes a rule change to delay the implementation date for its Excess Order Fee. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at the Exchange’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, 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 aspects of such statements.

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

1. Purpose

NASDAQ recently submitted a proposed rule change to introduce an

Excess Order Fee,³ aimed at reducing inefficient order entry practices of certain market participants that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In order to provide market participants with additional time to enhance their efficiency so as to avoid the fee, NASDAQ is delaying the implementation date of the fee until July 2, 2012.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Section 6(b)(5) of the Act,⁵ in particular, in that the proposal 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. Specifically, NASDAQ believes that delaying the implementation date of the Excess Order Fee will provide market participants with additional time to enhance the efficiency of their systems, and that implementation of the fee on July 2, 2012 will benefit investors and the public interest by encouraging more efficient order entry practices by all market participants.

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

NASDAQ 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. Specifically, NASDAQ believes that the fee will constrain market participants from pursuing certain inefficient and potentially abusive trading strategies. To the extent that this change may be construed as a burden on competition, NASDAQ believes that it is appropriate in order to further the purposes of Section 6(b)(5) of the Act.⁶ NASDAQ further believes that the proposed delay of one month in the implementation of

the fee will not have any effect on competition.

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)(i) of the Act.⁷ 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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-NASDAQ-2012-064 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-NASDAQ-2012-064. 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

³ Securities Exchange Act Release No. 66951 (May 9, 2012), 77 FR 28647 (May 15, 2012) (SR-NASDAQ-2012-055).

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(a)(i) [sic].

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 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 offices 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-NASDAQ-2012-064, and should be submitted on or before June 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-13483 Filed 6-4-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67074; File No. SR-BX-2012-037]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Waiver of Fees for BX Options Participants

May 30, 2012.

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 May 18, 2012, NASDAQ OMX BX, Inc. ("BX" 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 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

The Exchange proposes to waive certain application, membership and data fees for BX members seeking to participate solely in the new BX Options Market.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaqtrader.com/micro.aspx?id=BXRulofilings>, 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 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

The purpose of the proposed rule change is to waive the following BX fees to promote participation in the new BX Options Market: (1) Membership Fee; (2) Trading Rights Fee; (3) Application Fee; (4) testing fee; and (5) Annual Administrative Fee.

The Exchange recently filed for approval to operate a new options market.³ The new market, called NASDAQ OMX BX Options, or BX Options, will be all-electronic with no physical trading floor. BX proposed to adopt a series of rules based on the existing rules of NOM.⁴

Persons desiring to join the new BX Options Market need to apply to become members of BX pursuant to BX Rules. BX Members are subject to various charges for membership, services and equipment as noted in the 7000 Rules. The Exchange desires to waive certain of those fees to attract market

participants to the new BX Options Market. BX seeks to implement the fee waivers immediately so that Applicants seeking to participate in the new BX Options market may begin submitting applications to the Exchange prior to the market's commencement of operations.

Currently, BX members are assessed a \$3,000 Membership Fee⁵ per year and a \$500 per month trading rights fee.⁶ The Exchange also assesses an Application Fee of \$2,000.⁷ Among other fees, the Exchange also currently assesses subscribers to the Exchange a fee for conducting tests of their Exchange access protocols connection or market data feeds through the Exchange's Testing Facility a fee of \$300 per port, per month.⁸ The Exchange assesses an Annual Administrative Fee to market data distributors that receive any proprietary Exchange data feed product. The amount of this fee is the higher of the delayed distributor fee of \$500 or the real-time distributor fee of \$1,000 (which may include the delayed fee). This fee is assessed annually.

The Exchange proposes to waive the Membership Fee, Trading Rights Fee, Application Fee, and Annual Administrative Fee for Applicants desiring to apply to become BX Options Market Participants, who will not transact business on the BX Equities Market.⁹ The proposed fee waivers for the Membership Fee, Trading Rights Fee and Annual Administrative Fee would apply also to an existing BX member if that member applies to transact business on the BX Options Market only and will no longer be conducting an equities business on BX. In this example, the Application Fee would not be waived because it was already assessed at the time the member became a BX member.

⁵ The Membership Fee is imposed on all persons that are Exchange members as of a date determined by the Exchange in December of each year. This fee is not refundable in the event that a person ceases to be an Exchange member following the date on which the fee is assessed. See Rule 7001. This Membership Fee is collected by the Financial Industry Regulatory Authority (FINRA) on behalf of the Exchange and would be refunded by the Exchange annually, if the fee is assessed to a BX Options Participant who qualified for the waiver.

⁶ The Trading Rights Fee is assessed on all persons that are Exchange members as of a date determined by the Exchange in each month. This fee is not refundable in the event that a person ceases to be an Exchange member following the date on which the fee is assessed. See Rule 7001.

⁷ The Application Fee for membership in the Exchange is non-refundable.

⁸ These fees do not apply to testing occasioned by new or enhanced services or software, modifications to services or software initiated by the Exchange in response to a contingency or testing by a new subscriber under certain circumstances. See Rule 7030.

⁹ New BX Options Market members would be assigned an account by the Membership Department.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See SR-BX-2012-30.

⁴ See SR-BX-2012-30. BX will operate an electronic trading system developed to trade options that will provide for the electronic display and execution of orders in price/time priority without regard to the status of the entities that are entering orders.