

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59682; File No. SR-BX-2009-018)

April 1, 2009

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

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 March 25, 2009, 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 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

BX proposes to modify pricing for BX members using the NASDAQ OMX BX Equities System. BX will implement this rule change on April 1, 2009. The text of the proposed rule change is available at <http://nasdaqomx.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 parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 pricing for execution of orders in securities listed on The NASDAQ Stock Market (“NASDAQ”) and the New York Stock Exchange (“NYSE”).

Specifically, BX will eliminate the current \$0.0020 per share executed credit for orders that provide liquidity through BX, and will instead institute a \$0.0006 per share executed credit for orders that access liquidity in securities priced at \$1 or more per share. BX currently charges \$0.0014 for such orders. For securities priced at less than \$1, the fee will remain 0.1% of the total cost of the transaction. Fees and credits to access and provide liquidity in securities listed on exchanges other than Nasdaq and NYSE will remain unchanged.

Since its launch on January 16, 2009, BX has begun to acquire market share in U.S. equities trading, a move accelerated by promotional price reductions introduced in March 2009 that made the net cost of trading a share on BX (i.e., the difference between the fee to access and the credit to provide liquidity) negative six cents per one hundred shares. BX has observed, however, that widespread reductions in the quoted prices of cash equities have increased the relative costs of accessing liquidity by making bid-ask spreads account for a greater percentage of that cost. Members have become more focused than ever on paying the lowest possible cost when accessing liquidity. Accordingly, BX is eliminating its credit for liquidity provision and instead introducing a credit for accessing liquidity. The net cost of trading a share remains negative six cents per one hundred shares. As with the pricing introduced in March 2009 (which continues for securities listed on exchanges other than NASDAQ and NYSE), the pricing structure will remain in effect for a limited promotional period, the exact duration of which will

be determined by BX based on the effect of the pricing on members' use of BX's execution services.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,³ in general, and with Section 6(b)(4) of the Act,⁴ 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 proposed fee change applies uniformly to all BX members. The impact of the changes upon a particular market participant will depend upon the order types that it uses and the prices of its quotes and orders (i.e., its propensity to add or remove liquidity). BX notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed changes will lower the cost of accessing liquidity through BX, while maintaining the net cost of a trade at a constant level.

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.

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.

³ 15 U.S.C. 78f.

⁴ 15 U.S.C. 78f(b)(4).

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 Act⁵ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁶ 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-2009-018 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-2009-018. 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

⁵ 15 U.S.C. 78s(b)(3)(a)(ii).

⁶ 17 CFR 240.19b-4(f)(2).

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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 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-2009-018 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).