

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

The Exchange neither solicited nor received comments on the proposal.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-CBOE-2010-084 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 No. SR-CBOE-2010-084. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>21</sup> 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 such filing also will be available for inspection and copying at the principal office of CBOE. 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 No. SR-CBOE-2010-084 and should be submitted on or before October 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-24343 Filed 9-27-10; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62969; File No. SR-BX-2010-064]

**Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change To Establish Pricing for 10Gb Direct Circuit Connections and To Codify Pricing for Direct Circuit Connections Capable of Supporting Up to 1Gb for Customers Who Are Not Co-Located in the Exchange's Datacenter**

September 22, 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 September 10, 2010, The NASDAQ OMX BX, Inc. (the "Exchange" or "BX") 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The Exchange is filing with the Commission a proposed rule change to establish pricing for 10Gb direct circuit connections and to codify pricing for direct circuit connections capable of supporting up to 1Gb for customers who are not co-located in the Exchange's datacenter. The text of the proposed rule change is below. Proposed new language is underlined and proposed deletions are in brackets [sic].<sup>3</sup>

\* \* \* \* \*

**7051. DIRECT CONNECTIVITY TO BX**

<i>Description</i>	<i>Installation Fee</i>	<i>Ongoing Monthly Fee</i>
<i>Direct Circuit Connection to BX (10Gb)</i> .....	<i>\$1,000</i>	<i>\$5000</i>
<i>Direct Circuit Connection to BX (supports up to 1Gb)</i> .....	<i>\$1000</i>	<i>\$1000</i>
<i>Optional Cable Router</i> .....	<i>\$925</i>	

<sup>21</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

<sup>22</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Changes are marked to the rule text that appears in the electronic manual of BX found at <http://nasdaqomxbx.cchwallstreet.com>.

(b) and (c) Not applicable [sic].

## 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 III 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

#### a. Purpose

The Exchange is re-proposing to establish fees for direct 10Gb circuit connections, and to codify fees for direct circuit connections capable of supporting up to 1Gb, for customers who are not co-located at the Exchange's datacenter.<sup>4</sup> Currently, the Exchange already makes available to co-located customers a 10Gb circuit connection and charges for each a \$1000 initial installation charge as well as an ongoing monthly fee of \$5000. The Exchange is establishing the same fees for non co-located customers with a 10Gb circuit.<sup>5</sup>

The Exchange also already makes available to both co-located and non co-located customers direct connections capable of supporting up to 1Gb, with per connection monthly fees of \$500 for co-located customers and \$1000 for non co-located customers. Monthly fees are higher for non co-located customers because direct connections require BX to provide cabinet space and middleware for those customers' third-party vendors to connect into the datacenter and, ultimately, to the trading system. Finally, for non co-located customers the Exchange charges an optional installation fee of \$925 if the customer chooses to use an on-site router.

<sup>4</sup> The Exchange filed SR-BX-2010-043 seeking to establish and codify the fees set forth in this filing. That proposal was published for comment and approved by the Commission. The approval, however, pre-dated the BX Board's approval of the proposal. As such, BX is re-filing the proposal and seeking accelerated approval.

<sup>5</sup> BX provides an additional 1Gb copper connection option to the Exchange for co-located customers. Given the technological constraints of copper connections over longer distances, the Exchange does not offer a copper connection option to users outside of its datacenter.

#### b. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Sections 6(b)(5) of the Act,<sup>7</sup> 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. In particular, the proposal will provide greater transparency into the connectivity options available to market participants.

The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(4) of the Act,<sup>9</sup> 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 the Exchange operates or controls. The filing codifies and makes transparent the fees imposed for direct connections to non co-located customers. These fees are uniform for all such customers and are either comparable to fees charged to co-located customers or vary due to different costs associated with providing service to the two customer types.

### 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 on the proposed rule change were neither solicited nor received.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

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-BX-2010-064 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2010-064. 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 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 website 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 also will be available for inspection and copying at the principal office 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-BX-2010-064 and should be submitted on or before October 19, 2010.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities

exchange.<sup>10</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>11</sup> which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and with Section 6(b)(5) of the Act,<sup>12</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed fees for 10Gb and 1Gb direct circuit connections are reasonable and equitably allocated insofar as they are applied on the same terms to similarly-situated market participants. In addition, the Commission believes that the connectivity options described in the proposed rule change are not unfairly discriminatory because BX makes the 10Gb and 1Gb direct circuit connections uniformly available to all non-co-located customers who voluntarily request them and pay the fees as detailed in the proposal. As represented by BX, these fees are uniform for all such customers and are either the same as fees charged to co-located customers, or vary due to different costs incurred by BX associated with providing service to the two different customer types. Finally, the Commission believes that the proposal will further the protection of investors and the public interest because it will provide greater transparency regarding the connectivity options available to market participants.

The substance of the proposed rule has already been subject to full notice and public comment, and no comments were received.<sup>13</sup> Moreover, similar pricing is already in effect for these same services being offered by BX's sister markets, the NASDAQ Stock Market, LLC and NASDAQ OMX PHLX, Inc.<sup>14</sup> Accordingly, the Commission

<sup>10</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See *supra* note 4.

<sup>14</sup> See Securities Exchange Act Release Nos. 62663 (August 9, 2010), 75 FR 49543 (August 13, 2010) (SR-NASDAQ-2010-77) (Order approving a

finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

## V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> that the proposed rule change (SR-BX-2010-064) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading & Markets, pursuant to delegated authority.<sup>16</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62942; File No. SR-OCC-2010-16]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Weekly Options And Monthly Options

September 20, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 15, 2010, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been prepared primarily by OCC. 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 proposed rule change would accommodate options that expire on (a) any Friday of a calendar month other than the third Friday of a calendar month ("Weekly Options") or (b) on the last trading day of a calendar month ("Monthly Options").

NASDAQ Stock Market, LLC proposed rule change relating to pricing for direct circuit connections); 62639 (August 4, 2010), 75 FR 48391 (August 10, 2010) (SR-Phlx-2010-89) (Order approving a NASDAQ OMX PHLX, Inc. proposed rule change relating to pricing for direct circuit connections).

<sup>15</sup> 15 U.S.C. 78s(b)(2).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

<sup>17</sup> 15 U.S.C. 78s(b)(1).

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC 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

The purpose of this proposed rule change is to accommodate Weekly Options and Monthly Options. The Chicago Board Options Exchange, Inc. ("CBOE"), is proposing to trade Weekly Options and Monthly Options on broad-based indexes ("Weekly Index Options" and "Monthly Index Options," respectively).<sup>2</sup> Series of Weekly Index Options will expire on a Friday of a calendar month other than the third Friday and Monthly Index Options will expire on the last trading day of a calendar month. If the last trading day of the month is a Friday, CBOE would opt to list Monthly Index Options over Weekly Index Options. Weekly Index Options and Monthly Index Options would be European-style, P.M.-settled contracts. CBOE proposes for these contracts to be subject to "automatic exercise procedures," meaning that these contracts would automatically be exercised at expiration without the opportunity for the clearing member to submit contrary exercise instructions if immediately prior to expiration the contract's settlement amount or exceeds a certain predetermined amount.

Weekly Options and Monthly Options can be cleared and settled by OCC with relatively minor revisions to current By-laws and Rules to provide for options that expire on a monthly or weekly schedule as proposed by CBOE.<sup>3</sup> Therefore, OCC proposes amending Article I, Section 1 of its by-laws to include definitions covering Weekly

<sup>2</sup> Securities Exchange Act Release No. 62658 (Aug. 5, 2010), 75 FR 49010 (Aug. 12, 2010).

<sup>3</sup> OCC's By-laws and Rules already accommodate equity and index options that expire on a day other than a Saturday following the third Friday of the month. For example, they accommodate quarterly options, which expire on the last business day of a calendar quarter, and short term options, which expire a week after their introduction for trading. Quarterly index options and short term index options are also subject to automatic exercise procedures.