

information regarding former federal employment. Section 12 became Section 13c, Employment Record. The collection was expanded to require reporting of adverse incidents in the workplace, specifically written warnings, official reprimands, suspensions, and discipline for misconduct in the workplace. Section 14 became Selective Service Record. The Selective Service Web site, <http://www.sss.gov>, was added to assist the respondent in obtaining their Selective Service number. Section 15 became Military History. The collection was expanded to require military discharge type and details of any courts martial within the last 7 years. The collection regarding foreign military service was expanded to collect information regarding service in a foreign intelligence, diplomatic, security forces, militia, other defense force, or government agency, and to collect additional details of such service. In Section 17, Marital Status, the collection was expanded to collect cohabitant and former spouse information. Section 18 became Relatives and the collection was expanded to collect aliases of named relatives. Section 19 became Foreign Countries You Have Visited. Branching questions were added to collect more specific details pertinent to incidents of being questioned, searched or detained by local customs or security service officials, involvement in any encounter with the police or in contact with any person known or suspected of being involved or associated with foreign intelligence, terrorist, security, or military organizations. In Section 20, Police Record, branching questions were added to inquire about the disposition of criminal proceedings, and to inquire about offenses related to firearms, explosives, alcohol and drugs. Questions were added to the section in order to identify respondents who may be impacted by the restrictions cited in the Lautenberg Amendment. The exception to omit traffic fines of less than \$150 was changed to \$300 (unless related to alcohol or drugs) to account for the nature of fine increases since the 1995 version of the form. Section 21 became Illegal Use of Drugs and Drug Activity. The collection was expanded to collect information regarding illegal use of drugs and drug involvement during the last 7 years, and branching questions were added to inquire about drug involvement while employed as a law enforcement officer, prosecutor or courtroom official, misuse of prescription drugs and involvement in counseling or treatment as a result of illegal use of drugs. Section 22, Use of

Alcohol, was added, to collect information regarding negative impacts of alcohol on the respondent's work performance and professional relationships during the last 7 years, and to identify attempts at rehabilitation through counseling or treatment. Section 23, Investigations and Clearance Record, was expanded to collect additional information necessary for investigation to obtain relevant prior records and to elicit explanations regarding prior security clearance adverse actions of debarments from federal employment. In Section 24, Financial Record, branching questions were added to elicit specific detailed information pertaining to each financial area instead of an open text field for respondents to provide explanation. A question was added regarding involvement with a credit counseling service to capture mitigating information from respondents who seek assistance to resolve an inability to meet financial obligations. Section 25, Use of Information Technology Systems, was added to elicit information pertinent to respondent's illegal or unauthorized access or attempt to access any information technology system. Section 26, Involvement in Non-Criminal Court Actions, was added to collect information when the respondent, in the last seven years, has been a defendant in any public record civil court action alleging fraud or intentional tortious conduct. Section 27, Association Record, was added to collect detailed information pertinent to a respondent's involvement in terrorist organizations, association with persons involved in activities to further terrorism and/or to overthrow the U.S. Government by force or violence. Verbiage was added to the Authorization for Release of Information authorizing the Social Security Administration (SSA) to verify respondent's Social Security Number and provide the results to OPM. The Authorization for Release of Medical Information was updated to acknowledge the Health Insurance Portability and Accountability Act (HIPAA) and to provide information regarding the circumstances when its use is required. The Fair Credit Reporting Disclosure and Authorization Form was made part of the proposed SF 85P as required under previous OMB Terms of Clearance in order to standardize the release by which collection of credit bureau reports is authorized.

OPM also proposes changes to the SF 85P-S. Questions regarding the illegal use of drugs in the last 7 years will be removed as this information will be

collected in the primary SF 85P questionnaire; however, the question regarding illegal use of drugs ever while in a public safety position or position of trust will remain. Questions regarding alcohol treatment or counseling in the last 7 years will be removed as this information will be collected in the primary SF 85P questionnaire.

U.S. Office of Personnel Management.

John Berry,

Director.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-3126/December 22, 2010]

Order Approving Investment Adviser Registration Depository Filing Fees

Section 204(b) of the Investment Advisers Act of 1940 ("Advisers Act") authorizes the Commission to require investment advisers to file applications and other documents through an entity designated by the Commission, and to pay reasonable costs associated with such filings.¹ Commission staff, representatives of the North American Securities Administrators Association, Inc. ("NASAA"),² and representatives of the Financial Industry Regulatory Authority ("FINRA"), the IARD system operator, periodically hold discussions on IARD system finances.

FINRA wrote to Commission staff in November recommending revised annual and initial IARD filing fees to commence on January 1, 2011.³ The recommended fee levels would increase the fee for advisers with assets under management of \$100 million or higher, but would not change the fee levels for advisers with assets under management under \$100 million.⁴ The recommended annual filing fees due beginning January 1, 2011 are \$40 for advisers with assets

¹ 15 U.S.C. 80b-4(b).

² The IARD system is used by both advisers registering or registered with the SEC and advisers registered or registering with one or more state securities authorities. NASAA represents the state securities administrators in setting IARD filing fees for state-registered advisers.

³ FINRA letter dated November 12, 2010 available at <http://www.sec.gov/rules/other/2010/finraletter111210-iardfees.pdf>.

⁴ The revised fee level for advisers in the largest category would newly include advisers that report assets under management of exactly \$100 million (not just over \$100 million). We are making this revision to track the new mid-sized adviser category for advisers reporting assets under management of \$25 million up to, but not including, \$100 million. See section 410 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376 (2010)).

under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$225 for advisers with assets under management of \$100 million or higher. The recommended initial IARD filing fees due beginning January 1, 2011 are \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$225 for advisers with assets under management of \$100 million or higher. The revised filing fees would apply to all annual updating amendments filed by SEC-registered advisers beginning January 1, 2011 and to all initial applications for registration filed by advisers applying for SEC registration beginning January 1, 2011.

On December 2, 2010 we issued a notice indicating our intent to charge revised fees IARD filing fees for advisers registering or registered with the Commission. The notice gave interested persons an opportunity to request a hearing and stated that an order instituting revised IARD filing fees would be issued unless a hearing was ordered. No request for a hearing has been filed, and no hearing has been ordered.

It is therefore ordered, pursuant to Sections 204(b) and 206(A) of the Investment Advisers Act of 1940, that:

For annual updating amendments to Form ADV filed on or after January 1, 2011, the filing fee due from SEC-registered advisers is \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$225 for advisers with assets under management of \$100 million or higher.

For initial applications to register as an investment adviser with the SEC filed on or after January 1, 2011, the filing fee due from SEC-registered advisers is \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$225 for advisers with assets under management of \$100 million or higher.

By the Commission.

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63597; File No. SR-BX-2010-059]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Amendment No. 1 to Proposed Rule Change To Create a Listing Market on the Exchange

December 22, 2010.

On August 20, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to create a listing market on the Exchange. The proposed rule change was published for comment in the **Federal Register** on September 8, 2010.³ The Commission received three comments on the proposal.⁴ The Commission subsequently extended the time period in which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to December 7, 2010.⁵ On December 6, 2010, the Exchange filed Amendment No. 1 to the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. On December 7, 2010, the Commission instituted proceedings to determine whether to disapprove the proposed rule change, as modified by Amendment No. 1.⁶ Although the Order Instituting Proceedings included a summary of Amendment No. 1, the Commission is publishing the full text of Amendment No. 1 for the benefit of interested persons who wish to comment on the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62818 (September 1, 2010), 75 FR 54665 ("Notice").

⁴ See Letters to Elizabeth M. Murphy, Secretary, Commission, from Tom A. Alberg, Managing Director and Founder, Madrona Venture Group, dated December 1, 2010; Michael R. Trocchio, Bingham McCutchen LLP, dated October 3, 2010; and William F. Galvin, Secretary of the Commonwealth, Commonwealth of Massachusetts, dated September 28, 2010. For a summary of these comments, see Securities Exchange Act Release No. 63448 (December 7, 2010), 75 FR 77036 (December 10, 2010) ("Order Instituting Proceedings").

⁵ See Securities Exchange Act Release No. 63105 (October 14, 2010), 75 FR 64772 (October 20, 2010).

⁶ See Order Instituting Proceedings, *supra* note 4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of Amendment No. 1 to the Proposed Rule Change

The Exchange proposes to create a listing market, which will be called "BX" [sic].⁷ Following Commission approval, the Exchange will announce the operational date of the new market in an Equity Trader Alert and press release. The proposed rules will become effective on the operational date.

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, 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

In connection with the acquisition of the former Boston Stock Exchange by The NASDAQ OMX Group, Inc., the Exchange discontinued its listing marketplace and delisted all securities previously listed on the Exchange.⁸ Since January 2009, the Exchange has operated as a trading venue only, allowing market participants to trade securities listed on other national securities exchanges pursuant to unlisted trading privileges.

The Exchange is proposing to begin listing securities again, through the creation of a new listing market, to be called "The BX Venture Market." The BX Venture Market will have minimal quantitative listing standards, but have qualitative requirements, which are, in

⁷ The Commission notes that BX has proposed, in this Amendment No. 1, to name the new listing market as "The BX Venture Market," rather than "BX."

⁸ See Securities Exchange Act Release No. 59265 (January 16, 2009), 74 FR 4790 (January 27, 2009) (approving SR-BSE-2008-36 relating to the delisting of all securities from the Exchange in connection with the Exchange's discontinuation of trading).