

filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the rule text describing the Post-Only Order to describe its functionality accurately without delay. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>17</sup>

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.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2012-84 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-Phlx-2012-84. 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 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

<sup>17</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 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-Phlx-2012-84 and should be submitted on or before August 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67354; File No. SR-BX-2012-049]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish TradeInfo BX and BX Options Maintenance Tool and Related Fees

July 5, 2012.

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 June 29, 2012, NASDAQ OMX BX, Inc. ("BX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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.

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

BX proposes to establish two services, TradeInfo BX for Options and BX Options Maintenance Tool, and related fees for BX Options Participants.

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 self-regulatory organization 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 those 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 parts of such statements.

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

###### 1. Purpose

The Exchange filed and received approval to operate a new options market.<sup>3</sup> The new market, called NASDAQ OMX BX Options, or BX Options, is an all-electronic trading platform with no physical trading floor. At this time BX proposes to adopt fees associated with two services, TradeInfo BX for Options and BX Options Maintenance Tool.

TradeInfo BX will allow a BX Options Participant to scan for all orders it submitted to BX Options in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.) Also, a BX Options Participant will be able to cancel open orders at the port or firm mnemonic level. For example, after scanning for open orders, a subscribing member is able to select an open order and cancel the order. TradeInfo also permits users to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders and generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review. TradeInfo allows a BX Options Participant to manage its order flow and mitigate risk by giving users the ability to view its orders and executions, as well as the ability to perform cancels at the port or firm mnemonic level. Finally, TradeInfo BX has the ability to

<sup>3</sup> See Securities Exchange Act Release No. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (Order Granting Approval of a Proposed Rule Change Relating to the Establishment of a New Options Market, NASDAQ OMX BX Options).

<sup>18</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.

download records of orders and executions for recordkeeping purposes. TradeInfo BX is similar to comparable products offered by The NASDAQ Options Market (“NOM”) and NASDAQ OMX PHLX, LLC (“PHLX”).<sup>4</sup>

The Exchange proposes to offer TradeInfo BX to BX Options Participants for a fee of \$95 per user, per month for member’s trading activity on the market. This is the same fee assessed to NOM Participants and PHLX members for this service. Use of TradeInfo by BX Options Participants is voluntary. The proposed fee would cover the costs associated with establishing the service, responding to customer requests, configuring BX’s systems, programming to user specifications, and administering the service, among other things.

The BX Options Maintenance Tool (“OMT”) is a web-based options back-office tool that gives users the ability to query trades, correct trades and/or allocate trades to the appropriate accounts and sub-accounts for clearing. The Options Clearing Corporation (“OCC”) requires firms to provide certain information when submitting a trade for clearing. Specifically, the OMT will allow a firm to correct a trade’s account number or designate a sub-account number, correct a trade’s designation as opening or closing, and change the Clearing Member Trade Assignment clearing firm. The OMT will also allow firms to correct a trade’s OCC designation as Customer, Firm, or Market Maker. Today, NOM makes similar a tool available to firms to correct trade clearing information that is submitted to OCC.<sup>5</sup>

BX proposes to offer OMT to BX Options Participants for a subscription fee of \$200 per month, per user. This is the same fee for the same service offered to NOM Participants. Use of OMT by BX Options Participants is voluntary. The proposed fee will cover the costs associated with establishing the service, responding to customer requests, configuring BX’s systems, programming to user specifications, and administering the service, among other things.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> in particular, in that it is 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 by offering these products to BX Options Participants. The Exchange believes the proposed rule change is consistent with these requirements because the Trade Info offers a useful analytical tool with which members may access information concerning their order and trade activity, thus allowing such participants to make informed decisions concerning such activity. OMT offers the ability to correct a trade’s account number along with other features. The Exchange notes that both NOM and PHLX offer Trade Info and NOM offers OMT to their options participants. Affording Exchange participants access to the same functionality promotes the goal of perfecting the mechanism of a free and open market by providing a subscriber clearer picture of its market activity and providing it the ability to quickly cancel orders should the participant determine it necessary to do so. Use of the products is voluntary and the subscription fees will be imposed on all purchasers equally based on the number of users. The proposed fees will cover the costs associated with establishing the services, responding to customer requests, configuring the Exchange’s systems, programming to user specifications, and administering the service, among other things.

The Exchange believes that the proposed fees are 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 they provide 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 Exchange believes that the TradeInfo BX fee is reasonable because the service is voluntary and would provide BX Options Participants the ability to cancel orders and receive reports, among other things. This service is currently offered to NOM Participants and PHLX options members at the same price. The proposed fee would cover the costs associated with establishing the service, responding to customer requests, configuring BX’s systems, programming to user specifications, and administering the service, among other things.

The Exchange believes the TradeInfo BX fee is equitable and not unfairly discriminatory because the fee would be

uniformly assessed to all BX Options Participants that elect to subscribe to the product. The fees are based on the number of users subscribed per month, so all similarly-situated member firms would be assessed the same amount. It is also important to note that BX Options Participants would only be able to access their own trade and order information.

The Exchange believes that the OMT fee is reasonable because the service is voluntary and would provide BX Options Participants the ability to query trades and correct trade information for clearing purposes, among other things. This service is currently offered to NOM Participants at the same price. The proposed fee will cover the costs associated with establishing the service, responding to customer requests, configuring BX’s systems, programming to user specifications, and administering the service, among other things.

The Exchange believes the OMT fee is equitable and not unfairly discriminatory because the fee would be uniformly assessed to all BX Options Participants that elect to subscribe to the product. The fees are based on the number of subscriptions subscribed, so all similarly-situated member firms would be assessed the same amount. It is also important to note that BX Options Participants would only be able to access their own trade and order information.

### *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. Specifically, BX 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, BX believes that it is appropriate in order to further the purposes of Section 6(b)(5) of the Act.<sup>10</sup>

### *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**

Because the foregoing proposed rule change does not: (i) Significantly affect

<sup>4</sup> See NOM Rules at Chapter XV at Sections 3 and PHLX’s Pricing Schedule at Section XII.

<sup>5</sup> See NOM Rules at Chapter XV at Section 6.

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

<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).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)<sup>12</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>13</sup> However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change operative on July 2, 2012. The Commission notes that other exchanges provide similar services with similar fees as proposed instantly by BX.<sup>15</sup> Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposal operative on July 2, 2012.<sup>16</sup>

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.

#### 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.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</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. The Exchange has satisfied this requirement.

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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. The Exchange has satisfied this requirement.

<sup>14</sup> *Id.*

<sup>15</sup> See *supra* notes 4 and 5 and accompanying text.

<sup>16</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2012-049 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-2012-049. 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 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 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-BX-2012-049, and should be submitted on or before August 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Elizabeth M. Murphy,**  
Secretary.

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67355; File No. SR-NASDAQ-2012-079]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ's Fee Schedule Governing Order Routing

July 5, 2012.

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 June 28, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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

NASDAQ proposes to modify NASDAQ's fee schedule governing order routing. NASDAQ will implement the proposed change on July 2, 2012. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at NASDAQ'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 self-regulatory organization 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 those statements may be examined at the places specified in Item III [sic] below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

NASDAQ is making a minor modification to the schedule governing

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

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