

rates are equitable and non-discriminatory in that they apply uniformly to all Members and non-Members. The Exchange believes the fees and monthly billing option remain competitive with those charged by other exchanges and therefore continue to be reasonable and equitably allocated to Members and non-Members.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Proposing to eliminate payment for physical connectivity on an annual basis does not introduce a burden on competition as exchanges such as BATS and NASDAQ currently only allow payment for physical connectivity on a monthly basis.<sup>12</sup> In addition, the proposed rule change does not impose any burden on intramarket competition as payment on a monthly basis is available to all Members and non-Members. In addition, Members and non-Members also have the ability to obtain access to these services without the need for an independent physical port connection, such as through alternative means of financial extranets and service bureaus that act as a conduit for orders entered by Members and non-Members.

Fees for market access will be a component of the overall fees charged by the Exchange to execute and route orders through the Exchange. As the Commission has recognized, the market for execution and routing services is extremely competitive.<sup>13</sup> Market participants that choose not to connect directly to the Exchange can readily access liquidity available on the Exchange by directing their order flow to other venues that, under Regulation NMS, must route to the Exchange if it has posted the best price. Accordingly, the Exchange must set its fees and billing options, including access service fees, at a level and in such a way that will not deter market participants from connecting to the Exchange; otherwise, potential users of the Exchange's services will simply direct order flow to the Exchange's multiple competitors.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

#### **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) of the Act<sup>14</sup> and Rule 19b-4(f)(2)<sup>15</sup> thereunder. At any time within 60 days of the filing of such 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-EDGA-2013-03 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-EDGA-2013-03. 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 10:00 a.m. and 3:00 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-EDGA-2013-03 and should be submitted on or before March 4, 2013.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68829; File No. SR-NSCC-2012-10]

### **Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Eliminate the Offset of Its Obligations With Institutional Delivery Transactions That Settle at The Depository Trust Company for the Purpose of Calculating Its Clearing Fund Under Procedure XV of Its Rules & Procedures**

February 5, 2013.

On December 17, 2012, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-NSCC-2012-10 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> The proposed rule change was published for comment in the **Federal**

<sup>12</sup> *Id.*

<sup>13</sup> See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 19b-4(f)(2)[sic].

<sup>16</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.

Register on January 4, 2013.<sup>3</sup> The Commission received one comment on the proposal.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of the filing of this proposed rule change is February 18, 2013. The Commission is extending this 45-day time period.

The proposed rule change would permit NSCC to eliminate the offset of NSCC obligations with institutional delivery transactions that settle at The Depository Trust Company for the purpose of calculating NSCC's clearing fund under Procedure XV of its Rules & Procedures. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the comment received on the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates April 4, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68815; File No. SR-BX-2013-009]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating [sic] to Delay the Operative Date of a Rule Change to Exchange Rule 4121

February 1, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on January 28, 2013, NASDAQ OMX BX, Inc. ("Exchange" or "BX") filed with the Securities and Exchange Commission ("SEC" or "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.

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

BX is filing with the Commission a proposal to delay the operative date of a rule change to Exchange Rule 4121, which provides for methodology for determining when to halt trading in all stocks due to extraordinary market volatility, from the date of February 4, 2013, until April 8, 2013 [sic]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Rule 19b-4(f)(6)(iii) of the Act<sup>3</sup> to the extent needed for timely industry-wide implementation of the proposal.

The text of the proposed rule change [sic] is available at <http://nasdaqomxbx.cchwallstreet.com/>, at BX's principal office, and at the Commission's Public Reference Room [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 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

The Exchange proposes to amend Rule 4121, which provides the methodology for determining when to halt trading in all stocks due to extraordinary market volatility, to delay the operative date of the pilot by which such Rule operates from the current scheduled date of February 4, 2013, until April 8, 2013, to coincide with the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility ("LULD Plan").<sup>4</sup> As proposed, the pilot period will begin and end at the same time as the pilot period for the LULD Plan. The current Rule 4121 would remain in effect until April 8, 2013. If the pilot is not either extended or approved permanently at the end of the pilot period, the current version of Rule 4121 would be in effect.

##### Current Rule 4121

The Exchange amended Rule 4121 on June 6, 2012.<sup>5</sup> The changes to Rule 4121 are effective, but not operative until February 4, 2013. The current standard, set forth in the rules of other exchanges,<sup>6</sup> provides for Level 1, 2, and 3 declines and specified trading halts following such declines. The values of Levels 1, 2 and 3 are calculated at the beginning of each calendar quarter, using 10%, 20% and 30%, respectively, of the average closing value of the Dow Jones Industrial Average ("DJIA") for the month prior to the beginning of the

<sup>4</sup> The Exchange adopted the proposed changes to the market-wide circuit breakers on a pilot basis for a period that corresponds to the pilot period for the LULD Plan so that the impact of the two proposals can be reviewed together. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-BX-2011-068). The Exchange anticipates that the initial date of LULD Plan operations will be changed to April 8, 2013. The proposal would delay the operative date of the market-wide circuit breakers pilot to April 8, 2013 in order for the implementation date for the market-wide circuit breakers pilot would [sic] remain the same date as for the LULD Plan.

<sup>5</sup> See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-BX-2011-068).

<sup>6</sup> The rule was last amended in 1998, when declines based on specified point drops in the DJIA were replaced with the current methodology of using a percentage decline that is recalculated quarterly. See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (SR-NYSE-98-06, SR-Amex-98-09, SR-BSE-98-06, SR-CMX-98-08, SR-NASD-98-27, and SR-Phlx-98-15).

<sup>3</sup> Securities Exchange Act Release No. 34-68549 (Dec. 28, 2012), 78 FR 792 (Jan. 4, 2013).

<sup>4</sup> See Comment from Lek Securities Corporation dated January 25, 2013 (<http://sec.gov/comments/sr-nssc-2012-810/nssc2012810-1.pdf>).

<sup>5</sup> See 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).