

Schedule of Fees described in this proposed rule change.

## 2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D)<sup>11</sup> of the Act, because it provides for the equitable allocation of reasonable dues, fees and charges among its participants in that all clearing members would be charged the same per contract clearing fee per trade (subject to a fixed dollar cap) notwithstanding the size of such trade. OCC believes that charging clearing members a flat trade fee subject to a fixed dollar cap more equitably allocates the cost of providing clearance and settlement services for a given trade. The proposed rule change is not inconsistent with the existing rules of OCC including any other rules proposed to be amended.

### (B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would have any impact or impose a burden on competition.<sup>12</sup> Although this proposed rule change affects clearing members, their customers and the markets that OCC serves, OCC believes that the proposed rule change would not disadvantage or favor any particular user of OCC's services in relationship to another user because clearing fees apply equally to all users of OCC. Moreover, the proposed changes to the structure of OCC's Schedule of Fees are revenue neutral and would not affect one set of users of OCC's services in favor of another. For the foregoing reasons, OCC does not believe that the proposed rule change would have any impact or impose a burden on competition.

### (C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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

The foregoing rule change has become effective upon filing<sup>13</sup> pursuant to

<sup>11</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>13</sup> Notwithstanding the immediate effectiveness of the proposed rule change and OCC's anticipated implementation date of May 2, 2016, implementation of this rule change is also

Section 19(b)(3)(A)(ii) of the Act<sup>14</sup> and Rule 19b-4(f)(2) thereunder<sup>15</sup> because it constitutes a change in fees imposed by OCC on its clearing members and other market participants using OCC's services. 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-OCC-2016-005 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-OCC-2016-005. 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 such

contingent on it being deemed certified under CFTC Regulation § 40.6.

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

<sup>15</sup> 17 CFR 240.19b-4(f)(2).

filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at [http://www.theocc.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_16\\_005.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_16_005.pdf).

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-OCC-2016-005 and should be submitted on or before April 6, 2016.

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

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77337; SR-NYSEArca-2015-76]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change To List and Trade Shares of the Global Currency Gold Fund Under NYSE Arca Equities Rule 8.201

March 10, 2016.

On August 28, 2015, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to list and trade shares of the Global Currency Gold Fund under NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on September 16, 2015.<sup>3</sup> On September 29, 2015, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>4</sup> On October 28, 2015, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designated a longer period within which

<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.

<sup>3</sup> See Securities Exchange Act Release No. 75900 (Sep. 11, 2015), 80 FR 55674.

<sup>4</sup> In Amendment No. 1, the Exchange: (1) Identified weightings of each currency referenced in the Index; (2) supplemented its description of the method of calculation for the Spot Rate; (3) clarified when the Fund may suspend the right of redemption or postpone the redemption settlement date. Amendment No. 1 is available at: <http://www.sec.gov/rules/sro/nysearca/2015/34-75900-amendment1.pdf>.

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

to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>6</sup> On December 11, 2015, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.<sup>8</sup> The Commission has not received any comments on the proposal, as modified by Amendment No. 1.

On March 7, 2016, the Exchange withdrew the proposed rule change (SR-NYSEArca-2015-76).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77339; File No. SR-BX-2016-016]

### Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees and Rebates To Adopt the Select Symbols Options Tier Schedule

March 10, 2016.

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 March 1, 2016, NASDAQ BX, Inc. (“BX” or “Exchange”)<sup>3</sup> filed with the Securities and Exchange Commission (“SEC” or “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

<sup>6</sup> See Securities Exchange Act Release No. 76291, 80 FR 67827 (Nov. 3, 2015). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it had sufficient time to consider the proposed rule change. Accordingly, the Commission designated December 15, 2015 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> See Securities Exchange Act Release No. 76630, 80 FR 78791 (Dec. 17, 2015).

<sup>9</sup> 17 CFR 200.30-3(a)(57).

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

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

<sup>3</sup> The Exchange notes that it has legally changed its name to NASDAQ BX, Inc. with the state of Delaware and filed Form 1 reflecting the change, and is in the process of changing its rules to reflect the new name.

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

The Exchange proposes to amend its Options Pricing at Chapter XV Section 2, entitled “BX Options Market—Fees and Rebates,” which governs pricing for BX members using the BX Options Market (“BX Options”). The Exchange proposes to modify certain fees and rebates (per executed contract) to adopt the Select Symbol Options Tier Schedule for certain Penny Pilot<sup>4</sup> Options (each a “Select Symbol” and together the “Select Symbols”).

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxbx.cchwallstreet.com/>, at the principal office of the Exchange, 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

The Exchange proposes to amend its Chapter XV, Section 2, to modify certain fees and rebates<sup>5</sup> to adopt the Select Symbol Options Tier Schedule for certain Penny Pilot Options. The proposed Select Symbol Options Tier Schedule would apply to Customers,<sup>6</sup>

<sup>4</sup> The Penny Pilot was established in June 2012 and extended in 2015. See Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR-BX-2012-030) (order approving BX option rules and establishing Penny Pilot); and 75326 (June 29, 2015), 80 FR 38481 (July 6, 2015) (SR-BX-2015-037) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016).

<sup>5</sup> Fees and rebates are per executed contract. BX Chapter XV, Section 2(1).

<sup>6</sup> The term “Customer” or (“C”) applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of broker or dealer or for the account of a

BX Options Market Makers,<sup>7</sup> Non-Customers,<sup>8</sup> and Firms.<sup>9</sup>

Currently, Chapter XV, Section 2, subsection (1), contains a SPY<sup>10</sup> Options Tier Schedule (“SPY Schedule”) that has four tiers. The Exchange proposes to convert the SPY Schedule into the Select Symbols Options Tier Schedule, as discussed in detail below.

#### Change 1—Penny Pilot Options: Modify Fees and Rebates To Add the Select Symbols Options Tier Schedule

In Change 1, the Exchange proposes modifications to convert its current SPY Schedule to the Select Symbols Options Tier Schedule. The proposed change keeps the great majority of the current SPY Schedule fees and rebates assessments (twelve out of sixteen) and tiers (three out of four) exactly the same in the new Select Symbols Options Tier Schedule; and updates the fees and rebates schedule to indicate “Select Symbols” rather than “SPY.”

Specifically, the Exchange proposes, commensurate with renaming the SPY Options Tier Schedule the Select Symbols Options Tier Schedule, to set forth the BX Options Select Symbol List. The Select Symbols<sup>11</sup> on this list represent, similarly to SPY, some of the highest volume Penny Pilot Options traded on the Exchange and in the U.S. The proposed Select Symbols are similar to those of other options exchanges (e.g., the MIAX Options Exchange (“MIAX”).<sup>12</sup> Like the SPY

“Professional” (as that term is defined in Chapter I, Section 1(a)(48)). BX Chapter XV.

<sup>7</sup> BX Options Market Makers may also be referred to as “Market Makers”. The term “BX Options Market Maker” or (“M”) means a Participant that has registered as a Market Maker on BX Options pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security. BX Chapter XV.

<sup>8</sup> Note 1 to Chapter XV, Section 2, states: “1 A Non-Customer includes a Professional, Broker-Dealer and Non-BX Options Market Maker.”

<sup>9</sup> The term “Firm” or (“F”) applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC. BX Chapter XV.

<sup>10</sup> “SPY” or Standard and Poor’s Depository Receipts/SPDRs options are Penny Pilot Options that are based on the SPDR exchange-traded fund (“ETF”), which is designed to track the performance of the S&P 500.

<sup>11</sup> The following are Select Symbols: ASHR, DIA, DXJ, EEM, EFA, EWJ, EWT, EWW, EWY, EWZ, FAS, FAZ, FXE, FXI, FXP, GDX, GLD, HYG, IWM, IYR, KRE, OIH, QID, QLD, QQQ, RSX, SDS, SKF, SLV, SPY, SRS, SSO, TBT, TLT, TNA, TZA, UNG, URE, USO, UUP, UVXY, UYG, VXX, XHB, XLB, XLE, XLF, XLI, XLK, XLP, XLU, XLV, XLY, XME, XOP, XRT.

<sup>12</sup> See MIAX fee schedule at [http://www.miaxoptions.com/sites/default/files/fee-schedules/MIAX\\_Options\\_Fee\\_Schedule\\_10012015.pdf](http://www.miaxoptions.com/sites/default/files/fee-schedules/MIAX_Options_Fee_Schedule_10012015.pdf).