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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66718; File No. SR-BX-2012-021)

April 3, 2012

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Pricing for BX Members Using the NASDAQ OMX BX Equities System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 29, 2012, The NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by BX. 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 modify pricing for BX members using the NASDAQ OMX BX Equities System. BX will implement the proposed change on April 2, 2012. 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, BX 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

BX 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

BX is proposing to modify its rebate schedule with respect to orders that access liquidity at BX.³ Currently, BX pays a rebate of \$0.0014 per share executed with respect to orders entered through a market participant identifier ("MPID") through which a member routes an average daily volume of 25,000 or more shares during the month.⁴ For members that qualify for this rebate provision, the rebate applies to all shares entered through the MPID and executed on BX during the month, regardless of whether they are designated for routing. BX is proposing to eliminate this method of qualifying for a \$0.0014 per share rebate, and replace it with an across-the-board rebate of \$0.0014 per share executed for all orders that are designated for routing but that access liquidity on BX.

Both the provision being eliminated and the new provision are designed to provide incentives for BX members to make greater use of the Exchange's recently introduced routing service. The change reflects a concern that some members may be "gaming" the current provision by using BX's router only to the extent necessary to qualify for the higher rebate, which then applies to all of their orders entered through the applicable MPID. By contrast, the change would apply the \$0.0014 rebate to all orders that are designated for routing, regardless of

³ The change applies to securities priced at \$1 or more per share. Fees and rebates for lower-priced securities are unchanged.

⁴ The \$0.0014 per share executed rebate is also available for orders entered through an MPID through which the member (i) accesses an average daily volume of 3.5 million or more shares of liquidity, or (ii) provides an average daily volume of 25,000 or more shares of liquidity during the month.

volume, but would not apply to orders that are not designated for routing. Other methods of qualifying for a \$0.0014 per share rebate, based on the extent of liquidity accessing or liquidity providing on BX, will remain in effect for all orders executed on BX.⁵

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Sections 6(b)(4) and (5) of the Act,⁷ 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 BX operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. All similarly situated members are subject to the same fee structure, and access to BX is offered on fair and non-discriminatory terms.

The proposed elimination of the \$0.0014 per share executed rebate tier for MPIDs through which a member routes a daily average of 25,000 shares is reasonable because it is being replaced by a \$0.0014 per share rebate for all routable orders that execute on BX, and because other means of receiving a \$0.0014 per share rebate for order executions remain in effect. BX also believes that the proposal is reasonable because the current tier related to the BX routing service was being utilized with respect to non-routable orders to a greater extent than the Exchange had intended. BX believes that refocusing the incentive on routable orders will do more to encourage members to make use of BX's routing services. The proposal is also consistent with an equitable allocation of fees because members will either receive a credit for

⁵ A member that qualified for a \$0.0014 per share rebate based on the extent of its liquidity providing or liquidity accessing and that used routable orders would not receive a double rebate on its routable orders.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4) and (5).

routable orders that access liquidity on BX or pay fees in connection with routable orders that execute at venues other than BX. BX also notes that the increased use of the BX router may encourage members to post liquidity on BX to the extent that routable orders check the BX book. Finally, the Exchange believes that the change is not unreasonably discriminatory because affected members are being provided with alternative means to earn the same rebate with respect to both routable and non-routable orders.

The proposed introduction of a \$0.0014 per share executed rebate with respect to all routable orders is reasonable because it will result in a rebate being paid with respect to all routable orders that execute on BX, regardless of the volume of the member. Accordingly, the change will maintain or increase the rebate with respect to all such orders. The proposed introduction is consistent with an equitable allocation of fees because the Exchange believes that it is equitable to provide a financial incentive to members to make greater use of a service as a means of increasing its usage. In this regard, however, BX further notes that the rebate does not exceed the fees paid by liquidity providers on BX. Finally, BX believes that the rebate is not unreasonably discriminatory because it is not the exclusive means by which members may receive an enhanced rebate.

Finally, BX notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, BX must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because numerous alternatives exist to the execution and routing services offered by BX, if BX increases its fees to an excessive extent, it will lose customers to its competitors. Accordingly, BX believes that competitive

market forces help to ensure that the fees it charges for execution and routing are reasonable, equitably allocated, and non-discriminatory.

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. Because the market for order execution and routing is extremely competitive, members may readily opt to disfavor BX's execution and routing services if they believe that alternatives offer them better value. Moreover, the rebate provided with respect to execution of routable orders is lower than the fee charged to liquidity providers, such that BX is not providing a rebate that is higher than the corresponding charge. For these reasons and the reasons discussed in connection with the statutory basis for the proposed rule change, BX does not believe that the proposed changes will unfairly affect the ability of members or competitors to maintain their competitive standing in the financial markets.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁸ 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. If the Commission takes such action, the

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

Commission shall institute proceedings to determine whether the proposed rule should be approved or 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. Please include File Number SR-BX-2012-021 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-2012-021. 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 website (<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 10:00 a.m. and 3:00 p.m. Copies of such 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-2012-021 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Elizabeth M. Murphy
Secretary

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⁹ 17 CFR 200.30-3(a)(12).