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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70095; File No. SR-BX-2013-046)

August 2, 2013

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Options Fees and Rebates

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 July 30, 2013, 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 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

The Exchange proposes to amend Chapter XV, Section 2 entitled “BX Options Market – Fees and Rebates” to add iPath S&P 500 VIX Short Term Futures (“VXX”) to the list of options underlying certain penny pilot options.

While the changes proposed herein are effective upon filing, the Exchange has designated these changes to be operative on August 1, 2013.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqomxbx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

BX proposes to amend Chapter XV, Section 2(1) to add VXX to the list of options underlying certain penny pilot options (the others include BAC, IWM, QQQ and SPY, collectively with VXX, the “Specified Penny Pilot Options”).

The proposed rule change will reflect the fees and rebates as follows:

	Fees and Rebates (per executed contract)		
	Customer	BX Options Market Maker	Non-Customer <sup>1</sup>
BAC, IWM, QQQ, SPY and VXX:			
Rebate to Add Liquidity	\$0.00 <sup>2</sup>	\$0.20 <sup>2</sup>	N/A
Fee to Add Liquidity	\$0.10 <sup>3</sup>	\$0.10 <sup>3</sup>	\$0.45
Rebate to Remove Liquidity	\$0.00	N/A	N/A
Fee to Remove Liquidity	N/A	\$0.45	\$0.45
All Other Penny Pilot Options:			
Rebate to Add Liquidity	\$0.00 <sup>2</sup>	\$0.10 <sup>2</sup>	N/A
Fee to Add Liquidity	\$0.40 <sup>3</sup>	\$0.40 <sup>3</sup>	\$0.45
Rebate to Remove Liquidity	\$0.32	N/A	N/A
Fee to Remove Liquidity	N/A	\$0.45	\$0.45

Non-Penny Pilot Options:

Fee to Add Liquidity	\$0.25/\$0.85 <sup>4</sup>	\$0.50/\$0.85 <sup>4</sup>	\$0.88
Rebate to Remove Liquidity	\$0.70	N/A	N/A
Fee to Remove Liquidity	N/A	\$0.88	\$0.88

Currently, the fees that apply to VXX as are the listed above under the “All Other Penny Pilot Options” category. The new fees applicable to VXX as a Specified Penny Pilot Option are unchanged for Non-Customers. The Rebate to Add Liquidity and the Fee to Remove Liquidity for Customers also remains unchanged. For BX Options Market Makers, both the Rebate and Fee to Remove Liquidity are unchanged. The Rebate to Add Liquidity for BX Options Market Makers increases from \$0.10 to \$0.20 per executed contract. The Fee to Add Liquidity for both Customers and BX Options Market Makers decreases from \$0.40 to \$0.10 per executed contract. Finally, the Rebate to Remove Liquidity for Customers decreases from \$0.32 to \$0.00 per executed contract.

The Exchange believes that including VXX to the list of Specified Penny Pilot Options, is competitive and will encourage BX members to transact business on the Exchange.

2. Statutory Basis

BX believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,<sup>3</sup> in general, and with Section 6(b)(4) of the Act,<sup>4</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 BX operates or controls.

The Exchange believes that its proposal to include VXX in the list of Specified Penny Pilot Options and subject to the fees and rebates applicable thereto, is reasonable given the fact

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<sup>3</sup> 15 U.S.C. 78f.

<sup>4</sup> 15 U.S.C. 78f(b)(4).

that certain symbols such as the Specified Penny Pilot Options are highly liquid as compared to other penny pilot options and pricing by symbol is not novel as other options exchanges differentiate pricing by security today.<sup>5</sup> The Exchange believes that its proposal to assess an increase to the Rebate to Add Liquidity for BX Options Market Makers, a decrease to the Fee to Add Liquidity for both Customers and BX Options Market Makers, and a decrease to the Rebate to Remove Liquidity for Customers for VXX (as is the case for the other Specified Penny Pilot Options) as compared to all other penny pilot options is equitable and not unfairly discriminatory because it will help to attract order flow from BX Options Market Makers and Customers to the Exchange to the benefit of all market participants through increased liquidity.

The Exchange operates in a highly competitive market comprised of eleven U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that its proposal to include VXX in the list of Specified Penny Pilot Options and subject to the fees and rebates applicable thereto, is competitive and similar to other fees and rebates in place on other exchanges. The Exchange believes that this competitive marketplace materially impacts the fees and rebates present on the Exchange today and substantially influences the proposal set forth above.

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<sup>5</sup> See NASDAQ OMX PHLX LLC's Pricing Schedule, which has different pricing for its Select Symbols and different pricing for other Multiply Listed Options. See also the NASDAQ Options Market LLC at Chapter XV, Section 2(1), which distinguishes pricing for NDX and MNX; the International Securities Exchange LLC's Fee Schedule, which distinguishes pricing for Special Non-Select Penny Pilot Symbols; and the Chicago Board Options Exchange, Incorporated's Fees Schedule, which distinguishes index products.

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

BX does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the fee/rebate pricing structure for VXX as included in the Specified Penny Pilot Options list, would attract liquidity to and benefit order interaction at the Exchange to the benefit of all market participants.

Additionally, since the fees and rebates for VXX as included in the list of Specified Penny Pilot Options are comparable to those present at other options venues, the Exchange believes the proposals discussed herein do not pose a burden on competition amongst Exchange participants.

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

No written comments were either solicited or 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.<sup>6</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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2013-046 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-2013-046. 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 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-BX-2013-046 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.<sup>7</sup>

Kevin M. O'Neill  
Deputy Secretary

[FR Doc. 2013-19142 Filed 08/07/2013 at 8:45  
am; Publication Date: 08/08/2013]

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<sup>7</sup> 17 CFR 200.30-3(a)(12).