



8011-01  
SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-80224; File No. SR-BX-2017-017)

March 13, 2017

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Transaction Fees at Rule 7018

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, 2017, NASDAQ BX, Inc. ("BX" or "Exchange") 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 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 the Exchange's transaction fees at Rule 7018 to add a new charge for providing liquidity on the BX equity market.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqbx.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

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

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

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 purpose of the proposed rule change is to amend the Exchange’s transaction fees at Rule 7018 to add a reduced fee for providing liquidity on the BX equity market if certain volume requirements are met. The Exchange operates on the “taker-maker” model, whereby it pays rebates to members that take liquidity and charges fees to members that provide liquidity. Currently, a member that adds liquidity through a displayed order and that does not qualify for one of the current reduced fees would be assessed a charge of \$0.0020 per share executed. With this proposal, the Exchange proposes to charge \$0.0018 per share executed for a displayed order entered by a member that adds liquidity equal to or exceeding the member’s Growth Target. The Growth Target is defined as the liquidity the member added in January 2017 as a percent of total Consolidated Volume plus 0.04% of total Consolidated Volume.<sup>3</sup> As such, if the member added liquidity that represented 0.10% of total Consolidated Volume in January, the member’s Growth Target would be 0.14% of total Consolidated Volume. A member that added 0.14% of total Consolidated Volume in March would therefore qualify for the reduced fee in March.<sup>4</sup>

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<sup>3</sup> Rule 7018(a) defines “Consolidated Volume” as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member’s trading activity, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member’s trading activity.

<sup>4</sup> If a member was not active in the month of January, its Growth Target would be 0.04% for purposes of determining the eligibility for this fee.

The purpose of this reduced fee is to incentivize members to add additional liquidity to the Exchange, thereby increasing the market quality of the Exchange and benefitting all participants.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee of \$0.0018 per share executed is reasonable. The charge for adding displayed liquidity to the Exchange set forth in Rule 7018(a) ranges from \$0.0014 per share executed to \$0.0020 per share executed, depending on whether any required volume thresholds were met. The Exchange believes that the proposed fee of \$0.0018 is reasonable, because it is consistent with other of the Exchange's charges for adding liquidity, while it is sufficiently low that it incentivizes members to add increased liquidity.

The Exchange also believes that the corresponding volume threshold to qualify for the fee, and the utilization of January 2017 as the base for the Growth Target, is reasonable. The requirement that a member add 0.04% over its January added liquidity as a percent of Consolidated Volume is a meaningful requirement which is designed to incentivize members to add liquidity. In addition, the proposed volume threshold is closely aligned with the amount of the transaction fee, and is consistent with similar volume requirements assessed by the Exchange

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

in connection with other transaction fees.<sup>7</sup> The Exchange believes that using January 2017 as the base for the Growth Target is reasonable because that month represents the most recent full month of trading, and because the selection of a previous month as a baseline prevents members from changing their behavior prospectively to influence their baseline, and thus, their eligibility for the reduced fee.

The Exchange also notes that the proposal is consistent with transaction fees and credits assessed by other exchanges. For example, Bats BZX Exchange, which operates a maker-taker model, pays a credit of \$0.0030 per share for displayed orders if the member increases its share of total Consolidated Volume for adding liquidity by 0.15% or more in comparison to its volume in April 2016,<sup>8</sup> and assesses a fee of \$0.00295 per share if the member increases its share of total Consolidated Volume for removing liquidity by 0.05% or more in comparison to its July 2016 volume.<sup>9</sup> Similarly, Bats EDGX Exchange pays a credit of \$0.0032 per share if the member increases its share of total Consolidated Volume for adding liquidity by 0.10% or more in comparison to its volume in January 2017.<sup>10</sup>

BX also believes that the proposed change is equitably allocated among members, and is not designed to permit unfair discrimination. BX notes that participation on the Exchange, and eligibility for the reduced fee, is voluntary, and that the proposed charge applies to all members

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<sup>7</sup> For example, the Exchange assesses a transaction fee of \$0.0017 per share executed for a Displayed order entered by a member that adds liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month, and \$0.0024 per share executed for Non-displayed orders (other than orders with Midpoint pegging) entered by a member that adds 0.06% of total Consolidated Volume of non-displayed liquidity.

<sup>8</sup> To be eligible for this rebate, the member must also have an average daily added volume as a percentage of total Consolidated Volume that equals or exceeds 0.20%.

<sup>9</sup> To be eligible for this fee, the member must also have Customer orders that remove liquidity that equal or exceed 0.30% of total Consolidated Volume.

<sup>10</sup> To be eligible for this fee, the member must also add an average daily volume that equals or exceeds 0.40% of total Consolidated Volume.

that otherwise qualify for the reduced fee, e.g., members that add 0.04% in excess of the liquidity added in January in a given month.

In adopting this fee, the Exchange is providing members with another way in which they may qualify for a reduced transaction fee, while incentivizing members to add increased liquidity, thereby benefitting all participants. BX notes that a member that adds 0.04% in excess of its January liquidity provided as a percent of total Consolidated Volume would continue to be eligible for the reduced fee for each month in which it met this requirement. BX believes this aspect of the proposal is equitable and not unfairly discriminatory, as this way to receive an ongoing reduced transaction fee is open to any member that elects to meet the volume requirements.

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

The Exchange 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. In terms of inter-market competition, the Exchange 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, or rebate opportunities available at other venues to be more favorable.

In such an environment, the Exchange 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 competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed fee does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The new fee is consistent with transaction fees and credits currently assessed by other exchanges. The new fee applies equally to all members that meet the volume requirements, and all similarly situated members are equally capable of qualifying for the fee if they choose to meet the volume requirements. Moreover, the same fee will be assessed to all members that qualify for the volume requirement. Finally, the purpose of the reduced fee is to incentivize members to add liquidity to the Exchange, potentially attracting additional participants to the Exchange and thereby promoting competition.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues 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

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>11</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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or

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

(iii) 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.

#### 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-2017-017 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-BX-2017-017. 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-2017-017 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>12</sup>

Eduardo A. Aleman  
Assistant Secretary

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

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