

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61112; File No. SR-BX-2009-077)

December 4, 2009

Self-Regulatory Organizations; NASDAQ OMX BX; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Offer Several Market Data Products

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 December 1, 2009, NASDAQ OMX BX (“Exchange” or “BX”) 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. BX has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,³ which renders the proposal effective upon filing with the Commission. 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 offer several market data products substantially similar to market data products previously approved by the Commission for The NASDAQ Stock Market LLC (“Nasdaq”). The Exchange does not expect that the proposed rule change will have any direct effect, or significant indirect effect, on any other Exchange rule in effect at the time of this filing. The text of the proposed rule change is below. Proposed new language is underlined.⁴

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ Changes are marked to the rules of NASDAQ OMX BX, Inc., found at <http://nasdaqomxbx.cchwallstreet.com>.

7039. BX Last Sale Data Feeds

(a) The Exchange shall offer proprietary data feeds containing real-time last sale information for trades executed on the Exchange. There shall be no fee for BX Last Sale Data Feeds.

(1) “BX Last Sale for Nasdaq” shall contain all transaction reports for Nasdaq-listed securities; and

(2) “BX Last Sale for NYSE/Amex” shall contain all such transaction reports for NYSE- and Amex-listed securities.

* * * * *

7047. BX BBO Feeds

(a) The Exchange shall offer proprietary data feeds containing real-time market information from the Exchange Market Center. There shall be no fee for BX BBO Feeds.

(1) “BX BBO for Nasdaq” shall contain the Exchange’s best bid and offer for Nasdaq-listed securities;

(2) “BX BBO for NYSE” shall contain the Exchange’s best bid and offer for NYSE-listed securities; and

(3) “BX BBO for Amex” shall contain the Exchange’s best bid and offer for Amex-listed securities.

* * * * *

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. The text of these statements may be examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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 rules to offer certain market data products on the Exchange that have been established by Nasdaq and previously approved by the Commission. As discussed below, these market data products include the BX Last Sale Data Feeds and the BX BBO Feeds.

BX Last Sale Data Feeds

The Exchange proposes to offer access to real-time market data to data distributors for no fee, enabling those distributors to disseminate the data via the internet and television at no cost to millions of internet users and television viewers.

The proposed BX Last Sale market data products are real-time data feeds that provide real-time last sale information including execution price, volume, and time for executions occurring within the Exchange's system. The Exchange believes that this data feed will increase transparency and the efficiency of executions by enabling vendors to provide additional market data in a cost efficient manner. Specifically, the Exchange will create the Exchange Last Sale for Nasdaq, as well as the Exchange Last Sale for New York Stock Exchange ("NYSE") and the Exchange Last Sale for Amex data products, that provides real-time last sale information including execution price, volume, and time for Nasdaq, NYSE- and Amex-securities executions, respectively, occurring within the Exchange's system.

The Exchange proposes to offer the data feed without charge. The proposed BX Last Sale products are similar to the NASDAQ Last Sale Data Feed offered by Nasdaq.⁵

⁵ See Nasdaq Rule 7039.

BX Best Bid and Offer

The Exchange is proposing a product that will offer a real time data feed of the Exchange's Best Bid and Offer ("BBO"), which will provide investors with necessary information about the market for Nasdaq and NYSE- and Amex-securities. The Exchange will not charge a fee for this product. Quotation information from the Exchange Market Center will be available in three forms, BX BBO for Nasdaq, BX BBO for NYSE and BX BBO for Amex.

The Exchange proposes to offer the data feed without charge. The proposed BX Last Sale products are similar to the NASDAQ Last Sale Data Feed offered by Nasdaq.⁶

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general and with Sections 6(b)(5) of the Act,⁸ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule changes will advance these goals since use of these data feeds is voluntary and they are offered at no cost.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

⁶ See Nasdaq Rule 7039 [sic].

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

BX proposes adopting several market data products that are substantially similar to market data products established by Nasdaq.¹¹ BX will provide the data feeds without charge. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹¹ See Nasdaq Rules 7039 and 7047.

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-2009-077 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-2009-077. 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 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 inspection and copying 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 publicly available. All submissions should refer to File Number SR-BX-2009-077 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.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).