

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62804; File No. SR-BX-2010-060)

August 31, 2010

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Options Regulatory Fee

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 August 27, 2010, NASDAQ OMX BX, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule 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 Fee Schedule of the Boston Options Exchange Group, LLC (“BOX”), effective September 1, 2010, to assess the Options Regulatory Fee to each BOX Market Maker or Order Flow Provider that is fully certified to transact business on the Exchange. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room, on the Exchange’s Internet website at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>, and on the Commission’s website at <http://www.sec.gov>.

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

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

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

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

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 self-regulatory organization 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 self-regulatory organization 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 revise the circumstances under which the Exchange will assess the Options Regulatory Fee. In particular, the Exchange will assess the Options Regulatory Fee to BOX Options Participants that (i) are registered with the Exchange pursuant to Chapter II of the Rules of BOX; and (ii) have satisfied the technological requirements to be a fully certified BOX Market Maker or Order Flow Provider. Market Makers and Order Flow Providers are not capable of transacting business on the Exchange until the firm has been technologically certified by BOX ("fully certified"). In certain instances, particularly at the outset of becoming a Participant, a Market Maker or an Order Flow Provider may be registered with the Exchange prior to obtaining the requisite technological certification. BOX believes that it is not equitable to assess the Options Regulatory Fee on a Market Maker or Order Flow Provider that, prior to initially satisfying certain technology requirements, is not capable of availing itself of the benefits of its status as a BOX Participant. BOX does not desire to assess the Options Regulatory Fee to such Market Makers and Order Flow Providers until they are fully certified to transact business on the Exchange. The proposed change will have no effect on the

assessment of fees for current BOX Market Makers and Order Flow Providers that are fully certified to transact business on the Exchange and will have no effect on Participants that are only clearing transactions for other BOX Participants.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>5</sup> in general, and Section 6(b)(5) [sic] of the Act,<sup>6</sup> in particular, in that it provides [sic] the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed changes provide that newly registered Market Makers and Order Flow Providers will be assessed the Options Regulatory Fee once fully certified and will not alter the assessment of the Options Regulatory Fee on current BOX Market Makers and Order Flow Providers that are fully certified to transact business on the Exchange and on Participants that are only clearing transactions for other BOX Participants.

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.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member.

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 the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2010-060 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-2010-060. 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

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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 am and 3:00 pm. 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 No. SR-BX-2010-060 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

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

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).