

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2012-016 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-2012-016. This file number should be included on the subject line if email 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 Web site 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 a.m. and 3 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-2012-016 and should be submitted on or before April 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-66526]; File No. SR-BX-2012-017]

**Self-Regulatory Organizations; NASDAQ OMX BX; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Identify the Proprietary Data Feed of BOX Market Information That BOX Makes Available to Its Options Participants at No Charge**

March 7, 2012.

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 2, 2012, NASDAQ OMX BX (the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> 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 amend Trading Rules of the Boston Options Exchange Group, LLC ("BOX") to identify the proprietary data feed of BOX market information that BOX makes available to its Options Participants at no charge. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>.

**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

The Exchange is proposing to amend subsection 16(a) to Chapter V of the BOX Trading Rules to specify the name and content of the BOX market trading data feed containing information that BOX makes available to BOX Options Participants without charge and to restructure the current subsection to provide more clarity.

BOX provides the BOX High Speed Vendor Feed ("HSVF") as an alternative for BOX Options Participants to receive BOX market data directly from BOX rather than via a commercial data vendor (which receives data from the Options Price Reporting Authority ("OPRA")). The HSVF is available to all BOX Participants.

Current subsection 16(a)ii will be removed and replaced with language which specifies that the HSVF contains the following information:

- (1) Trades and trade cancellation information;
- (2) Best-ranked price level to buy and the best ranked price level to sell;
- (3) Instrument summaries (including information such as high, low, and last trade price and traded volume);
- (4) The five best limit prices for each option instrument;
- (5) Request for Quote messages (see Chapter I, Section 1(a)(58), Chapter V, Section 9(h) and Chapter VI, Section 6);<sup>4</sup>
- (6) PIP Order, Improvement Order and Block Trade Order (Facilitation and Solicitation) information (as set forth in Sections 18 and 31 of Chapter V of the BOX Rules, respectively);
- (7) Orders exposed at NBBO (as set forth in Chapter V, Section 16(b)iii and Chapter VI, Section 5(c)iii of the BOX Rules, respectively);<sup>5</sup>

<sup>4</sup> RFQ messages are defined in Chapter I, Section 1(a)(58); Chapter V, Section 9(h) provides that the Market Regulation Center may send an RFQ to aid in the opening under certain conditions; and Chapter VI, Section 6 requires a market maker to post a valid two-sided quote that meets certain size and spread requirements within 3 seconds of receiving any RFQ message or when called up on to submit a quote by an Options Official.

<sup>5</sup> See Chapter V, Section 16(b)iii, providing that where an order is received which is executable against the NBBO and there is not a quote on BOX that is equal to the NBBO, that the order is exposed on the BOX Book at the NBBO for a period of one

Continued

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

(8) Instrument dictionary (e.g. strike price, expiration date, underlying symbol, price threshold, and minimum trading increment for instruments traded on BOX);

(9) Options class and instrument status change notices (e.g., whether an instrument or class is in pre-opening, continuous trading, closed, halted, or whether prohibited from trading); and

(10) Options class opening time.

The proposed change identifies the BOX proprietary data feed containing market information that BOX makes available to its Options Participants and sets forth in the BOX Rules that the HSVF is provided at no charge.<sup>6</sup> As will be set forth in more detail below, all orders and executions displayed through the HSVF are anonymous and do not contain the identity of the party submitting the order.

The Exchange also proposes to restructure subsection 16(a). Specifically, the Exchange proposes to remove the introductory language to 16(a). The current introductory language of subsection 16(a) does not fully describe the entire subsection. The removal of “Order Ranking and Display” should eliminate any potential for confusion regarding information that is set forth in that subsection. In addition, as proposed, the new first sentence sets forth that the rules regarding the manner in which BOX displays market information are provided in subsection (a)ii. The current language modifies current subsection 16(a)ii, and provides, that except as provided for in Section 18 (the Price Improvement Period), BOX shall display all non-marketable Limit Orders in a manner described below. This language is no longer applicable, because, as previously described, proposed subsection (a)ii completely replaces current subsection 16(a)ii and will now set forth the content of the HSVF in this portion of the rule. A reference to subsection (a)iii is being provided to add more clarity to the introductory paragraph. The language referencing that the information is being displayed

second. If the order is not executed during the one second exposure period, then the order is either routed or cancelled. *See also* Chapter VI, Section 5(c)iii setting forth, among other matters, the rules regarding exposure within the Directed Order process.

<sup>6</sup> As noted, BOX does not charge any fee directly for the HSVF. BOX does charge an initial setup fee, and a monthly maintenance fee, for physical connections to BOX, as set forth in Section 5.a., of the BOX Fee Schedule. A physical connection enables Participants to submit quotes or orders to BOX, and receive the HSVF if they choose. All BOX Market Makers must accept the HSVF. However, BOX Order Flow Providers are not obligated to accept the HSVF.

on an anonymous basis is being removed, as it is duplicative and can be found in Chapter V, Section 14(e) which provides that, “[t]he identity of Options Participants who submit orders to the Trading Host will remain anonymous to market participants at all times, except orders submitted through the Directed Order process, during error resolution or through the normal clearing process as set forth in Chapter V, Section 16(a)(vi) of these Rules.” Finally, a reference to Rule 11Ac-1 is being replaced with a reference to Rule 602. Rule 11Ac-1 was re-designated as Rule 602 as part of the adoption of Regulation NMS.

## 2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”),<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act, 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposal is in keeping with those principles by promoting increased transparency through the dissemination of more useful proprietary data and also by clarifying its availability to market participants.

Additionally, the Exchange is making a voluntary decision to make this data available, unlike the best bid and offer which must be made available under the Act. The Exchange chooses to make the data available as proposed in order to improve market quality, to attract order flow, and to increase transparency. Once this proposed change becomes effective, the Exchange will continue making the data available until such time as the Exchange changes its rule.

<sup>7</sup> 15 U.S.C. 78f(b).

## B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange 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. To the contrary, offering a voluntary and free data feed promotes competition among trading platforms by advertising available trading interest and enabling BOX to attract additional liquidity.

## 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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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 Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

The Exchange has requested that the Commission waive the 30-day operative delay to allow the Exchange to continue to provide the HSVF that it already makes freely available and on a voluntary basis. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is designed to promote increased transparency through the dissemination of proprietary data.<sup>10</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>11</sup>

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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of 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.

<sup>10</sup> *See, e.g.*, Securities Exchange Act Release Nos. 64445 (May 9, 2011), 76 FR 28108 (May 13, 2011) (SR-BATS-2011-017); 63983 (February 25, 2011), 76 FR 12178 (March 4, 2011) (SR-NASDAQ-2011-032).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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.

#### 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2012-017 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-2012-017. This file number should be included on the subject line if email 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 Web site 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 a.m. and 3 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-

2012-017 and should be submitted on or before April 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-6033 Filed 3-12-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66525; File No. SR-ISE-2012-09]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Network Fees

March 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 22, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II 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 ISE proposes to amend its network fees. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.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 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 this proposed rule change is to amend the Exchange's network fees. Specifically, the Exchange proposes to adopt a network fee for a new 10 Gigabit (GB) low latency Ethernet connectivity option. The Exchange currently offers two Ethernet connection options, a 1 GB connection at a cost of \$500 per month and a 10 GB connection at a cost of \$4,000 per month.

In keeping with changes in technology, the Exchange now proposes to provide an enhanced bandwidth option to enable Members a more efficient connection to the Exchange. Through the use of new, advanced hardware, the proposed new connectivity option will provide a higher speed network to access the Exchange's Optimise trading system.

The Exchange proposes to charge Members \$7,000 per month for this connection. ISE has expended significant amount of resources in developing this infrastructure and the proposed fees will allow the Exchange to recoup its investment. The Exchange's new network connectivity option will provide Members the option to select the bandwidth that is appropriate for their current needs. This new connectivity option is voluntary and therefore, the Exchange will retain the existing connectivity options for those Members who choose not to utilize the new network connection.

The Exchange has designated this proposal to be operative on March 1, 2012.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 ("Act"),<sup>3</sup> in general, and with Section 6(b)(4) of the Act,<sup>4</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. In particular, the proposed rule change will provide greater transparency into the connectivity options available to Members.

The Exchange's proposal for a low latency 10 GB Ethernet network

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

<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. 78f.

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