

Exchange believes that the proposed rule change would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members. The Exchange therefore believes that approval of the proposed is consistent with Section 6(b)(1) of the Exchange Act.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act²² because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that 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.

As discussed above, the Exchange believes that the proposed creation of a ROC composed of independent directors would align the Exchange's corporate governance practices with other SROs that have adopted a ROC to monitor the adequacy and effectiveness of the regulatory program, assess regulatory performance, and assist the Board in reviewing the regulatory plan and the overall effectiveness of the regulatory function. Moreover, the Exchange believes that the proposed ROC structure would also sufficiently "insulate" the regulatory functions from the Exchange's "market and other commercial interests" in order for the Exchange to carry out its regulatory obligations.²³ The Exchange believes that eliminating the requirement that the independent directors of the Exchange also be directors of ICE would allow the Exchange to include individuals on its Board that have expertise it believes is necessary for its unique role as an SRO, because not all of the independent directors would have to be directors of ICE. The Exchange believes that the proposed rule change is therefore consistent with and facilitates a governance and regulatory structure that furthers the objectives of Section 6(b)(5) of the Exchange Act. The independent

oversight of the Exchange's regulatory functions by the proposed ROC is also designed to protect investors as well as the public interest.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with the administration and functioning of the Exchange's Board.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 email to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2015-27 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEMKT-2015-27. 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 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at www.nyse.com. 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-NYSEMKT-2015-27 and should be submitted on or before May 26, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74822; File No. SR-BX-2015-023]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX BX, Inc. Relating to Fees, Dues and Other Charges

April 28, 2015.

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 April 17, 2015, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²² 15 U.S.C. 78f(b)(5).

²³ Release No. 34-53128, 71 FR at 3556.

“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 Exchange proposes to amend Chapter VI, Section 16, entitled “Fees and Charges.”

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxbx.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 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 Chapter VI, Section 16, entitled “Fees and Charges.” Today, the Exchange’s Rule at Chapter VI, Section 16 discusses participation Fees and notes that the Board in its discretion may fix participations fees payable by Options Participants on a quarterly basis.³ Also, Options Participants shall pay a fee for each transaction they execute on BX, as may be determined by the Board in its discretion. The Board may prescribe different or no fees for different types of transactions conducted on BX.⁴ The Board may fix and impose other fees, assessments or charges to be paid to [sic] Options Participants or by classes of Options Participants with respect to applications, registrations, approvals, use of BX and Trading System facilities

or other services or privileges granted.⁵ Finally, an Options Participant that does not pay any fees, assessments, charges, fines or other amounts due to BX within thirty (30) days after they have become due and payable shall be reported to the Board or its delegate which may, after giving reasonable notice to the Options Participant of such arrearages, suspend the Options Participant until payment is made or terminate the Options Participant’s participation on BX. An associated person of an Options Participant who fails to pay any fine or other amounts due to BX within thirty (30) days after such amount has become due and payable and after reasonable notice of such arrearages, may be suspended from association with an Options Participant until payment is made.⁶

The Exchange is proposing to amend the title of Chapter VI, Section 16 to “Fees, Dues and Other Charges” and adopt the rule text of current NASDAQ OMX PHLX LLC (“Phlx”) Rule 52 into current Chapter VI, Section 16. The Exchange desires to harmonize Chapter VI, Section 16 with Phlx Rule 52.

The new rule text would continue to permit the Board of Directors to have the power to fix fees. The proposed new rule would permit the Board: (i) to establish, assess and levy such fees, dues and other charges (including, without limitation, any extraordinary assessments) upon members and any other persons using the facilities or services of the Exchange, and upon applicants for and persons being admitted, registered, qualified and/or initiated to any such status, in each case as the Board of Directors may from time to time establish by resolution or in the Rules of the Exchange (which shall be deemed to include any schedule of fees, dues, other charges and penalties as may be in effect from time to time), (ii) to establish rebates, credits and discounts with respect to any of the foregoing, (iii) to establish programs whereby the Exchange shares or permits any person to participate in any identified source of revenues (less any expenses or other charges as the Exchange shall determine) of the Exchange, (iv) to provide for the direct reimbursement to the Exchange of any cost, expense or category thereof, and (v) except insofar as otherwise specified or provided for in the By-Laws, to establish and assess penalties for failure to pay any fees, dues or charges owed to the Exchange, including, without limitation, termination of membership (which membership may be reissued)

and forfeiture of all rights as a member. The Board of Directors may authorize any committee thereof or the Chair of the Board of Directors to exercise any powers of the Board of Directors with respect to the assessment of fees, dues, other charges and penalties authorized in accordance with this Section.⁷ The Exchange believes that the proposed rule text includes a more exhaustive list of powers that the Board, or its delegate, may exercise with respect to fees.

The Board of Directors may also, from time to time, fix and impose charges upon members, measured by their respective net commissions on transactions effected on the Exchange. Such charges shall be payable at such times and shall be collected in such manner as may be determined by the Board of Directors.⁸ The Exchange believes that this rule text is more expansive than the rule text in current rule Chapter VI, Section 16 and provides the board with additional flexibility in imposing fees. Participants shall abide by the provisions of the Exchange’s By-Laws and the Rules, which shall include, without limitation, the obligation to pay all applicable fees, dues and other charges imposed thereon by the By-Laws or the Rules of the Exchange.⁹ Participants today are obligated to abide by the provisions of the Exchange’s By-Laws and the Rules and pay all applicable fees, dues and other charges imposed thereon by the By-Laws or the Rules of the Exchange. This provision does not impose any new obligations on Participants.

Finally, the Board of Directors or their designee may suspend or terminate, after due notice, any permit or rights of any Participant or employee thereof using facilities or services of the Exchange, or enjoying any of the privileges therein, who shall not pay dues, fees, other charges, other monies due and owed the Exchange, fines and/or other monetary sanctions in accordance with the Rules of the Exchange.¹⁰ Today, the Exchange has the power to suspend Participants as noted in current rule Chapter VI, Section 16. The Exchange believes that this new provision provides the Board with greater flexibility in both suspending and now terminating Participants for failure to pay fees. The Exchange’s Rules today provide a process for the suspension, cancellation and bar of its members.¹¹

⁷ See proposed new Chapter VI, Section 16(a).

⁸ See proposed new Chapter VI, Section 16(b).

⁹ See proposed new Chapter VI, Section 16(c).

¹⁰ See proposed new Chapter VI, Section 16(d).

¹¹ See BX Rule 9553, entitled “Failure to Pay Exchange Dues, Fees and Other Charges.”

³ See Chapter VI, Section 16(a).

⁴ See Chapter VI, Section 16(b).

⁵ See Chapter VI, Section 16(c).

⁶ See Chapter VI, Section 16(d).

The Exchange is not proposing to adopt the provisions of Phlx Rule 52(e) as those provisions apply today to BX Participants.¹²

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁴ in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange believes that these proposed rule changes will harmonize the BX's Rules related to fees with that of Phlx.

The Exchange's process for billing and collecting fees on BX today is the same process which exists on Phlx. The Exchange therefore desires to adopt Rule 52 to better describe the Board's powers and the obligations of Participants with respect to fees. The Exchange believes that this new provision provides the Board with greater flexibility in both suspending and now terminating Participants for failure to pay fees. The Exchange's By-Laws at Article IX, Section 4 provide the Board with authority to fix and levy the amount of fees assessed to BX members and Rule 9553 contemplates the ramifications and process by which members are notified and sanctioned for a failure to pay such fees.

The adoption of an Exchange Rule similar to Phlx Rule 52 will align the BX Rules with that of Phlx, with respect to fees, and reflect the current process which exists at both exchanges. The new text adds clarity to the BX Rules and better reflects the current process. The Exchange believes that the adoption of the new rule text will provide Participants with clear guidelines for the payment of fees and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

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. The proposed rule text does not impose an

the process for suspension, cancellation and bar applicable to BX members.

¹² See BX Rule 8320, entitled "Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay."

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

undue burden on competition, rather it seeks to clarify the power of the Exchange's Board and the manner in which the Exchange manages the assessment of fees. BX Participants will all be subject to the same obligations as specified in the proposed rule with respect to fees.

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: (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)¹⁵ of the Act and Rule 19b-4(f)(6) thereunder.¹⁶

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.

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. Please include File Number SR-BX-2015-023 on the subject line.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 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.

Paper Comments

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

All submissions should refer to File Number SR-BX-2015-023. 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 10:00 a.m. and 3:00 p.m. Copies of the filing will also 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-2015-023 and should be submitted on or before May 26, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Brent J. Fields,

Secretary.

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¹⁷ 17 CFR 200.30-3(a)(12).