

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ BX, Inc.  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to make adjustments to Exchange Options Regulatory Fee by amending BX Rules at Chapter XV, Section 5.

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Angela      Last Name \* Dunn  
 Title \* Associate General Counsel  
 E-mail \* Angela.Dunn@nasdaq.com  
 Telephone \* (215) 496-5692      Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)  
 Executive Vice President and General Counsel

Date 07/06/2016  
 By Edward S. Knight  
 (Name \*)

edward.knight@nasdaq.com

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) NASDAQ BX, Inc. (“BX” or “Exchange”), 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> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to make adjustments to its Options Regulatory Fee (“ORF”) by amending BX Rules at Chapter XV, Section 5.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on August 1, 2016.

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1 and the text of the amended Exchange Rule is at Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on July 1, 2015. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn  
Associate General Counsel  
Nasdaq, Inc.  
215-496-5692.

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

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

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange proposes to increase the ORF from \$0.0003 to \$0.0004 as of August 1, 2016 to account for a reduction in market volume the Exchange has experienced. The Exchange's change to the ORF should balance the Exchange's regulatory revenue against the anticipated revenue.

Background

The ORF is assessed to each member for all options transactions executed or cleared by the member that are cleared at The Options Clearing Corporation ("OCC") in the Customer range (i.e., that clear in the Customer account of the member's clearing firm at OCC). The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with other regulatory fees and fines, does not exceed regulatory costs. The ORF is imposed upon all transactions executed by a member, even if such transactions do not take place on the Exchange.<sup>3</sup> The ORF also includes options transactions that are not executed by an Exchange member but are ultimately cleared by an Exchange member.<sup>4</sup> The ORF is not charged for member proprietary options

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<sup>3</sup> The ORF applies to all "C" account origin code orders executed by a members on the Exchange. Exchange Rules require each member to record the appropriate account origin code on all orders at the time of entry in order to allow the Exchange to properly prioritize and route orders and assess transaction fees pursuant to the Rules of the Exchange and report resulting transactions to OCC. The Exchange represents that it has surveillances in place to verify that members mark orders with the correct account origin code.

<sup>4</sup> In the case where one member both executes a transaction and clears the transaction, the ORF is assessed to the member only once on the execution. In the case where one member executes a transaction and a different member clears the transaction, the ORF is assessed only to the member who executes the transaction and is not assessed to the member who clears the transaction. In the case where a

transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. The dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The ORF is collected indirectly from members through their clearing firms by OCC on behalf of the Exchange.

The ORF is designed to recover a portion of the costs to the Exchange of the supervision and regulation of its members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed regulatory costs. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission.

#### ORF Adjustments

The Exchange is proposing to increase the ORF from \$0.0003 to \$0.0004 as of August 1, 2016. In light of recent market volumes, the Exchange proposes to change the amount of ORF that will be collected by the Exchange. The Exchange regularly reviews its ORF to ensure that the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The Exchange believes this adjustment will permit the

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non-member executes a transaction and a member clears the transaction, the ORF is assessed to the member who clears the transaction.

Exchange to cover a material portion of its regulatory costs, while not exceeding regulatory costs.

The Exchange notified members of this ORF adjustment thirty (30) calendar days prior to the proposed operative date.<sup>5</sup>

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act<sup>7</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 or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that increasing the ORF from \$0.0003 to \$0.0004 as of August 1, 2016 is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory revenue collected by the Exchange. The Exchange believes that the proposed adjustments noted herein will serve to balance the Exchange's regulatory revenue against the anticipated regulatory costs. It is further reasonable because this adjustment results in a price increase. While these adjustments result in an increase, the increase is modest and within the range of ORFs assessed by other options exchanges.

The Exchange proposes to amend the ORF from \$0.0003 to \$0.0004 as of August

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<sup>5</sup> See Options Trader Alert #2016-16.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

1, 2016 is equitable and not unfairly discriminatory because this adjustment would be applicable to all members on all of their transactions that clear as Customer at OCC. In addition, the ORF seeks to recover the costs of supervising and regulating members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities.

The ORF is not charged for member proprietary options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of Customer options business they conduct.

Regulating Customer trading activity is more labor intensive and requires greater expenditure of human and technical resources than regulating non-Customer trading activity. Surveillance, regulation and examination of non-Customer trading activity generally tends to be more automated and less labor intensive. As a result, the costs associated with administering the Customer component of the Exchange's overall regulatory program are anticipated to be higher than the costs associated with administering the non-Customer component of its regulatory program. The Exchange proposes assessing higher fees to those members that will require more Exchange regulatory services based on the amount of Customer options business they conduct.<sup>8</sup>

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<sup>8</sup> The ORF is not charged for orders that clear in categories other than the Customer range at OCC (e.g., BX Options Market Maker orders) because members incur the costs of memberships and through their memberships are charged transaction fees, dues and other fees that go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation.

Additionally, the dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The Exchange believes that the proposed ORF is a small cost for Customer executions. The Exchange has in place a regulatory structure to surveil for, examine and monitor the marketplace for violations of Exchange Rules. The ORF assists the Exchange to fund the cost of this regulation of the marketplace.

4. 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. 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.

The Exchange does not believe that increasing its ORF creates an undue burden on intra-market competition because the adjustment will apply to all members on all of



their transactions that clear as Customer at OCC. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. Additionally, the dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The Exchange's members are subject to ORF on other options markets.<sup>9</sup>

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>10</sup> The Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

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<sup>9</sup> The following options exchanges assess an ORF: Chicago Board Options Exchange, Incorporated ("CBOE"), C2 Options Exchange, Inc. ("C2"), the International Securities Exchange, LLC ("ISE"), NYSE Arca, Inc. ("NYSEArca") and NYSE AMEX LLC ("NYSEAmex"), BATS Exchange, Inc. ("BATS") and The NASDAQ Options Market LLC ("NOM").

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

the protection of investors; or (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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-BX-2016-043)

July \_\_, 2016

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Adjustments to its 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 July 6, 2016, 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 make adjustments to its Options Regulatory Fee (“ORF”) by amending BX Rules at Chapter XV, Section 5.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on August 1, 2016.

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.

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

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

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 proposes to increase the ORF from \$0.0003 to \$0.0004 as of August 1, 2016 to account for a reduction in market volume the Exchange has experienced. The Exchange's change to the ORF should balance the Exchange's regulatory revenue against the anticipated revenue.

Background

The ORF is assessed to each member for all options transactions executed or cleared by the member that are cleared at The Options Clearing Corporation ("OCC") in the Customer range (i.e., that clear in the Customer account of the member's clearing firm at OCC). The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with other regulatory fees and fines, does not exceed regulatory costs. The ORF is imposed upon all transactions executed by a member, even if such transactions do not take place on the Exchange.<sup>3</sup> The ORF also includes options

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<sup>3</sup> The ORF applies to all "C" account origin code orders executed by a members on the Exchange. Exchange Rules require each member to record the appropriate account origin code on all orders at the time of entry in order to allow the Exchange to properly prioritize and route orders and assess transaction fees

transactions that are not executed by an Exchange member but are ultimately cleared by an Exchange member.<sup>4</sup> The ORF is not charged for member proprietary options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. The dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The ORF is collected indirectly from members through their clearing firms by OCC on behalf of the Exchange.

The ORF is designed to recover a portion of the costs to the Exchange of the supervision and regulation of its members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed regulatory costs. If the Exchange

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pursuant to the Rules of the Exchange and report resulting transactions to OCC. The Exchange represents that it has surveillances in place to verify that members mark orders with the correct account origin code.

<sup>4</sup> In the case where one member both executes a transaction and clears the transaction, the ORF is assessed to the member only once on the execution. In the case where one member executes a transaction and a different member clears the transaction, the ORF is assessed only to the member who executes the transaction and is not assessed to the member who clears the transaction. In the case where a non-member executes a transaction and a member clears the transaction, the ORF is assessed to the member who clears the transaction.

determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission.

#### ORF Adjustments

The Exchange is proposing to increase the ORF from \$0.0003 to \$0.0004 as of August 1, 2016. In light of recent market volumes, the Exchange proposes to change the amount of ORF that will be collected by the Exchange. The Exchange regularly reviews its ORF to ensure that the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The Exchange believes this adjustment will permit the Exchange to cover a material portion of its regulatory costs, while not exceeding regulatory costs.

The Exchange notified members of this ORF adjustment thirty (30) calendar days prior to the proposed operative date.<sup>5</sup>

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act<sup>7</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 or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that increasing the ORF from \$0.0003 to \$0.0004 as of

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<sup>5</sup> See Options Trader Alert #2016-16.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

August 1, 2016 is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory revenue collected by the Exchange. The Exchange believes that the proposed adjustments noted herein will serve to balance the Exchange's regulatory revenue against the anticipated regulatory costs. It is further reasonable because this adjustment results in a price increase. While these adjustments result in an increase, the increase is modest and within the range of ORFs assessed by other options exchanges.

The Exchange proposes to amend the ORF from \$0.0003 to \$0.0004 as of August 1, 2016 is equitable and not unfairly discriminatory because this adjustment would be applicable to all members on all of their transactions that clear as Customer at OCC. In addition, the ORF seeks to recover the costs of supervising and regulating members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities.

The ORF is not charged for member proprietary options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of Customer options business they conduct.

Regulating Customer trading activity is more labor intensive and requires greater expenditure of human and technical resources than regulating non-Customer trading activity. Surveillance, regulation and examination of non-Customer trading activity generally tends to be more automated and less labor intensive. As a result, the costs

associated with administering the Customer component of the Exchange's overall regulatory program are anticipated to be higher than the costs associated with administering the non-Customer component of its regulatory program. The Exchange proposes assessing higher fees to those members that will require more Exchange regulatory services based on the amount of Customer options business they conduct.<sup>8</sup> Additionally, the dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The Exchange believes that the proposed ORF is a small cost for Customer executions. The Exchange has in place a regulatory structure to surveil for, examine and monitor the marketplace for violations of Exchange Rules. The ORF assists the Exchange to fund the cost of this regulation of the marketplace.

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. 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

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<sup>8</sup> The ORF is not charged for orders that clear in categories other than the Customer range at OCC (e.g., BX Options Market Maker orders) because members incur the costs of memberships and through their memberships are charged transaction fees, dues and other fees that go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation.



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.

The Exchange does not believe that increasing its ORF creates an undue burden on intra-market competition because the adjustment will apply to all members on all of their transactions that clear as Customer at OCC. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. Additionally, the dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The Exchange's members are subject to ORF on other options markets.<sup>9</sup>

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.

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<sup>9</sup> The following options exchanges assess an ORF: Chicago Board Options Exchange, Incorporated ("CBOE"), C2 Options Exchange, Inc. ("C2"), the International Securities Exchange, LLC ("ISE"), NYSE Arca, Inc. ("NYSEArca") and NYSE AMEX LLC ("NYSEAmex"), BATS Exchange, Inc. ("BATS") and The NASDAQ Options Market LLC ("NOM").

### 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>10</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 (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-2016-043 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.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-BX-2016-043. 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 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-2016-043 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>11</sup>

Robert W. Errett  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**NASDAQ BX Rules**

\* \* \* \* \*

**Options Rules**

\* \* \* \* \*

**Chapter XV Options Pricing**

\* \* \* \* \*

**Sec. 5 BX Options Regulatory Fee**

BX Participants will be assessed an Options Regulatory Fee of \$0.000~~[3]~~4 per contract.\*

\*Effective February 1, 2016, the Options Regulatory Fee will be assessed by BX to each BX Participant for all options transactions executed or cleared by a BX Participant at The Options Clearing Corporation (OCC) in the Customer range regardless of the exchange on which the transaction occurs. The Options Regulatory Fee is collected indirectly from BX Participants through their clearing firms by OCC on behalf of BX. The Exchange will notify members via an Options Trader Alert of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.

\* \* \* \* \*