

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 32		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2018 - * 069	
Amendment No. (req. for Amendments *)					
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"/>	
Rule					
Pilot <input type="checkbox"/>		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"/>			
Description					
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).					
<input type="text" value="A proposal to amend the Exchange transaction fees at Equity 7, Section 118(a)."/>					
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 * <input type="text" value="Brett"/>		Last Name * <input type="text" value="Kitt"/>			
Title * <input type="text" value="Senior Associate General Counsel"/>					
E-mail * <input type="text" value="Brett.Kitt@Nasdaq.com"/>					
Telephone * <input type="text" value="(301) 978-8132"/>		Fax <input type="text"/>			
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 *)					
Date <input type="text" value="12/21/2018"/>		<input type="text" value="Global Chief Legal and Policy Officer"/>			
By <input type="text" value="Edward S. Knight"/>		<input type="text"/>			
(Name *)					
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.					
<input type="button" value="edward.knight@nasdaq.com"/>					

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 *

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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 *

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

Add Remove View

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”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Exchange’s transaction fees at Equity 7, Section 118(a), as described further below.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 2, 2018.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as 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 September 26, 2018. 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:

Brett Kitt
Senior Associate General Counsel
Nasdaq, Inc.
(301) 978-8132

¹ 15 U.S.C. 78s(b)(1).

² 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 purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018(a) to: (1) adjust the qualifying terms for certain existing credits it offers to members with orders that access liquidity on the Exchange; (2) offer a new credit for members with orders that access liquidity on the Exchange; and (3) eliminate a fee for members with orders that add liquidity on the Exchange.

First Change

The Exchange operates on the “taker-maker” model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange offers several different credits for orders that access liquidity on the Exchange. Among these credits, the Exchange offers a \$0.0018 per share executed credit for orders that access liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that: (i) accesses liquidity equal to or exceeding 0.20% of total Consolidated Volume³ during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in May 2018. The Exchange also offers a \$0.0019 per share executed credit for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute

³ Pursuant to Equity 7, Section 118(a), the term “Consolidated Volume” means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

against an order with a Non-displayed price) that are entered by a member that: (i) accesses liquidity equal to or exceeding 0.20% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in May 2018.

For these two credits, the Exchange proposes to decrease the applicable volume threshold from 0.20% to 0.15% of total Consolidated Volume during a month. The Exchange proposes to recalibrate the threshold downward to make it easier for firms to reach the Consolidated Volume threshold necessary to qualify for these credits.

The Exchange also proposes to change the benchmark month that it uses to determine whether a member, in a given month, has achieved the requisite 20% increase in liquidity accessed as a percentage of Consolidated Volume to qualify for the credits. Whereas the benchmark month presently is May 2018, the Exchange proposes to change it to December 2018. This change in benchmark month is intended to incentivize market participants to trade on the Exchange by making it easier for a member to qualify for these credits. Volumes in May 2018 were generally higher than they were in December 2018, such that a 20% increase in liquidity accessed as a percentage of Consolidated Volume will be easier to achieve relative to December 2018 than it would be relative to May 2018.

Second Change

In addition to the credits above, the Exchange also offers other credits for orders that access liquidity on the Exchange. First, the Exchange offers a member a \$0.0018 per share executed credit for its orders that access liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that receive price

improvement and execute against an order with a Non-displayed price) to the extent that the member, during a given month: (i) has a total volume (including both providing and accessing liquidity) that is equal to or exceeds 0.50% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in July 2018; and (iii) of the 20% or more increase in total volume described above, at least 30% is attributable to adding liquidity. Second, the Exchange offers a member a \$0.0019 per share executed credit for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) to members that satisfy these same three conditions.

For these two credits, the Exchange proposes to decrease – from 0.50% to 0.40% – the requisite percentage of total Consolidated Volume that a member's total volume must equal for a member to qualify for each of the credits. The Exchange proposes to recalibrate the threshold downward to make it easier for a member to qualify for these credits.

The Exchange also proposes to change the benchmark month that it will use to determine whether, in a given month, a member has achieved a 20% or more increase in total volume so as to qualify for each of the credits. Whereas the benchmark date presently is July 2018 for both credits, the Exchange proposes to change it to December 2018. This change in benchmark month is intended to incentivize market participants to trade on the Exchange by making it easier for a member to qualify for these credits.

Total volumes in July 2018 were generally higher than they were in December 2018,

such that a 20% increase in total volumes relative to December 2018 will be easier for a member to achieve than it would a 20% increase relative to July 2018.

Third Change

Next, the Exchange proposes to offer a new credit for a member that accesses liquidity in any Tape. Specifically, the Exchange proposes to pay a credit of \$0.0018 per share executed to a member with orders that access liquidity in securities in any Tape (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) where the member accesses liquidity equal to or exceeding 0.50% of total Consolidated Volume during a month.

The Exchange proposes to add this credit to provide a new and simple incentive for members to access liquidity in substantial volumes on the Exchange. The Exchange notes that it already offers members similar, albeit lower, credits for accessing liquidity equal to or exceeding lower threshold percentages of total Consolidated Volume during a given month (\$0.0017 per share executed credit for accessing liquidity equal to or greater than 0.12% of total Consolidated Volume during a month; \$0.0015 per share executed credit for accessing liquidity equal to or greater than 0.065% of total Consolidated Volume during a month. The proposed credit will offer a member a higher credit than these existing credits for maintaining a higher volume of liquidity accessing activity on the Exchange.

Fourth Change

Finally, the Exchange proposes to eliminate its \$0.0013 per share executed charge for displayed orders entered by a member that adds liquidity equal to or exceeding 0.55%

of total Consolidated Volume during a month. This fee tier has not achieved its intended purpose of attracting liquidity to the Exchange. Accordingly, the Exchange proposes to eliminate it.

b. Statutory Basis

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

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁶

Likewise, in NetCoalition v. Securities and Exchange Commission⁷ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).

⁶ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

⁷ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

Congress mandated a cost-based approach.⁸ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”⁹

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”¹⁰ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

First Change

The Exchange believes that it is reasonable to decrease the Consolidated Volume threshold and adjust the benchmark month on its credits for orders that access liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that: (i) accesses liquidity equal to or exceeding 0.20% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in May 2018. As noted

⁸ See NetCoalition, at 534 - 535.

⁹ Id. at 537.

¹⁰ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

above, the Exchange proposes to decrease the volume threshold for these credits from .20% to .15% of total Consolidated Volume and adjust the benchmark month from May 2018 to December 2018.

The Exchange must, from time to time, assess the effectiveness of its credits in achieving their intended objectives and adjust the levels of such credits based on the Exchange's observations of market participant behavior. In this instance, the Exchange has observed that the credits are becoming too difficult for members to achieve. The Exchange proposes to decrease the volume threshold for the credits to make it easier for members to qualify for the credits. Likewise, the Exchange proposes to change the benchmark month that it uses to determine whether a member, in a given month, has achieved the requisite 20% increase in liquidity accessed as a percentage of Consolidated Volume to qualify for the credits. The change in benchmark month will incentivize trading on the Exchange by making it easier for a member to qualify for these credits. Volumes in May 2018 were generally higher than they were in December 2018, such that a 20% increase in liquidity accessed as a percentage of Consolidated Volume will be easier to achieve relative to December 2018 than it would be relative to May 2018.

The Exchange believes that the proposed change is equitable because it will incentivize increased participation on the Exchange. It is not unfairly discriminatory because it will apply to all similarly situated member firms.

Second Change

The Exchange believes that it is reasonable to decrease the Consolidated Volume threshold and adjust the benchmark month on its credits for orders that access liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive

price improvement and execute against an order with a Non-displayed price) that are entered by a member that, during a given month: (i) has a total volume (including both providing and accessing liquidity) that is equal to or exceeds 0.50% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in July 2018; and (iii) of the 20% or more increase in total volume described above, at least 30% is attributable to adding liquidity. As noted above, the Exchange proposes to decrease – from 0.50% to 0.40% – the requisite percentage of total Consolidated Volume that a member’s total volume must equal for a member to qualify for each of the credits. It also proposes to change the benchmark month from July 2018 to December 2018.

The Exchange must, from time to time, assess the effectiveness of its credits in achieving their intended objectives and adjust the levels of such credits based on the Exchange’s observations of market participant behavior. In this instance, the Exchange has observed that the credits are becoming too difficult for members to achieve. The Exchange proposes to decrease the volume threshold for the credits to make it easier for members to qualify for the credits. Likewise, the Exchange proposes to change the benchmark month that it uses to determine whether a member, in a given month, has achieved the requisite 20% increase in total volume as a percentage of Consolidated Volume to qualify for the credits. The change in benchmark month will incentivize trading on the Exchange by making it easier for a member to qualify for these credits. Total volumes in July 2018 were generally higher than they were in December 2018, such that a 20% increase in total volume as a percentage of Consolidated Volume will be easier to achieve relative to December 2018 than it would be relative to July 2018.

The Exchange believes that the proposed change is equitable because it will incentivize increased participation on the Exchange. It is not unfairly discriminatory because it will apply to all similarly situated member firms.

Third Change

The Exchange believes that its proposal is reasonable to add a new credit for orders that access liquidity (excluding orders with Midpoint pegging and those that receive price improvement and execute against an order with a non-displayed price) that are entered by members that, in a given month, remove and access liquidity equal to or in excess of 0.50% of Consolidated Volume during the month. This proposal is reasonable because it will provide new and stronger incentive for members to remove liquidity from the Exchange. The Exchange believes that these proposals are equitable and not unfairly discriminatory because they will apply to all similarly situated member firms.

Fourth Change

The Exchange believes that its proposal is reasonable to eliminate its \$0.0013 per share executed fee for displayed orders entered by a member that adds liquidity equal to or exceeding 0.55% of total Consolidated Volume during a month. The Exchange believes that eliminating this fee tier is reasonable because this fee tier has not been effective in achieving its intended purpose of incentivizing participants to add liquidity to the Exchange. The Exchange has limited resources available to it to devote to the operation of special pricing programs and as such, it is reasonable and equitable for the Exchange to allocate those resources to those programs that are effective and away from those programs that are ineffective. The proposal is also equitable and not unfairly discriminatory because it will apply uniformly to all similarly situated members.

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. 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 and credits 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 and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee or credit changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange's proposals to add to or modify credits and to eliminate fees do not impose a burden on competition because these proposals are reflective of the Exchange's overall efforts to provide greater incentives to market participants that it believes will improve the market, to the benefit of all participants. The Exchange does not believe that any of the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that BX will lose market share as a result of the changes if they are unattractive to market participants.

Likewise, the Exchange's proposed credits, credit amendments, and fee eliminations do not impose a burden on competition because the Exchange's execution

services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. Again, if the proposals are unattractive to market participants, it is likely that the Exchange will lose market share as a result.

Accordingly, the Exchange does not believe that the proposal will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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,¹¹ 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 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.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2018-069)

December __, 2018

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Transaction Fees at Equity 7, Section 118(a).

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 21, 2018, 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 amend the Exchange's transaction fees at Equity 7, Section 118(a), as described further below.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 2, 2018.

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.

¹ 15 U.S.C. 78s(b)(1).

² 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 purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018(a) to: (1) adjust the qualifying terms for certain existing credits it offers to members with orders that access liquidity on the Exchange; (2) offer a new credit for members with orders that access liquidity on the Exchange; and (3) eliminate a fee for members with orders that add liquidity on the Exchange.

First Change

The Exchange operates on the "taker-maker" model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange offers several different credits for orders that access liquidity on the Exchange. Among these credits, the Exchange offers a \$0.0018 per share executed credit for orders that access liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that: (i)

accesses liquidity equal to or exceeding 0.20% of total Consolidated Volume³ during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in May 2018. The Exchange also offers a \$0.0019 per share executed credit for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that: (i) accesses liquidity equal to or exceeding 0.20% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in May 2018.

For these two credits, the Exchange proposes to decrease the applicable volume threshold from 0.20% to 0.15% of total Consolidated Volume during a month. The Exchange proposes to recalibrate the threshold downward to make it easier for firms to reach the Consolidated Volume threshold necessary to qualify for these credits.

The Exchange also proposes to change the benchmark month that it uses to determine whether a member, in a given month, has achieved the requisite 20% increase in liquidity accessed as a percentage of Consolidated Volume to qualify for the credits. Whereas the benchmark month presently is May 2018, the Exchange proposes to change it to December 2018. This change in benchmark month is intended to incentivize market participants to trade on the Exchange by making it easier for a member to qualify for these credits. Volumes in May 2018 were generally higher than they were in December 2018, such that a 20% increase in liquidity accessed as a percentage of Consolidated

³ Pursuant to Equity 7, Section 118(a), the term “Consolidated Volume” means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

Volume will be easier to achieve relative to December 2018 than it would be relative to May 2018.

Second Change

In addition to the credits above, the Exchange also offers other credits for orders that access liquidity on the Exchange. First, the Exchange offers a member a \$0.0018 per share executed credit for its orders that access liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) to the extent that the member, during a given month: (i) has a total volume (including both providing and accessing liquidity) that is equal to or exceeds 0.50% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in July 2018; and (iii) of the 20% or more increase in total volume described above, at least 30% is attributable to adding liquidity. Second, the Exchange offers a member a \$0.0019 per share executed credit for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) to members that satisfy these same three conditions.

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The Exchange also proposes to change the benchmark month that it will use to determine whether, in a given month, a member has achieved a 20% or more increase in total volume so as to qualify for each of the credits. Whereas the benchmark date presently is July 2018 for both credits, the Exchange proposes to change it to December 2018. This change in benchmark month is intended to incentivize market participants to trade on the Exchange by making it easier for a member to qualify for these credits. Total volumes in July 2018 were generally higher than they were in December 2018, such that a 20% increase in total volumes relative to December 2018 will be easier for a member to achieve than it would a 20% increase relative to July 2018.

Third Change

Next, the Exchange proposes to offer a new credit for a member that accesses liquidity in any Tape. Specifically, the Exchange proposes to pay a credit of \$0.0018 per share executed to a member with orders that access liquidity in securities in any Tape (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) where the member accesses liquidity equal to or exceeding 0.50% of total Consolidated Volume during a month.

The Exchange proposes to add this credit to provide a new and simple incentive for members to access liquidity in substantial volumes on the Exchange. The Exchange notes that it already offers members similar, albeit lower, credits for accessing liquidity equal to or exceeding lower threshold percentages of total Consolidated Volume during a given month (\$0.0017 per share executed credit for accessing liquidity equal to or greater than 0.12% of total Consolidated Volume during a month; \$0.0015 per share executed

credit for accessing liquidity equal to or greater than 0.065% of total Consolidated Volume during a month. The proposed credit will offer a member a higher credit than these existing credits for maintaining a higher volume of liquidity accessing activity on the Exchange.

Fourth Change

Finally, the Exchange proposes to eliminate its \$0.0013 per share executed charge for displayed orders entered by a member that adds liquidity equal to or exceeding 0.55% of total Consolidated Volume during a month. This fee tier has not achieved its intended purpose of attracting liquidity to the Exchange. Accordingly, the Exchange proposes to eliminate it.

2. Statutory Basis

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

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).

market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁶

Likewise, in NetCoalition v. Securities and Exchange Commission⁷ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.⁸ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”⁹

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”¹⁰ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

⁶ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

⁷ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

⁸ See NetCoalition, at 534 - 535.

⁹ Id. at 537.

¹⁰ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

First Change

The Exchange believes that it is reasonable to decrease the Consolidated Volume threshold and adjust the benchmark month on its credits for orders that access liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that: (i) accesses liquidity equal to or exceeding 0.20% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in May 2018. As noted above, the Exchange proposes to decrease the volume threshold for these credits from .20% to .15% of total Consolidated Volume and adjust the benchmark month from May 2018 to December 2018.

The Exchange must, from time to time, assess the effectiveness of its credits in achieving their intended objectives and adjust the levels of such credits based on the Exchange's observations of market participant behavior. In this instance, the Exchange has observed that the credits are becoming too difficult for members to achieve. The Exchange proposes to decrease the volume threshold for the credits to make it easier for members to qualify for the credits. Likewise, the Exchange proposes to change the benchmark month that it uses to determine whether a member, in a given month, has achieved the requisite 20% increase in liquidity accessed as a percentage of Consolidated Volume to qualify for the credits. The change in benchmark month will incentivize trading on the Exchange by making it easier for a member to qualify for these credits. Volumes in May 2018 were generally higher than they were in December 2018, such that

a 20% increase in liquidity accessed as a percentage of Consolidated Volume will be easier to achieve relative to December 2018 than it would be relative to May 2018.

The Exchange believes that the proposed change is equitable because it will incentivize increased participation on the Exchange. It is not unfairly discriminatory because it will apply to all similarly situated member firms.

Second Change

The Exchange believes that it is reasonable to decrease the Consolidated Volume threshold and adjust the benchmark month on its credits for orders that access liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that, during a given month: (i) has a total volume (including both providing and accessing liquidity) that is equal to or exceeds 0.50% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in July 2018; and (iii) of the 20% or more increase in total volume described above, at least 30% is attributable to adding liquidity. As noted above, the Exchange proposes to decrease – from 0.50% to 0.40% – the requisite percentage of total Consolidated Volume that a member's total volume must equal for a member to qualify for each of the credits. It also proposes to change the benchmark month from July 2018 to December 2018.

The Exchange must, from time to time, assess the effectiveness of its credits in achieving their intended objectives and adjust the levels of such credits based on the Exchange's observations of market participant behavior. In this instance, the Exchange has observed that the credits are becoming too difficult for members to achieve. The

Exchange proposes to decrease the volume threshold for the credits to make it easier for members to qualify for the credits. Likewise, the Exchange proposes to change the benchmark month that it uses to determine whether a member, in a given month, has achieved the requisite 20% increase in total volume as a percentage of Consolidated Volume to qualify for the credits. The change in benchmark month will incentivize trading on the Exchange by making it easier for a member to qualify for these credits. Total volumes in July 2018 were generally higher than they were in December 2018, such that a 20% increase in total volume as a percentage of Consolidated Volume will be easier to achieve relative to December 2018 than it would be relative to July 2018.

The Exchange believes that the proposed change is equitable because it will incentivize increased participation on the Exchange. It is not unfairly discriminatory because it will apply to all similarly situated member firms.

Third Change

The Exchange believes that its proposal is reasonable to add a new credit for orders that access liquidity (excluding orders with Midpoint pegging and those that receive price improvement and execute against an order with a non-displayed price) that are entered by members that, in a given month, remove and access liquidity equal to or in excess of 0.50% of Consolidated Volume during the month. This proposal is reasonable because it will provide new and stronger incentive for members to remove liquidity from the Exchange. The Exchange believes that these proposals are equitable and not unfairly discriminatory because they will apply to all similarly situated member firms.

Fourth Change

The Exchange believes that its proposal is reasonable to eliminate its \$0.0013 per share executed fee for displayed orders entered by a member that adds liquidity equal to or exceeding 0.55% of total Consolidated Volume during a month. The Exchange believes that eliminating this fee tier is reasonable because this fee tier has not been effective in achieving its intended purpose of incentivizing participants to add liquidity to the Exchange. The Exchange has limited resources available to it to devote to the operation of special pricing programs and as such, it is reasonable and equitable for the Exchange to allocate those resources to those programs that are effective and away from those programs that are ineffective. The proposal is also equitable and not unfairly discriminatory because it will apply uniformly to all similarly situated members.

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. 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 and credits 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 and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee or credit changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange's proposals to add to or modify credits and to eliminate fees do not impose a burden on competition because these proposals are reflective of the Exchange's overall efforts to provide greater incentives to market participants that it believes will improve the market, to the benefit of all participants. The Exchange does not believe that any of the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that BX will lose market share as a result of the changes if they are unattractive to market participants.

Likewise, the Exchange's proposed credits, credit amendments, and fee eliminations do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. Again, if the proposals are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposal will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹¹

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. Please include File Number SR-BX-2018-069 on the subject line.

Paper comments:

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

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-BX-2018-069. 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-2018-069 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

Eduardo A. Aleman
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

Rules of Nasdaq BX

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EQUITY RULES

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Equity 7 Pricing Schedule

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Section 118. Nasdaq BX Equities System Order Execution and Routing

(a) The following charges and credits shall apply to the use of the order execution and routing services of the Nasdaq BX Equities System by members for all securities priced at \$1 or more per share that it trades. As used in this rule, the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. As used in this rule, "price improvement" shall mean instances when the accepted price of an order differs from the executed price of an order.

Credit for entering order that accesses liquidity in the Nasdaq BX Equities System:

...

Order with Midpoint Pegging that removes liquidity \$0.0000 per share executed

Order that accesses liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.50% of total Consolidated Volume during a month: \$0.0018 per share executed

...

Order that accesses liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that \$0.0018 per share executed

receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) accesses liquidity equal to or exceeding ~~[0.20]~~0.15% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in ~~[May]~~December 2018:

Order that accesses liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) accesses liquidity equal to or exceeding ~~[0.20]~~0.15% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in ~~[May]~~December 2018:

\$0.0019 per share executed

Order that accesses liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that, during a given month: (i) has a total volume (accessing and adding liquidity) equal to or exceeding ~~[0.50]~~0.40% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in ~~[July]~~December 2018; and (iii) of the 20% or more increase in total volume described in (ii) herein, at least 30% is attributable to adding liquidity:

\$0.0018 per share executed

Order that accesses liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that, during a given month: (i) has a total volume (accessing and adding liquidity) equal to or exceeding ~~[0.50]~~0.40% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in ~~[July]~~December 2018; and (iii) of the 20% or more increase in total volume described in (ii) herein, at least 30% is attributable to adding liquidity:

...

Charge for providing liquidity through the Nasdaq BX Equities System:

[Displayed order entered by a member that adds liquidity equal to or exceeding 0.55% of total Consolidated Volume during a month:] [\$0.0013 per share executed]

...

* * * * *