

change the substance of those provisions.

Additionally, the Exchange is seeking to amend Rule 414(c) to clarify that the exercise limit exemptions will apply to any member that is granted an exemption to position limits under the rule.

Lastly, the Exchange is seeking to amend Rule 415 to specify that when calculating an aggregate long or short position in options, members need to combine (i) long positions in put options with short positions in call options, and (ii) short positions in put options with long positions in call options.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and

(3) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6)⁷ thereunder.

The proposed rule change makes no substantive changes to the rules. The Exchange believes that this proposed rule change does not raise any new, unique or substantive issues. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "noncontroversial" rule change under paragraph (f)(6) of Rule 19b-4.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2009-62 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2009-62. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of ISE. 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-ISE-2009-62 and should be submitted on or before September 11, 2009.

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

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-20061 Filed 8-20-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60503; File No. SR-BX-2009-046]

Self-Regulatory Organizations; Boston Stock Exchange, Incorporated [sic]; Notice of Filing of Proposed Rule Change To Further Extend the Temporary Cap on Certain Fees for Members

August 14, 2009.

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 August 3, 2009, NASDAQ OMX BX, Inc. ("BX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BX proposes to extend the temporary cap on fees charged for OUCH ports to the Equities Market due to unanticipated delays in developing and implementing an anti-internalization function. The text of the proposed rule change is below. Proposed new language is *italicized*.

* * * * *

7015. Access Services

The following charges are assessed by the Exchange for ports to establish connectivity to the NASDAQ OMX BX Equities Market, as well as ports to receive data from the NASDAQ OMX BX Equities Market:

- \$400 per month for each port pair, other than Multicast ITCH® data feed pairs, for which the fee is \$1000 per month. Additional OUCH port pairs beyond 15 are at no cost for the months of May, June and July 2009. *For August 2009, OUCH port pairs beyond 15 will be assessed a pro rata charge on the basis of the number of trading days during the month during which the anti-internalization functionality introduced by Equity Rule 4757(a)(3) is available to market participants.*

- *Internet Ports:* An additional \$200 per month for each Internet port that requires additional bandwidth.

* * * * *

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

In its filing with the Commission, BX 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. BX 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

BX is proposing to extend the temporary modification to its pricing for OUCH ports, which provide connectivity to the NASDAQ OMX BX Equities Market. In SR-BX-2009-023 and SR-BX-2009-036,³ BX filed

immediately effective rule changes to eliminate fees for a member firm's OUCH ports in excess of 15 for the months of May, June, and July 2009. In those filings, BX noted member firms had complained that, because BX does not have an anti-internalization capability, they must purchase additional OUCH ports that they would otherwise not need to purchase solely to avoid unwanted execution against their customer orders. Internalization occurs when a member firm's customer order is posted on the market and executed all or in part by the same member firm. Member firms must avoid internalization of certain customer orders to avoid violating rules and regulations of the Employee Retirement Income Security Act that preclude and/or limit managing broker-dealers of such customer accounts from trading as principal with orders generated for those accounts. Currently, some member firms are only able to avoid internalization by purchasing additional OUCH ports through which they place all order flow that must not be internalized. Such additional ports have discrete MPID numbers, which allow these member firms to identify the orders and avoid internalization.

BX determined to limit the number of OUCH port pairs that a member is charged monthly to 15 for the months of May, June, and July 2009, so that those firms affected by BX's lack of an anti-internalization function were provided relief until BX could implement such a function. BX noted in its rule change that it would either seek to remove the cap language from the rule upon its expiration or alternatively would seek to extend the cap until such time the anti-internalization function could be implemented. BX has now adopted Equity Rule 4757(a)(3),⁴ through which BX will provide anti-internalization functionality, and expects to implement that functionality on or about August 10, 2009. As such, BX is proposing to further extend the temporary modification of its OUCH port pair pricing into August 2009, assessing a pro rata charge on the basis of the number of trading days during the month during which the anti-internalization functionality introduced by Equity Rule 4757(a)(3) is available to market participants. BX will then seek to remove the cap language from the rule. Thus, if the functionality is introduced on August 10, the fee for

³ 2009-023); Securities Exchange Act Release No. 60257 (July 7, 2009), 74 FR 34060 (July 14, 2009) (SR-BX-2009-036).

⁴ Securities Exchange Act Release No. 60383 (July 24, 2009), 74 FR 38065 (July 30, 2009) (SR-BX-2009-042).

August would be 76.19% of the fee otherwise assessable, reflecting that the functionality would be available for 16 out of the 21 trading days during the month.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Section 6(b)(4) of the Act,⁶ 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 BX operates or controls. The proposed fee change applies uniformly to all BX members. BX has determined that temporarily instituting a cap on fees for OUCH ports in excess of 15 will provide relief to member firms required to purchase additional ports solely due to BX's lack of an anti-internalization function.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor 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 Act⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁸ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(a)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

³ Securities Exchange Act Release No. 59894 (May 8, 2009), 74 FR 23000 (May 15, 2009) (SR-BX-

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-2009-046 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-BX-2009-046. 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 inspection and copying in the Commission's Public Reference Room, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2009-046 and should be submitted on or before September 11, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-20063 Filed 8-20-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60501; File No. SR-NYSE-2009-80]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend its Public Float Requirement for Initial Public Offerings

August 13, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Exchange Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on August 5, 2009, New York Stock Exchange LLC (the "NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("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 its market value of publicly-held shares requirement for initial public offerings ("IPOs"), spin-offs and companies listed under the Exchange's Affiliated Company standard. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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

Section 102.01B of the Manual requires that a company listing at the time of its IPO or as a result of a spin-off or under the Affiliated Company standard of Section 102.01C(iii) must demonstrate an aggregate market value of publicly-held shares ("public float") of \$60 million at the time of listing. The Exchange proposes to reduce this requirement from \$60 million to \$40 million. A reduction in the public float requirement to \$40 million for companies that are new to the public markets will enable companies to list that would not meet the current \$60 million public float requirement but that otherwise qualify to list. The proposed lowering of the public float requirement would be applicable to real estate investment trusts listed under Section 102.05, but not closed-end funds listed under Section 102.04 (which will continue to be subject to a \$60 million public float requirement) or special purpose acquisition companies ("SPACs") listed under Section 102.06 (which are subject to a \$200 million public float requirement). As closed-end funds and SPACs are subject to their own separate listing standards and have characteristics that make them significantly different from operating companies, the Exchange does not believe that it is unfairly discriminatory to apply different public float requirements to them than are applicable to operating companies.

The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest and does not raise any novel regulatory issues. The Exchange notes that the proposed \$40 million public float requirement is higher than the public float requirements under the various Nasdaq Global Market initial listing standards, which range from \$8 million to \$20 million.

The Exchange believes that the proposed amendment does not affect the status of NYSE listed securities under Securities Exchange Act Rule 3a51-1(a) (the "Penny Stock Rule"),⁴ as the amended standards satisfy the requirements of Exchange Act Rule 3a51-1(a)(2).⁵

All of the NYSE's equity listing standards meet the stock price and distribution requirements of Rule 3a51-1(a)(2), as all of the standards require

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 17 CFR 240.a51-1(a).

⁵ 17 CFR 240.a51-1(a)(2).

⁹ 17 CFR 200.30-3(a)(12).