

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-Phlx-2009-76 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-Phlx-2009-76. 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 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-Phlx-2009-76 and should be submitted on or before September 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-21611 Filed 9-4-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60603; File No. SR-BX-2009-049]

**Self-Regulatory Organizations;
NASDAQ OMX BX, Inc.; Notice of Filing
and Immediate Effectiveness of
Proposed Rule Change To Correct an
Error in Rule 7018**

September 1, 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 17, 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. 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 is filing a proposed rule change to correct a typographical error in Rule 7018. The text of the proposed rule change is attached as Exhibit 5³ and is available at <http://nasdaqomxbx.cchwallstreet.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, 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 submitting this filing to correct a typographical error in Rule 7018.⁴ In

SR-BX-2009-018,⁵ BX modified its pricing for execution of orders in securities listed on The NASDAQ Stock Market ("NASDAQ") and the New York Stock Exchange ("NYSE") by, among other things, replacing a charge to access liquidity of \$0.0014 per share executed with a credit of \$0.0006 per share executed. This change was accurately described in the "Purpose" section of BX's Form 19b-4 filing,⁶ in the Commission's notice of the filing on the SEC Web site⁷ and in the **Federal Register**,⁸ in widely disseminated announcements of the pricing change,⁹ and in the pricing schedule that appears on BX's market Web site.¹⁰ However, due to a typographical error, the credit incorrectly appeared as "\$0.006" in Exhibit 5 to the filing. Accordingly, BX is submitting this filing to correct the typographical error. BX has been billing members in accordance with the correct fee since the effective date of the change in April 2009, and accordingly believes that all of its members that trade on the NASDAQ OMX BX Equities System are cognizant of the correct fee.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹¹ in general, and with Section 6(b)(5) of the Act,¹² in particular, in that it is designed to remove impediments to and perfect the mechanism of a fee [sic] and open market and a national market system. The proposed rule change corrects a typographical error in BX Rule 7018.

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

BX 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.

⁵ Securities Exchange Act Release No. 59682 (April 1, 2009), 74 FR 16015 (April 8, 2009) (SR-BX-2009-018).

⁶ See <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/pdf/bx-filings/2009/SR-BX-2009-018.pdf>.

⁷ See <http://www.sec.gov/rules/sro/bx/2009/34-59682.pdf>.

⁸ See Securities Exchange Act Release No. 59682 (April 1, 2009), 74 FR 16015 (April 8, 2009) (SR-BX-2009-018).

⁹ See <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2009-16>.

¹⁰ See http://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing.

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission notes that Exhibit 5 is attached to the filing, but is not attached to this Notice.

⁴ The Commission notes that, as with all filings submitted under Section 19(b)(3)(A) of the Act, the filing is effective on the date it was filed, in this case August 17, 2009.

¹⁵ 17 CFR 200.30-3(a)(12).

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)(iii) of the Act¹³ and subparagraph (f)(3) of Rule 19b-4 thereunder.¹⁴ 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-BX-2009-049 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-2009-049. 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 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 publicly available. All submissions should refer to File Number SR-BX-2009-049 and should be submitted on or before September 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-21667 Filed 9-4-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60611; File No. SR-NASDAQ-2009-077]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify the Procedures Followed When a Listed Company Falls Below Certain Listing Requirements

September 2, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 1919b-4 thereunder,² notice is hereby given that on August 17, 2009, The NASDAQ Stock Market LLC ("Nasdaq") 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 Nasdaq. 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

Nasdaq proposes to modify the procedures followed when a listed company falls below certain listing

requirements. Nasdaq will implement the proposed rule upon approval.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in brackets.³

5810. Notification of Deficiency by the Listing Qualifications Department

When the Listing Qualifications Department determines that a Company does not meet a listing standard set forth in the Rule 5000 Series, it will immediately notify the Company of the deficiency. As explained in more detail below, deficiency notifications are of four types:

(1)-(4) No change.

Notifications of deficiencies that allow for submission of a compliance plan or an automatic cure or compliance period may result, after review of the compliance plan or expiration of the cure or compliance period, in issuance of a Staff Delisting Determination or a Public Reprimand Letter.

(a)-(b) No change.

IM-5810-1. No change.

(c) Types of Deficiencies and Notifications.

The type of deficiency at issue determines whether the Company will be immediately suspended and delisted, or whether it may submit a compliance plan for review or is entitled to an automatic cure or compliance period before a Staff Delisting Determination is issued. In the case of a deficiency not specified below, Staff will issue the Company a Staff Delisting Determination or a Public Reprimand Letter.

(1) No change.

(2) Deficiencies for which a Company may Submit a Plan of Compliance for Staff Review.

(A) Unless the Company is currently under review by an Adjudicatory Body for a Staff Delisting Determination, the Listing Qualifications Department may accept and review a plan to regain compliance when a Company is deficient with respect to one of the standards listed in subsections (i) through (iv) below. In accordance with Rule 5810(c)(2)(C), plans provided pursuant to subsections (i) through (iii) below must be provided generally within [15] 45 calendar days, and in accordance with Rule 5810(c)(2)(F), plans provided pursuant to subsection (iv) must be provided generally within 60 calendar days.

(i)-(iv) No change.

IM-5810-2. No change.

¹³ 15 U.S.C. 78s(b)(3)(a)(iii).

¹⁴ 17 CFR 240.19b-4(f)(3).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.1919b-4.

³ Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at <http://nasdaqomx.cchwallstreet.com>.