

exchange rebates offered for hidden liquidity by BATS (rebate of \$0.0017 per share), Nasdaq tiered rate of .0010/.0015), and NYSE Arca (rebate of \$0.0015 per share). The Exchange believes that the proposed rebate is non-discriminatory in that it applies uniformly to all Members.

The Exchange believes that the proposed elimination of the FIX (ECN Translator) logical port fee represents an equitable allocation of reasonable dues, fees, and other charges as the ECN Translator is no longer used by any Members and therefore, its elimination will not impact any Members. The proposed elimination of the fee also provides more simplicity to the fee schedule.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule changes reflect a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

#### *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 unsolicited written comments from members or other interested parties.

#### **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) [sic] of the Act<sup>12</sup> and Rule 19b-4(f)(2)<sup>13</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **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-EDGX-2011-31 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-EDGX-2011-31. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 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-EDGX-2011-31 and should be submitted on or before November 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2011-26857 Filed 10-17-11; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-65536; File No. SR-NASDAQ-2011-140]

### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Minimum Quantity Order**

October 12, 2011.

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 September 30, 2011, 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 is filing this proposed rule change to modify the operation of its Minimum Quantity Order. NASDAQ proposes to implement the rule change on a date that is at least thirty days after the date of the filing, but prior to November 30, 2011. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at NASDAQ's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 19b-4(f)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

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**

In order to provide enhanced functionality, NASDAQ is proposing to modify the functionality of its Minimum Quantity Order. Minimum Quantity Orders allow a market participant to specify a minimum share amount that the market participant seeks to obtain; accordingly, a Minimum Quantity Order will not execute unless the volume of liquidity available to execute against the order exceeds the designated minimum. A Minimum Quantity Order provides a means by which a market participant may avoid partial executions of orders at sizes that it considers inadequate to achieve its purposes. For example, a market participant seeking to sell a large position in a trading session with high volatility may use the order type to avoid selling only a small portion of the order at the price it considers acceptable.

Currently, Minimum Quantity Orders must be designated with a time-in-force of System Hours Immediate or Cancel or Market Hours Immediate or Cancel. As a result, the order can only be used to "ping" the NASDAQ book to see if there is any posted liquidity that would allow the minimum execution. NASDAQ is proposing to remove this restriction so that a Minimum Quantity Order could post to the book if it cannot be executed immediately. Once posted, the order will execute if an incoming order that is marketable against it would satisfy its minimum quantity requirement. A Minimum Quantity Order that posts to the book is not displayed. Upon entry, a Minimum Quantity Order must have a size and a minimum quantity condition of at least one round lot.

In the event that the shares remaining in the size of a Minimum Quantity Order following a partial execution are less than the minimum quantity specified by the market participant entering the order, the minimum quantity value of the order will be reduced to the number of shares remaining. Thus, for example, if a market participant entered a Minimum Quantity Order with a size of 1,000 and a minimum quantity of 500, and the order was marketable against a 600 share order on the book, the remaining 400 shares of the Minimum Quantity Order would post to the book with a minimum quantity restriction of 400 shares.

**2. Statutory Basis**

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>3</sup> in general, and with Section 6(b)(5) of the Act,<sup>4</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, NASDAQ believes that the change to the functioning of the Minimum Quantity Order will provide market participants with better control over their trading patterns, thereby providing them with greater potential to improve the quality of their order executions.

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

NASDAQ 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. The changes to the Minimum Quantity Order will enhance the functionality offered by NASDAQ to its members, thereby promoting its competitiveness with other exchanges and non-exchange trading venues that already offer similar functionality.

*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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(6) thereunder.<sup>6</sup>

<sup>3</sup> 15 U.S.C. 78f.

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change 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-NASDAQ-2011-140 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-NASDAQ-2011-140. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NASDAQ. 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–NASDAQ–2011–140 and should be submitted on or before November 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011–26856 Filed 10–17–11; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65538; File No. SR–BX–2011–070]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Fee Schedule

October 12, 2011.

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 October 5, 2011, NASDAQ OMX BX, Inc. (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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b–4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

NASDAQ OMX BX, Inc. (the “Exchange”) proposes to amend the Fee Schedule of the Boston Options Exchange Group, LLC (“BOX”). Changes to the BOX Fee Schedule pursuant to this proposal will be effective upon filing. The text of the proposed rule change is available from the principal office of the Exchange, at the

Commission’s Public Reference Room and also on the Exchange’s Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>.

#### 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 self-regulatory organization 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

As set forth in greater detail below, the Exchange proposes several changes to the BOX Fee Schedule to reflect the implementation of fees for Professional<sup>5</sup> accounts, and for the BOX Solicitation Auction and Facilitation Auction mechanisms.<sup>6</sup>

###### Section 1 Trading Fees for Public Customer Accounts

Currently, the trading fee for Public Customers in Section 1a of the BOX Fee Schedule is \$0.15 per executed contract of an Improvement Order for a Public Customer that is not submitted as a Customer Price Improvement Period Order for the Price Improvement Period (“non-CPO” in the “PIP”).<sup>7</sup> The Exchange proposes to add to Section 1a the same \$0.15 fee per executed contract for Responses in the Solicitation and Facilitation Auction mechanisms.

Additionally, the fee in Section 1b is \$0.25 per executed contract for Primary

Improvement Orders for a Public Customer. The Exchange proposes to add to Section 1b a \$0.25 fee per executed contract for Facilitation Orders and Solicitation Orders for Public Customers.

Currently, the fee for Public Customers in Section 1c is \$0.07 per executed contract for all non-PIP transactions. The Exchange proposes to amend Section 1c to expand this applicable fee to all non-Auction Transactions and define the term “Auction Transactions” to include all transactions executed through PIP, the Solicitation Auction mechanism, and the Facilitation Auction mechanism.

###### Section 2 Trading Fees for Professional Accounts

The Exchange proposes to add the Trading Fees For Professional Accounts as Section 2 of the BOX Fee Schedule and renumber the Trading Fees For Broker Dealer Proprietary Accounts as Section 3 and Market Maker Trading Fees as Section 4.

The Exchange proposes that Professional accounts pay the same fees as set forth for Public Customers in Section 1 of the Fee Schedule for all Auction Transactions. The Exchange also proposes that Professional accounts pay \$0.20 per executed contract for all non-Auction Transactions.<sup>8</sup>

The Exchange also proposes to add Professional to the account types listed in Section 7a of the Fee Schedule that specifies the Fees for Adding Liquidity and Credits for Removing Liquidity in transactions on the BOX Book (non-Auction Transactions). These Fees and Credits for non-Auction Transactions are the same across all account types, now proposed to include Professional accounts, and the Exchange is not proposing any change to these Fees and Credits at this time.

###### Section 3 Broker Dealer Fees and Section 4 Market Maker Fees

The Exchange proposes to amend the Fee Schedule to correspond with the proposed change in Section 1c of the Fee Schedule to change references to PIP transactions to Auction Transactions so as to include transactions in the Solicitation and Facilitation Auction mechanisms. Additionally, the Exchange proposes that broker-dealers and market makers pay the same fees for non-Auction Transactions as they currently pay for non-PIP transactions. No change to

<sup>5</sup> See Securities Exchange Act Release No. 65036 (August 4, 2011) 76 FR 49517 (August 10, 2011) (SR–BX–2011–049) (Notice of Filing and Immediate Effectiveness To Adopt a Definition of “Professional” and Require That Professional Orders Be Appropriately Marked by BOX Options Participants). See also BOX Trading Rules Chapter I, Section 1(a)(52). The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>6</sup> See Securities Exchange Act Release No. 65387 (September 23, 2011) (SR–BX–2011–034) (Order Approving Amending the BOX Trading Rules to Establish Facilitation and Solicitation Auction Mechanisms).

<sup>7</sup> See Price Improvement Period (“PIP”) in Chapter V, Section 18 of the BOX Trading Rules.

<sup>8</sup> By comparison to Professional accounts, Trading Fees for non-Auction Transactions are \$0.07 per executed contract for Public Customers and \$0.40 per executed contract for Broker-Dealer Proprietary Accounts.

<sup>7</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

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

<sup>4</sup> 17 CFR 240.19b–4(f)(2).