

opposing the proposed rule change.⁷ On July 16, 2012, United States Senator Carl Levin submitted a comment letter opposing the proposed rule change.⁸ Additionally, on July 19, 2012, the Commission received a comment letter from another party opposing the proposed rule change.⁹

The Commission initiated proceedings on July 19, 2012, to determine whether to approve or disapprove the proposed rule change.¹⁰ In the Order Instituting Proceedings, the Commission solicited responses to specified questions.¹¹ The initial comments for the proceeding were due on August 24, 2012, and the Commission received four comment letters;¹² rebuttal comments were due on September 10, 2012, and the Commission received two comment letters.¹³ The Commission received an additional comment letter on September 12, 2012.¹⁴

Section 19(b)(2) of the Act¹⁵ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule

change was published for notice and comment in the **Federal Register** on April 20, 2012. The 180th day after publication of the notice of the filing of the proposed rule change in the **Federal Register** is October 17, 2012.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, the issues raised in the comment letters that have been submitted in response to the proposed rule change, including comment letters submitted in response to the Order Instituting Proceedings, and the Exchange's responses to such comments. The Commission also finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the data that has been provided by the commenters to support their positions.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁶ designates December 14, 2012, as the date by which the Commission should either approve or disapprove the proposed rule change (SR–NYSEArca–2012–28).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24740 Filed 10–5–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67967; File No. SR–BX–2012–062]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer Members the Ability To Pay a Regulatory Fine Pursuant to an Installment Plan

October 2, 2012.

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 September 24, 2012, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the

proposed rule change as described in Items I and II 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 the Substance of the Proposed Rule Change

The Exchange proposes a rule change to offer members the ability to pay a regulatory fine pursuant to an installment plan, under certain conditions. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com>, at the Exchange'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 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 amend Rule 8320 governing “Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay” to offer members the ability to pay a regulatory fine pursuant to an installment plan, under certain conditions. In order for a member to be eligible to pay a regulatory fine via an installment plan, the fine under the applicable letter of acceptance, waiver, and consent (“AWC”)³ must be \$50,000 or more. A fine of less than \$50,000 is not eligible for the installment plan. When submitting its AWC, the member must check the installment plan option on the election of payment form included with the AWC. A sample election of payment form and AWC are included in Exhibit 3⁴ to this proposed rule change. A down payment of twenty-five percent

⁷ See letter from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated July 13, 2012.

⁸ See letter from U.S. Senator Carl Levin, to Elizabeth M. Murphy, Secretary, Commission, dated July 16, 2012.

⁹ See web comment from Suzanne H. Shatto.

¹⁰ See Securities Exchange Act Release No. 67470, 77 FR 43620 (July 25, 2012) (“Order Instituting Proceedings”).

¹¹ See *id.* at 43626–28.

¹² See letters from Janet McGinness, General Counsel, NYSE Markets, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated August 23, 2012; Joe Williamson, Senior Vice President, Strategic Sourcing, Southwire Company; Janet Sander, Vice President, Director of Purchasing, Encore Wire Corporation; Ron Beal, Executive Vice President, Tubes Division, Luvata; and Mark Woehnkler, President, Amrod Corp., to Elizabeth M. Murphy, Secretary, Commission, dated August 23, 2012; Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012; and John G. Crowley, Davis Polk & Wardwell LLP (“DP”), to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012.

¹³ See letter from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012; and letter from John G. Crowley, DP, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012.

¹⁴ See letter from John G. Crowley, DP, to Elizabeth M. Murphy, Secretary, Commission, dated September 12, 2012.

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30–3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See BX Rule 9216(a).

⁴ The Commission notes that Exhibit 3 is an exhibit to the proposed rule change, not to this Notice.

(25%) or more of the total fine must be submitted with the signed AWC.

After receipt of the AWC and down payment, an installment package, including a promissory note and payment schedule, will be mailed to the member. A sample promissory note and payment schedule are included in Exhibit 3 to this proposed rule change. The member must then submit an executed (signed and notarized) promissory note for the unpaid balance of the fine, along with its first installment payment. The term of the installment plan may not exceed four years after the execution of the AWC. The member may elect monthly or quarterly payments.

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)(5) of the Act,⁶ 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. In addition, BX believes that the proposed rule change is consistent with the provisions of Section 6(b)(6) and 6(b)(7) of the Act,⁷ which require an exchange to provide fair procedures for the disciplining of members and persons associated with members. Specifically, BX believes that the proposal will promote the settlement of disciplinary cases by allowing members to make installment payments. BX believes that settlement is a beneficial method of disciplining members because it imposes meaningful sanctions on the member while avoiding the cost and uncertainty of a protracted disciplinary proceeding. BX further believes that affording members with the opportunity to pay a regulatory fine over a period of time may allow BX to impose higher fines in appropriate circumstances and diminish the risk that sanctioned members will fail to pay.

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

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 Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that BX may offer members that are contemplating the execution of an AWC the option of entering into an installment arrangement as soon as possible. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will provide members the option of paying large fines in installments. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹²

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² For the purposes of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency,

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.

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 email to rule-comments@sec.gov. Please include File Number SR-BX-2012-062 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-2012-062. This file number should be included on the subject line if email 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from

competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(6) and (b)(7).

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2012-062, and should be submitted on or before October 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-24742 Filed 10-5-12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67966; File No. SR-Phlx-2012-117]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer Members and Member Organizations the Ability To Pay a Regulatory Fine Pursuant to an Installment Plan

October 2, 2012.

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 September 26, 2012, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, 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 the Substance of the Proposed Rule Change

The Exchange proposes a rule change to offer members and member organizations the ability to pay a regulatory fine pursuant to an installment plan, under certain conditions. The text of the proposed rule change is available at <http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx>, [sic] at the Exchange'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 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

Phlx is proposing to amend Rule 52 governing "Fees, Dues and Other Charges" to offer members and member organizations the ability to pay a regulatory fine pursuant to an installment plan, under certain conditions. In order for a member or member organization to be eligible to pay a regulatory fine via an installment plan, the fine under the applicable offer of settlement³ must be \$50,000 or more. A fine of less than \$50,000 is not eligible for the installment plan. When submitting its offer of settlement, the member or member organization must check the installment plan option on the election of payment form included with the offer of settlement. A sample election of payment form and offer of settlement are included in Exhibit 3⁴ to this proposed rule change. A down payment of twenty-five percent (25%) or more of the total fine must be submitted with the signed offer of settlement.

After receipt of the offer of settlement and down payment, an installment package, including a promissory note and payment schedule, will be mailed to the member or member organization. A sample promissory note and payment schedule are included in Exhibit 3 to this proposed rule change. The member or member organization must then submit an executed (signed and notarized) promissory note for the unpaid balance of the fine, along with its first installment payment. The term of the installment plan may not exceed four years after the execution of the offer of settlement. The member or member organization may elect monthly or quarterly payments.

2. Statutory Basis

Phlx 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)(5) of the Act,⁶ 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. In addition, Phlx believes that the proposed rule change is consistent with the provisions of Section 6(b)(6) and 6(b)(7) of the Act,⁷ which require an exchange to provide fair procedures for the disciplining of members and persons associated with members. Specifically, Phlx believes that the proposal will promote the settlement of disciplinary cases by allowing members and member organizations to make installment payments. Phlx believes that settlement is a beneficial method of disciplining members and member organizations because it imposes meaningful sanctions on the member while avoiding the cost and uncertainty of a protracted disciplinary proceeding. Phlx further believes that affording members and member organizations with the opportunity to pay a regulatory fine over a period of time may allow Phlx to impose higher fines in appropriate circumstances and diminish the risk that sanctioned members or member organizations will fail to pay.

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

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

³ See Phlx Rule 960.7.

⁴ The Commission notes that Exhibit 3 is an exhibit to the proposed rule change, not to this Notice.

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(6) and (b)(7).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.