

Parts A and B. The remaining text will reflect the existing fees.

## 2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(4) of the Act,<sup>7</sup> 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 NASDAQ operates or controls.

The Exchange believes that the amendment to the BATS Professional Routing Fee is reasonable because it seeks to recoup costs that are incurred by the Exchange when routing Professional orders to BATS on behalf of its members. Each destination market's transaction charge varies and there is a standard clearing charge for each transaction incurred by the Exchange. The Exchange believes that the proposed Professional Routing Fee would enable the Exchange to recover the professional taker fee assessed by BATS, plus clearing fees for the execution of Professional orders. The Exchange also believes that the proposed Routing Fee is equitable and not unfairly discriminatory because it would be uniformly applied to all Professionals.

In addition, the Exchange believes that the proposed amendments to Exchange Rule 7053 are reasonable, equitable and not unfairly discriminatory because the amendments seek to remove outdated and unnecessary language from the Rule text. The amendments will clarify the current Rule for all NOM Participants.

NASDAQ is one of nine options market in the national market system for standardized options. Joining NASDAQ and electing to trade options is entirely voluntary. Under these circumstances, NASDAQ's fees must be competitive and low in order for NASDAQ to attract order flow, execute orders, and grow as a market. NASDAQ thus believes that its fees are fair and reasonable and consistent with the Exchange Act.

### *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.

### *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<sup>8</sup> and paragraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder. 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2011-151 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-2011-151. 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, 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-NASDAQ-2011-151 and should be submitted on or before December 14, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2011-30191 Filed 11-22-11; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-65780; File No. SR-BX-2011-076]**

### **Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Perform a Test of Routing Functionality**

November 17, 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 November 10, 2011, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") 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 Substance of the Proposed Rule Change**

BX is filing this proposed rule change to allow a limited use of its broker-dealer affiliate, Nasdaq Execution

<sup>10</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>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

Services LLC (“NES”), to perform a test of routing functionality to be introduced by the Exchange. BX proposes to implement the rule change prior to November 14, 2011. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com>, at BX’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

As provided in Rule 4758, BX recently adopted rules that will allow it to route orders to other trading venues for execution.<sup>3</sup> Routing will be performed by NES, a registered broker-dealer that is an affiliate of the Exchange. In order to ensure that the routing functionality is operating properly prior to making it available to members, the Exchange proposes to use NES to perform test trades in an actual security, so as to track the performance of the systems to be used by the Exchange from order entry to clearance and settlement.

The test will be performed through two buy orders for 100 shares in a highly liquid security, such as the Power Shares QQQ Trust. Upon the execution of each buy order, NES will enter an offsetting sell order in the same security for the same quantity, in order to close out the test position and minimize financial impact on the Exchange. For the buy orders, NES will submit a routable marketable limit order with a time-in-force of Immediate or Cancel to the Exchange, with instructions to route to a directed away market. The Exchange will then deliver the order to NES, as the routing broker, which will route to the designated away market and receive an execution back.

<sup>3</sup> Securities Exchange Act Release No. 65470 (October 3, 2011), 76 FR 62489 (October 7, 2011) (SR-BX-2011-048).

The first offsetting sell order will be handled in a similar manner. The second offsetting sell order will be executed at the Exchange itself, to ensure that the Exchange’s systems are correctly distinguishing between routed and non-routed trades. To the extent that the offsetting trades require the Exchange to pay out funds, the funds will be provided out of the cash accounts of the Exchange; to the extent that the trades result in a profit, the funds will be deposited in the cash accounts of the Exchange.

#### 2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>4</sup> in general, and with Section 6(b)(5) of the Act,<sup>5</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, BX believes that the change will allow it to perform adequate testing of its systems for routing member orders before such systems become operational. The Exchange believes that adequate testing of market functionality is an important component of the operation of the national market system.

### 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.

### 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 significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its

<sup>4</sup> 15 U.S.C. 78f.

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

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to conduct a limited test to assess the performance of its routing functionality and related systems prior to implementation and use by its members. The Exchange believes that a limited test prior to the launch of its routing functionality will assist the Exchange in uncovering and fixing any potential “bugs” so as to increase the likelihood of a successful implementation. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to conduct a limited test without undue delay to ensure that its routing functionality and related systems are operating properly prior to implementation. Therefore, the Commission designates the proposal operative upon filing.<sup>8</sup>

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:

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of 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 Exchange has satisfied this requirement.

<sup>8</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

*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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2011-076 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-2011-076. 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, 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 available publicly. All submissions should refer to File Number SR-BX-2011-076 and should be submitted on or before December 14, 2011.

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

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2011-30179 Filed 11-22-11; 8:45 a.m.]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-65774; File No. SR-CBOE-2011-108]

**Self-Regulatory Organizations;  
Chicago Board Options Exchange,  
Incorporated; Notice of Filing and  
Immediate Effectiveness of a Proposed  
Rule Change To Expand the Weeklys  
Program**

November 17, 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 November 14, 2011, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Rules 5.5 and 24.9 to increase the number of option classes on which Short Term Options Series ("Weekly options") may be opened in the Exchange's Short Term Option Series Program ("Weeklys Program") from 15 to 25 classes.<sup>5</sup> The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, and at the Commission.

**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 those 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 parts 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 this proposed rule change is to amend Rules 5.5 and 24.9 by increasing the number of option classes on which Weekly options may be opened in the Exchange's Weeklys Program.<sup>6</sup> Currently, the Exchange may select up to 15 currently listed option classes on which Weekly options may be opened in the Weeklys Program.<sup>7</sup> The Exchange is proposing to increase this to a total of 25 classes on which Weekly options may be opened for trading. This is a competitive filing and is based on certain aspects of filings previously submitted by International Securities Exchange, LLC ("ISE"), The NASDAQ Stock Market LLC for the NASDAQ Options Market ("NOM"), and NASDAQ OMX PHLX, Inc. ("PHLX").<sup>8</sup>

<sup>6</sup> On July 12, 2005, the Commission approved the Weeklys Program on a pilot basis. See Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR-CBOE-2004-63). The Weeklys Program was made permanent on April 27, 2009. See Securities Exchange Act Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018).

<sup>7</sup> The Exchange previously increased the total number of classes on which Weekly options may be opened from 5 to 15 classes. See Securities Exchange Act Release No. 63877 (February 9, 2011), 76 FR 8794 (February 15, 2011) (SR-CBOE-2011-012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand the Short Term Option Series Program).

<sup>8</sup> See Securities Exchange Act Release Nos. 65503 (October 6, 2011), 76 FR 63691 (October 13, 2011) (SR-ISE-2011-60); 65528 (October 11, 2011), 76 FR 64142 (October 17, 2011) (SR-NASDAQ-2011-138) and 65529 (October 11, 2011), 76 FR 64144 (October 17, 2011) (SR-PHLX-2011-131).

CBOE notes that on September 19, 2011, it formally submitted a filing to the Commission to increase the number of strikes that may be listed per class that participates in the Weeklys Program. That filing was noticed by the Commission on September 30, 2011. See Securities Exchange Act Release No. 65445 (September 30, 2011), 75 FR 62102 (October 6, 2011) (noticing SR-CBOE-2011-086). On September 23, 2011, ISE formally submitted a filing to the Commission similarly proposing to increase the number of strikes per class that participates in ISE's Weeklys Program. However, in that filing ISE also requested to increase the number of classes (from 15 to 25) that are eligible to participate in ISE's Weeklys Program. CBOE's current filing is competitive in that it seeks to permit CBOE to increase the number of classes that may participate in its Weeklys Program at the same time similar changes become operative at other exchanges.

<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)(iii).

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

<sup>5</sup> This rule filing assumes that proposed changes to Rules 5.5(d)(1) and 24.9(A)(i) contained in a separate rule filing are effective. See Securities Exchange Act Release No. 65445 (September 30, 2011), 75 FR 62102 (October 6, 2011) (noticing SR-CBOE-2011-086, which proposes to increase the number of series permitted per class in the Weeklys Program from 20 series to 30 series).

<sup>9</sup> 17 CFR 200.30-3(a)(12).