

also be required to submit such Trades to ICE Clear Europe following such acceptance as quickly as would be practicable if fully automated systems were used.

ICE Clear Europe believes that the proposed rule changes are consistent with the purposes and requirements of Section 17A of the Act and the rules and regulations thereunder applicable to it. ICE Clear Europe believes that implementing the CFTC's clearing certainty requirements will comply with the Act and the rules and regulations thereunder.

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

ICE Clear Europe does not believe that the proposed rule change will have any impact or impose any burden on competition.

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

ICE Clear Europe has not solicited and does not intend to solicit comments regarding this proposed rule change. ICE Clear Europe has not received any unsolicited written comments from interested parties.

### III. 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 may be submitted by using 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 No. SR-ICEEU-2012-07 on the subject line.

- Paper comments should be sent 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-ICEEU-2012-07. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at <https://www.theice.com/notices/Notices.shtml>. 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-ICEEU-2012-07 and should be submitted on or before November 2, 2012.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b) of the Act<sup>3</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to ICE Clear Europe.<sup>4</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions because the proposed rule change should allow ICE Clear Europe to incorporate into its CDS Procedures language that articulates the time frame in which trades must be accepted or rejected under new CFTC rules.<sup>5</sup>

In its filing, ICE Clear Europe requested that the Commission approve this proposed rule change on an accelerated basis for good cause shown. ICE Clear Europe cites as the reason for

this request ICE Clear Europe's operation as a DCO, which is subject to regulation by the CFTC under the CEA. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because the proposed rule change allows ICE Clear Europe to implement the regulations of another federal regulatory agency, the CFTC, in accordance with those regulations' effective date.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-ICEEU-2012-07) is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

Kevin M. O'Neill,  
Deputy Secretary.

[FR Doc. 2012-25103 Filed 10-11-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67994; File No. SR-NASDAQ-2012-107]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees Assessed Under Rule 7003(a)

October 5, 2012.

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 27, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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

NASDAQ proposes to modify fees assessed under Rule 7003(a) relating to the Central Registration Depository ("CRD system"), which are collected by FINRA. NASDAQ is proposing that the implementation date of the proposed

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

<sup>4</sup> 15 U.S.C. 78q-1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</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.

rule change will be January 2, 2013. 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, NASDAQ 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 III [sic] 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

NASDAQ is amending its fees assessed under Rule 7003(a) to reflect a recent fee change made by FINRA,<sup>3</sup> relating to the CRD system.<sup>4</sup> The fees assessed under Rule 7003(a) are collected and retained by FINRA via the CRD system for the registration of associated persons of NASDAQ members that are not also FINRA members. NASDAQ originally adopted the fees under Rule 7003(a) to mirror the fees assessed by FINRA on its members for use of the CRD system.<sup>5</sup> FINRA recently amended the fees assessed for use of the CRD system, which will become effective January 2, 2013.<sup>6</sup> The CRD system fees are use-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a member of an exchange that is not a FINRA member. Accordingly, NASDAQ is proposing to amend the fees under Rule 7003(a) to mirror those assessed by FINRA, which will be

<sup>3</sup> See Securities Exchange Act Release No. 67247 (June 25, 2012), 77 FR 38866 (June 29, 2012) (SR-FINRA-2012-030).

<sup>4</sup> The CRD system is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

<sup>5</sup> See Securities Exchange Act Release No. 54264 (August 2, 2006), 71 FR 45590 (August 9, 2006) (SR-NASDAQ-2006-015). See also, Section 4(b)(3) of Schedule A to the FINRA By-Laws.

<sup>6</sup> *Supra* note 3.

implemented concurrently with the amended FINRA fees on January 2, 2013.<sup>7</sup>

In addition to increasing the existing CRD system fees, FINRA adopted a new fee for the additional processing of each initial or amended Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings.<sup>8</sup> Member firms use the Form BD to, among other things, report disclosure matters in which they or a control affiliate have been involved. Prior to the adoption of the new fee, FINRA did not have a fee designed to cover the costs associated with the review of Form BD notwithstanding the review is similar to that performed of member firms' Forms U4 and U5. Such reviews include confirming that the matter is properly reported; reviewing any documentation submitted and determining whether additional documentation is required; conducting any necessary independent research; and, depending on the matter reported, analyzing whether the event or proceeding subjects the individual or member to a statutory disqualification pursuant to Section 3(a)(39) of the Act.<sup>9</sup> FINRA adopted a \$110 fee for the review of a Form BD, which mirrors the increased fee adopted for the review of Forms U4 and U5. As such, NASDAQ is adopting the identical fee for FINRA's review of a Form BD submitted by NASDAQ members that are not members of FINRA.

NASDAQ is proposing that the implementation date of the proposed rule change will be January 2, 2013. Specifically, the proposed initial/transfer registration, disclosure filing, and fingerprint fees would become effective for filings or fingerprints submitted on or after January 2, 2013. Lastly, the proposed system processing fee would become effective for the 2013 Renewal Program.<sup>10</sup>

<sup>7</sup> NASDAQ notes that it is not adopting all of the changes made in the FINRA filing. Certain fees and requirements are specific to FINRA and NASDAQ elected to not adopt them because either such a fee did not apply to NASDAQ-only members or such fees did not directly cover the costs associated with the use of the CRD system. For example, under FINRA Section 4(h) of Schedule A FINRA assesses a fee of \$10 per day, up to \$300 for each day that a new disclosure event or a change in the status of a previously reported disclosure event is not timely filed on an initial or amended Form U5 or an amended Form U4. This fee provides a financial incentive to a FINRA member to file its Forms U4 and U5 timely. NASDAQ elected to not adopt such a fee applicable to its members that are not also FINRA members.

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. 78c(a)(39).

<sup>10</sup> As part of FINRA's 2013 Renewal Program, Preliminary Renewal Statements reflecting the proposed \$45 system processing fee will be made available to members in the fourth quarter of 2012.

#### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>11</sup> in general, and with Section 6(b)(4) of the Act<sup>12</sup> and Section 6(b)(5) of the Act,<sup>13</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 the Exchange operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. All similarly situated members are subject to the same fee structure, and every member firm must use the CRD system for registration and disclosure.

The change is reasonable because the proposed fees are identical to those adopted by FINRA for use of the CRD system for disclosure and the registration of associated persons of FINRA members. As FINRA noted in amending its fees, it believed the fees are reasonable based on the increased costs associated with operating and maintaining the CRD system, and listed a number of enhancements made to the CRD system since the last fee increase, including: (1) Incorporation of various uniform registration form changes; (2) electronic fingerprint processing; (3) Web EFT™, which allows subscribing firms to submit batch filings to the CRD system; (4) increases in the number and types of reports available through the CRD system; and (5) significant changes to BrokerCheck, including making BrokerCheck easier to use and expanding the amount of information made available through the system. These increased costs are similarly borne by FINRA when a member of NASDAQ that is not a member of FINRA uses the CRD system.

Accordingly, the fees collected for such use should likewise increase in lockstep with the fees assessed FINRA members, as is proposed by NASDAQ.

The proposed change, like FINRA's proposal, is consistent with an equitable allocation of fees because the fees will apply equally to all individuals and members required to report information to the CRD system. Thus, those members that register more individuals or submit more filings through the CRD system will generally pay more in fees than those members that use the CRD system to a lesser extent.

<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

### *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.

### *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**

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>14</sup> NASDAQ has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2012-107 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-2012-107. 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 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-2012-107, and should be submitted on or before November 2, 2012.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-67995; File No. SR-BX-2012-066]**

#### **Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Inbound Routing From an Affiliated Exchange**

October 5, 2012.

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 28, 2012, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") filed

<sup>15</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.

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**

The Exchange proposes to continue to accept inbound orders routed by Nasdaq Execution Services LLC ("NES") from the NASDAQ OMX PSX facility ("PSX") of NASDAQ OMX PHLX LLC ("PHLX") (with the attendant obligations and conditions), as described further below, for an additional six month pilot period. 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 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

Currently, NES is the approved outbound routing facility of PSX, providing outbound routing to other market centers.<sup>3</sup> The Exchange and PSX have previously adopted rules to permit BX to receive inbound routes of certain orders by NES in its capacity as an order routing facility of PSX.<sup>4</sup> The Exchange specifically has adopted a rule to prevent potential informational advantages resulting from the affiliation between BX and NES, as related to NES's authority to route certain orders from PSX to BX.<sup>5</sup> NES's authority to

<sup>3</sup> PHLX Rule 3315(b).

<sup>4</sup> See Securities Exchange Act Release Nos. 65514 (October 7, 2011), 76 FR 63969 (October 14, 2011) (SR-BX-2011-066); and 65469 (October 3, 2011), 76 FR 62486 (October 7, 2011) (SR-Phlx-2011-108).

<sup>5</sup> See BX Rule 2140(c).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).