

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67402; File No. SR-NASDAQ-2012-080]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to BX Options Routing

July 11, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4² thereunder, notice is hereby given that on June 28, 2012, the NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

The NASDAQ Stock Market LLC proposes to modify Chapter XV, Section 2, governing pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options.

While the changes proposed herein are effective upon filing, the Exchange has designated these changes to be operative on July 2, 2012.

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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. 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

The purpose of this filing is to recoup costs that the Exchange incurs for routing and executing certain orders in equity options to BX Options.

The Exchange’s Pricing Schedule at Chapter XV, Section 2(4) currently includes the following fees for routing Customer, Professional, Firm, Broker-Dealer and Market Maker orders to away markets.

| Exchange | Customer | Firm | MM | Professional |
|---|----------|--------|--------|--------------|
| BATS Penny | \$0.55 | \$0.55 | \$0.55 | \$0.55 |
| BOX | 0.11 | 0.55 | 0.55 | 0.11 |
| BATS Non-Penny | 0.86 | 0.91 | 0.91 | 0.91 |
| CBOE | 0.11 | 0.55 | 0.55 | 0.31 |
| CBOE orders greater than 99 contracts in NDX, MNX ETFs, ETNs & HOLDRs | 0.29 | 0.55 | 0.55 | 0.31 |
| C2 | 0.55 | 0.55 | 0.55 | 0.55 |
| ISE | 0.11 | 0.55 | 0.55 | 0.29 |
| ISE Select Symbols* | 0.31 | 0.55 | 0.55 | 0.39 |
| NYSE Arca Penny Pilot | 0.55 | 0.55 | 0.55 | 0.55 |
| NYSE Arca Non-Penny Pilot | 0.11 | 0.55 | 0.55 | 0.11 |
| NYSE AMEX | 0.11 | 0.55 | 0.55 | 0.31 |
| PHLX (for all options other than PHLX Select Symbols) | 0.11 | 0.55 | 0.55 | 0.31 |
| PHLX Select Symbols** | 0.50 | 0.55 | 0.55 | 0.51 |

* These fees are applicable to orders routed to ISE that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See ISE’s Schedule of Fees for the complete list of symbols that are subject to these fees.

** These fees are applicable to orders routed to PHLX that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See PHLX’s Pricing Schedule for the complete list of symbols that are subject to these fees.

The Exchange is proposing to adopt the following fees when routing to BX Options:

| Exchange | Customer | Firm | MM | Professional |
|------------------|----------|--------|--------|--------------|
| BX Options | \$0.11 | \$0.54 | \$0.54 | \$0.54 |

BX Options received approval to operate a new options market³ and filed to adopt various fees and rebates which would become operative on July 2, 2012. Specifically, BX Options will assess a Fee to Remove Liquidity of

\$0.43 per contract to BX Options Market Makers and Non-Customers which includes Professionals, Firms, Broker-Dealers and Non-BX Options Market Makers.⁴ Customers would not be assessed a Fee to Remove Liquidity on

BX Options. The Exchange is seeking to adopt new Routing Fees to account for these new fees and other routing costs incurred by the Exchange when routing to BX Options as of July 2, 2012.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 67256 (June 26, 2012) (SR-BX-2012-030).

⁴ See Securities Exchange Act Release No. 34-67339 (July 3, 2012) (Notice of Filing and

Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX BX, Inc. to Adopt Transaction and Routing Fees). This filing became operative on July 2, 2012.

Nasdaq Options Services LLC (“NOS”), a member of the Exchange, is the Exchange’s exclusive order router.⁵ NOS is the Routing Facility for BX Options. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange currently recoups clearing and transaction charges incurred by the Exchange as well as certain other costs incurred by the Exchange when routing to away markets, such as administrative and technical costs associated with operating NOS, membership fees at away markets, and technical costs associated with routing.⁶ The Exchange would therefore assess Customers \$0.11 per contract, Firms would be assessed \$0.54 per contract, Market Makers would be assessed \$0.54 per contract and Professionals would be assessed \$0.54 per contract.⁷ The Exchange proposes to title the new fees “BX Options.”

The Exchange also proposes other minor amendments to remove the following sentence from Chapter XV, Section 2(4): “The current fees and a historical record of applicable fees shall be posted on the NasdaqTrader.com website.” This sentence is not necessary as all rules are posted on the Exchange’s Web site. Also, the Exchange is alphabetically relocating the BOX Routing Fees.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis

NASDAQ believes that its proposal to amend its rules is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular, in that it is an equitable allocation of reasonable fees

and other charges among Exchange members.

The Exchange believes that the proposed BX Options Routing Fees are reasonable because they seek to recoup costs that are incurred by the Exchange when routing Customer, Professional, Firm, Broker-Dealer, Specialist and Market Maker orders to BX Options on behalf of members, respectively. Each destination market’s transaction charge varies and there is a standard clearing charge for each transaction incurred by the Exchange along with other administrative and technical costs that are incurred by the Exchange. The Exchange believes that the proposed Routing Fees would enable the Exchange to recover the remove fees assessed to market participants by BX Options, plus clearing and other administrative and technical fees for the execution of Customer, Professional, Firm, Broker-Dealer, Specialist and Market Maker orders when routed to BX Options. The Exchange also believes that the proposed BX Options Routing Fees are equitable and not unfairly discriminatory because they would be uniformly applied to all Customer, Professional, Firm, Broker-Dealer, Specialist and Market Maker orders that are routed to BX Options.

The Exchange believes that the proposed minor amendments to remove the sentence referring to the Exchange’s Web site information and the relocation of BOX Routing Fees are reasonable, equitable and not unfairly discriminatory because these amendments update Chapter XV, Section 2 of the Rules to remove an unnecessary sentence and conform the manner in which the Routing Fees are displayed.

B. Self-Regulatory Organization’s Statement on Burden on Competition

NASDAQ 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. In addition, a NOM Participant may designate an order as not available for routing to avoid routing fees.¹⁰

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.¹¹ 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. Please include File Number SR–NASDAQ–2012–080 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–2012–080. 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

⁵ See BX Rules at Chapter VI, Section 11(e) (Order Routing).

⁶ In addition to membership fees and transaction fees, the Exchange also incurs an Options Regulatory Fee when routing to an away market that assesses that fee.

⁷ The Exchange’s proposed Routing Fees for BX would include the Fees for Removing Liquidity of \$0.43 per contract, a \$0.06 clearing cost and another \$0.05 per contract associated with administrative and technical costs associated with operating NOS, a total of \$0.54 per contract. The Exchange would only assess a Customer the \$0.06 clearing cost and another \$0.05 per contract associated with administrative and technical costs associated with operating NOS (a total of \$0.11 per contract) because a Customer is not assessed a Fee for Removing Liquidity on BX.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ See NOM Rules at Chapter VI, Section 11.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

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 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-2012-080 and should be submitted on or before August 7, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67401; File No. SR-NYSEArca-2012-68]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the AdvisorShares Active Bear ETF

July 11, 2012.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 ("Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on June 27, 2012, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 self-regulatory organization. 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 reflect a change to the means of achieving the investment objective applicable to the AdvisorShares Active Bear ETF (the "Fund"). The text of the proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved listing and trading on the Exchange of shares ("Shares") of the AdvisorShares Active Bear ETF, a series of AdvisorShares Trust (the "Trust"),⁴ under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares are offered by the Trust, a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁵ The investment advisor to the Fund is AdvisorShares Investments, LLC (the "Adviser"). Ranger Alternative Management, L.P. is the sub-advisor ("Sub-Adviser") to the Fund and the portfolio manager. Foreside Fund Services LLC is the distributor for the Fund. The Bank of New York Mellon Corporation is the administrator,

⁴ See Securities Exchange Act Release No. 63737 (January 19, 2011), 76 FR 4968 (January 27, 2011) (SR-NYSEArca-2010-107) ("Prior Order"). See also Securities Exchange Act Release No. 63447 (December 7, 2010), 75 FR 77681 (December 13, 2010) (SR-NYSEArca-2010-107) ("Prior Notice," and together with the Prior Order, the "Prior Release").

⁵ The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act"). On September 22, 2010, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) ("1933 Act"), and under the 1940 Act relating to the Fund (File Nos. 333-157876 and 811-22110) (the "Registration Statement"). The description of the operation of the Trust and the Fund herein is based on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812-13677) ("Exemptive Order").

custodian, transfer agent and fund accounting agent for the Fund.

In this proposed rule change, the Exchange proposes to reflect a change to the description of the measures the Sub-Adviser will utilize to implement the Fund's investment objective.⁶ As reflected in the Prior Release, the Fund's investment objective is to seek capital appreciation through short sales of domestically traded equity securities. The Sub-Adviser seeks to achieve the Fund's investment objective by short selling a portfolio of liquid mid- and large-cap U.S. exchange-traded equity securities, exchange-traded funds ("ETFs") registered pursuant to the 1940 Act, and exchange-traded products ("ETPs"), including exchange-traded notes ("ETNs", and, collectively with ETFs and ETPs, "Underlying ETPs").⁷ In contrast to ETFs, ETNs and ETPs are not registered pursuant to the 1940 Act.

The Exchange seeks to make a change to representations made by the Adviser reflected in the Prior Release, as described below. As stated in the Prior Notice, the Fund generally targets a composition of 20 to 50 equity short positions, with an average individual position size which generally ranges between 2-7% of the aggregate portfolio exposure. Going forward, the Fund generally will target a composition of 20 to 75 equity short positions, with no change in the aggregate portfolio exposure size.

The Adviser represents that the purpose of this change is to provide additional flexibility to the Sub-Adviser to meet the Fund's investment objective by providing a limited increase in the number of equity short positions in the Fund's portfolio. Such an increase will permit the Fund to include a broader range of market sectors in the mid- and large-cap equity securities and Underlying ETPs in which the Fund invests, and will further the Fund's objective to seek capital appreciation.

The Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

⁶ The change described herein will be effective upon filing with the Commission of another amendment to the Trust's Registration Statement. See note 5, *supra*. The Adviser represents that the Adviser and Sub-Adviser have managed and will continue to manage the Fund in the manner described in the Prior Release, and will not implement the change described herein until the instant proposed rule change is operative.

⁷ The Fund may sell short only equity securities traded in the U.S. on registered exchanges. The Fund does not purchase or borrow illiquid securities or securities registered pursuant to Rule 144A under the 1933 Act.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.