

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

Kevin M. O' Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72965; File No. SR-BX-2014-039]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Common Ownership

September 3, 2014.

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 August 20, 2014, NASDAQ OMX BX, Inc. ("BX" 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 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 is filing a proposed rule change to harmonize the process by which it collects information from its equity members and Options Participants for aggregating the activity of affiliated entities for the purposes of assessing charges or credits.

The Exchange requests that this filing become operative on December 1, 2014.

The text of the proposed rule change is set forth below. Proposed new language is in italics; deleted text is in brackets.

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Chapter XV Options Pricing

BX Options Market Participants may be subject to the Charges for Membership, Services and Equipment in the Rule 7000 Series as well as the fees in this Chapter XV. For purposes of assessing fees and paying rebates, the following references should serve as guidance.

The term "Customer" or ("C") applies to any transaction that is identified by

a Participant for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)).

The term "BX Options Market Maker" or ("M") is a Participant that has registered as a Market Maker on BX Options pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security.

The term "Non-BX Options Market Maker" or ("O") is a registered market maker on another options exchange that is not a BX Options Market Maker. A Non-BX Options Market Maker must append the proper Non-BX Options Market Maker designation to orders routed to BX Options.

The term "Firm" or ("F") applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

The term "Professional" or ("P") 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) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

The term "Broker-Dealer" or ("B") applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

The term "Common Ownership" shall mean Participants under 75% common ownership or control.

(a) For purposes of applying any options transaction fee or rebate where the fee assessed, or rebate provided by BX depends upon the volume of an Options Participant's activity, an Options Participant may request that BX aggregate its activity with the activity of its affiliates.

(1) An Options Participant requesting aggregation of affiliate activity shall be required to certify to BX the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and shall be required to inform BX immediately of any event that causes an entity to cease to be an affiliate. BX shall review available information regarding the entities, and reserves the right to request additional information to verify the affiliate status of an entity. BX shall approve a request

unless it determines that the certification is not accurate.

(2) If two or more Options Participants become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request by BX shall be deemed to be effective as of the first day of that month. If two or more Options Participants become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty-second day of the month, an approval of the request by BX shall be deemed to be effective as of the first day of the next calendar month.

(b) For purposes of applying any options transaction fee or rebate where the fee assessed, or rebate provided, by BX depends upon the volume of an Options Participant's activity, references to an entity (including references to a "Options Participant") shall be deemed to include the entity and its affiliates that have been approved for aggregation.

(c) For purposes of options pricing, the term "affiliate" of an Options Participant shall mean any Options Participant under 75% common ownership or control of that Options Participant.

With respect to Chapter XV, Sections 2(1) and (2) the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

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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

The Exchange is proposing to amend BX Options Rules at Chapter XV, entitled "Options Pricing," to

¹⁷ 17 CFR 200.30-3(a)(12).

¹⁸ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

harmonize the process by which the Exchange will collect information from Options Participants that desire their activity to be aggregated for the purposes of assessing charges or credits with the process currently required for equity members on BX. The Exchange proposes to adopt the process that is used by equity members today without changing that process. The Exchange believes that this filing is non-controversial because the process, as proposed, will not change.

Today, equity members may aggregate affiliate activity based on volume of activity for purposes of pricing.³ Today, the Exchange does not offer the ability to aggregate pricing to its Options Participants. The Exchange is proposing to define Common Ownership, in the same manner it is defined today for options participants at The NASDAQ Options Market LLC ("NOM") and NASDAQ OMX PHLX LLC ("Phlx"). The term "Common Ownership" means Participants under 75 percent common ownership or control. The Exchange proposes to define Common Ownership in the instance that BX Options offered the ability to aggregate pricing. Further, the Exchange proposes to adopt the same process that exists today for equity members with respect to the manner in which it would collect information to aggregate pricing.

Today, a BX equity member requesting aggregation of affiliate activity is required to certify to BX the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and also is required to inform BX immediately of any event that causes an entity to cease to be an affiliate. BX reviews available information regarding the entities, and reserves the right to request additional information to verify the affiliate status of an entity. BX approves a request unless it determines that the certification is not accurate. Further, if two or more members become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request by BX is deemed to be effective as of the first day of that month. If two or more members become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty-second day of the month, an approval of the request by BX is deemed to be effective as of the first day of the next calendar month.

The Exchange proposes to amend BX Options Rules at Chapter XV to adopt language consistent with the

requirements applied today to BX equity members and require BX Options Participants to provide the same type of information in order to receive aggregated pricing.

The Exchange believes that harmonizing the Options Rules of BX to conform to those of NOM and Phlx with respect to Common Ownership and also requiring all BX members, equity and options, to provide information with respect to affiliates promotes consistency and avoids confusion.

The Exchange proposes to apply this pricing as of December 1, 2014 and issue an Options Trader Alert to its members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act⁵ in particular, that it is designed to promote just and equitable principles of trade, 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 that the proposal will harmonize its Common Ownership Rules with those of NOM and Phlx and also will harmonize the process by which the Exchange collects information from equity members and Options Participants regarding the aggregation of activity of affiliated entities for the purpose of assessing charges or credits.

The Exchange believes that applying the same 75% standard for Common Ownership as NOM and Phlx will provide consistency among these exchanges with respect to aggregating volume. In addition, the Exchange believes that harmonizing the process by which the Exchange collects information related to aggregation for equity members and Options Participants will provide consistency to market participants with respect to meeting the requirements to aggregate on BX. Also, the Exchange believes that adopting this method for collecting such information on aggregated pricing, with respect to Options Participants, will ensure proper validation for firms entitled to the aggregation.

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

BX 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. The Exchange is

merely seeking to harmonize the manner in which it aggregates pricing and collects information related to the aggregation of activity of affiliated entities for the purposes of assessing charges or credits for equity members and Options Participants. The Exchange intends to apply a uniform process to request such aggregation for all BX members and BX Options Participants.

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

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 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)⁶ of the Act and Rule 19b-4(f)(6)(iii) thereunder.⁷

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-BX-2014-039 on the subject line.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6)(iii).

³ See BX Rule 7027(a).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2014-039. 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 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-BX-2014-039 and should be submitted on or before September 30, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Kevin M. O' Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72963; File No. SR-NYSEArca-2014-99]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Operation of the NYSE Arca ETP Incentive Program, Currently Scheduled To Expire on September 3, 2014, for an Additional Year

September 3, 2014.

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 August 28, 2014, 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 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 extend the operation of the NYSE Arca ETP Incentive Program, currently scheduled to expire on September 3, 2014, for an additional year. 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 Exchange proposes to extend the operation of the NYSE Arca ETP Incentive Program ("Incentive Program"),⁴ a one-year pilot program for issuers of certain exchange-traded products ("ETPs") listed on the Exchange, for an additional year. The Incentive Program is currently scheduled to expire on September 3, 2014. As proposed, the pilot program would be set to end on September 4, 2015.

NYSE Arca established the Incentive Program to enhance the market quality for ETPs by incentivizing Market Makers⁵ to take Lead Market Maker ("LMM") assignments in certain lower volume ETPs by offering an alternative fee structure for such LMMs. The Incentive Program is designed to improve the quality of market for lower-volume ETPs, thereby incentivizing them to list on the Exchange. Moreover, the Exchange believes that the Incentive Program, which is entirely voluntary, encourages competition among markets for issuers' listings and among Market Makers for LMM assignments.

This filing seeks to extend the current operation of the Incentive Program for an additional year to allow the Commission, the Exchange, LMMs, and issuers to further assess the impact of the Incentive Program before making it available to other securities and implementing the program on a permanent basis.⁶ During the initial one-year pilot period, because no ETP issuers signed up for the Incentive Program, the Exchange does not have any data to assess the impact of the Incentive Program on ETP market quality or whether any provisions of the Incentive Program should be modified.⁷

⁴ See Rule 8.800 and Securities Exchange Act Release No. 34-69706 (June 6, 2013), 78 FR 35340 (June 12, 2013) (SR-NYSEArca-2013-34) (order establishing the Incentive Program).

⁵ A Market Maker is an Equity Trading Permit Holder ("ETP Holder") that acts as a Market Maker pursuant to NYSE Arca Equities Rule 7. See NYSE Arca Equities Rule 1.1(v). An ETP Holder is a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing that has been issued an Equity Trading Permit. See NYSE Arca Equities Rule 1.1(n).

⁶ The Exchange notes that any proposed further continuance of the Incentive Program or proposal to make the Incentive Program permanent would require a rule filing with the Commission pursuant to Section 19(b) of the Act and Rule 19b-4 thereunder.

⁷ See Securities Exchange Act Release No. 34-69706 (June 6, 2013), 78 FR 35340 (June 12, 2013) (SR-NYSEArca-2013-34) (order approving Rule 8.800 and specifying the requirement for the

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁸ 17 CFR 200.30-3(a)(12).