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–2011–140 and should be submitted on or before November 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–26856 Filed 10–17–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65538; File No. SR–BX–2011–070]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Fee Schedule

October 12, 2011.

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 October 5, 2011, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ OMX BX, Inc. (the ''Exchange'') proposes to amend the Fee Schedule of the Boston Options Exchange Group, LLC (''BOX''). Changes to the BOX Fee Schedule pursuant to this proposal will be effective upon filing. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 set forth in greater detail below, the Exchange proposes several changes to the BOX Fee Schedule to reflect the implementation of fees for Professional[5] accounts, and for the BOX Solicitation Auction and Facilitation Auction mechanisms.[6]

Section 1 Trading Fees for Public Customer Accounts

Currently, the trading fee for Public Customers in Section 1a of the BOX Fee Schedule is $0.15 per executed contract of an Improvement Order for a Public Customer that is not submitted as a Customer Price Improvement Period Order for the Price Improvement Period (''non-CPO'' in the ''PIP'').[7] The Exchange proposes to add to Section 1a the same $0.15 fee per executed contract for Responses in the Solicitation and Facilitation Auction mechanisms.

Additionally, the fee in Section 1b is $0.25 per executed contract for Primary Improvement Orders for a Public Customer. The Exchange proposes to add to Section 1b a $0.25 fee per executed contract for Facilitation Orders and Solicitation Orders for Public Customers.

Currently, the fee for Public Customers in Section 1c is $0.07 per executed contract for all non-PIP transactions. The Exchange proposes to amend Section 1c to expand this applicable fee to all non-Auction Transactions and define the term ''Auction Transactions'' to include all transactions executed through PIP, the Solicitation Auction mechanism, and the Facilitation Auction mechanism.

Section 2 Trading Fees for Professional Accounts

The Exchange proposes to add the Trading Fees For Professional Accounts as Section 2 of the BOX Fee Schedule and renumber the Trading Fees For Broker Dealer Proprietary Accounts as Section 3 and Market Maker Trading Fees as Section 4.

The Exchange proposes that Professional accounts pay the same fees as set forth for Public Customers in Section 1 of the Fee Schedule for all Auction Transactions. The Exchange also proposes that Professional accounts pay $0.20 per executed contract for all non-Auction Transactions.[8]

The Exchange also proposes to add Professional to the account types listed in Section 7a of the Fee Schedule that specifies the Fees for Adding Liquidity and Credits for Removing Liquidity in transactions on the BOX Book (non-Auction Transactions). These Fees and Credits for non-Auction Transactions are the same across all account types, now proposed to include Professional accounts, and the Exchange is not proposing any change to these Fees and Credits at this time.

Section 3 Broker Dealer Fees and Section 4 Market Maker Fees

The Exchange proposes to amend the Fee Schedule to correspond with the proposed change in Section 1c of the Fee Schedule to change references to PIP transactions to Auction Transactions so as to include transactions in the Solicitation and Facilitation Auction mechanisms. Additionally, the Exchange proposes that broker-dealers and market makers pay the same fees for non-Auction Transactions as they currently pay for non-PIP transactions. No change to

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 65036 (August 4, 2011) 76 FR 49517 (August 10, 2011) (SR–BX–2011–049) (Notice of Filing and Immediate Effectiveness To Adopt a Definition of ''Professional'' and Require That Professional Orders Be Appropriately Marked by BOX Options Participants). *See also* BOX Trading Rules Chapter I, Section 1(a)(52). The term ''Professional'' 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).

[6] *See* Securities Exchange Act Release No. 65387 (September 23, 2011) (SR–BX–2011–034) (Order Approving Amending the BOX Trading Rules to Establish Facilitation and Solicitation Auction Mechanisms).

[7] *See* Price Improvement Period (''PIP'') in Chapter V, Section 18 of the BOX Trading Rules.

[8] By comparison to Professional accounts, Trading Fees for non-Auction Transactions are $0.07 per executed contract for Public Customers and $0.40 per executed contract for Broker-Dealer Proprietary Accounts.

these fees is proposed. Further, the Exchange proposes to amend Sections 7a, 7b, and 7d to change references to the transaction fees in certain sections of the Fee Schedule to correspond to the renumbered Sections 3 and 4 of the Fee Schedule, as outlined above.

Section 7e Transactions in BOX Facilitation and Solicitation Auction

The Exchange proposes to add Section 7e to the Fee Schedule to implement Fees for Adding Liquidity and Credits for Removing Liquidity in the BOX Facilitation and Solicitation Auction mechanisms. The fees and credits in Section 7e shall be applied to transactions in these respective mechanisms, in addition to applicable transaction fees as described in Section 1 through 4 of the proposed Fee Schedule. Agency Orders submitted in Facilitation or Solicitation will receive the 'removal' credit. Facilitation Orders, Solicited Orders, or Responses, respectively, will be charged the 'add' fee per executed contract. The Exchange proposes that the Fee for Adding Liquidity and the Credit for Removing Liquidity be $0.30 per contract for all classes in these respective auction mechanisms, and be assessed the same across all account types: Market Maker, Firm, Public Customer, and Professional.

Section 7f Tiered Fee for Initiating Participants Based Upon Average Daily Volume (ADV) of BOX Auction Transactions

Currently, Section 7d of the Fee Schedule provides for a tiered fee to be applied for PIP transactions by Initiating Participants. Greater ADV in PIP transactions results in a reduced PIP transaction fee. The Exchange proposes to amend this tiered fee so as to apply all of an Initiating Participant's Auction Transactions (including transactions in the Facilitation and Solicitation Auctions, not just those in the PIP) to the calculation of the Initiating Participant's ADV to determine the transaction fee applicable to the Participant. The Exchange also proposes to renumber this tiered fee provision as new Section 7f. No changes to the ADV or tiered fee rates are proposed.

Section 8 Eligible Orders Routed to an Away Exchange

Finally, the Exchange proposes to amend Section 8 of the BOX Fee Schedule to delete its current routing fees and adopt a $0.50 per contract routing fee for Professional accounts.[9] The Exchange proposes this routing fee, in part to offset the various costs BOX incurs in providing routing services. BOX uses third-party broker-dealers to route orders to other exchanges and incurs charges for each order routed to an away market.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(4) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes the proposal is an equitable allocation of reasonable fees, credits, and other charges among BOX Options Participants. The proposed changes will allow the fees charged on BOX to remain competitive with other exchanges as well as apply such fees in a manner which is equitable among all BOX Participants. The Exchange believes the proposed transaction fees and credits are fair and reasonable and must be competitive with fees and credits in place on other exchanges. Further, the Exchange believes that this competitive marketplace impacts the fees and credits present on BOX today and influences this proposal.

Auction Mechanism Fees

The Exchange believes it is equitable and non-discriminatory to assess the proposed fees for the BOX Solicitation and Facilitation Auction mechanisms because the proposed fee for adding liquidity and credit for removing liquidity will apply uniformly to all categories of participants, across all account types, now proposed to include Professional accounts. The Exchange also believes the proposed fees for the BOX auction mechanisms to be reasonable. BOX operates within a highly competitive market in which market participants can readily direct order flow to any of eight other competing venues if they deem fees at a particular venue to be excessive. The fee structure proposed for these auction mechanisms, in particular, the proposed credit for removing liquidity, aims to attract additional order flow to these BOX auction mechanisms, providing greater potential liquidity within the overall BOX market to the benefit of all BOX market participants.

The Exchange believes it is equitable and non-discriminatory to provide Initiating Participants a tiered fee structure related to its participation in BOX Auction Transactions. The proposed fee structure related to trading activity in BOX Auction Transactions is available to all BOX Options Participants and they may choose to trade on BOX to take advantage of the discounted fees for doing so, or not. The Exchange also believes the proposed fees for the BOX auction mechanisms to be reasonable. BOX has had this same tiered fee structure in place related to PIP transactions by Initiating Participants. Participants will benefit from the opportunity to now aggregate their trading in the BOX Facilitation and Solicitation Auction mechanisms with their PIP transactions to more easily attain a discounted fee tier. As noted above, BOX operates within a highly competitive market in which market participants can readily direct order flow to any of eight other competing venues if they deem fees at a particular venue to be excessive. The tiered fee structure proposed for trading in the BOX auction mechanisms aims to attract additional order flow to BOX, providing greater potential liquidity within the overall BOX market, its auction mechanisms, to the benefit of all BOX market participants.

Trading Fees for Professional Accounts

The Exchange believes it is equitable and non-discriminatory to assess fees for Professional accounts that are the same in the Facilitation and Solicitation Auction Transactions as those fees for Public Customers. Also, as stated above, the Exchange believes it is equitable, reasonable, and non-discriminatory to assess Professional accounts the same liquidity related fees or credits, as those paid to or paid by Public Customers, Broker-Dealer Proprietary Trading accounts and Market Makers. Within these Auction Transactions, Professionals retain priority as Public Customer orders, and the Exchange believes that such orders benefit from the BOX fees and credits as structured within Auction Transactions. The proposed fees for Professional accounts for adding liquidity and credit for removing liquidity are equitable and non-discriminatory because such fees and credits apply uniformly to all categories of participants and across all account types.

Further, the Exchange believes the proposed $0.20 fee per executed contract for Professional accounts in non-Auction Transactions to be equitable, reasonable, and not unfairly discriminatory. As stated, BOX operates

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[9] By comparison, BOX does not route broker-dealer proprietary orders and thus does not assess them any routing fees. Additionally, BOX routes Public Customer orders to Away Exchanges at no charge.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

within a highly competitive market. BOX, however, does not assess ongoing systems access fees, ongoing fees for access to BOX market data, or fees related to order cancellation. Professional accounts, while Public Customers by virtue of not being broker-dealers, generally engage in trading activity more similar to broker-dealer proprietary trading accounts (more than 390 orders per day on average). This level of trading activity draws on a greater amount of BOX system resources than that of non-Professional Public Customers. Simply, the more orders submitted to BOX, the more messages sent to and received from BOX, the more orders potentially routed to away exchanges, and the more BOX system resources utilized. This level of trading activity by Professional accounts results in greater ongoing operational costs to BOX. As such, BOX aims to recover its costs by assessing Professional accounts the same fees that it assesses to other BOX market participants in Facilitation and Solicitation Auction Transactions, and a market competitive fee proposed for non-Auction Transactions. Generally, competing options exchanges assess Professionals fees at rates more comparable to fees charged to broker-dealers. Sending orders to and trading on BOX are entirely voluntary. Under these circumstances, BOX transaction fees must be competitive to attract order flow, execute orders, and grow its market. As such, BOX believes its trading fees proposed for Professional accounts are fair and reasonable. While comparably higher transaction fees than those assessed to Public Customers, BOX is assessing Professional accounts transaction fees at a rate ($0.20) lower than that charged to broker-dealer proprietary trading firms.

Moreover, the Exchange believes it is equitable and not unfairly discriminatory to charge Public Customers lower fees for non-Auction Transactions than Professional accounts that are more akin to Broker-Dealer Proprietary Trading Accounts. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed non-Auction Transaction fees for Professional accounts, as compared to Public Customer transaction fees, is appropriate and not unfairly discriminatory.

Finally, the Exchange believes that the proposed change to adopt a fee for routing Professional customer orders to various markets is reasonable, equitable, and not unfairly discriminatory in that the fee will allow BOX to recoup its costs attendant with offering optional routing services. BOX uses third-party broker-dealers to route orders to other exchanges and incurs charges for each order routed to an away market, in addition to the fees charged by other exchanges. BOX does not route broker-dealer proprietary orders, and therefore, does not assess routing fees on such orders, and has generally been providing its routing services to Public Customers at a deeply discounted fee. BOX incurs various costs related to providing routing services. In order to better recover those related costs and to potentially generate additional revenue, the Exchange proposes a routing fee to provide this optional service to Professional accounts.

The Exchange also notes that although routing is available to BOX Participants for customer orders, including Professionals, BOX Participants are not required to use the routing services. Rather, BOX routing services are completely optional. BOX Participants can manage their own routing to different options exchanges or can utilize a myriad of other routing solutions that are available to market participants. Further, as noted above, the characteristics of Professional accounts tend to be more similar to broker-dealers than to non-Professional Public Customers. As such, BOX believes Professionals are more likely to be able to route their orders to the exchange venues where they wish to trade. By assessing a fee on Professional accounts for routing orders, BOX aims to recover its costs in providing this optional service to its Participants and their Professional customer accounts. The Exchange believes that providing Public Customers a preferred rate for routing is consistent with the long history in the options markets of such customers being given preferred fees.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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 [12] and Rule 19b–4(f)(2) thereunder,[13] because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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 e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2011–070 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–2011–070. This file number should be included on the subject line if e-mail 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

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

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–BX–2011–070 and should be submitted on or before November 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–26855 Filed 10–17–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65535; File No. SR–BX–2011–069]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Minimum Quantity Order

October 12, 2011.

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 30, 2011, NASDAQ OMX BX, Inc. (''BX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by BX. 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 modify the operation of its Minimum Quantity Order. BX proposes to implement the rule change on a date that is at least thirty days after the date of the filing, but prior to November 30, 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

In order to provide enhanced functionality, BX is proposing to modify the functionality of its Minimum Quantity Order. Minimum Quantity Orders allow a market participant to specify a minimum share amount that the market participant seeks to obtain; accordingly, a Minimum Quantity Order will not execute unless the volume of liquidity available to execute against the order exceeds the designated minimum. A Minimum Quantity Order provides a means by which a market participant may avoid partial executions of orders at sizes that it considers inadequate to achieve its purposes. For example, a market participant seeking to sell a large position in a trading session with high volatility may use the order type to avoid selling only a small portion of the order at the price it considers acceptable.

Currently, Minimum Quantity Orders must be designated with a time-in-force of System Hours Immediate or Cancel or Market Hours Immediate or Cancel. As a result, the order can only be used to ''ping'' the BX book to see if there is any posted liquidity that would allow the minimum execution. BX is proposing to remove this restriction so that a Minimum Quantity Order could post to the book if it cannot be executed immediately. Once posted, the order will execute if an incoming order that is marketable against it would satisfy its minimum quantity requirement. A Minimum Quantity Order that posts to the book is not displayed. Upon entry, a Minimum Quantity Order must have a size and a minimum quantity condition of at least one round lot.

In the event that the shares remaining in the size of a Minimum Quantity Order following a partial execution are less than the minimum quantity specified by the market participant entering the order, the minimum quantity value of the order will be reduced to the number of shares remaining. Thus, for example, if a market participant entered a Minimum Quantity Order with a size of 1,000 and a minimum quantity of 500, and the order was marketable against a 600 share order on the book, the remaining 400 shares of the Minimum Quantity Order would post to the book with a minimum quantity restriction of 400 shares.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Section 6(b)(5) of the Act,[4] 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 to the functioning of the Minimum Quantity Order will provide market participants with better control over their trading patterns, thereby providing them with greater potential to improve the quality of their order executions.

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. The changes to the Minimum Quantity Order will enhance the functionality offered by BX to its members, thereby promoting its competitiveness with other exchanges and non-exchange trading venues that already offer similar functionality.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).