

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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2023–052 and should be submitted on or before January 4, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

[FR Doc. 2023–27403 Filed 12–13–23; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99124; File No. SR–BX–2023–033]

### Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its GPS Antenna Fees at General 8, Section 1

December 8, 2023.

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 29, 2023, Nasdaq 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 proposes to amend the Exchange’s GPS antenna fees at General 8, Section 1, as described further below. The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, 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 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

###### Purpose<sup>3</sup>

The Exchange offers a GPS antenna, which allows co-location customers<sup>4</sup> to synchronize their time recording systems to the U.S. Government’s Global Positioning System (“GPS”) network time (the “Service”). The Exchange proposes to modify its monthly fees for the Service at General 8, Section 1(d).

GPS network time is the atomic time scale implemented by the atomic clocks in the GPS ground control stations and GPS satellites. Each GPS satellite contains multiple atomic clocks that contribute precise time data to the GPS signals. GPS receivers decode these signals, synchronizing the receivers to the atomic clocks. A GPS antenna serves as a time signal receiver and feeds a primary clock device the GPS network time using precise time data. Firms can use the precise time data provided by the GPS antenna to time-stamp transactional information.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The Service is not novel to the securities markets, or to the Exchange.

The Exchange offers connectivity to a GPS antenna via two options, over shared infrastructure or a dedicated antenna. If a firm wishes to connect via a dedicated connection, it must supply the antenna hardware.

<sup>3</sup> The Exchange initially filed the proposed pricing changes on September 29, 2023 with an effective date of October 1, 2023 (SR–BX–2023–025). On November 15, 2023, the Exchange withdrew SR–BX–2023–025 and replaced with SR–BX–2023–030. The instant filing replaces SR–BX–2023–030, which was withdrawn on November 29, 2023.

<sup>4</sup> The Exchange offers customers the opportunity to co-locate their servers and equipment within the Exchange’s primary data center, located in Carteret, New Jersey.

The Exchange currently charges a monthly fee of \$200 for the Service, which applies to both the shared infrastructure option and the dedicated antenna option. The Exchange proposes to increase the monthly fee to \$600 for the Service, which would apply to both the shared infrastructure option and the dedicated antenna option. As such, the Exchange proposes to amend its fee schedule at General 8, Section 1(d) to reflect the increased monthly fee for the GPS antenna. The Exchange has not raised such price since the monthly fee of \$200 was adopted in 2010.<sup>5</sup> In addition, the Exchange charges a higher monthly fee of \$350 for cross-connections to approved telecommunication carriers in the data center and for inter-cabinet connections to other co-location customers in the data center, despite the fact that the Service not only provides connectivity (like the cross-connections), but also provides data (*i.e.*, the network time) to co-location customers.

In addition, the Exchange’s fee schedule at General 8, Section 1(d) currently states that the installation fee for the GPS antenna is installation specific. The Exchange proposes to add specific installation amounts for the Service within the fee schedule, providing greater transparency to market participants. Specifically, the Exchange proposes to charge an installation fee of \$900 for connectivity to a GPS antenna over shared infrastructure and \$1,500 for connectivity to a GPS antenna over a dedicated antenna.<sup>6</sup> The difference in installation costs reflects the differing levels of complexity. For the dedicated antenna option, installation involves installing an antenna on the roof whereas the shared option involves extending a cable from a device located inside the data center.

The Service is an optional product available to any firm that chooses to subscribe. Firms may cancel their subscription at any time. The Service simply provides time synchronization that may be utilized by firms to adjust their own time systems and time-stamp transactional information. The GPS antenna is offered on a completely voluntary basis. No customer is required to purchase the GPS antenna. Potential subscribers may subscribe to the Service only if they voluntarily choose to do so. It is a business decision of each firm

<sup>5</sup> See Securities Exchange Act Release No. 62396 (June 28, 2010), 75 FR 38585 (July 2, 2010) (SR–BX–2010–012).

<sup>6</sup> NYSE provides a similar service for a \$3,000 initial charge plus a \$400 monthly charge. See [https://www.nyse.com/publicdocs/Wireless\\_Connectivity\\_Fees\\_and\\_Charges.pdf](https://www.nyse.com/publicdocs/Wireless_Connectivity_Fees_and_Charges.pdf).

<sup>20</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.

whether to subscribe to the Service or not. Furthermore, firms have an array of options for time synchronization. Firms may purchase the Service (or enhanced time synchronization services) from other vendors.<sup>7</sup> Customers do not receive an advantage by purchasing the Service from the Exchange rather than another provider. The Exchange is merely providing access to GPS signals, which can also be accessed via other providers.

In addition to cost, a firm's decision regarding which, if any, time synchronization option to purchase may depend, among other factors, on whether it wants to build or buy a time feed as well as the design of a firm's systems. A firm may prefer to build out its own time feed using GPS network time (as provided by the Exchange or a third-party vendor) or purchase a time synchronization service that handles the time feed for them. Examples of enhanced time synchronization include Precision Time Protocol ("PTP"), Pulse Per Second Time Synchronization Protocol ("PPS"), and Network Time Protocol ("NTP"), each of which are feeds that a client can consume rather than creating a feed itself. Such a choice may depend on a firm's desire for control of the feed, time sensitivity, and trade strategy, including whether a firm uses such time information to trigger trading decisions, as well as other considerations such as cost and convenience. In addition, with respect to the design of a firm's systems, a firm may choose to have its time synchronization equipment centralized or in multiple locations. Third-party vendors may be situated in Carteret or other New York metro financial data centers. Clients and vendors alike can produce a time feed in Carteret or any of the other locations.<sup>8</sup>

Approximately 59% of the Exchange's co-location customers subscribe to the Service, most of which opt for the shared option. The fact that approximately 41% of the Exchange's co-location customers do not subscribe to the Service demonstrate that there are alternative options available.

If the Exchange is incorrect in its determination that the proposed fees reflect the value of the GPS antenna, customers will not purchase the product or will seek other options at their disposal, such as purchasing time synchronization services from third-party vendors.

<sup>7</sup> For example, Pico, Guava Tech, and SFTI provide time synchronization services.

<sup>8</sup> As needed, firms and vendors use latency between the data centers to adjust their time synchronization.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>10</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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed change to the pricing schedule is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for order flow, which constrains its pricing determinations. The fact that the market for order flow is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . ."<sup>11</sup>

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention to determine prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>12</sup>

Congress directed the Commission to "rely on 'competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>11</sup> See *NetCoalition*, 615 F.3d at 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>12</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

and the national market system."<sup>13</sup> As a result, the Commission has historically relied on competitive forces to determine whether a fee proposal is equitable, fair, reasonable, and not unreasonably or unfairly discriminatory. "If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonably or unfair behavior."<sup>14</sup> Accordingly, "the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory."<sup>15</sup> In its 2019 guidance on fee proposals, Commission staff indicated that they would look at factors beyond the competitive environment, such as cost, only if a "proposal lacks persuasive evidence that the proposed fee is constrained by significant competitive forces."<sup>16</sup>

The proposed fees are reasonable and unlikely to burden the market because the purchase of the Service is optional for all categories of co-location customers. No firms are required to purchase the Service. Though many firms use GPS network time to synchronize their internal primary clock devices, firms can purchase time sync services from third-party vendors. Firms are also free to utilize other services that may assist them in enhanced time synchronization of their systems by consuming time feeds, such as PTP, PPS, and NTP. As noted above, approximately 59% of the Exchange's co-location customers subscribe to the Service, most of which opt for the shared option. The fact that approximately 41% of the Exchange's co-location customers do not subscribe to the Service demonstrate that there are alternative options available. Firms may choose to purchase multiple time synchronization services for resiliency or otherwise.<sup>17</sup> For example, a decision to purchase multiple synchronization services could be based on client strategy, as some strategies require more

<sup>13</sup> See *NetCoalition*, 615 F.3d at 534-35; see also H.R. Rep. No. 94-229 at 92 (1975) ("[I]t is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed.").

<sup>14</sup> See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

<sup>15</sup> *Id.*

<sup>16</sup> See U.S. Securities and Exchange Commission, "Staff Guidance on SRO Rule Filings Relating to Fees" (May 21, 2019), available at <https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees>.

<sup>17</sup> Of the Exchange's co-location customers that subscribe to the Service, approximately 9% of such co-location customers purchase both the dedicated and the shared options of the Service.

precise time than others. As described above, in addition to cost, a firm's decision regarding which, if any, time synchronization option to purchase may depend, among other factors, on whether a firm wishes to build or buy a time feed, the design of a firm's systems, including whether a firm chooses to have its time synchronization equipment centralized or in multiple locations, a firm's time sensitivity, a firm's trading strategy, including whether it uses such time information to trigger trading decisions, and a firm's desire for control of the time feed.

The Exchange offers the Service as a convenience to firms to provide them with the ability to synchronize their own primary clock devices to the GPS network time and time-stamp transactional information.<sup>18</sup> Customers do not receive an advantage by purchasing the Service from the Exchange rather than another provider. The Exchange is merely providing access to GPS signals, which can also be accessed via other providers. Firms that choose to subscribe to the Service may discontinue the use of the Service at any time if they determine that the time synchronization services provided via the GPS antenna are no longer useful. In sum, co-location customers can discontinue the use of the Service at any time, decide not to subscribe, or use a third-party vendor for time synchronization services, for any reason, including the fees.

The optional Service is available to all co-location customers that choose to subscribe. The proposed fees would apply to all co-location customers on a non-discriminatory basis, and therefore are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange also believes that the proposed changes to include specific installation fees promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes will provide greater clarity to Members and the public regarding the Exchange's fees. It is in the public interest for rules to be accurate and transparent so as to eliminate the potential for confusion.

If the Exchange is incorrect in its determination that the proposed fees reflect the value of the GPS antenna, customers will not purchase the product or will seek other options at their

disposal, such as purchasing time synchronization services from third-party vendors.

#### *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.

In terms of inter-market competition (the competition among self-regulatory organizations), the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. Approval of the proposal does not impose any burden on the ability of other exchanges to compete. As noted above, time synchronization services are offered by other vendors and any exchange has the ability to offer such services if it so chooses.

Nothing in the proposal burdens intra-market competition (the competition among consumers of exchange data) because the GPS antenna is available to any co-location customer under the same fees as any other co-location customer, and any co-location customer that wishes to purchase a GPS antenna can do so on a non-discriminatory basis.

#### *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>19</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: (i) necessary or appropriate in

the public interest; (ii) for the protection of investors; or (iii) 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 (<https://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-2023-033 on the subject line.

#### *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-2023-033. 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 website (<https://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 website 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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number

<sup>18</sup> In offering the Service as a convenience to firms, the Exchange incurs certain costs, including costs related to the data center facility, hardware and equipment, and personnel.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

SR–BX–2023–033 and should be submitted on or before January 4, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023–27401 Filed 12–13–23; 8:45 am]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires Federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

**DATES:** Submit comments on or before February 12, 2024.

**ADDRESSES:** Send all comments to, Phillip Frechette, Financial Analyst, Office of Credit Risk Management, Small Business Administration, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:**

*Phillip.frechette@sba.gov*, Financial Analyst, Office of Credit Risk Management, 202–205–7262, *phillip.frechette@sba.gov* or Curtis B. Rich, Agency Clearance Officer, 202–205–7030, *curtis.rich@sba.gov*.

**SUPPLEMENTARY INFORMATION:** Small Business Lending Companies (SBLCs) and Non-federally regulated lenders (NFRLs). NFRL'S are non-depository lending institutions authorized by SBA primarily to make loans under section 7(a) of the Small Business Act. As sole regulator of these institutions, SBA requires them to submit audited financial statements annually as well as interim, quarterly financial statements and other reports to facilitate the Agency's oversight of these lenders.

### Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c)

whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

### Summary of Information Collection

*Collection:* 3245–0077.

*Title of Collection:* Reports to SBA Provisions of 13 CFR 120.464.

*Description of Respondents:* Small Business Lending Companies (SBLCs) and Non-federally regulated lenders (NFRLs).

*Total Estimated Annual Responses:* 594.

*Total Estimated Annual Hour Burden:* 7,110.

**Curtis Rich,**

*Agency Clearance Officer.*

[FR Doc. 2023–27472 Filed 12–13–23; 8:45 am]

**BILLING CODE 8026–09–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No.: FAA–2022–0547; Summary Notice No. 2023–48]**

### Petition for Exemption; Summary of Petition Received; Equinox Innovative Systems

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before January 3, 2024.

**ADDRESSES:** Send comments identified by docket number FAA–2022–0547 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West

Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Alexander Kem at (202) 267–7571, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on December 8, 2023.

**Brandon Roberts,**

*Executive Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2022–0547.

*Petitioner:* Equinox Innovative Systems.

*Section(s) of 14 CFR Affected:* §§ 21 Subpart H, 61.3(a)(1)(i), 91.103(b)(2), 91.105, 91.107, 91.119, 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1), 91.409(a)(2), 91.417(a), and 91.417(b).

*Description of Relief Sought:* The petitioner seeks an exemption to conduct commercial flight operations with the Falcon Heavy tethered unmanned aircraft system (UAS).

[FR Doc. 2023–27503 Filed 12–13–23; 8:45 am]

**BILLING CODE 4910–13–P**

<sup>20</sup> 17 CFR 200.30–3(a)(12).