

respectively)<sup>4</sup>, exam fees (\$500), permit transfer fees (\$500), and fingerprint fees (\$50) are all being adopted. The proposed fee levels are comparable to those in place at CBOE. For the reasons stated above, these fees, with the exception of renewal fees (which are applicable on subsequent one-year anniversaries of C2 “membership”), statutory disqualification fees, Rule 19h-1 change in status fees, exam fees, permit transfer fees, and fingerprint fees will not be charged to CBOE permit holders seeking to trade on C2.

The changes will take effect on September 13, 2010.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 members and other persons using its facilities. C2 notes that applicants, depending on whether they are organizations or sole-proprietors, will all be charged fixed fees which is [sic] intended to offset the Exchange’s costs of processing the permit holder applications and application-related matters, and that the proposed fee amounts are comparable to those charged by CBOE.

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

C2 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.

<sup>4</sup> The statutory disqualification fee is payable whenever a person or entity is subject to a statutory disqualification under the Securities Exchange Act of 1934 and: (i) Is an applicant for Exchange membership, (ii) is seeking to be an associated person of an Exchange member (except where the Exchange is merely asked to concur in an SEC Rule 19h-1 filing by another self regulatory organization), or (iii) is an existing Exchange member or associated person who makes an application in accordance with Rule 3.5 or with respect to whom a proceeding is initiated pursuant to Rule 3.5. This fee is in addition to any other membership fees that might be applicable. The Rule 19h-1 Change in Status Fee is payable whenever a person or entity, on whose behalf the Exchange has filed a Rule 19h-1 filing that has been approved by the SEC, applies for a change in status that requires the Exchange to file an amended or additional Rule 19h-1 filing, if the Exchange approves the requested change in status. This fee is in addition to any other membership fees that might be applicable.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

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

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder. At any time within 60 days of the filing of such 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.

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2010-003 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-C2-2010-003. 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 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. 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-C2-2010-003 and should be submitted on or before October 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62925; File No. SR-NASDAQ-2010-096]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval to a Proposed Rule Change Relating to the National Quotation Dissemination Service

September 16, 2010.

#### I. Introduction

On August 2, 2010, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”), 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> a proposed rule change to amend NASDAQ Rule 7017(b) to re-establish retroactively from January 1, 2008, a pilot program reducing the monthly fee that non-professionals users pay to receive the National Quotation Dissemination Service (“NQDS”) from \$50 to \$10. The proposed rule change was published for comment in the

<sup>9</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.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

**Federal Register** on August 9, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

NASDAQ is proposing to re-establish retroactively from January 1, 2008 through July 27, 2010,<sup>4</sup> the fee reduction pilot program that reduced the monthly fee that non-professional users pay to receive NQDS from \$50 to \$10, to correct for the lapse in the pilot and to prevent the collection of the additional \$40 in monthly fees from investors for the period during which the pilot had lapsed.<sup>5</sup> Prior to August 31, 2000, NQDS data was available through authorized vendors at a monthly rate of \$50 for professionals and non-professionals users alike. In August 2000, NASDAQ filed a proposed rule change to reduce from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS data. The Commission approved the pilot on August 22, 2000, and the fee reduction commenced on August 31, 2000 on a one-year pilot basis.<sup>6</sup> On September 5, 2001, August 30, 2002, August 18, 2003, August 23, 2004, January 24, 2006, and March 29, 2007, NASDAQ filed proposed rule changes to extend the pilot for additional one-year periods.<sup>7</sup>

NASDAQ believes that continuing the reduction of NQDS for non-professional users demonstrates NASDAQ's continued commitment to provide data to non-professional market participants and individual investors.

## III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with

<sup>3</sup> See Securities Exchange Act Release No. 62629 (August 3, 2010), 75 FR 47871 ("Notice").

<sup>4</sup> On July 27, 2010, NASDAQ filed a proposed rule change to make the pilot fee reduction permanent. See Securities Exchange Act Release No. 62614 (July 30, 2010), 75 FR 47668 (August 6, 2010).

<sup>5</sup> NQDS is a proprietary data product that contains the best bid and offer quotation of each registered market maker quoting in NASDAQ-listed securities on the NASDAQ Stock Market. NQDS data is used not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. For a more detailed discussion of NQDS, see Notice.

<sup>6</sup> See Securities Exchange Act Release No. 43190 (August 22, 2000), 65 FR 52460 (August 29, 2000).

<sup>7</sup> See Securities Exchange Act Release Nos. 44788 (September 13, 2001), 66 FR 48303 (September 19, 2001); 46446 (August 30, 2002), 67 FR 57260 (September 9, 2002); 48386 (August 21, 2003), 68 FR 51618 (August 27, 2003); 50318 (September 3, 2004), 69 FR 54821 (September 10, 2004); 53531 (March 21, 2006), 71 FR 15506 (March 28, 2006); and 55668 (April 25, 2007), 72 FR 24347 (May 2, 2007).

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> In particular, it is consistent with Section 6(b)(4) of the Act,<sup>9</sup> which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other parties using its facilities, and Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities exchange be 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with the provisions of Section 6(b)(8) of the Act,<sup>11</sup> which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Finally, the Commission finds that the proposed rule change is consistent with Rule 603(a) of Regulation NMS,<sup>12</sup> adopted under Section 11A(c)(1) of the Act, which requires an exclusive processor that distributes information with respect to quotations for or transactions in an NMS stock to do so on terms that are fair and reasonable and that are not unreasonably discriminatory.<sup>13</sup>

The Commission notes that the proposed rule change involves the retroactive application of a fee reduction pilot that benefits non-professional market participants and that has been in effect in practice since 2000. The Commission approved the reduced fee pilot at its inception in 2000, and subsequently extended the pilot as cited above. NASDAQ charged the reduced fee, although its NQDS fee reduction pilot had expired, during the period from January 1, 2008 through July 27, 2010, at which time NASDAQ filed an immediately effective proposal that made the reduced NQDS fee for non-

<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

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

<sup>11</sup> 15 U.S.C. 78f(b)(8).

<sup>12</sup> 17 CFR 242.603(a).

<sup>13</sup> NASDAQ is an exclusive processor of its NQDS data under Section 3(a)(22)(B) of the Act, 15 U.S.C. 78c(a)(22)(B), which defines an exclusive processor as, among other things, an exchange that distributes data on an exclusive basis on its own behalf.

professionals permanent. The Commission notes that no comments were received from any market participants, including NASDAQ members, information vendors, investors, non-professionals, or any other interested parties, on the initial pilot filing in 2000, on any of the pilot's extensions, on the immediately effective filing for permanent approval of the reduced fee, or on this filing. For the reasons discussed above, the Commission believes that retroactive approval of the fee reduction pilot from January 1, 2008 is appropriate.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-NASDAQ-2010-096), be, and it hereby is, approved.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-23631 Filed 9-21-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62909; File No. SR-BX-2010-063]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adding the CBOE Volatility Index Futures to the Definition of a Futures Reference Asset in Chapter IV, Section 3(k)(i)(5)

September 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 8, 2010, NASDAQ OMX BX, Inc. (the "Exchange") 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 from interested persons.

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

The Exchange proposes to amend Chapter IV, Section 3 (Criteria for Underlying Securities) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to permit options on

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.