

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64105; File No. SR-BX-2011-016)

March 22, 2011

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and  
Immediate Effectiveness Relating to Changing the Starting Time

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on March 15, 2011, 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 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 amend certain rules of the Exchange's equity trading facility to change the starting time from 8:00 a.m. Eastern Time ("ET") to 7:00 a.m. ET. The Exchange proposes to amend provisions of Exchange Rules 4120, 4420, 4421, 4617, 4751, 4752 and 4756 to reflect the proposed amended starting time.

The text of the proposed rule change is available on the Exchange's Website at <http://www.nasdaqtrader.com/micro.aspx?id=BXRulefilings>, 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

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

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

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 purpose of the proposed rule change is to amend certain rules of the Exchange to change the starting time from 8:00 a.m. ET to 7:00 a.m. ET. More specifically, the Exchange proposes to amend the following Exchange rules in the following manner:

- i. Exchange Rule 4120(b)(4)(B) to reflect that the “Pre-Market Session” means the trading session will begin at 7:00 a.m. ET instead of 8:00 a.m. ET.
- ii. Exchange Rule 4420(i)(7) to reflect that the Exchange may designate each series of Portfolio Depository Receipts for trading during a pre-market session beginning at 7:00 a.m. instead of 8:00 a.m. ET.
- iii. Exchange Rule 4420(j) to reflect that the Exchange may designate each series of Index Fund Shares for trading during a pre-market session beginning at 7:00a.m. ET instead of 8:00 a.m. ET.
- iv. Exchange Rule 4421(a)(2) to reflect that the information circular distributed by the Exchange prior to the commencement of trading in each UTP Derivative Security contain applicable trading hours for the UTP Derivative Security and the risks of trading beginning with the period starting from 7:00 a.m. ET instead of 8:00 a.m. ET.

v. Exchange Rule 4617 to reflect that the normal business hours for the trading platform begins at 7:00 a.m. ET instead of 8:00 a.m. ET; and, Equity Market Makers whose quotes are open before 9:30 a.m. ET or after 4:00 p.m. ET shall be obligated to comply, while their quotes are open, with all rules that are not by their express terms, or by an official interpretation of the Exchange, inapplicable to any part of the period 7:00 a.m. to 9:30 a.m. or 4:00 p.m. to 7:00 p.m. ET period instead of 8:00 a.m. to 9:30 a.m. or 4:00 p.m. to 7:00 p.m. ET.

vi. Exchange Rule 4751(h)(1) to reflect that System Hours Immediate or Cancel<sup>3</sup> orders must be will be [sic] available for entry and execution from 7:00 a.m. ET instead of 8:00 ET.

vii. Exchange Rule 4751(h)(2) to reflect that System Hours Day<sup>4</sup> orders must remain available for potential display and/or execution from 7:00 a.m. ET instead of 8:00 a.m. ET.

viii. Exchange Rule 4751(h)(4) to reflect that System Hours Expire Time<sup>5</sup> orders must remain for entry and execution from 7:00 a.m. ET instead of 8:00 a.m. ET.

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<sup>3</sup> "System Hours Immediate or Cancel" shall mean, for orders so designated, that if after entry into the System the order (or a portion thereof) is not marketable, the order (or unexecuted portion thereof) shall be canceled and returned to the entering Participant. See Exchange Rule 4751(h)(1).

<sup>4</sup> "System Hours Day" shall mean, for orders so designated, that if after entry into the System, the order is not fully executed, the order (or the unexecuted portion thereof) shall remain available for potential display and/or execution from the opening of the normal business day until 7:00 p.m. Eastern Time on the day it was submitted unless cancelled by the entering party. See Exchange Rule 4751(h)(2).

<sup>5</sup> "System Hours Expire Time" or "SHEX" shall mean, for orders so designated, that if after entry into the System, the order is not fully executed, the order (or the unexecuted portion thereof) shall remain available for potential display and/or execution for the amount of time specified by the entering Participant (up to 7:00

ix. Exchange Rule 4751(h)(8) to reflect that “good-til-market close”<sup>6</sup> orders must be available for entry and potential execution from 7:00 a.m. ET instead of 8:00 ET.

x. Exchange Rule 4752(a)(1) to reflect that the system shall add in time priority all eligible Orders in accordance with each order’s defined characteristics at 7:00 a.m. instead of 8:00 a.m.

xi. Exchange Rule 4756(a)(3) to reflect that orders can be entered into the System (or previously entered orders cancelled) from 7:00 a.m. ET instead of 8:00 a.m. ET.

xii. Exchange Rule 4756(b) to reflect that Equities Market Makers, Order Entry Firms, and Equities ECNs can enter quotes into the system starting at 7:00 a.m. ET instead of 8:a.m. ET.

The Exchange is a fully electronic system that accommodates diverse business models and trading preferences. Exchange utilizes technology to aggregate and display liquidity and make it available for execution of orders. Exchange is proposing to expand its operational hours to open the System earlier so that firms can enter orders and execute beginning at 7:00 a.m. rather than 8:00 a.m.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with Sections 6(b)(1) and 6(b)(5) of

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p.m. on the day entered) unless canceled by the entering party. See Exchange Rule 4751(h)(4).

<sup>6</sup> "Good-til-market close" shall mean for orders so designated, that if after entry into the System, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution until cancelled by the entering party, or until 4:00 p.m., after which it shall be returned to the entering party. See Exchange Rule 4751 (h)(8).

the Act,<sup>8</sup> in particular, in that the proposal enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with and enforce compliance by members, member organizations, and persons associated with members and member organizations with provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The proposal is also consistent with Section 6 of the Act 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. An earlier open will enhance the national market system by providing market participants increased opportunity to more effectively carryout the execution of orders in the manner addressed by Exchange rules. Such improvements will enhance the protection of investors and the public interest.

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

No written comments were either solicited or received.

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<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(1), (5).

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder.

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:

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- 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-BX-2011-016 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-2011-016. 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 website (<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. 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-2011-016 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).