

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60668; File No. SR-BX-2009-043)

September 14, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving Proposed Rule Change to Extend a Holiday for Certain Registration and Processing Fees for Associated Persons

I. Introduction

On July 23, 2009, NASDAQ OMX BX, Inc. (“Exchange”), filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to extend a fee holiday for initial registration and processing and/or transfer and relicensing fees collected by the Exchange via Web CRD for the registration of associated persons of Exchange members. The proposed rule change was published for comment in the Federal Register on August 10, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange (as the Boston Stock Exchange), before its purchase by The NASDAQ OMX Group, Inc. in 2008,⁴ had ceased the trading of equity securities in 2007.⁵ In January 2009, when the Exchange’s market center was launched, the Exchange adopted a new set of Equity Rules, which include rules governing fees charged to members for registration of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60427 (August 4, 2009), 74 FR 39986 (August 10, 2009) (“Notice”).

⁴ See Securities Exchange Act Release No. 58183 (July 17, 2008), 73 FR 42850 (July 23, 2008).

⁵ See Securities Exchange Act Release No. 57757 (May 1, 2008), 73 FR 26159 (May 8, 2008).

associated persons with the Exchange. Equity Rule 7003(b) sets forth the fees collected by the Exchange via the Web CRD system for initial registration and transfer or re-licensing: \$60 for each initial Form U4 filed for the registration of a representative or principal,⁶ and \$40 for each transfer or re-licensing of a representative or principal.⁷

The Exchange recognized that, in connection with the resumption of equities trading, additional firms might wish to become members of the Exchange, and if so, would need to register associated persons. Similarly, additional representatives or principals of pre-existing members might wish to trade equities on the Exchange and would thus need to register with the Exchange. Therefore, the Exchange waived these initial registration and transfer or re-licensing fees from January 1, 2009 to July 1, 2009.⁸ The Exchange proposed to extend this fee waiver period to cover the period from July 1, 2009 until October 1, 2009, to provide more time for associated persons that are new to equity trading through the Exchange to register, transfer, or re-license without incurring these costs. Registration events occurring after October 1, 2009 will be subject to the initial registration and/or transfer or re-licensing fees.⁹

III. Discussion and Commission Findings

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

⁶ Rule 7003(b)(1).

⁷ Rule 7003(b)(2).

⁸ See Securities Exchange Act Release No. 59337 (February 2, 2009), 74 FR 6441 (February 9, 2009).

⁹ Rule 7003(b)(3) sets forth an annual fee of \$50 for each registered representative and principal for system processing. This annual fee was suspended on January 1, 2009 and will continue to be suspended until the Exchange submits a proposed rule change to reinstate it. See id. See also Notice.

securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act¹¹ in that it provides for an equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities. The fee waiver applies to initial registration, transfer, and re-licensing fees of both representatives and principals, and therefore applies equally to all categories of associated persons who would incur fees pursuant to Rule 7003(b)(1) and (2). In addition, the Commission notes that the Exchange has been waiving these fees since January 1, 2009, and believes waiving the fees for an additional three months, retroactive from July 1, 2009 until October 1, 2009, is a reasonable extension of the fee holiday. Based on the above, the Commission believes the proposed rule change constitutes an equitable allocation of reasonable dues, fees, and other charges under Section 6(b)(4) of the Act,¹² and is otherwise consistent with the requirements of the Act.

¹⁰ 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).

¹¹ 15 U.S.C. 78f(b)(4).

¹² Id.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-BX-2009-043), be, and hereby is, approved.

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

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Deputy Secretary

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).