

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2012 - * 060	Amendment No. (req. for Amendments *)				
Proposed Rule Change by NASDAQ OMX BX, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934								
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>			
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	19b-4(f)(1) <input type="checkbox"/>	19b-4(f)(2) <input checked="" type="checkbox"/>	19b-4(f)(3) <input type="checkbox"/>	19b-4(f)(4) <input type="checkbox"/>	19b-4(f)(5) <input type="checkbox"/>	19b-4(f)(6) <input type="checkbox"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>						
Description Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). A Proposal to Amend Transaction Fees.								
Contact Information Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change. First Name * Jonathan Last Name * Cayne Title * Associate General Counsel E-mail * jonathan.cayne@nasdaqomx.com Telephone * (301) 978-8493 Fax (301) 978-8472								
Signature Pursuant to the requirements of the Securities Exchange Act of 1934, has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer. Date 08/30/2012 By Edward S. Knight (Name *) Executive Vice President and General Counsel (Title *) NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed. Edward S Knight,								

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information (required)

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change (required)

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) NASDAQ OMX BX, Inc. (“BX” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposes to amend Chapter XV, Section 2 entitled “BX Options Market – Fees and Rebates” to amend rebates and fees relating to various options and make technical corrections to this section.

The text of the proposed rule change is attached in Exhibit 5. A notice of the proposed rule change for publication in the Federal Register is attached in Exhibit 1.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on July 10, 2012. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Jonathan F. Cayne, Associate General Counsel, at (301) 978-8493.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The purpose of the proposed rule change is to amend Chapter XV, Section 2(1) to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

amend rebates and fees for Customers, BX Options Market Makers³ and Non-Customers⁴ in various options,⁵ as well as remove certain options from the Fees and Rebates schedule below,⁶ as follows:

Fees and Rebates (per executed contract)			
	Customer	BX Options Market Maker	Non-Customer¹
IWM, QQQ and SPY:			
Rebate to Add Liquidity	\$0.[15]00 ²	\$0.15 ²	[\$0.00] <u>N/A</u>
Fee to Add Liquidity	\$0.1[5]8 ³	\$0.1[5]8 ³	\$0.4[3]5
Rebate to Remove Liquidity	\$0.12	[\$0.00] <u>N/A</u>	[\$0.00] <u>N/A</u>
Fee to Remove Liquidity	[\$0.00] <u>N/A</u>	\$0.4[3]5	\$0.4[3]5
[BAC, C, CSCO, F, INTC, MSFT, JPM, GLD, SLV and USO:			
Rebate to Add Liquidity	\$0.15 ²	\$0.15 ²	\$0.00
Fee to Add Liquidity	\$0.37 ³	\$0.37 ³	\$0.43
Rebate to Remove Liquidity	\$0.32	\$0.00	\$0.00
Fee to Remove Liquidity	\$0.00	\$0.43	\$0.43]
All Other Penny Pilot Options:			
Rebate to Add Liquidity	\$0.[1]00 ²	\$0.10 ²	[\$0.00] <u>N/A</u>

³ A BX Options Market Makers must be registered as such pursuant to Chapter VII, Section 2 of the BX Options Rules, and must also remain in good standing pursuant to Chapter VII, Section 4.

⁴ A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

⁵ The Exchange is proposing to amend fees and rebates for options overlying iShares Russell 2000 (“IWM”), PowerShares QQQ Trust (“QQQ”)®; Standard and Poor's Depository Receipts/SPDRs (“SPY”); and all other Penny Pilot Options.

⁶ The Exchange is proposing to eliminate fees and rebates for Bank of America Corporation (“BAC”), Citigroup, Inc. (“C”), Cisco Systems, Inc. (“CSCO”), Ford Motor Company Common Stock (“F”), Intel Corp (“INTC”), Microsoft Corporation (“MSFT”), JP Morgan Chase & Co. (“JPM”), SPDR Gold Shares (“GLD”), iShares Silver Trust (“SLV”) and United States Oil Fund LP Units (“USO”) (“Deleted Symbols”).

Fee to Add Liquidity	\$0.40 ³	\$0.40 ³	\$0.4[3]5
Rebate to Remove Liquidity	\$0.32	[\$0.00] <u>N/A</u>	[\$0.00] <u>N/A</u>
Fee to Remove Liquidity	[\$0.00] <u>N/A</u>	\$0.4[3]5	\$0.4[3]5

¹ A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

² The Rebate to Add Liquidity will be paid to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Non-Customer or BX Options Market Maker.

³ The Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer.

The Exchange is proposing to eliminate the Rebate to Add Liquidity, in any symbol, to a Customer. The Exchange is also proposing to increase the Fee to Add Liquidity in IWM, QQQ and SPY from \$0.15 to \$0.18 per executed contract for Customers and BX Options Market Makers. For Non-Customers the Fee to Add or to Remove Liquidity in IWM, QQQ and SPY and for all other Penny Pilot Options would increase from \$0.43 to \$0.45 per executed contract. Additionally, for BX Options Market Makers the Fee to Remove Liquidity in IWM, QQQ and SPY and for all other Penny Pilot Options would increase from \$0.43 to \$0.45 per executed contract. The Exchange is also proposing to remove entirely from the Fees and Rebates schedule certain other options.⁷

⁷ Id. As a result, the pricing for the Deleted Symbols currently in place will be eliminated and revert to the current fees and rebates for all other Penny Pilot Options. The Rebate to Add Liquidity will decrease for Customers and BX Options Market Makers from \$0.15 to \$0.00 and from \$0.15 to \$0.10 per contract, respectively. A Non-Customer will continue not to be paid a Rebate for Adding Liquidity. The Rebate to Remove Liquidity will remain unchanged, a Customer will continue to be paid a \$0.32 per contract rebate and BX Options Market Makers and Non-Customers will not be entitled to a Rebate to Remove Liquidity. The Fee to Remove Liquidity will remain unchanged for Customers as they will not be assessed this fee as is the case today. The Fee for Removing Liquidity will

The Exchange is also proposing to make technical corrections in Chapter XV, Section 2 by replacing “\$0.00” with “N/A” for several categories. This is not a change to these fees and rebates, but a technical amendment since in these instances “N/A” better reflects that a fee is not relevant for this category rather than “\$0.00” which simply reflects that no fee is currently being charged for this category.

The Exchange believes that the proposed amended fees and rebates are competitive and will encourage BX members to transact business on the Exchange. Despite the reduction of the Customer rebate to \$0.00, the Exchange believes that the fees remain competitive with other options exchanges and that market participants will continue to send order flow to the Exchange.

b. Statutory Basis

BX believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,⁸ in general, and with Section 6(b)(4) of the Act,⁹ in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which BX operates or controls.

The Exchange believes that its proposal to assess different fees and rebates for IWM, QQQ and SPY as compared to all other Penny Pilot Options is reasonable given the fact that certain symbols such as IWM, QQQ and SPY are highly liquid Penny Pilot

increase for BX Options Market Makers and Non-Customers from \$0.43 to \$0.45 per contract because the Exchange is proposing to increase this fee.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4).

Options as compared to other Penny Pilot Options. Additionally, other options exchanges differentiate pricing by security today.¹⁰

The Exchange believes that its proposal to assess different fees and rebates for IWM, QQQ and SPY as compared to all other Penny Pilot Options is equitable and not unfairly discriminatory as described hereafter. With respect to the proposed elimination of the Rebate to Add Liquidity¹¹ for IWM, QQQ, SPY and all other Penny Pilot Options, the Exchange believes it is critical to incentivize BX Options Market Makers because they have obligations to the market and regulatory requirements,¹² which normally do not apply to other market participants. A BX Options Market Maker has the obligation to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The Exchange is

¹⁰ See NASDAQ OMX PHLX LLC's ("Phlx") Pricing Schedule, which has different pricing for its Select Symbols and different pricing for other Multiply Listed Options. See also the NASDAQ Options Market LLC ("NOM") at Chapter XV, Section 2(1), which distinguishes pricing for NDX and MNX. See also the International Securities Exchange LLC's Fee Schedule, which distinguishes pricing for Special Non-Select Penny Pilot Symbols. See also the Chicago Board Options Exchange, Incorporated's Fees Schedule, which distinguishes index products.

¹¹ The Exchange proposes to eliminate for Customers the Rebate to Add Liquidity for IWM, QQQ, and SPY of \$0.15 per contract and of \$0.10 per contract for other Penny Pilot Options.

¹² Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a Market Maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. See Chapter VII, Section 5.

proposing to eliminate the Customer Rebate to Add Liquidity because the Exchange believes that Customers do not require a similar incentive as do BX Options Market Makers because they post liquidity on the Exchange for reasons other than the opportunity to receive rebates and additionally, Customers, unlike BX Options Market Makers, are not assessed a Fee to Remove Liquidity.¹³ BX Options Market Makers would continue to receive the opportunity to earn a \$0.10 per contract (all other Penny Pilot Options) or \$0.15 per contract (IWM, QQQ, and SPY) Rebate to Add Liquidity only when they are contra to a Non-Customer or BX Options Market Maker. The proposed differentiation as between Customers and BX Options Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by BX Options Market Makers, as well as the differing mix of orders entered. This is not to say that Customer order flow is not important, to the contrary, the Exchange believes that the pursuit of such order flow by BX Options Market Makers and other market participants because of the valuable liquidity Customer order flow brings to the marketplace is the very reason that at this time, the Exchange desires to incentivize and reward BX Options Market Makers to make continuous markets and pursue Customer Order which can be freely removed at no expense. Also, it is important to note that BX Options Market Makers are unaware at the time the order is entered whether they would be entitled to a \$0.10 or \$0.15 per contract Rebate to Add Liquidity, depending on the security, because they are unaware of the identity of the contra-party, which would determine whether they receive a rebate. Because of

¹³ Today, Customers are not assessed a Fee to Remove Liquidity unlike other market participants.

anonymity of the contra-parties, BX Options Market Makers aggressively pursue order flow which benefits all market participants.

The Exchange's proposal to increase the Fee to Add Liquidity for IWM, QQQ, SPY for all market participants and for Non-Customers in all other Penny Pilot Options, as well as to increase the Fee to Remove Liquidity for IWM, QQQ, SPY and all other Penny Pilot Options for BX Options Market Makers and for Non-Customers is reasonable because the increased fees would allow the Exchange to continue to reward Customers for removing liquidity, and BX Options Market Makers for providing liquidity with rebates. The advantage of increased Customer order flow benefits all market participants. In addition, the proposed amended Fees to Add or to Remove Liquidity are no greater than the rates assessed by other exchanges for similar fees.¹⁴ Attracting Customer, BX Options Market Maker, and Non-Customer order flow to the Exchange benefits all market participants. BX Options Market Makers have burdens that do not apply to other market participants. The Exchange is also uniformly assessing all Non-Customer market participants (Professionals, Firms, Broker-Dealers, Non-BX Options Market Makers and BX Options Market Makers) the same \$0.45 per executed contract Fee to Add or to Remove Liquidity on every transaction.

The Exchange's proposal to increase the Fee to Add Liquidity for IWM, QQQ, SPY for all market participants and for Non-Customers of all other Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange is increasing all market participant Fees to Add Liquidity. Specifically, while Customers and BX Options Market

¹⁴ See BATS Exchange, Inc.'s Fee Schedule. See also NOM Chapter XV, Section 2 (the Penny Pilot Fees to Remove Liquidity are \$0.45 per contract for all market participants).

Makers are being increased by \$0.03 per executed contract, Non-Customers are being increased by \$0.02 per executed contract because they are assessed higher fees. The Exchange is assessing higher fees to all participants and not a select group of market participants. The Exchange's proposal to increase the Fee to Remove Liquidity for BX Options Market Makers and Non-Customers for IWM, QQQ, SPY and for all other Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange is uniformly assessing all market participants, except Customers,¹⁵ a \$0.45 per executed contract Fee to Remove Liquidity.

The Exchange believes that its proposal to eliminate the fees and rebates currently in place for Deleted Symbols and instead include these symbols in all other Penny Pilot Options and assess those fees and pay those rebates is reasonable because the Exchange does not believe it is necessary to incentivize BX Options Participants with higher rebates and lower fees as compare to other Non-Penny Pilot Options. The Exchange believes that the fee and rebates in place for all other Penny Pilot Options will continue to incentivize NOM Participants to transact business on the Exchange because despite the increase to the fees and the rebate reduction, the pricing for these Non-Penny Pilot Options remains competitive. The Exchange also believes that it is equitable and not unfairly discriminatory to assess the Deleted Symbols the fees and rebates currently assessed and paid all other Penny Pilot Options because the fees and rebates would be the same as those assessed and paid for all other Non-Penny Pilot Options today. The Exchange would assess and pay fees and rebates for the Deleted Symbols, which are Non-Penny Pilot symbols, the same pricing as is assessed and paid for all other Non-

¹⁵ Customers are not assessed a Fee to Remove Liquidity today in either Penny Pilot or all other Penny Pilot Options.

Penny Pilot symbols options.

The Exchange's proposal to make technical corrections in Chapter XV, Section 2, by replacing "\$0.00" with "N/A" for several categories is reasonable, equitable and not unfairly discriminatory because this is not a change to these fees and rebates, but a clarification that in these instances "N/A" better reflects that a fee is not relevant for this category rather than using "\$0.00" which simply reflects that no fee is currently being charged for this category.

The Exchange operates in a highly competitive market comprised of ten U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed amended fee and rebate scheme is competitive and similar to other fees and rebates in place on other exchanges. The Exchange believes that this competitive marketplace materially impacts the fees and rebates present on the Exchange today and substantially influences the proposal set forth above.

4. Self-Regulatory Organization's Statement on Burden on Competition

BX 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. To the contrary, BX has designed its fees and rebates to compete effectively for the execution and routing of options contracts and to reduce the overall cost to investors of options trading. The Exchange believes that the proposed fee/rebate pricing structure would attract liquidity to and benefit order interaction at the Exchange to the benefit of all market participants.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁶ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Exhibits

1. Notice of proposed rule for publication in the Federal Register.
5. Applicable Exchange Rules.

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-BX-2012-060)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of
Proposed Rule Change by NASDAQ OMX BX, Inc. to Amend Transaction Fees

August __, 2012

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 August 30, 2012, 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, 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 Chapter XV, Section 2 entitled “BX Options Market – Fees and Rebates” to amend rebates and fees relating to various options and make technical corrections to this section.

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

In its filing with the Commission, the Exchange included statements concerning

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Chapter XV, Section 2(1) to amend rebates and fees for Customers, BX Options Market Makers³ and Non-Customers⁴ in various options,⁵ as well as remove certain options from the Fees and Rebates schedule below,⁶ as follows:

	Fees and Rebates (per executed contract)		
	Customer	BX Options Market Maker	Non-Customer¹
IWM, QQQ and SPY:			
Rebate to Add Liquidity	\$0.[15]00 ²	\$0.15 ²	[\$0.00] <u>N/A</u>

³ A BX Options Market Makers must be registered as such pursuant to Chapter VII, Section 2 of the BX Options Rules, and must also remain in good standing pursuant to Chapter VII, Section 4.

⁴ A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

⁵ The Exchange is proposing to amend fees and rebates for options overlying iShares Russell 2000 (“IWM”), PowerShares QQQ Trust (“QQQ”)®; Standard and Poor’s Depository Receipts/SPDRs (“SPY”); and all other Penny Pilot Options.

⁶ The Exchange is proposing to eliminate fees and rebates for Bank of America Corporation (“BAC”), Citigroup, Inc. (“C”), Cisco Systems, Inc. (“CSCO”), Ford Motor Company Common Stock (“F”), Intel Corp (“INTC”), Microsoft Corporation (“MSFT”), JP Morgan Chase & Co. (“JPM”), SPDR Gold Shares (“GLD”), iShares Silver Trust (“SLV”) and United States Oil Fund LP Units (“USO”) (“Deleted Symbols”).

Fee to Add Liquidity	\$0.1[5]8 ³	\$0.1[5]8 ³	\$0.4[3]5
Rebate to Remove Liquidity	\$0.12	[\$0.00] <u>N/A</u>	[\$0.00] <u>N/A</u>
Fee to Remove Liquidity	[\$0.00] <u>N/A</u>	\$0.4[3]5	\$0.4[3]5

[BAC, C, CSCO, F, INTC, MSFT, JPM, GLD, SLV and USO:

Rebate to Add Liquidity	\$0.15 ²	\$0.15 ²	\$0.00
Fee to Add Liquidity	\$0.37 ³	\$0.37 ³	\$0.43
Rebate to Remove Liquidity	\$0.32	\$0.00	\$0.00
Fee to Remove Liquidity	\$0.00	\$0.43	\$0.43]

All Other Penny Pilot Options:

Rebate to Add Liquidity	\$0.[1]00 ²	\$0.10 ²	[\$0.00] <u>N/A</u>
Fee to Add Liquidity	\$0.40 ³	\$0.40 ³	\$0.4[3]5
Rebate to Remove Liquidity	\$0.32	[\$0.00] <u>N/A</u>	[\$0.00] <u>N/A</u>
Fee to Remove Liquidity	[\$0.00] <u>N/A</u>	\$0.4[3]5	\$0.4[3]5

¹ A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

² The Rebate to Add Liquidity will be paid to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Non-Customer or BX Options Market Maker.

³ The Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer.

The Exchange is proposing to eliminate the Rebate to Add Liquidity, in any symbol, to a Customer. The Exchange is also proposing to increase the Fee to Add Liquidity in IWM, QQQ and SPY from \$0.15 to \$0.18 per executed contract for Customers and BX Options Market Makers. For Non-Customers the Fee to Add or to Remove Liquidity in IWM, QQQ and SPY and for all other Penny Pilot Options would increase from \$0.43 to \$0.45 per executed contract. Additionally, for BX Options Market Makers the Fee to Remove Liquidity in IWM, QQQ and SPY and for all other Penny Pilot Options would increase from \$0.43 to \$0.45 per executed contract. The Exchange

is also proposing to remove entirely from the Fees and Rebates schedule certain other options.⁷

The Exchange is also proposing to make technical corrections in Chapter XV, Section 2 by replacing “\$0.00” with “N/A” for several categories. This is not a change to these fees and rebates, but a technical amendment since in these instances “N/A” better reflects that a fee is not relevant for this category rather than “\$0.00” which simply reflects that no fee is currently being charged for this category.

The Exchange believes that the proposed amended fees and rebates are competitive and will encourage BX members to transact business on the Exchange. Despite the reduction of the Customer rebate to \$0.00, the Exchange believes that the fees remain competitive with other options exchanges and that market participants will continue to send order flow to the Exchange.

2. Statutory Basis

BX believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,⁸ in general, and with Section 6(b)(4) of the Act,⁹ in particular, in

⁷ Id. As a result, the pricing for the Deleted Symbols currently in place will be eliminated and revert to the current fees and rebates for all other Penny Pilot Options. The Rebate to Add Liquidity will decrease for Customers and BX Options Market Makers from \$0.15 to \$0.00 and from \$0.15 to \$0.10 per contract, respectively. A Non-Customer will continue not to be paid a Rebate for Adding Liquidity. The Rebate to Remove Liquidity will remain unchanged, a Customer will continue to be paid a \$0.32 per contract rebate and BX Options Market Makers and Non-Customers will not be entitled to a Rebate to Remove Liquidity. The Fee to Remove Liquidity will remain unchanged for Customers as they will not be assessed this fee as is the case today. The Fee for Removing Liquidity will increase for BX Options Market Makers and Non-Customers from \$0.43 to \$0.45 per contract because the Exchange is proposing to increase this fee.

⁸ 15 U.S.C. 78f.

that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which BX operates or controls.

The Exchange believes that its proposal to assess different fees and rebates for IWM, QQQ and SPY as compared to all other Penny Pilot Options is reasonable given the fact that certain symbols such as IWM, QQQ and SPY are highly liquid Penny Pilot Options as compared to other Penny Pilot Options. Additionally, other options exchanges differentiate pricing by security today.¹⁰

The Exchange believes that its proposal to assess different fees and rebates for IWM, QQQ and SPY as compared to all other Penny Pilot Options is equitable and not unfairly discriminatory as described hereafter. With respect to the proposed elimination of the Rebate to Add Liquidity¹¹ for IWM, QQQ, SPY and all other Penny Pilot Options, the Exchange believes it is critical to incentivize BX Options Market Makers because they have obligations to the market and regulatory requirements,¹² which normally do not

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ See NASDAQ OMX PHLX LLC's ("Phlx") Pricing Schedule, which has different pricing for its Select Symbols and different pricing for other Multiply Listed Options. See also the NASDAQ Options Market LLC ("NOM") at Chapter XV, Section 2(1), which distinguishes pricing for NDX and MNX. See also the International Securities Exchange LLC's Fee Schedule, which distinguishes pricing for Special Non-Select Penny Pilot Symbols. See also the Chicago Board Options Exchange, Incorporated's Fees Schedule, which distinguishes index products.

¹¹ The Exchange proposes to eliminate for Customers the Rebate to Add Liquidity for IWM, QQQ, and SPY of \$0.15 per contract and of \$0.10 per contract for other Penny Pilot Options.

¹² Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a Market Maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market

apply to other market participants. A BX Options Market Maker has the obligation to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The Exchange is proposing to eliminate the Customer Rebate to Add Liquidity because the Exchange believes that Customers do not require a similar incentive as do BX Options Market Makers because they post liquidity on the Exchange for reasons other than the opportunity to receive rebates and additionally, Customers, unlike BX Options Market Makers, are not assessed a Fee to Remove Liquidity.¹³ BX Options Market Makers would continue to receive the opportunity to earn a \$0.10 per contract (all other Penny Pilot Options) or \$0.15 per contract (IWM, QQQ, and SPY) Rebate to Add Liquidity only when they are contra to a Non-Customer or BX Options Market Maker. The proposed differentiation as between Customers and BX Options Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by BX Options Market Makers, as well as the differing mix of orders entered. This is not to say that Customer order flow is not important, to the contrary, the Exchange believes that the pursuit of such order flow by BX Options Market Makers and other market participants because of the valuable liquidity Customer order flow brings to the marketplace is the very reason that at this time, the Exchange

making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. See Chapter VII, Section 5.

¹³ Today, Customers are not assessed a Fee to Remove Liquidity unlike other market participants.

desires to incentivize and reward BX Options Market Makers to make continuous markets and pursue Customer Order which can be freely removed at no expense. Also, it is important to note that BX Options Market Makers are unaware at the time the order is entered whether they would be entitled to a \$0.10 or \$0.15 per contract Rebate to Add Liquidity, depending on the security, because they are unaware of the identity of the contra-party, which would determine whether they receive a rebate. Because of anonymity of the contra-parties, BX Options Market Makers aggressively pursue order flow which benefits all market participants.

The Exchange's proposal to increase the Fee to Add Liquidity for IWM, QQQ, SPY for all market participants and for Non-Customers in all other Penny Pilot Options, as well as to increase the Fee to Remove Liquidity for IWM, QQQ, SPY and all other Penny Pilot Options for BX Options Market Makers and for Non-Customers is reasonable because the increased fees would allow the Exchange to continue to reward Customers for removing liquidity, and BX Options Market Makers for providing liquidity with rebates. The advantage of increased Customer order flow benefits all market participants. In addition, the proposed amended Fees to Add or to Remove Liquidity are no greater than the rates assessed by other exchanges for similar fees.¹⁴ Attracting Customer, BX Options Market Maker, and Non-Customer order flow to the Exchange benefits all market participants. BX Options Market Makers have burdens that do not apply to other market participants. The Exchange is also uniformly assessing all Non-Customer market participants (Professionals, Firms, Broker-Dealers, Non-BX Options

¹⁴ See BATS Exchange, Inc.'s Fee Schedule. See also NOM Chapter XV, Section 2 (the Penny Pilot Fees to Remove Liquidity are \$0.45 per contract for all market participants).

Market Makers and BX Options Market Makers) the same \$0.45 per executed contract Fee to Add or to Remove Liquidity on every transaction.

The Exchange's proposal to increase the Fee to Add Liquidity for IWM, QQQ, SPY for all market participants and for Non-Customers of all other Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange is increasing all market participant Fees to Add Liquidity. Specifically, while Customers and BX Options Market Makers are being increased by \$0.03 per executed contract, Non-Customers are being increased by \$0.02 per executed contract because they are assessed higher fees. The Exchange is assessing higher fees to all participants and not a select group of market participants. The Exchange's proposal to increase the Fee to Remove Liquidity for BX Options Market Makers and Non-Customers for IWM, QQQ, SPY and for all other Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange is uniformly assessing all market participants, except Customers,¹⁵ a \$0.45 per executed contract Fee to Remove Liquidity.

The Exchange believes that its proposal to eliminate the fees and rebates currently in place for Deleted Symbols and instead include these symbols in all other Penny Pilot Options and assess those fees and pay those rebates is reasonable because the Exchange does not believe it is necessary to incentivize BX Options Participants with higher rebates and lower fees as compare to other Non-Penny Pilot Options. The Exchange believes that the fee and rebates in place for all other Penny Pilot Options will continue to incentivize NOM Participants to transact business on the Exchange because despite the increase to the fees and the rebate reduction, the pricing for these Non-Penny Pilot

¹⁵ Customers are not assessed a Fee to Remove Liquidity today in either Penny Pilot or all other Penny Pilot Options.

Options remains competitive. The Exchange also believes that it is equitable and not unfairly discriminatory to assess the Deleted Symbols the fees and rebates currently assessed and paid all other Penny Pilot Options because the fees and rebates would be the same as those assessed and paid for all other Non-Penny Pilot Options today. The Exchange would assess and pay fees and rebates for the Deleted Symbols, which are Non-Penny Pilot symbols, the same pricing as is assessed and paid for all other Non-Penny Pilot symbols options.

The Exchange's proposal to make technical corrections in Chapter XV, Section 2, by replacing "\$0.00" with "N/A" for several categories is reasonable, equitable and not unfairly discriminatory because this is not a change to these fees and rebates, but a clarification that in these instances "N/A" better reflects that a fee is not relevant for this category rather than using "\$0.00" which simply reflects that no fee is currently being charged for this category.

The Exchange operates in a highly competitive market comprised of ten U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed amended fee and rebate scheme is competitive and similar to other fees and rebates in place on other exchanges. The Exchange believes that this competitive marketplace materially impacts the fees and rebates present on the Exchange today and substantially influences the proposal set forth above.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX 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. To the contrary, BX has designed its fees and rebates to compete effectively for the execution and routing of options contracts and to reduce the overall cost to investors of options trading. The Exchange believes that the proposed fee/rebate pricing structure would attract liquidity to and benefit order interaction at the Exchange to the benefit of all market participants.

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.¹⁶ 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:

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2012-060 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-2012-060. 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 10:00 a.m. and 3:00 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-2012-060 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.¹⁷

Kevin M O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).

Exhibit 5

Additions are underlined; deletions are bracketed.

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Rules of NASDAQ OMX BX

Equity Rules

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Chapter XV Options Pricing

BX Options Participants may be subject to the Charges for Membership, Services and Equipment in the Rule 7000 Series as well as the fees in this Chapter XV.

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Sec. 2 BX Options Market—Fees and Rebates

The following charges shall apply to the use of the order execution and routing services of the BX Options market for all securities.

(1) Fees for Execution of Contracts on the BX Options Market:

	Fees and Rebates (per executed contract)		
	Customer	BX Options Market Maker	Non-Customer¹
IWM, QQQ and SPY:			
Rebate to Add Liquidity	\$0.[15] <u>00</u> ²	\$0.15 ²	[\$0.00] <u>N/A</u>
Fee to Add Liquidity	\$0.1[5] <u>8</u> ³	\$0.1[5] <u>8</u> ³	\$0.4[3] <u>5</u>
Rebate to Remove Liquidity	\$0.12	[\$0.00] <u>N/A</u>	[\$0.00] <u>N/A</u>
Fee to Remove Liquidity	[\$0.00] <u>N/A</u>	\$0.4[3] <u>5</u>	\$0.4[3] <u>5</u>
[BAC, C, CSCO, F, INTC, MSFT, JPM, GLD, SLV and USO:			
Rebate to Add Liquidity	\$0.15 ²	\$0.15 ²	\$0.00
Fee to Add Liquidity	\$0.37 ³	\$0.37 ³	\$0.43
Rebate to Remove Liquidity	\$0.32	\$0.00	\$0.00
Fee to Remove Liquidity	\$0.00	\$0.43	\$0.43]
All Other Penny Pilot Options:			
Rebate to Add Liquidity	\$0.[1] <u>00</u> ²	\$0.10 ²	[\$0.00] <u>N/A</u>

Fee to Add Liquidity	\$0.40 ³	\$0.40 ³	\$0.4[3]5
Rebate to Remove Liquidity	\$0.32	[\$0.00] <u>N/A</u>	[\$0.00] <u>N/A</u>
Fee to Remove Liquidity	[\$0.00] <u>N/A</u>	\$0.4[3]5	\$0.4[3]5

¹ A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

² The Rebate to Add Liquidity will be paid to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Non-Customer or BX Options Market Maker.

³ The Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer.

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