

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="48"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2019"/> - * <input type="text" value="013"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by **NASDAQ 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"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	<input type="checkbox"/> 19b-4(f)(6)
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend the Exchange transaction fees and credits at Equity 7, Section 118(a).

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 action.

First Name * <input type="text" value="Brett"/>	Last Name * <input type="text" value="Kitt"/>
Title * <input type="text" value="Senior Associate General Counsel"/>	
E-mail * <input type="text" value="Brett.Kitt@nasdaq.com"/>	
Telephone * <input type="text" value="(301) 978-8132"/>	Fax <input type="text"/>

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.

(Title *)

Date <input type="text" value="05/10/2019"/>	<input type="text" value="Global Chief Legal and Policy Officer"/>
By <input type="text" value="Edward S. Knight"/>	<input type="text" value="edward.knight@nasdaq.com"/>

(Name *)

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.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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 *

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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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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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, security-based swap submission, or advance notice 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

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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 BX, Inc. (“BX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Exchange’s transaction fees and credits at Equity 7, Section 118(a), as described further below.

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

The text of the proposed rule change is attached as Exhibit 5.

(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 (the “Board”) on September 26, 2018. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Brett Kitt
Senior Associate General Counsel
Nasdaq, Inc.
(301) 978-8132

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange operates on the “taker-maker” model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity.

Currently, the Exchange has a schedule, at Equity 7, Section 118(a), which consists of several different credits that it provides for orders in securities priced at \$1 or more per share that access liquidity on the Exchange and several different charges that it assesses for orders in such securities that add liquidity on the Exchange. With limited exceptions, the Exchange's system of credits and charges presently applies to orders in securities in all Tapes.

The purpose of the proposed rule change is to amend the Exchange's schedule of fees and credits with the objective of increasing net incentives for members to remove liquidity from the Exchange in securities in Tape B, where the Exchange has seen less activity than it has in Tape A and C securities.

Tape B Credits

The Exchange proposes to achieve its objective of increasing removal activity in securities in Tape B, in part, by establishing a new series of credits for orders in securities in Tape B that remove liquidity from the Exchange (“Tape B Credits”). As is explained below, the proposed Tape B Credits will apply in lieu of most of the existing generally applicable liquidity removal credits. The existing credits will continue to apply, but only as to orders in securities in Tapes A and C (the “Tape A and C Credits”). The proposed Tape B Credits will generally be higher than the Tape A and C Credits, which again the Exchange proposes as a means of targeting an increase in liquidity removal activity in

securities in Tape B. The availability of the proposed Tape B Credits will also be tied to the level of a member's liquidity adding activity in Tape B securities as a means of incentivizing liquidity adding activity even as the Exchange proposes to increase its charges for orders that add liquidity in Tape B.

Specifically, the Exchange proposes to adopt the following Tape B Credits:

- \$0.0026 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity in Tape B securities equal to or exceeding 0.025% of total Consolidated Volume³ during a month; and
- \$0.0024 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity equal to or exceeding an average daily volume of 50,000 shares during a month.

The Exchange also proposes to eliminate the following two existing credits, which apply specifically to orders in securities in Tape B, insofar as the Exchange will replace these existing credits with the higher proposed Tape B Credits:

- \$0.0019 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders

³ Pursuant to Equity 7, Section 118(a), the term "Consolidated Volume" means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

that receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) accesses liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in December 2018; and

- \$0.0019 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that, during a given month: (i) has a total volume (accessing and adding liquidity) equal to or exceeding 0.40% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in December 2018; and (iii) of the 20% or more increase in total volume described in (ii) herein, at least 30% is attributable to adding liquidity.

Lastly, as noted above, the proposed Tape B Credits will not supplant all of the existing credits. Instead, the Exchange proposes that the following existing credits will continue to apply to orders in securities in Tape B (as well as to orders in Tapes A and C):

- \$0.0000 per share executed for an order that receives price improvement and executes against an order with a Non-displayed price; and
- \$0.0000 per share executed for an order with Midpoint pegging that removes liquidity.

Change to Tape A and C Credit

Additionally, the Exchange proposes to amend its existing \$0.0001 per share executed “catch-all” credit that applies to “all other orders” that remove liquidity from the Exchange. The Exchange proposes to amend the credit so that it applies to an order in securities in Tapes A and C (excluding an order with midpoint pegging and excluding an order that receives price improvement and execute against an order with a non-displayed price) that remove liquidity from the Exchange that are entered by a member that adds at least an average daily volume of 50,000 shares to the Exchange during a month. The Exchange proposes these changes to incentivize members to engage in meaningful liquidity adding activity during a month.

New Fee for Removing Liquidity from the Exchange

As explained above, the Exchange presently operates on the taker-maker model, such that it currently does not charge a fee for executions on the Exchange of orders that remove liquidity from the Exchange. However, the Exchange now proposes to establish such a fee for members that do not add a meaningful amount of liquidity to the Exchange during a month. The purpose of the fee is to help ensure that, as the Exchange seeks to establish new Tape B Credits to incentivize liquidity removal in Tape B securities, and also seeks to offset the costs of those Tape B Credits by increasing fees for adding Tape B liquidity, the Exchange continues to provide incentives to members to add meaningful amounts of liquidity to the Exchange each month.

Specifically, the Exchange proposes to charge a fee of \$0.0003 per share executed for an order in securities in any Tape (excluding an order with midpoint pegging and excluding an order that receives price improvement and execute against an order with a non-displayed price) that removes liquidity from the Exchange and that is entered by a

member that does not add at least an average daily volume of 50,000 shares to the Exchange during a month. The fee would apply unless a member's liquidity adding activity on the Exchange qualifies it for a liquidity removal credit.

As an example of the operation of the proposed liquidity removal fee, a member that adds an average daily volume of 49,000 shares in any Tape to the Exchange would pay a \$0.0003 fee per share executed for all of its orders that remove liquidity from the Exchange during that month. If in the subsequent month, however, the member increases its average daily volume of shares added to the Exchange to 50,000 shares, then it would no longer pay that \$0.0003 fee, but it would instead qualify for the \$0.0001 per share executed credit on its orders in securities in Tapes A and C that remove liquidity from the Exchange and the \$0.0024 per share executed credit on its orders in securities in Tape B that remove liquidity from the Exchange during that month (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price).

Tape B Charges

As a means of offsetting the costs of providing the Tape B Credits, the Exchange proposes to establish a new series of charges for displayed and non-displayed orders in securities in Tape B that add liquidity to the Exchange ("Tape B Charges"). As is explained below, the proposed Tape B Charges will apply in lieu of most of the existing generally applicable liquidity adding charges. The existing charges will continue to apply, but only as to orders in securities in Tapes A and C (the "Tape A and C Charges"). The proposed Tape B Charges are similarly structured to the existing Tape A and C Charges, which are also tied to liquidity adding activity, except that the Tape B charges will generally be higher than the Tape A and C Charges. Again, the Exchange proposes

higher Tape B Charges as a means of offsetting the costs of its efforts to increase liquidity removal activity in securities in Tape B. However, relative to each other, the new displayed order charges will be lower for members that add higher volumes of Tape B liquidity during a month.

Specifically, the Exchange proposes to adopt the following Tape B Charges:

- \$0.0026 per share executed for a displayed order in securities in Tape B entered by a member that adds Tape B liquidity equal to or exceeding 0.025% total Consolidated Volume during a month;
- \$0.0028 per share executed for a displayed order in securities in Tape B entered by a member that adds Tape B liquidity that is less than 0.025% total Consolidated Volume during a month; and
- \$0.0028 per share executed for a non-displayed order in securities in Tape B (other than orders with Midpoint pegging) entered by a member that adds Tape B liquidity equal to or exceeding 0.025% total Consolidated Volume during a month.

Lastly, as noted above, the proposed Tape B Charges will not supplant all of the existing charges. Instead, the Exchange proposes that following existing charges will continue to apply to orders in securities in Tape B (as well as to orders in Tapes A and C):

- \$0.0005 per share executed for an order with Midpoint pegging entered by a member that adds 0.02% of total Consolidated Volume of non-displayed liquidity excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO;

- \$0.0015 per share executed for an order with Midpoint pegging entered by entered by other member excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO;
- \$0.0024 per share executed for a buy (sell) order with Midpoint pegging that receives an execution price that is lower (higher) than the midpoint of the NBBO;
- \$0.0030 per share executed for all other non-displayed orders; and
- charges for BSTG, BSCN, BMOP, BTFY, BCRT, BDRK, and BCST orders that execute in a venue other than the Nasdaq BX Equities System.

Change to Tape A & C Charge

The Exchange presently charges a \$0.0017 per share executed fee for displayed orders entered by a member that adds liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month as well as a \$0.0014 per share executed fee for displayed orders entered by a member that adds liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month.⁴ The Exchange proposes to increase the level of total Consolidated Volume that triggers the \$0.0014 per share executed fee from 0.25% to 0.35%. The Exchange believes that increasing the volume threshold for a member to qualify for the lower \$0.0014 per share executed fee would incentivize firms to add additional liquidity to the Exchange.

Reorganization of Schedule

To effectuate the foregoing changes in a way that is readily comprehensible to members, the Exchange proposes to reorganize and re-format Equity 7, Section 118(a).

⁴ Going forward, these charges will apply only to securities in Tapes A and C.

Specifically, the Exchange proposes to indicate in a chart the applicability of each credit and charge to securities in Tapes A, B, and C. Where a credit or charge does not apply to securities in a particular Tape, the chart will so indicate with the term “N/A.”

The Exchange also proposes to re-format and emphasize in bold type the headings for the credits and fees that comprise the schedule so that members can distinguish these sections more easily. Finally, the Exchange proposes to insert a new heading – “Other charges for entering orders in the Nasdaq BX Equities System” – that will apply to charges for BSTG, BSCN, BMOP, BTFY, BCRT, BDRK, and BCST orders that execute in a venue other than the Nasdaq BX Equities System.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁶ 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 Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

broader forms that are most important to investors and listed companies.”⁷

Likewise, in NetCoalition v. Securities and Exchange Commission⁸ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.⁹ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”¹⁰

Further, “[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’ . . .”¹¹ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

⁷ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

⁸ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

⁹ See NetCoalition, at 534 - 535.

¹⁰ Id. at 537.

¹¹ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

Tape B Credits and Charges

The Exchange believes that it is reasonable to establish a new system of Tape B Credits and Tape B Charges, which will largely supplant the schedule of credits and charges that applies presently to orders in Tape B securities. The Exchange has designed this new system of Tape B Credits and Tape B Charges to provide new incentives to members to increase their liquidity removal activity in Tape B securities, while also maintaining significant levels of liquidity adding activity on the Exchange.

The Exchange believes that the proposed Tape B Credits are reasonable because they are structured similarly to existing liquidity removal credits in that they apply only when members achieve certain thresholds of participation on the Exchange. Increased participation on the Exchange will help to improve transparency and price discovery and will enhance execution opportunities for members on the Exchange. In particular, it is reasonable for the Exchange to propose to tie the availability of Tape B Credits to a member achieving certain thresholds of liquidity addition, rather than certain levels of liquidity removal (as is the case with existing credits), because the Exchange seeks to ensure that as it provides higher removal credits for orders in securities in Tape B, it also maintains adequate incentives for members to continue to add liquidity to the Exchange.

Moreover, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to propose higher credits to members that remove Tape B liquidity than it does to members that remove liquidity in securities in Tapes A and C because the Exchange has experienced less activity in Tape B securities relative to Tapes A and C securities and it wishes to specifically target increased activity with respect to Tape B securities.

The Exchange believes that its proposals are equitable and not unfairly discriminatory because they will apply to all similarly situated member firms. That is, any member may qualify for receipt of the higher credits by achieving the requisite volume of liquidity adding activity during a month.¹² Moreover, the proposed change is equitable because it will incentivize members to engage in market-improving behavior.

Likewise, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory to establish new charges for displayed and non-displayed orders in securities in Tape B entered by members that add liquidity to the Exchange. The Exchange formulated the Tape B Charges similarly to the existing Tape A and C Charges in that they trigger when members add liquidity equal to or exceeding certain threshold volumes. Moreover, it is equitable and not unfairly discriminatory for the Exchange to charge higher fees to members that add Tape B liquidity than it does to members that add liquidity in securities in Tapes A and C because these new Tape B Charges will help the Exchange to specifically offset the costs of the new, higher Tape B Credits. The Exchange notes that it will also offset some of the added costs of the Tape B Charges by tying the availability of the Tape B Credits to members that achieve or maintain certain monthly levels of liquidity adding activity.

The Exchange also believes that these proposals are not unfairly discriminatory because they will apply to all similarly situated member firms. Any member will be entitled to receive the new credits or incur the new fees if they add certain minimum

¹² Additionally, the Exchange believes that it is reasonable and equitable for it to eliminate its two existing \$0.0019 per share executed credits for orders in Tape B securities entered by members that increase their levels of participation on the Exchange over time because these credits will be replaced by substantially higher Tape B Credits that will be easier for members to achieve.

levels of liquidity in a month. Conversely, any member may avoid imposition of the new fees by reducing or avoiding liquidity-adding activity.

Liquidity Removal Fee

The Exchange believes it is reasonable to charge its members a fee for removing liquidity from the Exchange even though the Exchange otherwise operates on a taker-maker model. Although the concept of a liquidity removal fee is new to the Exchange, it is not novel on taker-maker exchanges. Indeed, the Exchange notes that the proposed fee is similar to a liquidity removal fee that NYSE National recently imposed on its members.¹³

Additionally, the Exchange believes that the proposed fee is reasonable because it is intended to incentivize members that engage primarily in liquidity removal activity on the Exchange to also maintain a meaningful level of liquidity adding activity as well. In particular, the Exchange believes that its members would seek to avoid incurring the proposed fee, and instead qualify for a liquidity removal credit, by increasing the extent to which it adds liquidity to the Exchange.

The Exchange believes that the proposed fee is equitable and not unfairly discriminatory because it would apply to all similarly situated members and because any member may avoid imposition of the fee by adding the requisite level of liquidity to the Exchange during a month.¹⁴

¹³ See Securities Exchange Act Release No. 34-85674 (Apr. 17, 2019); 84 FR 16903 (Apr. 23, 2019) (SR-NYSENAT-2019-09) (imposing fee for ETP Holders that remove liquidity from the Exchange unless a better tiered credit or fee applies).

¹⁴ Relatedly, the Exchange believes that it is reasonable to amend its existing \$0.0001 per share executed catch all credit so that it applies (i) only to orders in securities in Tapes A and C and (ii) only to members that add at least an average daily volume of 50,000 shares to the Exchange in a month.

Changes to Tape A and C Fees and Charges

The Exchange believes that it is reasonable to amend its existing \$0.0001 per share executed “catch-all” credit so that it applies only to orders in securities in Tapes A and C that remove liquidity from the Exchange and only to the extent that members add at least an average daily volume of 50,000 shares to the Exchange during a month. The Exchange intends for the proposed change to parallel the new \$0.0024 per share executed catch-all credit that it proposes for orders that remove liquidity in Tape B securities entered by members that add at least an average daily volume of 50,000 shares to the Exchange during a month. The Exchange intends for both of these credits to incentivize members to engage in a meaningful baseline volume of liquidity adding activity during a month. As noted above, the Exchange believes that it is equitable and non-discriminatory for the Exchange to provide a higher catch-all remove credit to orders in Tape B securities than it does to orders in Tapes A and C securities as a means of targeting an increase in Tape B removal activity. The proposed change is equitable and non-discriminatory because the amended credit will be available to all similarly situated members and any member may qualify for the amended credit by satisfying its liquidity addition criteria. Moreover, the proposed change is equitable because it will incentivize members to engage in market-improving behavior.

The Exchange believes that it is reasonable to increase the total Consolidated Volume threshold necessary to trigger its existing \$0.0014 per share executed fee that the Exchange charges for a displayed order (going forward, in securities in Tapes A and C only) that adds liquidity entered by a member that adds liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month. The proposed increase in qualifying total Consolidated Volume will increase member incentives to add liquidity to

the Exchange. The Exchange notes that the fee remains unchanged and therefore continues to be reasonable. The Exchange believes that increase to the total Consolidated Volume requirement is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fee to all similarly situated members. Any member may choose to avoid the fee by adding less than the level of Consolidated Volume that will trigger it. Moreover, the proposed change is equitable because it will incentivize members to engage in market-improving behavior.

Reorganization of Schedule

The Exchange believes that it is reasonable to reorganize and re-format Equity 7, Section 118(a) so that it implements the foregoing changes in a manner that is readily comprehensible to readers. The Exchange believes that the proposed reorganization is equitable and non-discriminatory in that the proposal changes will render the fee schedule easier to read and understand for all members.

4. 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 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, or rebate opportunities available at other venues to be more favorable. 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, and because market participants may readily adjust their order routing

practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the Exchange's charges assessed and credits available to member firms for execution of securities in Tape B do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The Exchange intends for the proposed changes, in the aggregate, to increase member incentives to remove Tape B liquidity from the Exchange while maintaining adequate incentives for members to continue to add meaningful levels of liquidity to the Exchange. The Exchange proposes to achieve these objectives by adding a new system of Tape B Credits that are significantly higher than the credits presently available to members with orders that remove Tape B liquidity from the Exchange. It also intends to establish new and higher Tape B Charges to offset the costs of the new Tape B Credits, but it proposes to offset the costs of the new Tape B Charges, in part, by tying the availability of the new Tape B Credits to members adding certain threshold volumes of liquidity to the Exchange.

The Exchange's efforts to incentivize market-improving activity are not limited to orders in securities in Tape B. Indeed, the Exchange proposes to modify the \$0.001 "catch-all" credit applicable to orders that remove liquidity in securities in Tapes A and C so that it is available only to firms that also make meaningful contributions to liquidity on the Exchange, and it proposes to establish a liquidity removal fee for orders in securities in all Tapes for members that fail to make baseline contributions to liquidity. Finally, the

Exchange proposes to increase the total Consolidated Volume threshold that triggers a \$0.0014 per share executed fee for a displayed order in securities in Tapes A and C entered by a member that adds liquidity to the Exchange.

In the aggregate, all of these changes are procompetitive and reflective of the Exchange's efforts to make it an attractive and vibrant venue to market participants.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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,¹⁵ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization 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.

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

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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.

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

The proposal to add a liquidity removal fee is similar to SR-NYSE-NAT-2019-09.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-BX-2019-013)

May __, 2019

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Transaction Fees and Credits at Equity 7, Section 118(a)

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 May 10, 2019, 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 transaction fees and credits at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's Website at <http://nasdaqbx.cchwallstreet.com/>, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange operates on the “taker-maker” model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity.

Currently, the Exchange has a schedule, at Equity 7, Section 118(a), which consists of several different credits that it provides for orders in securities priced at \$1 or more per share that access liquidity on the Exchange and several different charges that it assesses for orders in such securities that add liquidity on the Exchange. With limited exceptions, the Exchange's system of credits and charges presently applies to orders in securities in all Tapes.

The purpose of the proposed rule change is to amend the Exchange's schedule of fees and credits with the objective of increasing net incentives for members to remove liquidity from the Exchange in securities in Tape B, where the Exchange has seen less activity than it has in Tape A and C securities.

Tape B Credits

The Exchange proposes to achieve its objective of increasing removal activity in securities in Tape B, in part, by establishing a new series of credits for orders in securities in Tape B that remove liquidity from the Exchange (“Tape B Credits”). As is explained below, the proposed Tape B Credits will apply in lieu of most of the existing generally applicable liquidity removal credits. The existing credits will continue to apply, but only

as to orders in securities in Tapes A and C (the “Tape A and C Credits”). The proposed Tape B Credits will generally be higher than the Tape A and C Credits, which again the Exchange proposes as a means of targeting an increase in liquidity removal activity in securities in Tape B. The availability of the proposed Tape B Credits will also be tied to the level of a member’s liquidity adding activity in Tape B securities as a means of incentivizing liquidity adding activity even as the Exchange proposes to increase its charges for orders that add liquidity in Tape B.

Specifically, the Exchange proposes to adopt the following Tape B Credits:

- \$0.0026 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity in Tape B securities equal to or exceeding 0.025% of total Consolidated Volume³ during a month; and
- \$0.0024 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity equal to or exceeding an average daily volume of 50,000 shares during a month.

³ Pursuant to Equity 7, Section 118(a), the term “Consolidated Volume” means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

The Exchange also proposes to eliminate the following two existing credits, which apply specifically to orders in securities in Tape B, insofar as the Exchange will replace these existing credits with the higher proposed Tape B Credits:

- \$0.0019 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) accesses liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in December 2018; and
- \$0.0019 per share executed for orders that access liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that, during a given month: (i) has a total volume (accessing and adding liquidity) equal to or exceeding 0.40% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in December 2018; and (iii) of the 20% or more increase in total volume described in (ii) herein, at least 30% is attributable to adding liquidity.

Lastly, as noted above, the proposed Tape B Credits will not supplant all of the existing credits. Instead, the Exchange proposes that the following existing credits will

continue to apply to orders in securities in Tape B (as well as to orders in Tapes A and C):

- \$0.0000 per share executed for an order that receives price improvement and executes against an order with a Non-displayed price; and
- \$0.0000 per share executed for an order with Midpoint pegging that removes liquidity.

Change to Tape A and C Credit

Additionally, the Exchange proposes to amend its existing \$0.0001 per share executed “catch-all” credit that applies to “all other orders” that remove liquidity from the Exchange. The Exchange proposes to amend the credit so that it applies to an order in securities in Tapes A and C (excluding an order with midpoint pegging and excluding an order that receives price improvement and execute against an order with a non-displayed price) that remove liquidity from the Exchange that are entered by a member that adds at least an average daily volume of 50,000 shares to the Exchange during a month. The Exchange proposes these changes to incentivize members to engage in meaningful liquidity adding activity during a month.

New Fee for Removing Liquidity from the Exchange

As explained above, the Exchange presently operates on the taker-maker model, such that it currently does not charge a fee for executions on the Exchange of orders that remove liquidity from the Exchange. However, the Exchange now proposes to establish such a fee for members that do not add a meaningful amount of liquidity to the Exchange during a month. The purpose of the fee is to help ensure that, as the Exchange seeks to establish new Tape B Credits to incentivize liquidity removal in Tape B securities, and also seeks to offset the costs of those Tape B Credits by increasing fees for adding Tape

B liquidity, the Exchange continues to provide incentives to members to add meaningful amounts of liquidity to the Exchange each month.

Specifically, the Exchange proposes to charge a fee of \$0.0003 per share executed for an order in securities in any Tape (excluding an order with midpoint pegging and excluding an order that receives price improvement and execute against an order with a non-displayed price) that removes liquidity from the Exchange and that is entered by a member that does not add at least an average daily volume of 50,000 shares to the Exchange during a month. The fee would apply unless a member's liquidity adding activity on the Exchange qualifies it for a liquidity removal credit.

As an example of the operation of the proposed liquidity removal fee, a member that adds an average daily volume of 49,000 shares in any Tape to the Exchange would pay a \$0.0003 fee per share executed for all of its orders that remove liquidity from the Exchange during that month. If in the subsequent month, however, the member increases its average daily volume of shares added to the Exchange to 50,000 shares, then it would no longer pay that \$0.0003 fee, but it would instead qualify for the \$0.0001 per share executed credit on its orders in securities in Tapes A and C that remove liquidity from the Exchange and the \$0.0024 per share executed credit on its orders in securities in Tape B that remove liquidity from the Exchange during that month (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price).

Tape B Charges

As a means of offsetting the costs of providing the Tape B Credits, the Exchange proposes to establish a new series of charges for displayed and non-displayed orders in securities in Tape B that add liquidity to the Exchange ("Tape B Charges"). As is

explained below, the proposed Tape B Charges will apply in lieu of most of the existing generally applicable liquidity adding charges. The existing charges will continue to apply, but only as to orders in securities in Tapes A and C (the “Tape A and C Charges”). The proposed Tape B Charges are similarly structured to the existing Tape A and C Charges, which are also tied to liquidity adding activity, except that the Tape B charges will generally be higher than the Tape A and C Charges. Again, the Exchange proposes higher Tape B Charges as a means of offsetting the costs of its efforts to increase liquidity removal activity in securities in Tape B. However, relative to each other, the new displayed order charges will be lower for members that add higher volumes of Tape B liquidity during a month.

Specifically, the Exchange proposes to adopt the following Tape B Charges:

- \$0.0026 per share executed for a displayed order in securities in Tape B entered by a member that adds Tape B liquidity equal to or exceeding 0.025% total Consolidated Volume during a month;
- \$0.0028 per share executed for a displayed order in securities in Tape B entered by a member that adds Tape B liquidity that is less than 0.025% total Consolidated Volume during a month; and
- \$0.0028 per share executed for a non-displayed order in securities in Tape B (other than orders with Midpoint pegging) entered by a member that adds Tape B liquidity equal to or exceeding 0.025% total Consolidated Volume during a month.

Lastly, as noted above, the proposed Tape B Charges will not supplant all of the existing charges. Instead, the Exchange proposes that following existing charges will

continue to apply to orders in securities in Tape B (as well as to orders in Tapes A and C):

- \$0.0005 per share executed for an order with Midpoint pegging entered by a member that adds 0.02% of total Consolidated Volume of non-displayed liquidity excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO;
- \$0.0015 per share executed for an order with Midpoint pegging entered by other member excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO;
- \$0.0024 per share executed for a buy (sell) order with Midpoint pegging that receives an execution price that is lower (higher) than the midpoint of the NBBO;
- \$0.0030 per share executed for all other non-displayed orders; and
- charges for BSTG, BSCN, BMOP, BTFY, BCRT, BDRK, and BCST orders that execute in a venue other than the Nasdaq BX Equities System.

Change to Tape A & C Charge

The Exchange presently charges a \$0.0017 per share executed fee for displayed orders entered by a member that adds liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month as well as a \$0.0014 per share executed fee for displayed orders entered by a member that adds liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month.⁴ The Exchange proposes to increase the level of total Consolidated Volume that triggers the \$0.0014 per share executed fee from

⁴ Going forward, these charges will apply only to securities in Tapes A and C.

0.25% to 0.35%. The Exchange believes that increasing the volume threshold for a member to qualify for the lower \$0.0014 per share executed fee would incentivize firms to add additional liquidity to the Exchange.

Reorganization of Schedule

To effectuate the foregoing changes in a way that is readily comprehensible to members, the Exchange proposes to reorganize and re-format Equity 7, Section 118(a). Specifically, the Exchange proposes to indicate in a chart the applicability of each credit and charge to securities in Tapes A, B, and C. Where a credit or charge does not apply to securities in a particular Tape, the chart will so indicate with the term “N/A.”

The Exchange also proposes to re-format and emphasize in bold type the headings for the credits and fees that comprise the schedule so that members can distinguish these sections more easily. Finally, the Exchange proposes to insert a new heading – “Other charges for entering orders in the Nasdaq BX Equities System” – that will apply to charges for BSTG, BSCN, BMOP, BTFY, BCRT, BDRK, and BCST orders that execute in a venue other than the Nasdaq BX Equities System.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁶ 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.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining 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.”⁷

Likewise, in NetCoalition v. Securities and Exchange Commission⁸ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.⁹ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”¹⁰

Further, “[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

⁷ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

⁸ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

⁹ See NetCoalition, at 534 - 535.

¹⁰ Id. at 537.

otherwise, in the execution of order flow from broker dealers'"¹¹ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Tape B Credits and Charges

The Exchange believes that it is reasonable to establish a new system of Tape B Credits and Tape B Charges, which will largely supplant the schedule of credits and charges that applies presently to orders in Tape B securities. The Exchange has designed this new system of Tape B Credits and Tape B Charges to provide new incentives to members to increase their liquidity removal activity in Tape B securities, while also maintaining significant levels of liquidity adding activity on the Exchange.

The Exchange believes that the proposed Tape B Credits are reasonable because they are structured similarly to existing liquidity removal credits in that they apply only when members achieve certain thresholds of participation on the Exchange. Increased participation on the Exchange will help to improve transparency and price discovery and will enhance execution opportunities for members on the Exchange. In particular, it is reasonable for the Exchange to propose to tie the availability of Tape B Credits to a member achieving certain thresholds of liquidity addition, rather than certain levels of liquidity removal (as is the case with existing credits), because the Exchange seeks to ensure that as it provides higher removal credits for orders in securities in Tape B, it also maintains adequate incentives for members to continue to add liquidity to the Exchange.

Moreover, the Exchange believes that is reasonable, equitable, and not unfairly discriminatory to propose higher credits to members that remove Tape B liquidity than it

¹¹ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

does to members that remove liquidity in securities in Tapes A and C because the Exchange has experienced less activity in Tape B securities relative to Tapes A and C securities and it wishes to specifically target increased activity with respect to Tape B securities.

The Exchange believes that its proposals are equitable and not unfairly discriminatory because they will apply to all similarly situated member firms. That is, any member may qualify for receipt of the higher credits by achieving the requisite volume of liquidity adding activity during a month.¹² Moreover, the proposed change is equitable because it will incentivize members to engage in market-improving behavior.

Likewise, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory to establish new charges for displayed and non-displayed orders in securities in Tape B entered by members that add liquidity to the Exchange. The Exchange formulated the Tape B Charges similarly to the existing Tape A and C Charges in that they trigger when members add liquidity equal to or exceeding certain threshold volumes. Moreover, it is equitable and not unfairly discriminatory for the Exchange to charge higher fees to members that add Tape B liquidity than it does to members that add liquidity in securities in Tapes A and C because these new Tape B Charges will help the Exchange to specifically offset the costs of the new, higher Tape B Credits. The Exchange notes that it will also offset some of the added costs of the Tape B Charges by

¹² Additionally, the Exchange believes that it is reasonable and equitable for it to eliminate its two existing \$0.0019 per share executed credits for orders in Tape B securities entered by members that increase their levels of participation on the Exchange over time because these credits will be replaced by substantially higher Tape B Credits that will be easier for members to achieve.

tying the availability of the Tape B Credits to members that achieve or maintain certain monthly levels of liquidity adding activity.

The Exchange also believes that these proposals are not unfairly discriminatory because they will apply to all similarly situated member firms. Any member will be entitled to receive the new credits or incur the new fees if they add certain minimum levels of liquidity in a month. Conversely, any member may avoid imposition of the new fees by reducing or avoiding liquidity-adding activity.

Liquidity Removal Fee

The Exchange believes it is reasonable to charge its members a fee for removing liquidity from the Exchange even though the Exchange otherwise operates on a taker-maker model. Although the concept of a liquidity removal fee is new to the Exchange, it is not novel on taker-maker exchanges. Indeed, the Exchange notes that the proposed fee is similar to a liquidity removal fee that NYSE National recently imposed on its members.¹³

Additionally, the Exchange believes that the proposed fee is reasonable because it is intended to incentivize members that engage primarily in liquidity removal activity on the Exchange to also maintain a meaningful level of liquidity adding activity as well. In particular, the Exchange believes that its members would seek to avoid incurring the proposed fee, and instead qualify for a liquidity removal credit, by increasing the extent to which it adds liquidity to the Exchange.

The Exchange believes that the proposed fee is equitable and not unfairly discriminatory because it would apply to all similarly situated members and because any

¹³ See Securities Exchange Act Release No. 34-85674 (Apr. 17, 2019); 84 FR 16903 (Apr. 23, 2019) (SR-NYSENAT-2019-09) (imposing fee for ETP Holders that remove liquidity from the Exchange unless a better tiered credit or fee applies).

member may avoid imposition of the fee by adding the requisite level of liquidity to the Exchange during a month.¹⁴

Changes to Tape A and C Fees and Charges

The Exchange believes that it is reasonable to amend its existing \$0.0001 per share executed “catch-all” credit so that it applies only to orders in securities in Tapes A and C that remove liquidity from the Exchange and only to the extent that members add at least an average daily volume of 50,000 shares to the Exchange during a month. The Exchange intends for the proposed change to parallel the new \$0.0024 per share executed catch-all credit that it proposes for orders that remove liquidity in Tape B securities entered by members that add at least an average daily volume of 50,000 shares to the Exchange during a month. The Exchange intends for both of these credits to incentivize members to engage in a meaningful baseline volume of liquidity adding activity during a month. As noted above, the Exchange believes that it is equitable and non-discriminatory for the Exchange to provide a higher catch-all remove credit to orders in Tape B securities than it does to orders in Tapes A and C securities as a means of targeting an increase in Tape B removal activity. The proposed change is equitable and non-discriminatory because the amended credit will be available to all similarly situated members and any member may qualify for the amended credit by satisfying its liquidity addition criteria. Moreover, the proposed change is equitable because it will incentivize members to engage in market-improving behavior.

¹⁴ Relatedly, the Exchange believes that it is reasonable to amend its existing \$0.0001 per share executed catch all credit so that it applies (i) only to orders in securities in Tapes A and C and (ii) only to members that add at least an average daily volume of 50,000 shares to the Exchange in a month.

The Exchange believes that it is reasonable to increase the total Consolidated Volume threshold necessary to trigger its existing \$0.0014 per share executed fee that the Exchange charges for a displayed order (going forward, in securities in Tapes A and C only) that adds liquidity entered by a member that adds liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month. The proposed increase in qualifying total Consolidated Volume will increase member incentives to add liquidity to the Exchange. The Exchange notes that the fee remains unchanged and therefore continues to be reasonable. The Exchange believes that increase to the total Consolidated Volume requirement is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fee to all similarly situated members. Any member may choose to avoid the fee by adding less than the level of Consolidated Volume that will trigger it. Moreover, the proposed change is equitable because it will incentivize members to engage in market-improving behavior.

Reorganization of Schedule

The Exchange believes that it is reasonable to reorganize and re-format Equity 7, Section 118(a) so that it implements the foregoing changes in a manner that is readily comprehensible to readers. The Exchange believes that the proposed reorganization is equitable and non-discriminatory in that the proposal changes will render the fee schedule easier to read and understand for all members.

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 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, or rebate opportunities available at other venues to be more favorable. 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, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the Exchange's charges assessed and credits available to member firms for execution of securities in Tape B do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The Exchange intends for the proposed changes, in the aggregate, to increase member incentives to remove Tape B liquidity from the Exchange while maintaining adequate incentives for members to continue to add meaningful levels of liquidity to the Exchange. The Exchange proposes to achieve these objectives by adding a new system of Tape B Credits that are significantly higher than the credits presently available to members with orders that remove Tape B liquidity from the Exchange. It also intends to establish new and higher Tape B Charges to offset the costs of the new Tape B Credits, but it proposes to offset the costs of the new Tape B Charges, in part, by tying the availability of the new Tape B Credits to members adding certain threshold volumes of liquidity to the Exchange.

The Exchange's efforts to incentivize market-improving activity are not limited to orders in securities in Tape B. Indeed, the Exchange proposes to modify the \$0.001 "catch-all" credit applicable to orders that remove liquidity in securities in Tapes A and C so that it is available only to firms that also make meaningful contributions to liquidity on the Exchange, and it proposes to establish a liquidity removal fee for orders in securities in all Tapes for members that fail to make baseline contributions to liquidity. Finally, the Exchange proposes to increase the total Consolidated Volume threshold that triggers a \$0.0014 per share executed fee for a displayed order in securities in Tapes A and C entered by a member that adds liquidity to the Exchange.

In the aggregate, all of these changes are procompetitive and reflective of the Exchange's efforts to make it an attractive and vibrant venue to market participants.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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.¹⁵

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2019-013 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-2019-013. 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-2019-013 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.¹⁶

Eduardo A. Aleman
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

Rules of Nasdaq BX

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Equity 7 Pricing Schedule

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Section 118. Nasdaq BX Equities System Order Execution and Routing

(a) The following charges and credits shall apply to the use of the order execution and routing services of the Nasdaq BX Equities System by members for all securities priced at \$1 or more per share that it trades. As used in this rule, the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. As used in this rule, "price improvement" shall mean instances when the accepted price of an order differs from the executed price of an order.

Credit for entering order that accesses liquidity in the Nasdaq BX Equities System:			
	<u>Tape A</u>	<u>Tape B</u>	<u>Tape C</u>
Order that receives price improvement and executes against an order with a Non-displayed price:	\$0.0000 per share executed	<u>\$0.0000 per share executed</u>	<u>\$0.0000 per share executed</u>
Order with Midpoint pegging that removes liquidity:	\$0.0000 per share executed	<u>\$0.0000 per share executed</u>	<u>\$0.0000 per share executed</u>
Order that accesses liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.50% of total Consolidated Volume during	\$0.0018 per share executed	N/A	<u>\$0.0018 per share executed</u>

a month:			
Order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.12% of total Consolidated Volume during a month:	\$0.0017 per share executed	<u>N/A</u>	<u>\$0.0017 per share executed</u>
Order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that (i) adds liquidity equal to or exceeding 0.60% of total Consolidated Volume during a month; and (ii) accesses liquidity equal to or exceeding 0.10% of total Consolidated Volume during a month:	\$0.0016 per share executed	<u>N/A</u>	<u>\$0.0016 per share executed</u>
Order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.070% of total Consolidated Volume during month:	\$0.0015 per share executed	<u>N/A</u>	<u>\$0.0015 per share executed</u>
Order that accesses liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and	\$0.0018 per share executed	<u>N/A</u>	<u>\$0.0018 per share executed</u>

<p>excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) accesses liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in December 2018:</p>			
<p>[Order that accesses liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) accesses liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month; and (ii) accesses 20% more liquidity as a percentage of Consolidated Volume than the member accessed in December 2018:]</p>		<p>[\$0.0019 per share executed]</p>	
<p>Order that accesses liquidity in securities in Tapes A and C (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that, during a given month: (i) has a total volume (accessing and adding liquidity) equal to or exceeding 0.40% of total Consolidated Volume during that month; (ii) has a total</p>	<p>\$0.0018 per share executed</p>	<p>N/A</p>	<p><u>\$0.0018 per share executed</u></p>

<p>volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in December 2018; and (iii) of the 20% or more increase in total volume described in (ii) herein, at least 30% is attributable to adding liquidity:</p>			
<p>[Order that accesses liquidity in securities in Tape B (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that, during a given month: (i) has a total volume (accessing and adding liquidity) equal to or exceeding 0.40% of total Consolidated Volume during that month; (ii) has a total volume that is at least 20% greater (as a percentage of Consolidated Volume) than its total volume in December 2018; and (iii) of the 20% or more increase in total volume described in (ii) herein, at least 30% is attributable to adding liquidity:]</p>		<p>[\$0.0019 per share executed]</p>	
<p>Order that accesses liquidity in securities in Tape A (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.30% of total Consolidated Volume during</p>	<p>\$0.0018 per share executed</p>	<p><u>N/A</u></p>	<p><u>N/A</u></p>

a month:			
[All other o]Order[s] that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds at least an average daily volume of 50,000 shares to the Exchange during a month:	\$0.0001 per share executed	N/A	\$0.0001 per share executed
Order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity in Tape B securities equal to or exceeding 0.025% total Consolidated Volume during a month:	N/A	\$0.0026 per share executed	N/A
Order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity equal to or exceeding an average daily volume of 50,000 shares in a month:	N/A	\$0.0024 per share executed	N/A
Charge for entering order that accesses liquidity in the Nasdaq BX Equities System:			
	<u>Tape A</u>	<u>Tape B</u>	<u>Tape C</u>
Charge for order (excluding orders with Midpoint pegging and excluding orders that receive price improvement	\$0.0003 per share executed	\$0.0003 per share executed	\$0.0003 per share executed

<u>and execute against an order with a Non-displayed price) that accesses liquidity entered by a member that does not add at least an average daily volume of 50,000 shares to the Exchange during a month:</u>			
Charge for providing liquidity through the Nasdaq BX Equities System:			
	<u>Tape A</u>	<u>Tape B</u>	<u>Tape C</u>
Displayed order entered by a member that adds liquidity equal to or exceeding <u>[0.25%]0.35%</u> of total Consolidated Volume during a month:	\$0.0014 per share executed	<u>N/A</u>	<u>\$0.0014 per share executed</u>
Displayed order entered by a member that adds liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month:	\$0.0017 per share executed	<u>N/A</u>	<u>\$0.0017 per share executed</u>
Displayed order entered by a member that adds liquidity equal to or exceeding 0.06% of total Consolidated Volume during a month, and removes liquidity equal to or exceeding 0.40% of total Consolidated Volume during a month:	\$0.0016 per share executed	<u>N/A</u>	<u>\$0.0016 per share executed</u>
<u>Displayed order in securities in Tape B entered by a member that adds Tape B liquidity equal to or exceeding 0.025% total Consolidated Volume during a month:</u>	<u>N/A</u>	<u>\$0.0026 per share executed</u>	<u>N/A</u>
<u>Displayed order in securities in Tape B entered by a member that adds Tape B liquidity that is less than 0.025% total Consolidated Volume during a month:</u>	<u>N/A</u>	<u>\$0.0028 per share executed</u>	<u>N/A</u>

Order with Midpoint pegging entered by a member that adds 0.02% of total Consolidated Volume of non-displayed liquidity excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO:	\$0.0005 per share executed	<u>\$0.0005 per share executed</u>	<u>\$0.0005 per share executed</u>
Order with Midpoint pegging entered by other member excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO:	\$0.0015 per share executed	<u>\$0.0015 per share executed</u>	<u>\$0.0015 per share executed</u>
Buy (sell) order with Midpoint pegging that receives an execution price that is lower (higher) than the midpoint of the NBBO	\$0.0024 per share executed	<u>\$0.0024 per share executed</u>	<u>\$0.0024 per share executed</u>
Non-displayed orders (other than orders with Midpoint pegging) entered by a member that adds 0.06% of total Consolidated Volume of non-displayed liquidity:	\$0.0024 per share executed	N/A	<u>\$0.0024 per share executed</u>
Non-displayed orders (other than orders with Midpoint pegging) entered by a member that meets the QMM qualification criteria and adds 0.10% of total Consolidated Volume of non-displayed liquidity:	\$0.0020 per share executed	N/A	<u>\$0.0020 per share executed</u>
<u>Non-displayed orders in securities in Tape B (other than orders with Midpoint pegging) entered by a member that adds Tape B liquidity equal to or exceeding 0.025% total Consolidated Volume during a month:</u>	N/A	<u>\$0.0028 per share executed</u>	N/A

All other non-displayed orders:	\$0.0030 per share executed	<u>\$0.0030 per share executed</u>	<u>\$0.0030 per share executed</u>
All other orders:	\$0.0020 per share executed	N/A	<u>\$0.0020 per share executed</u>
<u>Other charges for entering orders in the Nasdaq BX Equities System:</u>			
	<u>Tape A</u>	<u>Tape B</u>	<u>Tape C</u>
Charge for BSTG or BSCN order that executes in a venue other than the Nasdaq BX Equities System:	\$0.0030 per share executed at NYSE	<u>\$0.0030 per share executed at NYSE</u>	<u>\$0.0030 per share executed at NYSE</u>
	\$0.0030 per share executed at venues other than NYSE	<u>\$0.0030 per share executed at venues other than NYSE</u>	<u>\$0.0030 per share executed at venues other than NYSE</u>
Charge for BMOP order that executes in a venue other than the Nasdaq BX Equities System:	\$0.0035 per share executed at NYSE	<u>\$0.0035 per share executed at NYSE</u>	<u>\$0.0035 per share executed at NYSE</u>
	\$0.0035 per share executed at venues other than NYSE	<u>\$0.0035 per share executed at venues other than NYSE</u>	<u>\$0.0035 per share executed at venues other than NYSE</u>
Charge for BTFY order that executes in a venue other than the Nasdaq BX Equities System:	\$0.0030 per share executed at NYSE	<u>\$0.0030 per share executed at NYSE</u>	<u>\$0.0030 per share executed at NYSE</u>
	\$0.0030 per share executed at Nasdaq	<u>\$0.0030 per share executed at Nasdaq</u>	<u>\$0.0030 per share executed at Nasdaq</u>
	\$0.0030 per share executed at Nasdaq PSX	<u>\$0.0030 per share executed at Nasdaq PSX</u>	<u>\$0.0030 per share executed at Nasdaq PSX</u>
	\$0.0007 per share executed at venues other than NYSE, Nasdaq and Nasdaq PSX	<u>\$0.0007 per share executed at venues other than NYSE, Nasdaq and Nasdaq PSX</u>	<u>\$0.0007 per share executed at venues other than NYSE, Nasdaq and Nasdaq PSX</u>
Charge for BCRT order that executes in a venue other than the Nasdaq BX Equities	\$0.0030 per share executed at Nasdaq PSX	<u>\$0.0030 per share executed at Nasdaq PSX</u>	<u>\$0.0030 per share executed at Nasdaq PSX</u>

System:			
	\$0.0030 per share executed at Nasdaq	<u>\$0.0030 per share executed at Nasdaq</u>	<u>\$0.0030 per share executed at Nasdaq</u>
Charge for BDRK and BCST order that executes in a venue other than the Nasdaq BX Equities System:	\$0.0010 per share executed	<u>\$0.0010 per share executed</u>	<u>\$0.0010 per share executed</u>

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