

NASDAQ OMX GROUP, INC.
Form SC 13D
March 07, 2008

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 13D

**UNDER THE SECURITIES EXCHANGE ACT OF 1934
(Amendment No.)***

The NASDAQ OMX Group, Inc.

(Name of Issuer)

Common Stock, \$0.01 par value per share

(Title of Class of Securities)

631103108

(CUSIP Number)

Saad Abdul Razak

Investment Corporation of Dubai

P.O. Box 333888

Convention Tower - Level 1

Dubai, United Arab Emirates

+971 4 707 1333

Essa Kazim

Borse Dubai Limited

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P.O. Box 506690

Level 7, Precinct Building 5, Gate District

Dubai International Financial Centre

Dubai, United Arab Emirates

+971 4 305 5200

Tracy M. McLamb

Borse Dubai Nasdaq Share Trust

c/o Wells Fargo Delaware Trust Company

919 North Market Street, Suit 1600

Wilmington, Delaware 19801

(302) 575-2006

Copy to:

David M. Wilf

Gibson, Dunn & Crutcher LLP

200 Park Avenue

New York, New York 10166

(212) 351-4000

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

February 27, 2008

(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

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* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 631103108

1. Name of Reporting Persons
Investment Corporation of Dubai
 2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)	<input checked="" type="checkbox"/>
(b)	<input type="checkbox"/>
 3. SEC Use Only
 4. Source of Funds (See Instructions)
BK
 5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
 6. Citizenship or Place of Organization
Dubai International Financial Centre, Dubai, United Arab Emirates
- | | | | |
|---|-----|--------------------------|---------------|
| | 7. | Sole Voting Power | 0(1) |
| Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With | 8. | Shared Voting Power | 42,901,148(1) |
| | 9. | Sole Dispositive Power | 0(1) |
| | 10. | Shared Dispositive Power | 60,561,515(1) |
11. Aggregate Amount Beneficially Owned by Each Reporting Person
60,561,515(1)
 12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
 13. Percent of Class Represented by Amount in Row (11)
30.3%(1)
 14. Type of Reporting Person (See Instructions)
HC

CUSIP No. 631103108

(1) Investment Corporation of Dubai s (**ICD**) beneficial ownership is reported as of February 27, 2008, and includes 42,901,148 shares of The NASDAQ OMX Group, Inc. (the **Issuer**) common stock, par value \$0.01 (the **Shares**) held directly by Borse Dubai Limited (**Borse Dubai**), a subsidiary of ICD, and 17,660,367 Shares held directly by Borse Dubai Nasdaq Share Trust (the **Trust**), of which Borse Dubai is the sole beneficial owner. The Percent of Class reported in Row 13 includes 21.5% of the outstanding Shares which are held by Borse Dubai Limited and 8.8% of the outstanding Shares which are held by Borse Dubai Nasdaq Share Trust, based on 139,003,000 shares of common stock outstanding as of January 31, 2008 and the 60,561,515 shares issued as of February 27, 2008 and, on a fully diluted basis, Borse Dubai holds directly approximately 19.99% and the Trust holds directly approximately 8.23% of the Shares. ICD s total aggregate beneficial ownership reported herein is subject to certain ownership and voting restrictions and requirements set forth in the OMX Transaction Agreement (defined below in Item 4), and the Ancillary Agreements (as defined in the OMX Transaction Agreement) (the **Ownership Restrictions**), as further described in Item 6 below. ICD is the majority shareholder of Borse Dubai. ICD is therefore deemed to have beneficial ownership of all of the Shares held by Borse Dubai and the Trust. As the majority shareholder of Borse Dubai, ICD shares in whatever voting power and dispositive power Borse Dubai has over the Shares it holds and the Shares the Trust holds. While Borse Dubai may direct the Trust to dispose of its Shares, neither ICD nor Borse Dubai has any control over the voting of the Shares held by the Trust. Further, any beneficial owner of Shares is limited to voting only 5% of the outstanding Shares entitled to vote, pursuant to Article Fourth, Section C.2(ii) of the Issuer s Amended and Restated Certificate of Incorporation. Pursuant to the Ownership Restrictions, if any Shares held by the Trust are deemed to have the right to vote on any matter submitted to the stockholders of the Issuer, or any action by written consent requested to be taken by the stockholders of the Issuer, the trustee of the Trust shall execute a proxy with respect to the Shares held by the Trust in favor of the Corporate Secretary or other designee of the Issuer to vote or act by written consent. The Corporate Secretary or other designee of the Issuer shall vote such Shares pro rata with the other shareholders of the Issuer (excluding Borse Dubai) at the time of any such vote or consent.

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CUSIP No. 631103108

1. Name of Reporting Persons
Borse Dubai
2. Check the Appropriate Box if a Member of a Group (See Instructions)
(a) x
(b) o
3. SEC Use Only
4. Source of Funds (See Instructions)
BK
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) o
6. Citizenship or Place of Organization
Dubai International Financial Centre, Dubai, United Arab Emirates
7. Sole Voting Power
0(1)
8. Shared Voting Power
42,901,148(1)
9. Sole Dispositive Power
0(1)
10. Shared Dispositive Power
60,561,515(1)
11. Aggregate Amount Beneficially Owned by Each Reporting Person
60,561,515(1)
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) o
13. Percent of Class Represented by Amount in Row (11)
30.3%(1)
14. Type of Reporting Person (See Instructions)
CO

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With

CUSIP No. 631103108

(1) Borse Dubai's beneficial ownership is reported as of February 27, 2008, and includes 17,660,367 Shares held directly by the Trust, of which Borse Dubai is the sole beneficial owner. Borse Dubai's total aggregate beneficial ownership reported herein is subject to certain Ownership Restrictions, as further described in Item 6 below and, on a fully diluted basis, Borse Dubai holds directly approximately 19.99% and the Trust holds directly approximately 8.23% of the Shares. ICD is the majority shareholder of Borse Dubai and Borse Dubai shares with ICD in whatever voting power and dispositive power Borse Dubai has over the Shares it holds and the Shares the Trust holds. While Borse Dubai may direct the Trust to dispose of its Shares, Borse Dubai has no control over the voting of the Shares held by the Trust. Further, any beneficial owner of Shares is limited to voting only 5% of the outstanding Shares entitled to vote, pursuant to Article Fourth, Section C.2(ii) of the Issuer's Amended and Restated Certificate of Incorporation. Pursuant to the Ownership Restrictions, if any Shares held by the Trust are deemed to have the right to vote on any matter submitted to the stockholders of the Issuer, or any action by written consent requested to be taken by the stockholders of the Issuer, the trustee of the Trust shall execute a proxy with respect to the Shares held by the Trust in favor of the Corporate Secretary or other designee of the Issuer to vote or act by written consent. The Corporate Secretary or other designee of the Issuer shall vote such Shares pro rata with the other shareholders of the Issuer (excluding Borse Dubai) at the time of any such vote or consent.

CUSIP No. 631103108

1. Name of Reporting Persons
Borse Dubai Nasdaq Share Trust
 2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)	<input checked="" type="checkbox"/>
(b)	<input type="checkbox"/>
 3. SEC Use Only
 4. Source of Funds (See Instructions)
n/a
 5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
 6. Citizenship or Place of Organization
State of Delaware
- | | | |
|---|-----|---|
| | 7. | Sole Voting Power
0(1) |
| Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With | 8. | Shared Voting Power
0(1) |
| | 9. | Sole Dispositive Power
0(1) |
| | 10. | Shared Dispositive Power
17,660,367(1) |
11. Aggregate Amount Beneficially Owned by Each Reporting Person
17,660,367(1)
 12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
 13. Percent of Class Represented by Amount in Row (11)
8.8%
 14. Type of Reporting Person (See Instructions)
OO

CUSIP No. 631103108

(1) The Trust's beneficial ownership is reported as of February 27, 2008. If any Shares held by the Trust are deemed to have the right to vote on any matter submitted to the stockholders of the Issuer, or any action by written consent requested to be taken by the stockholders of the Issuer, the trustee of the Trust shall execute a proxy with respect to the Shares held by the Trust in favor of the Corporate Secretary or other designee of the Issuer to vote or act by written consent. The Corporate Secretary or other designee of the Issuer shall vote such Shares pro rata with the other shareholders of the Issuer (excluding Borse Dubai) at the time of any such vote or consent. The Trust shall dispose of or transfer the Shares in the Trust as directed by Borse Dubai, subject to certain Ownership Restrictions.

CUSIP No. 631103108

Item 1. Security and Issuer

This Statement on Schedule 13D (**Schedule 13D**) relates to the shares of common stock, par value \$0.01 (the **Shares**), of The NASDAQ OMX Group, Inc., a Delaware corporation (the **Issuer**).

The address of the Issuer's principal executive offices is One Liberty Plaza, New York, New York 10006.

Item 2. Identity and Background

This Schedule 13D is being filed by Investment Corporation of Dubai, a company registered in the Dubai International Financial Centre in Dubai with company number 0490 (**ICD**), Borse Dubai Limited, a company registered in the Dubai International Financial Centre in Dubai with company number CL0447 (**Borse Dubai**) and a subsidiary of ICD and Borse Dubai Nasdaq Share Trust (the **Trust**), a Delaware statutory trust (collectively, the **Reporting Persons**).

ICD's principal business is to act as the investment arm of the Government of Dubai. Borse Dubai's principal business purpose is to act as a holding company for investments in stock exchanges, which includes a 100% ownership of the Dubai International Financial Exchange Limited, a company registered in the Dubai International Financial Centre in Dubai with company number CL0009 (**DIFX**). The Trust was established by Borse Dubai as a special purpose Trust and its sole business purpose is to hold and dispose of the Shares issued by the Issuer to Borse Dubai in connection with the OMX Transaction Agreement (defined below in Item 4) that are in excess of 19.99% of the issued and outstanding Shares on a fully-diluted basis, as directed by Borse Dubai, subject to the Ownership Restrictions.

The address of ICD's principal business and principal office is P.O. Box 31111, Emirates Towers, Level 26, Office Tower, Sheikh Zayed Road, Dubai, United Arab Emirates. The address of Borse Dubai's principal business and principal office is P.O. Box 506690, Level 7, Precinct Building 5, Gate District, Dubai International Financial Centre, Dubai, United Arab Emirates. The address of the Trust's principal business and principal office is Wells Fargo Delaware Trust Company, 919 North Market Street, Suite 1600, Wilmington, Delaware 19801.

During the last five years, none of the Reporting Persons have been (i) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (ii) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and, as a result of such proceeding, are or were subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

CUSIP No. 631103108

Item 3. Source and Amount of Funds or Other Consideration

The consideration for the acquisition of the Shares was 117,227,931 shares of OMX AB (publ) (**OMX Shares**), a public corporation organized under the laws of Sweden (**OMX**), acquired by BD Stockholm AB, a corporation organized under the laws of Sweden (the **Bidder**), using funds obtained pursuant to (i) a credit facility agreement for US\$4,200,000,000 and £791,119,573 with, amongst others, HSBC Bank plc (**HSBC**) as initial mandated lead arranger, agent, security agent, security trustee and initial issuing bank and HSBC and certain other banks and financial institutions as lenders (the **Facilities Agreement**) which is filed as Exhibit 7.8 hereto and incorporated by reference into this Item; and (ii) a combination of equity injection, or subordinated shareholder loans to Borse Dubai from the shareholders of Borse Dubai.

Item 4. Purpose of Transaction

ICD and Borse Dubai acquired beneficial ownership of 60,561,515 Shares on February 27, 2008, pursuant to the OMX Transaction Agreement, dated as of November 15, 2007, as amended by the Amendment to the OMX Transaction Agreement, dated as of February 27, 2008 (the **OMX Transaction Agreement**), among the Issuer, Borse Dubai and the Bidder, whereby Borse Dubai exchanged 117,227,931 OMX Shares for 60,561,515 Shares and SEK 11,678,630,352. As directed by Borse Dubai, 17,660,367 Shares of the 60,561,515 Shares beneficially owned by ICD and Borse Dubai were issued by the Issuer directly to the Trust, of which Borse Dubai is the sole named beneficial owner. The summary of the OMX Transaction Agreement is qualified in its entirety by reference to the actual agreement and its amendment which are respectively filed as Exhibit 7.1 and Exhibit 7.2 hereto and incorporated by reference into this Item.

ICD and Borse Dubai acquired the 60,561,515 Shares as part of a series of transactions for the purpose of creating a strategic alliance with the Issuer designed to create a global financial marketplace with a unique footprint spanning the United States, Europe, the Middle East and strategic emerging markets. In conjunction with the OMX Transaction Agreement, the Issuer, Borse Dubai, and the Dubai International Financial Exchange Limited, a company registered in the Dubai International Financial Centre in Dubai, entered into the DIFX Transaction Agreement, dated as of November 15, 2007. The Reporting Persons do not have any present plans or proposals which relate to or would result in any of the matters specified in clauses (a) through (j) of Item 4 of Schedule 13D; provided, however, with respect to clause (d), as long as Borse Dubai continues to hold at least 21,450,574 Shares, Borse Dubai, pursuant to the Nasdaq Stockholders Agreement (as defined in the OMX Transaction Agreement, attached hereto as Exhibit 7.1), will be entitled to propose for nomination two directors for election to the Issuer's Board of Directors. As long as Borse Dubai maintains at least 10,725,287 Shares, Borse Dubai will be entitled to nominate one director for election to the Issuer's Board of Directors.

Borse Dubai intends regularly to review its investment in the Issuer. Based on such review, as well as other factors (including, among other things, its evaluation of the Issuer's business, prospects and financial condition, other opportunities available to it and general market, industry and economic conditions), Borse Dubai may, and reserves the right, subject to

CUSIP No. 631103108

the Ownership Restrictions, including standstill restrictions (as further described in Item 6 below), to acquire additional securities (including Shares) of the Issuer, or sell some or all of its Shares in privately negotiated transactions, registered offerings or otherwise. Bose Dubai may formulate plans or proposals for, and may from time to time explore, or make proposals relating to, transactions or actions which relate to or would result in any of the matters specified in clauses (a) through (j) of Item 4 of Schedule 13D, subject to the Ownership Restrictions. Furthermore, as beneficial owner of the Shares held by the Trust, pursuant to the Nasdaq Stockholders Agreement, Borse Dubai is required to instruct the Trust to sell the Shares held by the Trust, if the net amount that would be received on the sale of any Share is equal to or greater than US\$51.52, subject to upward adjustment based upon certain reasonable expenses of the Trust and a 6% annual cost of capital, and downward adjustment for any distributions made by the Issuer.

Item 5. Interest in Securities of the Issuer

(a) and (b)

Reporting Person	Number of Shares With Sole Voting and/or Sole Dispositive Power	Number of Shares With Shared Voting and/or With Shared Dispositive Power	Aggregate Number of Shares Beneficially Owned	Percentage of Class Beneficially Owned
Investment Corporation of Dubai	0	42,901,148 with Shared Voting Power 60,561,515 with Shared Dispositive Power	60,561,515 (which includes 42,901,148 held by Borse Dubai and 17,660,367 held by the Trust)	30.3% (which includes 21.5% held by Borse Dubai and 8.8% held by the Trust)
Borse Dubai	0	42,901,148 with Shared Voting Power. 60,561,515 with Shared Dispositive Power	60,561,515 (which includes 17,660,367 held by the Trust)	30.3% (which includes 8.8% held by the Trust)
Borse Dubai Nasdaq Share Trust	0	17,660,367	17,660,367	8.8%

The percentages used herein are based on the total number of the issued and outstanding Shares. ICD's beneficial ownership includes 42,901,148 Shares held by Borse Dubai, a subsidiary of ICD and 17,660,367 Shares held by the Trust, of which Borse Dubai is the sole beneficial owner. Borse Dubai's ownership includes 17,660,367 Shares held by the Trust. Borse Dubai's total aggregate beneficial ownership reported herein is subject to certain Ownership Restrictions.

(c) All transactions in the Shares effected during the past 60 days by ICD are set forth in Annex A, attached to this Schedule 13D and incorporated herein by reference.

CUSIP No. 631103108

(d) The Trust granted to HSBC a first priority security interest in the Shares held by it under a Pledge Agreement, dated as of February 27, 2008, between the Trust and HSBC, as security trustee under the Facilities Agreement (the **Trust Pledge Agreement**), filed as Exhibit 7.6 hereto and incorporated by reference into this item, and Borse Dubai granted a first priority security interest in its beneficial ownership interest in the Trust and the Shares held by the Trust and Borse Dubai, under a Pledge Agreement, dated as of February 27, 2008, between Borse Dubai and HSBC, as security trustee under the Facilities Agreement (the **Borse Dubai Pledge Agreement**), filed as Exhibit 7.7 hereto and incorporated by reference into this Item, (collectively, the **Pledge Agreements**). As a result of the Pledge Agreements, HSBC, as security trustee under the Facilities Agreement, may have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, all the Shares beneficially owned by ICD, in the case of an Acceleration Event (as defined in the Pledge Agreements). Otherwise, Borse Dubai may direct the receipt of dividends from, or the proceeds from the sale of, the 60,561,515 Shares beneficially owned by it.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

The descriptions of the agreements set forth in this Item are summaries only and are qualified in their entirety by reference to the complete executed agreements which are filed as an exhibit hereto and incorporated by reference into this Item.

OMX Transaction Agreement

On November 15, 2007, the Issuer, Borse Dubai and the Bidder entered into the OMX Transaction Agreement regarding the Issuer's and Borse Dubai's offers for OMX and Borse Dubai's investment in the Issuer, filed as Exhibit 7.1 hereto and incorporated by reference into this Item. The Issuer, Borse Dubai and the Bidder subsequently entered into the Amendment to the OMX Transaction Agreement on February 27, 2008, which is filed as Exhibit 7.2 hereto and incorporated by reference into this Item.

Following the closing of the Offer, Borse Dubai was required to sell, and to cause any of its subsidiaries to sell, to the Issuer all OMX Shares then owned by Borse Dubai and any of its subsidiaries, however acquired. Concurrently with Borse Dubai's delivery of OMX Shares, the Issuer paid to Borse Dubai SEK 11,678,630,352 in cash and delivered 42,901,148 Shares to Borse Dubai.

As additional consideration for the delivery of OMX Shares to the Issuer by Borse Dubai, the Issuer delivered 17,660,367 Shares that were deposited in the Trust for the benefit of Borse Dubai, managed by an independent trustee, Wells Fargo Delaware Trust Company (the **Trustee**). In total, 60,561,515 Shares were issued to Borse Dubai and the Trust.

CUSIP No. 631103108

The OMX Transaction Agreement contains customary representations, warranties, covenants and indemnities made by the parties to each other.

Nasdaq Stockholders Agreement

On February 27, 2008, pursuant to the OMX Transaction Agreement, at the closing of the OMX Transaction Agreement, the Issuer and Borse Dubai entered into the Nasdaq Stockholders Agreement, filed as Exhibit 7.3 hereto and incorporated by reference into this Item. The Nasdaq Stockholders Agreement contains the following Ownership Restrictions:

Transfer Restrictions

Under the terms of the Nasdaq Stockholders Agreement, Borse Dubai is restricted from transferring any of the Shares acquired in the OMX Transaction for a period of one year from the date of the Nasdaq Stockholders Agreement, subject to certain exceptions for transfers to, among others, its affiliates, the Issuer and to and from the Trust under certain circumstances. Additionally, at no time may Borse Dubai transfer any Shares to a competitor of the Issuer, other than in a change of control of the Issuer, a public offering or sale pursuant to Rule 144 under the Securities Act of 1933, as amended (the **Securities Act**) or in limited circumstances involving not more than 5% of the outstanding Shares. During the 18 months following the date of the Nasdaq Stockholders Agreement, Borse Dubai may participate pro rata in any repurchases by the Issuer of Shares or may contribute Shares to the Trust, in each case in order to maintain its ownership percentage at or below 19.99% on a fully diluted basis.

Trust Matters

For as long as the Trust continues to hold any Shares, Borse Dubai has agreed to use its reasonab