

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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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 publicly available. All submissions should refer to File Number SR-FINRA-2009-045 and should be submitted on or before August 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60243; File No. SR-CHX-2009-09]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Stock Exchange, Inc. Adding the Post Only and Post Only ISO Order Types

July 6, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on June 29, 2009, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by CHX. 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

CHX proposes to amend its rules to add the Post Only and Post Only ISO order types. The text of this proposed rule change is available on the Exchange's Web site at (<http://www.chx.com>), at the principal office of the Exchange, and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 proposes to amend CHX Article 20, Rule 4 to add the Post Only and Post Only ISO order types.

A Post Only Order is an order designed to encourage displayed liquidity on the Exchange. By its terms, a Post Only Order is posted on the Exchange and does not route away to another trading center. A Post Only Order will be immediately cancelled if it is marketable against a contra-side order in the Matching System when entered, or if it is at a price that would lock or cross a manual or protected quotation.

A Post Only ISO Order is a type of ISO order that will be immediately cancelled without execution if it is marketable against a contra-side order in the Matching System when entered. If a Post Only ISO is not immediately cancelled, it will be posted on the Exchange at the entered limit price. By entering a Post Only ISO, a Participant represents that such Participant has simultaneously routed one or more additional limit orders marked "ISO," as necessary, to away markets to executed against the full displayed size of any protected quotation for the security with a price that is superior or equal to the limit price of the Post Only ISO entered in the Matching System. Consequently, a Post Only ISO order will be displayed by the Exchange

regardless of whether it will lock or cross another market center's quote.

Orders marked Post Only and Post Only ISO will always be considered "liquidity providing" by the Exchange for purposes of application of the Exchange's fees and rebate programs. By making a Post Only or Post Only ISO designation, Participants are able to avoid the risk that their orders will be considered "liquidity taking" for purposes of application of the Exchange's fees and rebate programs. CHX notes that order types similar to the proposed Post Only and Post Only ISO order types are already in use by other market centers.<sup>3</sup>

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,<sup>4</sup> and furthers the objectives of Section 6(b)(5) in particular,<sup>5</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest by allowing CHX to amend its rules to add the Post Only and Post Only ISO order types based on similar rules already in effect at other exchanges. The addition of these order types will benefit Exchange customers and promote competition among market centers.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of

<sup>3</sup> See Rule 11.11(c)(5) and (c)(8)(ii) of the National Stock Exchange, Rule 11.9(c)(6) of the BATS Exchange and Rule 7.31(w) of NYSE Arca.

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6)<sup>7</sup> thereunder.

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest.<sup>8</sup> The Commission believes that the proposed rule change is substantially similar to rules adopted by other exchanges and does not raise any new regulatory issues.<sup>9</sup> Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CHX-2009-09 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CHX-2009-09. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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-CHX-2009-09 and should be submitted on or before August 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Elizabeth M. Murphy,**  
Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60247; File No. SR-BX-2009-021]

#### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving Proposed Rule Change to Amend the Restated Certificate of Incorporation and By-Laws of NASDAQ OMX BX, Inc.

July 6, 2009.

On April 29, 2009, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and

Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Restated Certificate of Incorporation ("Certificate") and by-laws ("By-Laws"). The proposed rule change was published for comment in the **Federal Register** on May 19, 2009.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

#### I. Description of the Proposed Rule Change

On August 29, 2008, The NASDAQ OMX Group, Inc. ("NASDAQ OMX") acquired BX. Since then, the boards of BX and its parent company, NASDAQ OMX, have maintained their own audit committee and management compensation committee. As more fully discussed in the Notice, the Exchange states that it has found the work of these committees to overlap substantially.<sup>4</sup> As a result, BX proposes to revise its By-Laws to allow for the elimination of its audit and management compensation committees. In addition, BX proposes to amend its Certificate and By-Laws to reflect the name change of The Nasdaq Stock Market, Inc. to The NASDAQ OMX Group, Inc. II.

#### *Discussion and Commission Findings*

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,<sup>6</sup> which requires a national securities exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act. The Commission also finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission

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

<sup>3</sup> See Securities Exchange Act Release No. 59908 (May 12, 2009), 74 FR 23459 ("Notice").

<sup>4</sup> See Notice, *supra* note 3, 74 FR at 23460.

<sup>5</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78b(1).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. CHX has satisfied this requirement.

<sup>8</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> See *supra* note 3.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).