

principal office of CBOE, ISE, Nasdaq, BOX, Phlx, NYSE Amex, and NYSE Arca. 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 4-546 and should be submitted on or before September 14, 2009.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 11A of the Act<sup>9</sup> and Rule 608 of Regulation NMS,<sup>10</sup> that the proposed Joint Amendment No. 1 is summarily put into effect until December 22, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60522; File No. SR-NYSEArca-2009-76]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending NYSE Arca Options Rule 6.76A

August 18, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on August 13, 2009, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the self-regulatory organization. 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 eliminate Rule 6.76A(c) reflecting unimplemented routing functionality. The text of the proposed rule change is attached as

Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts of such statements.

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

###### 1. Purpose

The Exchange hereby proposes to eliminate references to exposure before routing functionality from NYSE Arca Options Rule 6.76A(c).<sup>4</sup> The Exchange has not implemented this functionality and has no plans to implement it. The Exchange does not believe that this functionality is appropriate for the marketplace. As such, the Exchange proposes to delete references to this functionality from its rules.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>5</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>6</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

##### 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 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 solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>10</sup>

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-NYSEArca-2009-76 on the subject line.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of 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. The Commission deems this requirement to be met.

<sup>9</sup> 15 U.S.C. 78k-1.

<sup>10</sup> 17 CFR 242.608.

<sup>11</sup> 17 CFR 200.30-3(a)(29).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 34-59846 (April 29, 2009), 74 FR 21033 (May 6, 2009) (notice of filing and immediate effectiveness of SR-NYSEArca-2009-34).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

*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-NYSEArca-2009-76. 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, 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-NYSEArca-2009-76 and should be submitted on or before September 14, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60493; File No. SR-BSECC-2009-04]

### Self-Regulatory Organizations; the Boston Stock Exchange Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to an Amendment to the By-Laws of The NASDAQ OMX Group, Inc.

August 12, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 22, 2009, Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission ("Commission or SEC") the proposed rule change described in Items I and II below, which items have been prepared primarily by BSECC. BSECC filed the proposed rule change under Rule 19b-4(f)(6) under the Act<sup>2</sup> so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BSECC is filing this proposed rule change with regard to proposed changes to the bylaws of its parent corporation, The NASDAQ OMX Group, Inc. ("NASDAQ OMX"). The proposed rule change will be implemented as soon as practicable following submission of this filing. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com>, at BSECC's principal office, 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, BSECC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. BSECC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### 1. Purpose

NASDAQ OMX made certain amendments to its by-laws to update its by-laws and to make improvements in its governance. In SR-NASDAQ-2009-039, The NASDAQ Stock Market LLC ("NASDAQ Exchange") sought and received Commission approval to adopt these by-law changes as part of the rules of the NASDAQ Exchange.<sup>4</sup> BSECC is submitting this filing to adopt the same by-law changes as rules of BSECC.

The proposed changes to the by-laws are as follows:

- Article I is being amended to reflect the recent name changes of the Philadelphia Stock Exchange and the Boston Stock Exchange to NASDAQ OMX PHLX, Inc. and NASDAQ OMX BX, Inc., respectively.

- Article III is being amended to modify the procedures governing proposals by stockholders, including proposals by stockholders to nominate directors. Specifically, the amendment will require a stockholder making a proposal to supply more complete information about the stockholder's background, including a description of any agreement, arrangement, or understanding between the stockholder, the beneficial owner of the stock, and any other persons acting in concert with them; a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares), the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of NASDAQ OMX; and any other information regarding the stockholder and beneficial owner that would be required to be disclosed in a proxy statement under Section 14(a) of the Act. These changes are designed to provide the NASDAQ OMX Board of Directors and its stockholders with greater insight into the identity and intentions of persons presenting stockholder proposals to allow more thorough consideration of the merits of such proposals. These requirements are

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

<sup>2</sup> 17 CFR 240.19b-4(f)(6).

<sup>3</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>4</sup> Securities Exchange Act Release No. 59858 (May 4, 2009), 74 FR 22191 (May 12, 2009) (SR-NASDAQ-2009-039); Securities Exchange Act Release No. 60183 (June 26, 2009), 74 FR 32207 (July 7, 2009) (SR-NASDAQ-2009-039).

<sup>11</sup> 17 CFR 200.30-3(a)(12).