

defined in Sec. 105.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction, within 15 days, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

**Sean J. Greene,**

*Associate Administrator For Investment.*

[FR Doc. 2010-999 Filed 1-20-10; 8:45 am]

**BILLING CODE 8025-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Rule 17g-4; SEC File No. 270-566; OMB Control No. 3235-0627]

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available*

From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 17g-4 (17 CFR 240.17g-4) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

The Rating Agency Act added a new Section 15E, "Registration of Nationally Recognized Statistical Rating Organizations,"<sup>1</sup> to the Exchange Act. Rule 17g-4 requires that a Nationally Recognized Statistical Rating Organization ("NRSRO") has written policies and procedures to prevent the misuse of material nonpublic information including: procedures designed to prevent the inappropriate dissemination of material nonpublic information obtained in connection with the performance of credit rating services; procedures designed to prevent a person associated with the rating organization from trading on material nonpublic information; and procedures designed to prevent the inappropriate dissemination of a pending credit rating.<sup>2</sup>

It is anticipated that 30 credit rating agencies will register with the Commission as NRSROs under Section

15E of the Exchange Act. The Commission estimates that it will take approximately 50 hours for an NRSRO to establish procedures in conformance with Rule 17g-4 for a total one-time burden for the 30 credit rating agencies the Commission estimates will register as NRSROs of 1,500 hours.<sup>3</sup>

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: January 13, 2010.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-1021 Filed 1-20-10; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available*

From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

*Extension:*

Rule 15c3-1f; SEC File No. 270-440; OMB Control No. 3235-0496.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comment on the existing collection of information provided for in the following rule: Appendix F to Rule 15c3-1 ("Appendix F") (17 CFR 240.15c3-1f) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

<sup>3</sup> 50 hours × 30 NRSROs = 1,500 hours.

Appendix F requires a broker-dealer choosing to register, upon Commission approval, as an OTC derivatives dealer to develop and maintain an internal risk management system based on Value-at-Risk ("VAR") models. Appendix F also requires the OTC derivatives dealer to notify Commission staff of the system and of certain other periodic information including when the VAR model deviates from the actual performance of the OTC derivatives dealer's portfolio. It is anticipated that a total of five (5) broker-dealers will spend 1,000 hours per year complying with Appendix F. The total burden is estimated to be approximately 5,000 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: January 13, 2010.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-1022 Filed 1-20-10; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61342; File No. SR-BX-2009-088]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Fee Schedule of the Boston Options Exchange Facility

January 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>1</sup> 15 U.S.C. 78o-7.

<sup>2</sup> See Rule 17g-4. Release No. 34-55231 (Feb. 2, 2007), 72 FR 6378 (Feb. 9, 2007); and Release No. 34-55857 (June 5, 2007), 72 FR 33564 (June 18, 2007).

(“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 31, 2009, NASDAQ OMX BX, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule 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 Fee Schedule of the Boston Options Exchange Group, LLC (“BOX”). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room, on the Exchange’s Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>, and on the Commission’s Web site at <http://www.sec.gov>.

**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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 BOX Fee Schedule currently lists certain execution fees as “standard” trading fees, meaning that these execution fees are not dependent upon whether the transaction added or

removed liquidity on BOX.<sup>5</sup> These standard fees, specifically within Sections 2 and 3 of the BOX Fee Schedule, are applicable for Broker Dealer proprietary accounts and Market Maker accounts, respectively, and are currently set at \$0.20 per contract executed.<sup>6</sup> The Exchange proposes to make the following adjustments to standard trading fees:

**Broker Dealer Trading Fees**

Section 2 of the BOX Fee Schedule describes the current standard transaction fee applicable to Broker Dealer transactions which is currently set at \$0.20. The Exchange proposes that the standard fee for Broker Dealer transactions in all options classes, excluding transactions in Standard & Poor’s Depository Receipts® (“SPY”), Powershares® QQQ Trust Series 1 (“QQQ”) and iShares Russell 2000® Index Fund (“IWM”) and transactions in the Price Improvement Period (“PIP”), be set at \$0.25 per contract.

**Market Maker Trading Fees:**

The Exchange proposes to amend Section 3 of the BOX Fee Schedule relating to transaction fees applicable to BOX Market Makers.<sup>7</sup> Specifically, the Exchange proposes to adopt a per contract transaction fee that is based on the number of contracts a BOX Market Maker executes in a month, excluding transactions in SPY, QQQQ and IWM and transactions within the PIP, as follows:<sup>8</sup>

Average daily volume (ADV) for Market Maker	Per contract
ADV of 150,001 contracts and greater .....	\$0.13
ADV of 100,001 contracts to 150,000 contracts .....	0.16
ADV of 50,001 contracts to 100,000 contracts .....	0.18

<sup>5</sup> See Section 7 of the BOX Fee Schedule which sets forth any applicable “liquidity fees and credits.”

<sup>6</sup> According to Section 1 of the BOX Fee Schedule a Public Customer is charged \$0.15 per executed contract of an Improvement Order on its behalf in the PIP where that order is not submitted as a Customer PIP Order (“CPO”) whereby it is labeled as a “non-CPO.” There are no other trading fees for any other Public Customer Orders which may be executed on BOX, including CPOs and Public Customer orders on the Book, except for the charges and credits described in Section 7 of the BOX Fee Schedule.

<sup>7</sup> The fees proposed herein for Market Makers vary from the fees proposed for Broker Dealers as the obligations for the two are different. For example, Market Makers must maintain active two-sided markets in options classes to which they are assigned and also have certain restrictions regarding trading activity in classes outside of their assignment, both of which do not apply to Broker Dealers on BOX.

<sup>8</sup> The current standard Market Maker fee is \$0.20 per contract.

Average daily volume (ADV) for Market Maker	Per contract
ADV of 10,001 contracts to 50,000 contracts .....	0.20
ADV of 0 contracts to 10,000 contracts .....	0.25

This proposed tiered fee schedule is designed to incent BOX Market Makers to increase their quoting and trading activity on BOX. As a Market Maker’s monthly trading volume increases the per-contract fee that a Market Maker is charged for such executions is decreased. The Exchange proposes that the new tiered fees apply to all BOX Market Makers for transactions in all classes traded on BOX (excluding executions which occur in the PIP auction and executions in SPY, QQQQ, & IWM). The BOX Market Maker’s ADV will be calculated at the end of each trading month. All executions for that month will be charged the same per-contract fee rate according to the respective ADV achieved by the Market Maker.

Section 3(b) of the BOX Fee Schedule currently sets forth a volume discount that is applicable to the execution fees of BOX Market Makers. The volume discount currently is \$0.03 and \$0.05 per contract upon the Market Maker achieving an ADV of 25,000 and 50,000 contracts per month, respectively. The tiered fee schedule, as outlined above, will effectively apply the same goal as the Market Maker volume discount, which is to incent more quoting activity and trading volume by Market Makers on BOX. The Exchange therefore proposes to eliminate, in its entirety, the Market Maker volume discount of Section 3(b) of the BOX Fee Schedule.

**Reduction of Fees and Credits in Section 7**

The Exchange proposes to reduce the existing credits and fees within Section 7 for both Non-Penny Pilot Classes and Penny Pilot Classes, from \$0.75 to \$0.55 and from \$0.20 to \$0.15, respectively and for transactions in the PIP, from \$0.20 to \$0.15.<sup>9</sup> These credits and fees apply equally to all account types, whether Public Customer, Firm or Market Maker and are in addition to any applicable trading fees, as described in Sections 1 through 3 of the BOX Fee Schedule.

For example, a Public Customer Order in a Non-Penny Pilot Class is entered

<sup>9</sup> The Exchange notes that prior to this proposal the fees and credits of Section 7 did not apply to transactions in SPY, QQQQ and IWM. Similarly, the reduction in fees discussed in this section (“Reduction of Fees and Credits in Section 7”) do not apply to transactions in SPY, QQQQ and IWM.

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

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

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

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

into the BOX Trading Host and executes against a Broker Dealer's order resting on the BOX Book. The Public Customer is the remover of liquidity and the Broker Dealer is the adder of liquidity. The Public Customer will receive a \$0.55 "removal" credit and the Broker Dealer will be charged a \$0.55 "add" fee. The Public Customer will receive a \$0.55 total credit (zero charge from Section 1 plus the \$0.55 "removal" credit) and the Broker Dealer will be charged \$0.80 total (the \$0.55 fee for adding liquidity in addition to the standard \$0.25 transaction fee).<sup>10</sup>

#### Fees and Charges to SPY, QQQQ, and IWM

The Exchange Traded Fund Shares ("ETFs") SPY, QQQQ and IWM are among the most actively traded multiply listed options classes across all of the options exchanges. The Exchange believes that the characteristics that these ETFs share among themselves make it appropriate that pricing for transactions in these classes be set on par with each other. Furthermore, the Exchange believes that the volume and liquidity exhibited in these classes is such that the pricing applicable to these classes be set apart from the pricing applicable to all other options classes listed and traded on BOX.

Therefore, the Exchange proposes that the standard fee for transactions in SPY, QQQQ and IWM be set at \$0.10 per contract for Broker Dealers and at \$0.05 per contract for BOX Market Makers.<sup>11</sup> The proposed different rate as between Broker Dealers and BOX Market Makers is based upon the obligations that Market Makers undertake on BOX, such as posting continuous two-sided quotes, which Broker Dealers are not subject to.

The credits and fees of Section 7 of the BOX Fee Schedule currently do not apply to executions in the classes SPY, QQQQ or IWM. The Exchange proposes to apply Section 7's credits and fees to transactions in these three classes as is currently applied to transactions in all other classes on BOX. The Exchange proposes that the fees and credits apply equally for these three classes at \$0.05 for both the fees and credits.

#### Transactions in the PIP

The BOX PIP is a mechanism by which BOX Participants can obtain executions and price improvement of

<sup>10</sup> This example presupposes that the proposed increase in Broker Dealer fees, from \$0.20 to \$0.25, is in effect.

<sup>11</sup> Currently the standard fees charged for transactions in SPY, QQQQ and IWM are \$0.20 for both Market Maker and Broker Dealer transactions. As is currently the case, most executions on BOX on behalf of Public Customers will be free.

their customers' orders. Because executions in the PIP are separate and distinct from non-PIP executions the Exchange believes that pricing for executions that take place within the PIP also be separate and distinct from non-PIP execution rates.<sup>12</sup> Therefore, the Exchange proposes that the standard fee for transactions within the PIP, including transactions in SPY, QQQQ and IWM, be set at \$0.20 per contract, both for Broker Dealers and for BOX Market Makers.<sup>13</sup>

#### Non-Substantive Changes

The Exchange is also proposing various non-substantive changes to the BOX Fee Schedule. These changes are necessary for reasons such as the elimination of certain Fee Schedule text (e.g. the proposed elimination of the Market Maker Volume Discount of Section 3(b)) or the renumbering of certain sections of the Fee Schedule (e.g. Section 2(b) renumbered to Section 2(c)). Further non-substantive changes have been proposed either to add greater clarity or remove language from the Fee Schedule which is now considered confusing in light of the substantive changes that are being proposed herein.

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>14</sup> in general, and Section 6(b)(5) of the Act,<sup>15</sup> in particular, as well as Section 6(b) of the Act,<sup>16</sup> in general, and Section 6(b)(4) of the Act,<sup>17</sup> in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In particular, the proposed change will allow the fees charged on BOX to remain competitive with other exchanges as well as apply such fees in a manner which is equitable based upon the particular account type, e.g. Market Maker or Broker Dealer, for which such transactions are executed. The obligations of Market Makers on BOX and Brokers Dealers that execute

<sup>12</sup> BOX Options Participants are able to compete within the PIP auction for a portion of the order on the opposite side of the Public Customer PIP Order that must be filled by submitting Improvement Orders.

<sup>13</sup> Transactions within the PIP are presently subject to a \$0.20 fee. This proposal merely breaks fees for PIP transactions into their own distinct line item in the Fee Schedule. See Ex. 5. Transactions within the PIP will also be subject to the fees and credits of Section 7 of the BOX Fee Schedule, as proposed and discussed above.

<sup>14</sup> 15 U.S.C. 78f(b).

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

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(4).

transactions on BOX are different. For example, BOX Market Makers must maintain active two-sided markets in options classes to which they are assigned and also have certain restrictions regarding trading activity in classes outside of their assignment, both of which do not apply to Broker Dealers on BOX.

#### 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

The Exchange has neither solicited nor received comments on the proposed rule change.

### 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 Exchange Act<sup>18</sup> and Rule 19b-4(f)(2)<sup>19</sup> thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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-BX-2009-088 on the subject line.

#### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>19</sup> 17 CFR 240.19b-4(f)(2).

Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549-1090.

All submissions should refer to File Number SR-BX-2009-088. 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 such 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 No. SR-BX-2009-088 and should be submitted on or before February 11, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

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

[FR Doc. 2010-1015 Filed 1-20-10; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61343; File No. SR-NYSEAmex-2009-94]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Commentary .01 to Rule 903G

January 13, 2010.

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 December 23, 2009, NYSE Amex LLC (“NYSE Amex” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been 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 amend Commentary .01 to Rule 903G in order to extend until August 31, 2010, the current pilot period regarding the minimum value size for opening a FLEX Equity Option transaction (“Pilot Program”). 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 Pilot Program provides for an initial series opening transaction size to be 150 contracts (or \$1 million in underlying value, whichever is less).<sup>4</sup> The Exchange believes that the proposed reduction of the minimum value size for opening a series provides FLEX participating members and their customers with greater flexibility in structuring the terms of FLEX Equity Options to better suit the FLEX traders' particular needs. Prior to the initiation

of the Pilot Program, the minimum opening transaction value size in the case of FLEX Equity Options series was the lesser of (i) 250 contracts or (ii) the number of contracts overlying \$1 million in the underlying series.<sup>5</sup> The Pilot Program modifies the minimum opening size formula by reducing the “250 contracts” component to “150 contracts” (the \$1 million underlying value component continues to apply unchanged).<sup>6</sup>

The Pilot Program expired on December 19, 2009. The purpose of this proposed rule change is to extend the pilot period that applies to the minimum value size for an opening Flex Equity Options transaction until August 31, 2010. This is merely an extension. The Exchange is not seeking any other changes to the Pilot Program.<sup>7</sup>

In support of the proposed rule change, the Exchange is submitting to the commission [sic] a Pilot Program report (the “Report”) detailing the Exchange's experience with the Pilot Program. Specifically, the Report contains (i) data and analysis on the open interest and trading volume in FLEX Equity Options for which series were opened with a minimum opening size of 150 to 249 contracts with less than \$1 million in underlying value; and (ii) analysis on the types of investors that initiated opening FLEX Equity Options transactions (*i.e.*, institutional, high net worth or retail, if any). The Exchange is submitting the Report under separate cover and seeking confidential treatment under the Freedom of Information Act.

The Exchange believes that maintaining the minimum opening transaction value size broadens the base of institutional investors that use FLEX Equity Options to manage their trading

<sup>5</sup> Under this formula, an opening transaction in a FLEX Equity series in a stock priced at \$40 or more would reach the \$1 million limit before it would reach the contract size limit, *i.e.*, 250 contracts times the multiplier (100) times the stock price (\$40) equals \$1 million in underlying value. For a FLEX Equity series in a stock priced at less than \$40, the 250 contract size limit applies.

<sup>6</sup> Under this proposed formula, an opening transaction in a FLEX Equity series in a stock priced at approximately \$66.67 or more would reach the \$1 million limit before it would reach the contract size limit, *i.e.*, 150 contracts times the multiplier (100) times the stock price (\$66.67) equals just over \$1 million in underlying value. For a FLEX Equity series in a stock priced at less than \$66.67, the 150 contract size limit would apply.

<sup>7</sup> The Commission notes that the Exchange has stated that it will provide the Commission with an updated report 45 days before any request to extend or make permanent the current pilot program regarding the minimum value size for opening a FLEX Equity Option transaction. See E-mail from Andrew Stevens, Chief Counsel, U.S. Equities and Derivatives, NYSE Amex, to Jennifer Colihan, Special Counsel, Division of Trading and Markets, Commission, dated January 13, 2010.

<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. 58037 (June 26, 2008), 73 FR 38008 (July 2, 2008).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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