

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)<sup>19</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>20</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>21</sup> normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>22</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>23</sup> which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would continue to conform the BOX rules to BOX's current practice without interruption and clarify that Directed Orders on BOX are not anonymous.<sup>24</sup> Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such 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:

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its 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 have been met.

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

<sup>22</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>23</sup> *Id.*

<sup>24</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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-2010-017 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-BX-2010-017. 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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. 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 Number SR-BX-2010-017 and should be submitted on or before March 23, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

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

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<sup>25</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61579; File No. SR-BX-2010-015]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Codify Certain Provisions of the Options Listing Procedures Plan Into the Rules of the Boston Options Exchange Facility

February 24, 2010.

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> notice is hereby given that on February 10, 2010, 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)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) 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 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 Rules of the Boston Options Exchange Group, LLC ("BOX") to codify certain provisions of the Options Listing Procedures Plan ("OLPP") into the BOX Rules. 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

<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)(iii).

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

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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The OLPP was approved by the Securities and Exchange Commission (the "Commission") on July 6, 2001 and has been amended several times.<sup>5</sup> The OLPP provides procedures for: (i) Listing and trading new option classes; (ii) selecting new options series; (iii) petitioning The Options Clearing Corporation ("OCC") to review the eligibility, pursuant to the exchanges' listing standards, of a selected option class without delaying the trading of that option class; (iv) determining operational details for option contracts adjusted pursuant to OCC By-Laws; (v) admitting new sponsors; and (vi) losing eligibility to participate in the OLPP.

This current filing is primarily concerned with codifying certain provisions of the OLPP pertaining to selecting new option series and certain strike setting parameters that have been adopted under the OLPP. The Exchange believes that it is helpful to codify select provisions into the BOX Rules so that all applicable rules governing series selection and applicable strike setting parameters are located in a single place. In addition, the Exchange understands that other Sponsor Exchanges to the OLPP have submitted, or will be submitting, similar filings to codify portions of the OLPP in their respective rulebooks. Below the Exchange briefly describes the provisions of the OLPP that the Exchange is proposing to codify into the BOX Rules.

<sup>5</sup> See e.g., Securities Exchange Act Release Nos. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001) (Order Approving a Proposed Options Listing Procedures Plan); 58205 (July 22, 2008), 73 FR 43798 (July 28, 2008) (Order Granting Permanent Approval to Amendment No. 1 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options); 58630 (September 24, 2008), 73 FR 57166 (October 1, 2008) (Order Granting Permanent Approval to Amendment No. 2 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options); and 60531 (August 19, 2009), 74 FR 43173 (August 26, 2009) (Order Approving Amendment No. 3 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options).

OLPP Amendments Pertaining to LEAPS

Amendments 1 and 2 to the OLPP adopted provisions governing the listing of Long-Term Equity Options Series ("LEAPS"). Amendment 1 provided for a uniform time frame for the introduction of new LEAPS on equity option classes, options on Exchange Traded Fund Shares ("ETFs"), or options on Trust Issued Receipts ("TIRs"). The Exchange is proposing to codify the changes made to the OLPP by Amendment 1 as new subparagraph (c) to Chapter IV, Section 8 (Long-Term Options Contracts) of the BOX Rules. Amendment 2 provided for a uniform minimum volume threshold per underlying class to qualify for the introduction of a new expiration year of LEAPs on equity, ETF and TIR classes. The Exchange is proposing to codify the changes made to the OLPP by Amendment 2 as new subparagraph (d) to Chapter IV, Section 8 of the BOX Rules.

Strike Setting Parameters

Amendment 3 to the OLPP adopted uniform objective standards to the range of options series exercise (or strike) prices available for trading on the OLPP's Sponsor Exchanges as a quote mitigation strategy. The Exchange is proposing to codify the changes made to the OLPP by Amendment 3 by adding certain new rule text to Chapter IV, Section 6(b) of the BOX Rules.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes that codifying certain provisions of the OLPP, as amended, serves to foster investor protection.

*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.

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

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

*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**

This proposed rule change codifies certain provisions of the OLPP that were previously approved by the Commission<sup>8</sup> and 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 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 Exchange requests that the Commission waive the 30-day operative delay period for "non-controversial" proposals and make the proposed rule change effective and operative upon filing.<sup>9</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-BX-2010-015 on the subject line.

*Paper Comments*

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

<sup>8</sup> See *supra* note 5.

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, as required under Rule 19b-4(f)(6)(iii), the Exchange has submitted to the Commission written notice of its intent to file the proposed rule change, along with a brief description and the 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.

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

All submissions should refer to File Number SR-BX-2010-015. 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 Web site 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. 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-2010-015 and should be submitted on or before March 23, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61556; File No. SR-NYSEAmex-2010-13]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by NYSE Amex LLC Changing Certain NYSE Amex Equities Rules To Correspond With Rule Changes Filed by the Financial Industry Regulatory Authority, Inc.

February 22, 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 February 16, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") 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 prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange proposes changes to certain NYSE Amex Equities Rules to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. ("FINRA") and approved by the Commission.<sup>4</sup> The Exchange proposes to apply these changes retroactively to February 8, 2010. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### 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 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 purpose of the proposed rule changes is to adopt changes to certain NYSE Amex Equities Rules to correspond with rule changes filed by FINRA and approved by the Commission. The Exchange proposes to apply these changes retroactively to February 8, 2010, the same effective date for FINRA's rule changes.<sup>5</sup> The Exchange states that making the proposed rule change retroactive to February 8, 2010 would ensure that the proposed rule changes are operative and effective at the same time as FINRA's rule changes, that there are no regulatory gaps between the FINRA and Exchange Rules and that, as applicable, Exchange Rules maintain their status as Common Rules under the 17d-2 Agreement.<sup>6</sup>

##### Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. ("NASD"), and NYSE Regulation, Inc. ("NYSER") consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d-2 under the Act,<sup>7</sup> the New York Stock Exchange LLC ("NYSE"), NYSER and FINRA entered into an agreement (the "17d-2 Agreement") to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations ("FINRA Incorporated NYSE Rules"). The Exchange became a party to the 17d-2 Agreement effective December 15, 2008.<sup>8</sup>

<sup>5</sup> See FINRA Regulatory Notice 09-71 (December 7, 2009).

<sup>6</sup> As provided in paragraph 2(b) of the 17d-2 Agreement, FINRA and NYSE will amend the list of Common Rules to conform to the rule changes proposed herein.

<sup>7</sup> 15 U.S.C. 78a, *et seq.*

<sup>8</sup> See Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the 17d-2 Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (order approving the incorporation of

<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. 60933 (November 4, 2009), 74 FR 58334 (November 12, 2009) (order approving SR-FINRA-2008-067). FINRA also recently filed for immediate effectiveness to (i) adopt non-substantive technical changes to consolidated FINRA Rule 4521(d), and (ii) amend FINRA Incorporated NYSE Rule 312(g). See Securities Exchange Act Release No. 61408 (January 22, 2010), 75 FR 4596 (January 28, 2010) (SR-FINRA-2010-004). See also SR-FINRA-2010-008, filed on February 4, 2010. These changes are incorporated in this rule filing.

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