

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62512; File No. SR-BX-2010-046]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program That Allows for No Minimum Size Order Requirement for the Price Improvement Period Process Until July 18, 2011

July 16, 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 July 9, 2010 NASDAQ OMX BX, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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) 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 from interested persons.

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

(a) The Exchange proposes to amend the Supplementary Material to Chapter V, Section 18 (The Price Improvement Period “PIP”) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to extend a pilot program that permits BOX to have no minimum size requirement for orders entered into the PIP and under certain circumstances permits the premature termination of the PIP process (“PIP Pilot Program”). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXB/Filings/>.

#### 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 purpose of the proposed rule change is to extend the PIP Pilot Program under the BOX Rules for twelve (12) additional months. The PIP Pilot Program allows BOX to have no minimum size requirement for orders entered into the PIP process and under certain circumstances permits the premature termination of the PIP process.<sup>5</sup> The proposed rule change retains the text of Supplementary Material .01 to Section 18 of Chapter V of the BOX Rules and seeks to extend the operation of the PIP Pilot Program until July 18, 2011.

The Exchange notes that the PIP Pilot Program provides small customer orders with benefits not available under the rules of some other exchanges. One of the important factors of the PIP Pilot Program is that it guarantees Participants the right to trade with their customer orders that are less than 50 contracts. In particular, any order entered into the PIP is guaranteed an execution at the end of the auction at a price at least equal to the national best bid or offer.

In further support of this proposed rule change, and as required by the Original PIP Pilot Program Approval Order, the Exchange represents that BOX has been submitting to the Exchange and to the Commission a PIP Pilot Program Report, offering detailed data from, and analysis of, the PIP Pilot Program. Although BOX is submitting

the reports, the Exchange notes that it is also responsible for the timeliness and the accuracy of the information.

To aid the Commission in its evaluation of the PIP Pilot Program, BOX has represented to the Exchange that BOX will provide the following additional information each month: (1) The number of orders of 50 contracts or greater entered into the PIP auction; (2) The percentage of all orders of 50 contracts or greater sent to BOX that are entered into BOX’s PIP auction; (3) The spread in the option, at the time an order of 50 contracts or greater is submitted to the PIP auction; (4) Of PIP trades for orders of fewer than 50 contracts, the percentage done at the National Best Bid or Offer (“NBBO”) plus \$.01, plus \$.02, plus \$.03, etc.; (5) Of PIP trades for orders of 50 contracts or greater, the percentage done at the NBBO plus \$.01, plus \$.02, plus \$.03, etc.; (6) The number of orders submitted by Order Flow Providers (“OFPs”) when the spread was \$.05, \$.10, \$.15, etc. For each spread, BOX will specify the percentage of contracts in orders of fewer than 50 contracts submitted to BOX’s PIP that were traded by: (a) The OFP that submitted the order to the PIP; (b) BOX Market Makers assigned to the class; (c) other BOX Participants; (d) Public Customer Orders (including Customer PIP Orders (“CPOs”)); and (e) unrelated orders (orders in standard increments entered during the PIP). For each spread, BOX will also specify the percentage of contracts in orders of 50 contracts or greater submitted to BOX’s PIP that were traded by: (a) The OFP that submitted the order to the PIP; (b) BOX Market Makers assigned to the class; (c) other BOX Participants; (d) Public Customer Orders (including CPOs); and (e) unrelated orders (orders in standard increments entered during PIP); (7) For the first Wednesday of each month: (a) The total number of PIP auctions on that date; (b) the number of PIP auctions where the order submitted to the PIP was fewer than 50 contracts; (c) the number of PIP auctions where the order submitted to the PIP was 50 contracts or greater; (d) the number of PIP auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc., and (e) the number of PIP auctions (for orders of 50 contracts or greater) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2

<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).

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

<sup>5</sup> The Pilot Program is currently set to expire on July 17, 2010. See Securities Exchange Act Release No. 60337 (July 17, 2009), 74 FR 36805 (July 24, 2009) (SR-BX-2009-38). See also Securities and Exchange Act Release Nos. 58942 (November 13, 2008), 73 FR 70394 (November 20, 2008) (SR-BSE-2008-49); 58195 (July 18, 2008), 73 FR 43801 (July 28, 2008) (SR-BSE-2008-39); 55999 (July 2, 2007), 72 FR 37549 (July 10, 2007) (SR-BSE-2007-27); 54066 (June 29, 2006), 71 FR 38434 (July 6, 2006) (SR-BSE-2006-24); 52149 (July 28, 2005), 70 FR 44704 (August 3, 2005) (SR-BSE-2005-22); 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR-BSE-2002-15) (“Original PIP Pilot Program Approval Order”); and 51821 (June 10, 2005), 70 FR 35143 (June 16, 2005) (SR-BSE-2004-51) (Order approving, among other things, under certain circumstances the premature termination of a PIP process).

participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), *etc.*; and (8) For the third Wednesday of each month: (a) the total number of PIP auctions on that date; (b) the number of PIP auctions where the order submitted to the PIP was fewer than 50 contracts; (c) the number of PIP auctions where the order submitted to the PIP was 50 contracts or greater; (d) the number of PIP auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), *etc.*, and (e) the number of PIP auctions (for orders of 50 contracts or greater) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), *etc.*

## 2. 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. The Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the PIP Pilot Program for an additional twelve (12) months. The Exchange represents that the Pilot Program is designed to provide investors with real and significant price improvement regardless of the size of the order.

### *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.

### *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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</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) by its terms, 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 upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>11</sup>

The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest because such waiver will allow the PIP Pilot program to continue without interruption. Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.<sup>12</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.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii). 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 Exchange has met this requirement.

<sup>12</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).

### **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-2010-046 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-2010-046. 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 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-2010-046 and should be submitted on or before August 13, 2010.

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

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## DEPARTMENT OF STATE

[Public Notice 7090]

### Culturally Significant Objects Imported for Exhibition Determinations: "Man, Myth, and Sensual Pleasures: Jan Gossart's Renaissance"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition "Man, Myth, and Sensual Pleasures: Jan Gossart's Renaissance," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY, from on or about October 5, 2010, until on or about January 17, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632-6473). The address is U.S. Department of State, SA-5, L/PPD, Fifth Floor, Washington, DC 20522-0505.

Dated: July 15, 2010.

**Ann Stock,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2010-18117 Filed 7-22-10; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF STATE

[Public Notice 7091]

### Culturally Significant Objects Imported for Exhibition Determinations: "The Holocaust—Uniforms, Canisters, and Shoes"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition "The Holocaust—Uniforms, Canisters, and Shoes," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects as part of the permanent exhibit at the U.S. Holocaust Memorial Museum, Washington, DC, from on or about September 2010 until on or about September 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632-6473). The address is U.S. Department of State, SA-5, L/PPD, Fifth Floor, Washington, DC 20522-0505.

Dated: July 15, 2010.

**Ann Stock,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2010-18115 Filed 7-22-10; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF STATE

[Public Notice 7094]

### Finding of No Significant Impact: San Diego-Tijuana Airport Cross Border Facility

**SUMMARY:** The Department of State announces a finding of no significant impact on the environment for the San Diego-Tijuana Airport Cross Border Facility international pedestrian bridge

project sponsored by Otay-Tijuana Venture, L.L.C. An environmental impact statement will not be prepared.

**FOR FURTHER INFORMATION CONTACT:** Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at [WHA-BorderAffairs@state.gov](mailto:WHA-BorderAffairs@state.gov); by phone at 202-647-6356; or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201 C St. NW., Washington, DC 20520. Information about Presidential permits is available on the Internet at <http://www.state.gov/p/wha/rt/permit/>.

**SUPPLEMENTARY INFORMATION:** The following is the text of the Finding of No Significant Impact:

#### Introduction

Under Executive Order 11423, as amended, the Secretary of State is authorized to issue Presidential permits for the construction, connection, operation, and maintenance of facilities, including international bridges, at the borders of the United States if she finds them to be in the national interest. In 2009, Otay-Tijuana Venture, LLC (sponsor) applied for a Presidential permit to construct, operate, and maintain the Cross Border Facility (CBF) project, an international pedestrian bridge across the United States-Mexico border linking a passenger facility in the Otay Mesa section of San Diego, California, with a commercial passenger airport terminal in Tijuana, Baja California, Mexico. The Department has determined that construction of the proposed bridge requires a Presidential permit under Executive Order 11423, as amended, because the proposed bridge would pierce the United States-Mexico border.

The sponsor submitted in support of its application a draft environmental assessment (EA) that Helix Environmental Planning, Inc. prepared under the guidance and supervision of the U.S. Department of State (Department), consistent with the National Environment Policy Act (NEPA). The Department circulated the application and draft EA to the relevant federal, state, and local agencies for their review and received comments from some of those agencies. The sponsor responded to all the comments that agencies submitted by expanding and revising the draft EA. The Department also provided public notice of the draft EA in the **Federal Register**, 74 FR 68906 (December 29, 2009), and invited public comment for 45 days. In response to that public notice, the Department received only one anonymous, non-substantive comment.

<sup>13</sup> 17 CFR 200.30-3(a)(12).