

become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-NYSEAMEX-2010-79 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-NYSEAMEX-2010-79. 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 publicly available. All submissions should refer to File Number SR-NYSEAMEX-2010-79 and should be submitted on or before September 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62708; File No. SR-BX-2010-055]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating To Extend the Cut-Off Time To Submit Contrary Exercise Advices and Make Some Clerical and Conforming Changes

August 12, 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 August 4, 2010, NASDAQ OMX BX, Inc. (the "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 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VII (Exercises and Deliveries) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to extend the cut-off time to submit contrary exercise advices and make some clerical changes and Chapter X (Minor Rule

Violations) to make some conforming changes.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXB/Filings/>, at the principal office of the Exchange, on the Commission's Web site at <http://www.sec.gov>, 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 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 amend Chapter VII, Section 1 of the BOX Trading Rules to extend the cut-off time to submit contrary exercise advices ("Contrary Exercise Advice", or, "CEA")<sup>3</sup> to the Exchange. The Exchange also proposes to make certain non-substantive changes to reorganize the text of the Rule to more clearly present the existing requirements and to eliminate duplicative language.<sup>4</sup> The Exchange also proposes to make some clerical changes. In addition, the Exchange proposes to make some conforming changes to Chapter X.

The Options Clearing Corporation ("OCC") has an established procedure, under OCC Rule 805, that provides for the automatic exercise of certain options

<sup>3</sup> Contrary Exercise Advices are also referred to as Expiring Exercise Declarations ("EED") in the OCC rules.

<sup>4</sup> The Exchange proposes to reorganize the current rule text so that the requirement that exercise decisions must be made by 5:30 p.m. Eastern Time is specified in paragraph (c), while the requirements pertaining to submitting CEA instructions are contained in new paragraph (d). The language in new paragraph (d) is comprised of language moved from paragraph (b)(ii) and paragraph (c) of the current rule. The Exchange also proposes to eliminate Supplementary Material .03 to Chapter VII because it is duplicative of the language contained in paragraph (c) of the current rule and paragraph (d)(iii) in the proposal.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</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. The Exchange has satisfied this requirement.

<sup>14</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.

that are in-the-money by a specified amount known as “Exercise-by-Exception” or “Ex-by-Ex.” Under the Ex-by-Ex process, options holders holding option contracts that are in-the-money by a requisite amount and who wish to have their contracts automatically exercised need take no further action. However, under OCC Rule 805, option holders who do not want their options automatically exercised or who want their options to be exercised under different parameters than that of the Ex-by-Ex procedures must instruct OCC of their “contrary intention.”

In addition to and separately from the OCC requirement, under Chapter VII option holders must file a CEA with the Exchange notifying it of the contrary intention. Chapter VII is designed, in part, to deter individuals from taking improper advantage of late breaking news by requiring evidence of an option holder’s timely decision to exercise or not exercise expiring equity options. Options Participants satisfy this evidentiary requirement by submitting a CEA form directly to the Exchange, or by electronically submitting the CEA to the Exchange through OCC’s electronic communications system. The submission of the CEA allows the Exchange to satisfy its regulatory obligation to verify that the decision to make a contrary exercise was made timely and in accordance with Chapter VII.

Currently under Chapter VII, option holders have until 5:30<sup>5</sup> p.m. on the day prior to expiration, or in the case of quarterly options, on the expiration date, to make a final decision to exercise or not exercise an expiring option that would otherwise either expire or be automatically exercised. An Options Participant may not accept CEA instructions from its customer or non customer accounts after 5:30 p.m. However, the current rule gives Options Participants an additional one hour, up to 6:30 p.m., to submit these CEA instructions to the Exchange where such Options Participant uses an electronic submission process.<sup>6</sup>

This current process allowing Options Participants an additional one hour after the decision making cut off time of 5:30 p.m. to submit a CEA to the various

options exchanges was approved by the Commission in 2003.<sup>7</sup> In 2003, the Ex-by-Ex thresholds were \$0.75 for customers and \$0.25 for broker-dealer accounts. In 2009, the Ex-by-Ex threshold is \$0.01 for all accounts. This decrease in the Ex-by-Ex threshold, coupled with the dramatic increase in option trading volume from 2003 to 2009, has led to a larger number of CEA instructions and has increased the burden on firms to process and submit instructions timely.

The Exchange proposes to extend the current 6:30 p.m. deadline for submitting CEA instructions to the Exchange by one additional hour, up to 7:30 p.m. The Exchange believes that this proposed rule change is necessary to address concerns expressed by Options Participants that, given the decrease in the Ex-by-Ex threshold and the increase in trading, the existing deadline for submitting CEAs to the Exchange is problematic for timely back-office processing. The proposed additional one hour will address this concern by further enabling firms to more timely manage, process, and submit the instructions to the Exchange. The Exchange also proposes to modify the language in paragraph (g) of the current rule (new paragraph (h)), which allows an Options Participant up to 2 hours and 30 minutes to submit a CEA to the Exchange in the event of a modified close of trading on the day of expiration, by removing the two hour and thirty minute restriction and allowing a Options Participant to submit a CEA to the Exchange in the event of a modified close of trading of up to the proposed 7:30 p.m. deadline. This will make consistent the submission deadline for both regular and modified close expiration days. Moreover, this will provide uniformity with submission deadlines for both regular and modified close expiration days which will remove any possibility for error when determining what the submission deadline is on any modified close expiration day.

It is important to note that this proposed submission deadline does not change the substantive requirement that option holders make a final decision by 5:30 p.m. The Exchange will continue to enforce the 5:30 p.m. decision making requirement, while also allowing additional time to process and submit

the CEA instructions. This proposal seeks to increase that additional submission time by one hour, and the Exchange believes that this proposal will be beneficial to the marketplace, particularly as it concerns back-office processing. The initiative to address Options Participants concerns is industry-wide, and the Exchange anticipates that other options exchanges will also propose a one hour extension for which they will accept a CEA. This additional processing time and Exchange submission deadline will not conflict with OCC submission rules or cause any OCC processing issues.<sup>8</sup>

The Exchange proposes to make some clerical changes. First, there are certain references in Chapter VII, Section 1 which currently read “BOX” or “BOXR”, the Exchange proposes to change those certain references “the Exchange”. In addition, the Exchange proposes to revise certain cross references, as the respective lettering has been modified by this proposal.

Finally, the Exchange proposes to amend Chapter X (Minor Rule Violations), Section 2(f). Specifically, the Exchange proposes to delete the word “Member” to insert the word “Participant” to adequately reflect the term used for firms or organizations registered with the Exchange for purposes of trading options on BOX. The Exchange also proposes to reletter the subsections referenced in Section 2(f) to correspond to applicable amendments to Chapter VII, Section 1 detailed above.<sup>9</sup>

If the operative date of this proposed rule change is more than 5 business days prior to the date of the next expiration Friday i.e. the third Friday of the month (“Expiration Friday”),<sup>10</sup> the Exchange will implement the rule change so as to be effective for that Expiration Friday. If the operative date of this proposed rule change is 5 business days or less prior to the date of the next Expiration Friday, the Exchange will implement the rule change so as to be effective for the following Expiration Friday. The Exchange will notify Participants of the

<sup>8</sup> The proposed changes are based on a recently approved rule of the International Securities Exchange, LLC (“ISE”). See Securities Exchange Act Release No. 34–61458 (February 1, 2010), 75 FR 6237 (February 8, 2010) (SR–ISE–2010–02).

<sup>9</sup> Under this proposed rule change, the Minor Rule Violations will now cover Chapter VII, Sections 1(c), (d), (e), (g), and (h). These sections correspond to the former sections referenced by Chapter X, Section 2(f) of the Minor Rule Violations.

<sup>10</sup> For Example, Expiration Friday for August 2010 options will be August 20, 2010, Expiration Friday for September options will be September 17, 2010.

<sup>5</sup> All referenced times are Eastern Time.

<sup>6</sup> If Participants do not employ an electronic submission procedure, they are required to submit CEAs for non-customer accounts by the 5:30 deadline. This deadline for manual submission is required in order to prevent firms from improperly extending the 5:30 deadline to exercise or not exercise an option. This requirement is based on the difficulty in monitoring a manual procedure that has different times for deciding whether or not to exercise the option and for the submission of the CEA.

<sup>7</sup> See e.g. Securities Exchange Act Release Nos. 47885 (May 16, 2003), 68 FR 28309 (May 23, 2003) (SR–Amex–2001–92); 48505 (September 17, 2003), 68 FR 55680 (September 26, 2003) (SR–ISE–2003–20). This process has been in place at the Exchange since 2004. See Securities Exchange Act Release No. 34–49191 (February 4, 2004) 69 FR 7055 (February 12, 2004) (SR–BSE–2004–04).

implementation date of the rule change via a Regulatory Circular.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b)<sup>11</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest 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. This proposed rule change will foster coordination with back office personnel engaged in processing information and is consistent with the facilitating of transactions in securities as set forth in Section 6(b)(5) in that it, by providing Participants an additional hour within which to complete the necessary processing of CEAs, will thereby decrease Participants' burden of processing an increasing number of the contrary exercise advises and enable them to more easily manage and process these instructions.

### 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 Regarding 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

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has

become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-2010-055 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-2010-055. 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

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</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. The Exchange has satisfied this requirement.

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 publicly available. All submissions should refer to File Number SR-BX-2010-055 and should be submitted on or before September 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

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

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**BILLING CODE 8010-01-P**

## DEPARTMENT OF STATE

[Public Notice 7124]

### Javits Report 2011

**SUMMARY:** In accordance with § 25 of the Arms Export Control Act (AECA), the State Department is required to provide to Congress an Arms Sale Proposal (the Javits Report) covering all sales and licensed commercial exports of major weapons or weapons-related defense equipment for \$7,000,000 or more, or of any other weapons or weapons-related defense equipment for \$25,000,000 or more, which are considered eligible for approval. The Directorate of Defense Trade Controls (DDTC) is soliciting input regarding licensed commercial exports (*i.e.*, direct commercial sales) for the report.

**DATES:** All Javits Report 2011 submissions regarding direct commercial sales (DCS) must be received by September 10, 2010.

### FOR FURTHER INFORMATION CONTACT:

Members of the public who need additional information regarding the DCS portion of the Javits Report should contact Patricia Slygh, PM/DDTC, SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522-0112; telephone (202) 663-2830; or e-mail [SlyghPC@State.gov](mailto:SlyghPC@State.gov).

**SUPPLEMENTARY INFORMATION:** The Javits Report 2011 is an Arms Sales Proposal, to Congress, which covers all sales and licensed commercial exports under the

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> 17 CFR 200.30-3(a)(12).