

Register on January 4, 2013.<sup>3</sup> The Commission received one comment on the proposal.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of the filing of this proposed rule change is February 18, 2013. The Commission is extending this 45-day time period.

The proposed rule change would permit NSCC to eliminate the offset of NSCC obligations with institutional delivery transactions that settle at The Depository Trust Company for the purpose of calculating NSCC's clearing fund under Procedure XV of its Rules & Procedures. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the comment received on the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates April 4, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68815; File No. SR-BX-2013-009]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating [sic] to Delay the Operative Date of a Rule Change to Exchange Rule 4121

February 1, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on January 28, 2013, NASDAQ OMX BX, Inc. ("Exchange" or "BX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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

BX is filing with the Commission a proposal to delay the operative date of a rule change to Exchange Rule 4121, which provides for methodology for determining when to halt trading in all stocks due to extraordinary market volatility, from the date of February 4, 2013, until April 8, 2013 [sic]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Rule 19b-4(f)(6)(iii) of the Act<sup>3</sup> to the extent needed for timely industry-wide implementation of the proposal.

The text of the proposed rule change [sic] is available at <http://nasdaqomxbx.cchwallstreet.com/>, at BX's principal office, and at the Commission's Public Reference Room [sic]

#### 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 these 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 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 Exchange proposes to amend Rule 4121, which provides the methodology for determining when to halt trading in all stocks due to extraordinary market volatility, to delay the operative date of the pilot by which such Rule operates from the current scheduled date of February 4, 2013, until April 8, 2013, to coincide with the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility ("LULD Plan").<sup>4</sup> As proposed, the pilot period will begin and end at the same time as the pilot period for the LULD Plan. The current Rule 4121 would remain in effect until April 8, 2013. If the pilot is not either extended or approved permanently at the end of the pilot period, the current version of Rule 4121 would be in effect.

##### Current Rule 4121

The Exchange amended Rule 4121 on June 6, 2012.<sup>5</sup> The changes to Rule 4121 are effective, but not operative until February 4, 2013. The current standard, set forth in the rules of other exchanges,<sup>6</sup> provides for Level 1, 2, and 3 declines and specified trading halts following such declines. The values of Levels 1, 2 and 3 are calculated at the beginning of each calendar quarter, using 10%, 20% and 30%, respectively, of the average closing value of the Dow Jones Industrial Average ("DJIA") for the month prior to the beginning of the

<sup>4</sup> The Exchange adopted the proposed changes to the market-wide circuit breakers on a pilot basis for a period that corresponds to the pilot period for the LULD Plan so that the impact of the two proposals can be reviewed together. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-BX-2011-068). The Exchange anticipates that the initial date of LULD Plan operations will be changed to April 8, 2013. The proposal would delay the operative date of the market-wide circuit breakers pilot to April 8, 2013 in order for the implementation date for the market-wide circuit breakers pilot would [sic] remain the same date as for the LULD Plan.

<sup>5</sup> See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-BX-2011-068).

<sup>6</sup> The rule was last amended in 1998, when declines based on specified point drops in the DJIA were replaced with the current methodology of using a percentage decline that is recalculated quarterly. See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (SR-NYSE-98-06, SR-Amex-98-09, SR-BSE-98-06, SR-CHEX-98-08, SR-NASD-98-27, and SR-Phlx-98-15).

<sup>3</sup> Securities Exchange Act Release No. 34-68549 (Dec. 28, 2012), 78 FR 792 (Jan. 4, 2013).

<sup>4</sup> See Comment from Lek Securities Corporation dated January 25, 2013 (<http://sec.gov/comments/sr-nssc-2012-810/nssc2012810-1.pdf>).

<sup>5</sup> See 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

quarter. Each percentage calculation is rounded to the nearest fifty points to create the Levels' trigger points. The values then remain in effect until the next quarterly calculation, notwithstanding whether the DJIA has moved and a Level 1, 2, or 3 decline is no longer equal to an actual 10%, 20%, or 30% decline in the most recent closing value of the DJIA.

Once a market-wide circuit breaker is in effect, trading in all stocks halt [sic] for the time periods specified below:

*Level 1 Halt* anytime before 2:00 p.m.—one hour; at or after 2:00 p.m. but before 2:30 p.m.—30 minutes; at or after 2:30 p.m.—trading shall continue, unless there is a Level 2 Halt.

*Level 2 Halt* anytime before 1:00 p.m.—two hours; at or after 1:00 p.m. but before 2:00 p.m.—one hour; at or after 2:00 p.m.—trading shall halt and not resume for the rest of the day.

*Level 3 Halt* at any time—trading shall halt and not resume for the rest of the day.

Unless stocks are halted for the remainder of the trading day, price indications are disseminated during a Rule 80B trading halt for stocks that comprise the DJIA.

#### Amended Rule 4121

The Exchange amended Rule 4121 to revise the current methodology for determining when to halt trading in all stocks due to extraordinary market volatility ("market-wide circuit breakers").<sup>7</sup> The Exchange, other equities, options, and futures markets, and FINRA amended the market-wide circuit breakers to take into consideration the recommendations of the Joint CFTC–SEC Advisory Committee on Emerging Regulatory Issues, and to provide for more meaningful measures in today's markets of when to halt trading in all stocks. Accordingly, the Exchange [sic] amended Rule 80B as follows: (i) replaced the DJIA with the S&P 500; (ii) replaced the quarterly calendar recalculation of Rule 80B triggers with daily recalculations; (iii) replaced the 10%, 20%, and 30% market decline percentages with 7%, 13%, and 20% market decline percentages; (iv) modified the length of the trading halts associated with each market decline level; and (v) modified the times when a trading halt may be triggered. The Exchange [sic] believes that these amendments update the rule to reflect today's high-speed, highly electronic trading market while still meeting the original purpose of Rule 80B: to ensure that market participants have an

opportunity to become aware of and respond to significant price movements.

The Exchange adopted the proposed changes to the market-wide circuit breakers on a pilot basis for a period that corresponds to the pilot period for the LULD Plan so that the impact of the two proposals can be reviewed together.<sup>8</sup> In addition, in order for the markets and the single plan processors responsible for the consolidation of information pursuant to Rule 603(b) of Regulation NMS under the Securities Exchange Act of 1934 to make the necessary technological changes to implement both the changes to the market-wide circuit breakers and the proposed LULD Plan, the Exchange established that the implementation date for the proposed rule changes should be the same date that the LULD Plan is implemented. The Exchange anticipates that the initial date of LULD Plan operations will be changed to April 8, 2013. For the same reasons as stated above, the Exchange proposes to delay the operative date of the market-wide circuit breakers pilot to April 8, 2013 in order for the implementation date for the market-wide circuit breakers pilot would [sic] remain the same date as for the LULD Plan.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, this rule proposal supports the objectives of perfecting the mechanism of a free and open market and the national market system because it promotes uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Additionally, delaying the operative date of the market-wide circuit breakers pilot until the initial date of operations of the LULD Plan would allow the pilot to begin and end at the same time of the LULD Plan so that the Exchange and the Commission could further assess the impact of the two pilots on the marketplace or whether other initiatives should be adopted in lieu of the pilots, which contributes to the protection of investors and the public interest.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to delay the operation of the market-wide circuit breakers pilot until April 8, 2013 to allow the pilot period to begin and end at the same time as the LULD Plan, which contributes to the protection of investors and the public interest. Other competing equity exchanges are subject to the same methodology for determining when to halt trading in all stocks due to extraordinary market volatility and the same requirements specified in the LULD Plan. Thus, the proposed changes will not impose any burden on competition while providing that the market-wide circuit breakers pilot period corresponds to the pilot period for the LULD Plan so that the impact of the two proposals can be reviewed together.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

#### 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>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>12</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>7</sup> See supra note 4.

<sup>8</sup> *Id.*

interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Doing so will delay the operative date of the market-wide circuit breakers pilot until the initial date of operations of the LULD Plan, thereby allowing the pilot to run simultaneously with the LULD Plan, providing an opportunity to properly assess the impact of the two pilots on the marketplace and evaluate the pilots' effectiveness. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>13</sup>

At any time within 60 days of the filing of such 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>14</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2013-009 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-2013-009. This file number should be included on the subject line if email is used. To help the

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2013-009 and should be submitted on or before March 4, 2013.

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

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68832; File No. SR-FINRA-2012-050]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Adopt a Supplementary Schedule for Derivatives and Other Off-Balance Sheet Items Pursuant to FINRA Rule 4524 (Supplemental FOCUS Information)

February 5, 2013.

#### I. Introduction

On November 15, 2012, the Financial Industry Regulatory Authority, Inc.

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

(“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt a supplementary schedule for derivatives and other off-balance sheet items pursuant to FINRA Rule 4524 (Supplemental FOCUS Information). The proposed rule change was published for comment in the **Federal Register** on November 27, 2012.<sup>3</sup> The Commission received one comment letter on the proposed rule change.<sup>4</sup> On February 1, 2013, FINRA filed Amendment No. 1 with the Commission to respond to the comment letter and to propose technical changes and the addition of a clarifying instruction.<sup>5</sup> The Commission is publishing this notice and order to solicit comments on Amendment No. 1 and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### II. Description of Proposal

FINRA Rule 4524 requires each firm, as FINRA shall designate, to file such additional financial or operational schedules or reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest as a supplement to the FOCUS reports. Pursuant to FINRA Rule 4524, FINRA proposed the adoption of a supplementary schedule to the FOCUS reports to capture important information that is not otherwise reported on certain firms' balance sheets. To that end, the proposal would require all carrying or clearing firms to file with FINRA the Derivatives and Other Off-Balance Sheet Items Schedule (“OBS”) within 22 business days of the end of each calendar quarter. The proposed OBS is necessary for FINRA to more effectively examine for compliance with, and enforce, its rules on capital adequacy. The proposed OBS enables FINRA to examine on an ongoing basis the potential impact off-balance sheet activities may have on carrying and clearing firms' net capital, leverage and

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

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

<sup>3</sup> Exchange Act Release No. 68270 (Nov. 20, 2012), 77 FR 70860 (Nov. 27, 2012).

<sup>4</sup> See Email from Suzanne Shatto to Commission, dated Jan. 3, 2013, available at <http://sec.gov/comments/sr-finra-2012-056/finra2012056-1.pdf>.

<sup>5</sup> See SEC File No. SR-FINRA-2012-050 Amendment No. 1, dated Feb. 1, 2013 (“Amendment No. 1”). Amendment No. 1 is described below in Section III.B. and the text of Amendment No. 1 is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA, and on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.