

must be contested. If the person against whom the fine is imposed pays the fine, such payment shall be deemed to be a waiver of such person's right to a disciplinary proceeding and any review of the matter under Exchange rules. Any person against whom a fine is imposed may contest the Exchange's determination by filing with the Exchange a written response, at which point the matter shall become a disciplinary proceeding.

Upon approval of the plan, the Exchange will provide the Commission a quarterly report of actions taken on minor rule violations under the plan. The quarterly report will include the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred, and the date of disposition.<sup>7</sup>

The Commission finds that the proposed MRVP is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act<sup>9</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules. In addition, because the MRVP offers procedural rights to a person sanctioned under Rule 8.15, the Commission believes that Rule 8.15 provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.<sup>10</sup>

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,<sup>11</sup> because the MRVP strengthens BATS Y-Exchange's ability to carry out its oversight and

enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposal, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Rule 8.15. The Commission believes that the violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Rule 8.15 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that BATS Y-Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, whether a sanction under the MRVP is appropriate, or whether a violation requires formal disciplinary action.

*It is therefore ordered*, pursuant to Rule 19d-1(c)(2) under the Act,<sup>12</sup> that the proposed MRVP for BATS Y-Exchange, File No. 4-616, be, and hereby is, approved and declared effective.

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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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63105; File No. SR-BX-2010-059]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Create a Listing Market on the Exchange

October 14, 2010.

On August 20, 2010, NASDAQ OMX BX, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to

create a listing market, which will be called "BX." The proposed rule change was published for comment in the **Federal Register** on September 8, 2010.<sup>4</sup> The Commission received two comment letters on this proposal.<sup>5</sup>

Section 19(b)(2) of the Act<sup>6</sup> provides that within forty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period up to ninety 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 for this filing is October 23, 2010. The Commission is extending this 45-day time period.

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 this proposed rule change, which would create a new listing market on the Exchange, and to consider the comment letters that have been submitted in connection with this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> designates December 7, 2010, 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>8</sup>

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

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<sup>4</sup> See Securities Exchange Act Release No. 62818 (September 1, 2010), 75 FR 54665.

<sup>5</sup> See Letter to Elizabeth M. Murphy, Secretary, Commission, from William F. Galvin, Secretary of the Commonwealth, Commonwealth of Massachusetts, dated September 28, 2010; and Letter to Elizabeth M. Murphy, Secretary, Commission, from Michael R. Trocchio, Bingham McCutchen LLP, on behalf of Pink OTC Markets Inc., dated October 3, 2010.

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

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(31).

<sup>7</sup> BATS Y-Exchange attached a sample form of the quarterly report with its submission to the Commission.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>10</sup> 15 U.S.C. 78f(b)(7) and 78f(d)(1).

<sup>11</sup> 17 CFR 240.19d-1(c)(2).

<sup>12</sup> *Id.*

<sup>13</sup> 17 CFR 200.30-3(a)(44).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.