

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.

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-2010-107 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-2010-107. 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 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-NYSEAmex-2010-107 and should be submitted on or before December 27, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63397; File No. SR-BX-2010-084]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 To Extend, Through December 31, 2011, the Pilot Program That Permits Certain Classes To Be Quoted in Penny Increments on BOX

November 30, 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 November 24, 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. On November 30, 2010, the Exchange submitted Amendment No. 1 to the proposed rule change. 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

The Exchange proposes to amend Chapter V, Section 33 (Penny Pilot Program) of the Rules of the Boston Options Exchange Group, LLC ("BOX")

to extend, through December 31, 2011, the pilot program that permits certain classes to be quoted in penny increments on BOX ("Penny 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, on the Commission's Web site at <http://www.sec.gov>, and also on the Exchange's Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/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 Exchange proposes to extend the effective time period of the Penny Pilot Program on BOX that is currently scheduled to expire on December 31, 2010, for an additional year, through December 31, 2011.<sup>3</sup> The Penny Pilot Program permits certain classes to be

<sup>3</sup> The Penny Pilot Program has been in effect on BOX since January 26, 2007. See Securities Exchange Act Release No. 55155 (Jan. 23, 2007), 72 FR 4741 (Feb. 1, 2007) (SR-BSE-2006-49). The Penny Pilot Program was later extended through September 27, 2007. See Securities Exchange Act Release No. 56149 (July 26, 2007), 72 FR 42450 (Aug. 2, 2007) (SR-BSE-2007-38). A subsequent rule filing by the Exchange on September 27, 2007 initiated a two-phased expansion of the Penny Pilot Program. See Securities Exchange Act Release No. 56566 (Sept. 27, 2007), 72 FR 56400 (Oct. 3, 2007) (S-ARBSE-2007-40). See also Securities Exchange Act Release No. 57566 (March 26, 2008), 73 FR 18013 (April 2, 2008) (SR-BSE-2008-20). The Penny Pilot Program was then extended and expanded a number of times and is set to expire on December 31, 2010. See Securities Exchange Act Release Nos. 59629 (March 26, 2009), 74 FR 15021 (April 2, 2009) (SR-BX-2009-017); 60213 (July 1, 2009), 74 FR 32998 (July 9, 2009) (SR-BX-2009-032); 60886 (Oct. 27, 2009), 74 FR 56897 (Nov. 3, 2009) (SR-BX-2009-067); 60950 (Nov. 6, 2009), 74 FR 58666 (Nov. 6, 2009) (SR-BX-2009-069); 61456 (Feb. 1, 2010), 75 FR 6235 (Feb. 8, 2010) (SR-BX-2010-011); 62039 (May 5, 2010), 75 FR 26313 (May 11, 2010) (SR-BX-2010-032) and 62615 (July 30, 2010), 75 FR 47875 (Aug. 9, 2010) (SR-BX-2010-052). The extension of the effective date is the only change to the Penny Pilot Program being proposed at this time.

<sup>9</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.

quoted in penny increments on BOX. The minimum price variation for all classes included in the Penny Pilot Program, except for the QQQs, SPY and IWM, will continue to be \$0.01 for all quotations in option series that are quoted at less than \$3 per contract and \$0.05 for all quotations in option series that are quoted at \$3 per contract or greater. The QQQs, SPY and IWM, will continue to be quoted in \$0.01 increments for all options series. The Exchange is not currently proposing any changes to the classes included within the Penny Pilot Program.

Additionally, the Exchange proposes to amend Chapter V, Section 33(b) of the BOX Rules to continue to be able to replace, on a semi-annual basis, any Pilot Program classes that have been delisted. These delisted classes will be replaced by the next most actively traded multiply listed options classes that are not yet included in the Pilot Program, based on trading activity in the previous six months. The replacement classes may be added to the Pilot Program on the second trading day following January 1, 2011 and July 1, 2011.<sup>4</sup> The replacement issues will be selected based on trading activity for the six-month period beginning June 1, 2010 and ending November 30, 2010, for the January 2011 replacement, and the six month period beginning December 1, 2010 and ending May 31, 2011 for the July 2011 replacements. The Exchange will employ the same parameters to prospective replacement classes as approved and applicable under the Pilot Program, including excluding high-priced underlying securities.

Further, BOX agrees to submit to the Commission such reports regarding the Penny Pilot Program as the Commission may request. Such reports may include: (1) Data and analysis on the number of quotations generated for options included in the Pilot Program; (2) an assessment of the quotation spreads for the options included in the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of BOX's automated systems; (4) data reflecting the size and depth of markets; and (5) any capacity problems or other problems that arose related to the operation of the Pilot Program and how the Exchange addressed them.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>5</sup>

in general, and Section 6(b)(5) of the Act,<sup>6</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 proposed extension will allow the Penny Pilot Program to remain in effect on BOX without interruption.

### 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. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>9</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.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> As required under Rule 19b-4(f)(6)(iii), BOX provided the Commission with 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.

## 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-2010-084 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-2010-084. 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 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-2010-084 and should be submitted on or before December 27, 2010.

<sup>4</sup> The replacement classes will be announced to BOX Participants via Regulatory Circular and published by the Exchange on its Web site.

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

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-30432 Filed 12-3-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63391; File No. SR-FINRA-2010-063]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend to July 16, 2011, the Pilot Period for FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

November 30, 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 November 22, 2010, Financial Industry Regulatory Authority, Inc. (“FINRA”) 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 substantially prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to extend to July 16, 2011, FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) on an interim pilot program basis. FINRA Rule 4240, as approved by the SEC on May 22, 2009, will expire on November 30, 2010. The rule implements an interim pilot program with respect to margin requirements for transactions in credit default swaps executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions are effected by the member in credit

default swap contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets:

\* \* \* \* \*

#### 4000. FINANCIAL AND OPERATIONAL RULES

\* \* \* \* \*

#### 4200. MARGIN

\* \* \* \* \*

#### 4240. Margin Requirements for Credit Default Swaps

(a) Effective Period of Interim Pilot Program.

This Rule establishes an interim pilot program (“Interim Pilot Program”) with respect to margin requirements for any transactions in credit default swaps executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions (“matching transactions”) are effected by the member in contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange (“CME”). The Interim Pilot Program shall automatically expire on [November 30, 2010] *July 16, 2011*. For purposes of this Rule, the term “credit default swap” (“CDS”) shall mean any “eligible credit default swap” as defined in Securities Act Rule 239T(d), as well as any other CDS that would otherwise meet such definition but for being subject to individual negotiation, and the term “transaction” shall include any ongoing CDS position.

(b) through (e) No Change.

\* \* \* Supplementary Material:

.01 No Change.

\* \* \* \* \*

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

On May 22, 2009, the Commission approved FINRA Rule 4240,<sup>4</sup> which implements an interim pilot program (the “Interim Pilot Program”) with respect to margin requirements for transactions in credit default swaps (“CDS”) executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions are effected by the member in credit default swap contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange (“CME”). On September 21, 2009, FINRA extended the implementation of Rule 4240 to November 30, 2010.<sup>5</sup>

As explained in the Approval Order, FINRA Rule 4240 is intended to be coterminous with certain Commission actions intended to address concerns arising from systemic risk posed by CDS, including, among others, risks to the financial system arising from the lack of a central clearing counterparty to clear and settle CDS.<sup>6</sup> Recently, the Commission has determined to extend the period for which certain of these actions are in effect.<sup>7</sup> FINRA believes it

<sup>4</sup> See Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Approval of Proposed Rule Change; File No. SR-FINRA-2009-012) (“Approval Order”).

<sup>5</sup> See Securities Exchange Act Release No. 60722 (September 25, 2009), 74 FR 50856 (October 1, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2009-063).

<sup>6</sup> See 74 FR 25588 through 25589. In early 2009 the Commission enacted interim final temporary rules (the “interim final temporary rules”) providing enumerated exemptions under the Federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. See Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9063 (September 14, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps). See also Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Granting Temporary Exemptions for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

<sup>7</sup> See Securities Act Release No. 9158 (November 19, 2010), 75 FR 72260 (November 26, 2009)

<sup>10</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.

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