

**Federal Register** on August 9, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

NASDAQ is proposing to re-establish retroactively from January 1, 2008 through July 27, 2010,<sup>4</sup> the fee reduction pilot program that reduced the monthly fee that non-professional users pay to receive NQDS from \$50 to \$10, to correct for the lapse in the pilot and to prevent the collection of the additional \$40 in monthly fees from investors for the period during which the pilot had lapsed.<sup>5</sup> Prior to August 31, 2000, NQDS data was available through authorized vendors at a monthly rate of \$50 for professionals and non-professionals users alike. In August 2000, NASDAQ filed a proposed rule change to reduce from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS data. The Commission approved the pilot on August 22, 2000, and the fee reduction commenced on August 31, 2000 on a one-year pilot basis.<sup>6</sup> On September 5, 2001, August 30, 2002, August 18, 2003, August 23, 2004, January 24, 2006, and March 29, 2007, NASDAQ filed proposed rule changes to extend the pilot for additional one-year periods.<sup>7</sup>

NASDAQ believes that continuing the reduction of NQDS for non-professional users demonstrates NASDAQ's continued commitment to provide data to non-professional market participants and individual investors.

## III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> In particular, it is consistent with Section 6(b)(4) of the Act,<sup>9</sup> which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other parties using its facilities, and Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities exchange be designed 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with the provisions of Section 6(b)(8) of the Act,<sup>11</sup> which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Finally, the Commission finds that the proposed rule change is consistent with Rule 603(a) of Regulation NMS,<sup>12</sup> adopted under Section 11A(c)(1) of the Act, which requires an exclusive processor that distributes information with respect to quotations for or transactions in an NMS stock to do so on terms that are fair and reasonable and that are not unreasonably discriminatory.<sup>13</sup>

The Commission notes that the proposed rule change involves the retroactive application of a fee reduction pilot that benefits non-professional market participants and that has been in effect in practice since 2000. The Commission approved the reduced fee pilot at its inception in 2000, and subsequently extended the pilot as cited above. NASDAQ charged the reduced fee, although its NQDS fee reduction pilot had expired, during the period from January 1, 2008 through July 27, 2010, at which time NASDAQ filed an immediately effective proposal that made the reduced NQDS fee for non-

professionals permanent. The Commission notes that no comments were received from any market participants, including NASDAQ members, information vendors, investors, non-professionals, or any other interested parties, on the initial pilot filing in 2000, on any of the pilot's extensions, on the immediately effective filing for permanent approval of the reduced fee, or on this filing. For the reasons discussed above, the Commission believes that retroactive approval of the fee reduction pilot from January 1, 2008 is appropriate.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-NASDAQ-2010-096), be, and it hereby is, approved.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-23631 Filed 9-21-10; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62909; File No. SR-BX-2010-063]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adding the CBOE Volatility Index Futures to the Definition of a Futures Reference Asset in Chapter IV, Section 3(k)(i)(5)

September 14, 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 September 8, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IV, Section 3 (Criteria for Underlying Securities) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to permit options on

<sup>3</sup> See Securities Exchange Act Release No. 62629 (August 3, 2010), 75 FR 47871 ("Notice").

<sup>4</sup> On July 27, 2010, NASDAQ filed a proposed rule change to make the pilot fee reduction permanent. See Securities Exchange Act Release No. 62614 (July 30, 2010), 75 FR 47668 (August 6, 2010).

<sup>5</sup> NQDS is a proprietary data product that contains the best bid and offer quotation of each registered market maker quoting in NASDAQ-listed securities on the NASDAQ Stock Market. NQDS data is used not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. For a more detailed discussion of NQDS, see Notice.

<sup>6</sup> See Securities Exchange Act Release No. 43190 (August 22, 2000), 65 FR 52460 (August 29, 2000).

<sup>7</sup> See Securities Exchange Act Release Nos. 44788 (September 13, 2001), 66 FR 48303 (September 19, 2001); 46446 (August 30, 2002), 67 FR 57260 (September 9, 2002); 48386 (August 21, 2003), 68 FR 51618 (August 27, 2003); 50318 (September 3, 2004), 69 FR 54821 (September 10, 2004); 53531 (March 21, 2006), 71 FR 15506 (March 28, 2006); and 55668 (April 25, 2007), 72 FR 24347 (May 2, 2007).

<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78f(b)(8).

<sup>12</sup> 17 CFR 242.603(a).

<sup>13</sup> NASDAQ is an exclusive processor of its NQDS data under Section 3(a)(22)(B) of the Act, 15 U.S.C. 78c(a)(22)(B), which defines an exclusive processor as, among other things, an exchange that distributes data on an exclusive basis on its own behalf.

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

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

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

Futures-Linked Securities to be based on products linked to CBOE Volatility Index Futures ("VIX Futures"). 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/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 the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

Chapter IV, Section 3(k) of the BOX Rules designates the listing and trading of options on equity index-linked securities ("Equity Index-Linked Securities", "Commodity-Linked Securities", "Currency-Linked Securities", "Fixed Income Index-Linked Securities", "Futures-Linked Securities" and "Multifactor Index-Linked Securities", collectively known as "Index-Linked Securities") that are principally traded on a national securities exchange and are defined as an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities and [sic] Exchange Act of 1934). BOX proposes to amend the definition of Futures-Linked Securities for the trading of options on Index-Linked Securities to include products linked to CBOE Volatility Index (VIX) Futures.

Specifically, the Exchange proposes to add the CBOE Volatility Index (VIX) Futures to the definition of a Futures Reference Asset in Chapter IV, Section 3(k)(i)(5) of the BOX Rules.

Index-Linked Securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or market indexes of the foregoing ("Underlying Index" or "Underlying Indexes"). Index-Linked Securities are

the non-convertible debt of an issuer that have a term of at least one (1) year but not greater than thirty (30) years. Despite the fact that Index-Linked Securities are linked to an underlying index, each trades as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options apply to Index-Linked Securities.

Currently, the Exchange will consider listing and trading options on Index-Linked Securities provided the Index-Linked Securities meet the criteria for underlying securities set forth in Chapter IV, Section 3(a)–(b) of the BOX Rules.

Index-Linked Securities must meet the criteria and guidelines for underlying securities set forth in Chapter IV, Section 3(b) of the BOX Rules; or the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset.<sup>3</sup> In addition, the issuing company is obligated to issue or repurchase the securities in aggregation units for cash or cash equivalents satisfactory to the issuer of Index-Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

Options on Index-Linked Securities will continue to be subject to all BOX rules governing the trading of equity options. The current continuing or maintenance listing standards for options traded on BOX will continue to apply.

#### The VIX

The information in this filing relating to the VIX was taken from the Web site of the Chicago Board Options Exchange (the "CBOE").

The VIX was originally developed by the CBOE in 1993 and was calculated using S&P 100® Index options. The current methodology for the VIX was introduced by the CBOE in September 2003 and it is now an index that uses the quotes of certain S&P 500® Index ("SPX") option series to derive a measure of the volatility of the U.S. equity market. The VIX measures market expectations of near term volatility conveyed by the prices of options on the SPX. It provides investors with up-to-the-minute market estimates of expected stock market

<sup>3</sup> For the purposes of Chapter IV, Section 3(k) of the BOX Rules, Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets together with Multifactor Reference Assets, collectively will be referred to as "Reference Assets", as defined in Chapter IV, Section 3(k)(ii) of the BOX Rules.

volatility over the next 30 calendar days by extracting implied volatilities from real-time index option bid/ask quotes.

#### VIX Futures

Information regarding VIX Futures can be found on the Web site of the CBOE Futures Exchange (the "CFE"). The CFE began listing and trading VIX Futures since March 26, 2004 under the ticker symbol VX. VIX Futures trade between the hours of 8:30 a.m.–3:15 p.m. Central Time (Chicago Time).

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(5) of the Act,<sup>5</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, Exchange believes that the proposed rules applicable to trading pursuant to generic listing and trading criteria, together with the Exchange's surveillance procedures applicable to trading in the securities covered by the proposed rules, serve to foster investor protection.

### 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent

<sup>4</sup> 15 U.S.C. 78f(b).

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

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<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can list and trade options on Futures-Linked Securities linked to CBOE VIX Futures immediately. The Commission believes that waiving the 30-day operative delay to permit the Exchange to list and trade options on Futures-Linked Securities linked to CBOE VIX Futures without delay is consistent with the protection of investors and the public interest.<sup>8</sup> The Commission notes the proposal is substantively identical to proposals that were recently approved by the Commission, and does not raise any new regulatory issues.<sup>9</sup> For these reasons, the Commission designates the proposed rule change as operative upon filing.

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-2010-063 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-2010-063. 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 website (<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 website 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 the filing also will be available for inspection and copying at the principal office of the Exchange.<sup>10</sup> 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-2010-063 and should be submitted on or before October 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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

[FR Doc. 2010-23603 Filed 9-21-10; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>10</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF STATE

[Public Notice 7182]

### Culturally Significant Objects Imported for Exhibition Determinations: "Artifacts From Auschwitz-Birkenau"

**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 "Artifacts from Auschwitz-Birkenau," 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 at the Los Angeles Museum of the Holocaust, Los Angeles, CA, from on or about October 14, 2010, until on or about October 13, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6467). The mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: September 16, 2010.

**Ann Stock,**

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

[FR Doc. 2010-23687 Filed 9-21-10; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF STATE

[Public Notice 7181]

### Culturally Significant Objects Imported for Exhibition Determinations: "Ancient Chinese Bronzes From the Shouyang Studio: The Katherine and George Fan Collection"

**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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its 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 fulfilled this requirement.

<sup>8</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> See Securities Exchange Act Release No. 60857 (Oct. 21, 2009), 74 FR 55611 (Oct. 28, 2009) (SR-CBOE-2009-074); See also Securities Exchange Act Release No. 60822 (Oct. 14, 2009), 74 FR 54114 (Oct. 21, 2009) (SR-NYSEArca-2009-77); and Securities Exchange Act Release No. 60823 (Oct. 14, 2009), 74 FR 54112 (Oct. 21, 2009) (SR-NYSEAmex-2009-59).