

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder<sup>9</sup> because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 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.<sup>10</sup>

The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that such action is consistent with the protection of investors and the public interest, because it will enable the Exchange immediately to align its trading rules with respect to HOLDRS with provisions of the HOLDRS prospectuses. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>11</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>12</sup>

### 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-CBOE-2011-101 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-CBOE-2011-101. This file number should be included on the subject line if email 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 available publicly. All submissions should refer to File Number SR-CBOE-2011-101 and should be submitted on or before December 14, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65769; File No. SR-BX-2011-074]

#### **Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Simplify the \$1 Strike Price Interval Program**

November 17, 2011.

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 7, 2011, 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 Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which renders the proposal effective upon filing with 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**

The Exchange proposes to amend Chapter IV, Section 6 (Series of Options Contracts Open for Trading) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to simplify the \$1 Strike Price Interval Program ("Program").

#### **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.

<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).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 satisfied this requirement.

<sup>11</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>13</sup> 17 CFR 200.30-3(a)(12).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

This filing is based on a rule change submitted by the Chicago Board Options Exchange, Inc. ("CBOE") previously approved by the Commission, and a rule change by the International Securities Exchange, LLC. ("ISE") effective and operative upon its filing.<sup>4</sup>

In 2004, the Commission issued an order permitting the establishment of the Program on BOX on a pilot basis.<sup>5</sup> At that time, the underlying stock had to close at \$20 on the previous trading day in order to qualify for the Program. The range of available \$1 strike price intervals was limited to a range between \$3 and \$20 and no strike price was permitted that was greater than \$5 from the underlying stock's closing price on the previous trading day. Series in \$1 strike price intervals were not permitted within \$0.50 an existing strike. In addition, BOX was limited to selecting five (5) classes and reciprocal listing was permitted. Furthermore, LEAPS in \$1 strike price intervals were not permitted for classes selected to participate in the Program.

The pilot program has been renewed on BOX on a yearly basis and in 2008, the Commission granted permanent approval of the Program.<sup>6</sup> At that time, the Program was expanded to increase the upper limit of the permissible strike price range from \$20 to \$50. In addition, the number of class selections per exchange was increased from five (5) to ten (10). Since the Program was made permanent, the number of class selections per exchange has been increased from ten (10) classes to 55 classes<sup>7</sup> and subsequently increased from 55 classes to 150 classes.<sup>8</sup>

Amendments To Simplify Non-LEAPS Rule Text

The most recent expansion of the Program was approved by the Commission in early 2011 and increased

the number of \$1 strike price intervals permitted within the \$1 to \$50 range.<sup>9</sup> This expansion was a proposal of another exchange and the Exchange submitted its filing for competitive reasons. This expansion, however, has resulted in very lengthy rule text that is complicated and difficult to understand. BOX believes that the proposed changes to simplify the rule text of the Program will benefit market participants since the Program will be easier to understand and will maintain the expansions made to the Program in early 2011. Through the current proposal, the Exchange also hopes to make administration of the Program easier, e.g., system programming efforts. To simplify the rules of the Program and, as a proactive attempt to mitigate any unintentional listing of improper strikes, the Exchange is proposing the following streamlining amendments:

- When the price of the underlying stock is equal to or less than \$20, permit \$1 strike price intervals with an exercise price up to 100% above and 100% below the price of the underlying stock.
  - However, the above restriction would not prohibit the listing of at least five (5) strike prices above and below the price of the underlying stock per expiration month in an option class.
  - For example, if the price of the underlying stock is \$2, BOX would be permitted to list the following series: \$1, \$2, \$3, \$4, \$5, \$6 and \$7.
- When the price of the underlying stock is greater than \$20, permit \$1 strike price intervals with an exercise price up to 50% above and 50% below the price of the underlying security up to \$50.
- For the purpose of adding strikes under the Program, the "price of the underlying stock" shall be measured in the same way as "the price of the underlying security" is as set forth in Chapter IV, Section 6(b)(i) of the BOX Rules.
- Prohibit the listing of additional series in \$1 strike price intervals if the underlying stock closes at or above \$50 in its primary market and provide that additional series in \$1 strike price intervals may not be added until the underlying stock closes again below \$50.

Amendments To Simplify LEAPS Rule Text

The early 2011 expansion of the Program permitted for some limited listing of LEAPS in \$1 strike price intervals for classes that participate in

the Program. The Exchange is proposing to maintain the expansion as to LEAPS, but simplify the language and provide examples of the simplified rule text. These changes are set forth subparagraph (v) to Supplementary Material .02(b).

For stocks in the Program, BOX may list one \$1 strike price interval between each standard \$5 strike interval, with the \$1 strike price interval being \$2 above the standard strike for each interval above the price of the underlying stock, and \$2 below the standard strike for each interval below the price of the underlying stock ("2 wings"). For example, if the price of the underlying stock is \$24.50, BOX may list the following standard strikes in \$5 intervals: \$15, \$20, \$25, \$30 and \$35. Between these standard \$5 strikes, BOX may list the following \$2 wings: \$18, \$27 and \$32.

In addition, BOX may list the \$1 strike price interval which is \$2 above the standard strike just below the underlying price at the time of listing. In the above example, since the standard strike just below the underlying price (\$24.50) is \$20, BOX may list a \$22 strike. BOX may add additional long-term options series strikes as the price of the underlying stock moves, consistent with the OLPP.

Non-Substantive Amendments to Rule Text

The early 2011 expansion of the Program prohibited the listing of \$2.50 strike price intervals for classes that participate in the Program. This prohibition applies to non-LEAP and LEAPS. The Exchange proposes to maintain this prohibition and codify it in Supplementary Material .02(a) (Program Description).

For ease of reference, the Exchange is proposing to add the headings "\$1 Strike Price Interval Program," "Program Description," "Initial and Additional Series" and "LEAPS" to Supplementary Material .02.

The Exchange is proposing to more accurately reflect the nature of the Program and is proposing to make stylistic changes throughout Supplementary Material .02 by adding the phrase "price interval." Lastly, the Exchange is making technical changes to Supplementary Material .02, e.g., replacing the words "security" and "issue" with the word "stock."

The Exchange represents that it has the necessary systems capacity to support the increase in new options series that will result from the proposed streamlining changes to the Program.

<sup>4</sup> See Securities Exchange Act Release Nos. 65383 (September 22, 2011) 76 FR 60107 (September 28, 2011) (Order Approving SR-CBOE-2011-040) and 65384 (September 22, 2011) 76 FR 60574 (September 29, 2011) (SR-ISE-2011-059).

<sup>5</sup> See Securities Exchange Act Release No. 49292 (February 20, 2004) 69 FR 8993 (February 26, 2004) (SR-BSE-2004-01).

<sup>6</sup> See Securities Exchange Act Release No. 57302 (February 11, 2008) 73 FR 8913 (February 15, 2008) (SR-BSE-2008-08).

<sup>7</sup> See Securities Exchange Act Release No. 59589 (March 17, 2009) 74 FR 12408 (March 24, 2009) (SR-BX-2009-016).

<sup>8</sup> See Securities Exchange Act Release No. 62553 (July 22, 2010) 75 FR 44826 (July 29, 2010) (SR-BX-2010-50).

<sup>9</sup> See Securities Exchange Act Release No. 63774 (January 25, 2011) 76 FR 5628 (February 1, 2011) (SR-BX-2011-06).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to 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 rule change seeks to reduce investor confusion and to simplify the provisions of the \$1 Strike Price Interval Program.

### *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*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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 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>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is

consistent with the protection of investors and the public interest. The proposed rule change is substantially similar to \$1 Strike Price Program rules in place at other exchanges, so the Commission's action will allow the Exchange to implement these changes without undue delay. Therefore, the Commission designates the proposal operative upon filing.<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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2011-074 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-2011-074. This file number should be included on the subject line if email 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-BX-2011-074 and should be submitted on or before December 14, 2011.

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. 34-65771; File No. SR-ISE-2011-60]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule to Expand the Short Term Options Series Program**

November 17, 2011.

## I. Introduction

On September 23, 2011, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to expand the Short Term Options Series Program ("STOS Program"). The proposed rule change was published for comment in the **Federal Register** on October 13, 2011.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

The proposed rule change seeks to amend ISE Rules 504 and 2009 to

<sup>15</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> Securities Exchange Act Release No. 65503 (October 6, 2011), 76 FR 63691 ("Notice").

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<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)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 satisfied this requirement.

<sup>14</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).