

11Ac1–1 within Rule 7.17(b) with Rule 602.

## 2. Statutory Basis

The proposed rule changes are consistent with Section 6(b)<sup>4</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and further the objectives of Section 6(b)(5),<sup>5</sup> in particular. By amending various NYSE Arca Equities rules in order to harmonize them with FINRA rules and federal rules and to eliminate confusing or duplicative language and unnecessary references to terms or systems that are now obsolete, the proposed rule changes are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

### *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.

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

No written comments were solicited or received with respect to the proposed rule change.

## 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>6</sup> and Rule 19b–4(f)(6) thereunder.<sup>7</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>8</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),<sup>9</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public 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 has determined that waiving the 30-day operative delay of the Exchange’s proposal is consistent with the protection of investors and the public interest because such waiver will allow the Exchange to promptly harmonize its rules with FINRA rules and to correct non-substantive changes, thereby avoiding further potential confusion and ensuring that the rule text of the Exchange is accurate.<sup>10</sup> Therefore, the Commission designates the proposed rule change to be 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–NYSEArca–2010–88 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–NYSEArca–2010–88. 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 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–NYSEArca–2010–88 and should be submitted on or before January 18, 2011.

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

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

[FR Doc. 2010–32607 Filed 12–27–10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63591; File No. SR–BX–2010–091]

### **Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Continue the Practice Governing the Directed Order Process on BOX**

December 21, 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 December 16, 2010, NASDAQ OMX BX, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule

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

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

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

<sup>7</sup> 17 CFR 240.19b–4(f)(6).

<sup>8</sup> 17 CFR 240.19b–4(f)(6).

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

<sup>10</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>11</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.

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 the Substance of the Proposed Rule Change**

The Exchange proposes to amend Chapter VI, Section 5 (Obligations of Market Makers) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to extend the date of effectiveness of the Directed Order<sup>3</sup> process ("Pilot Program") from December 31, 2010, to June 30, 2011 while the Commission considers the Exchange's proposal to amend the BOX Rules to permit Executing Participants ("EPs") to only receive Directed Orders through the BOX Trading Host from Order Flow Providers ("OFPs") whom the EP has designated.<sup>4</sup> The text of the proposed rule change is available on the Exchange's website at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>, on the Commission's Web site at <http://www.sec.gov>, at the Exchange, and at the Commission's Public Reference Room.

### **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**

On December 13, 2010, the Exchange filed SR-BX-2010-080, a proposal to amend the BOX Rules to continue the practice governing the Exchange's Directed Order process on BOX.<sup>5</sup> Specifically, pursuant to SR-BX-2010-

080, the BOX Rules state that the BOX Trading Host identifies to an Executing Participant the identity of the firm entering the Directed Order on BOX. The amended rule as set forth in SR-BX-2010-080 was to be effective on a pilot basis until December 31, 2010, while the Commission considered the Exchange's proposal to amend the BOX Rules to permit EPs to only receive Directed Orders through the BOX Trading Host from OFPs whom the EP has designated.<sup>6</sup>

The purpose of this proposed rule change is to amend Chapter VI, Section 5(c)(i) of the BOX Rules to extend the date of effectiveness of the amended Directed Order rule from December 31, 2010, to June 30, 2011. This extension of the pilot period will afford the Commission the necessary time to consider the Exchange's proposal SR-BX-2010-079 referenced above.<sup>7</sup> In the event the Commission reaches a decision with respect to Exchange proposal SR-BX-2010-079 before June 30, 2011, the proposed Pilot Program governing the Directed Order process on BOX will cease to be effective at the time of that decision.

##### **2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that the proposed extension of the pilot period will afford the Commission the necessary time to consider the Exchange's proposal SR-BX-2010-079 which would amend the BOX Rules to permit EPs to only receive Directed Orders through the BOX Trading Host from OFPs whom the EP has designated.<sup>10</sup> Additionally, the Exchange believes that the proposed extension will allow the Directed Order

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 Regarding 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 with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>14</sup> 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, as specified in Rule 19b-4(f)(6)(iii),<sup>15</sup> which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would continue the pilot for Directed Orders that has operated under SR-BX-2010-080. A waiver would therefore continue to permit the Directed Order Pilot Program to remain in effect on BOX without interruption.<sup>16</sup> Accordingly, the

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>13</sup> *Id.*

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> *Id.*

<sup>16</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>6</sup> *See* Securities Exchange Act Release Nos. 63540 (December 14, 2010) (SR-BX-2010-080) and 63539 (December 14, 2010) (SR-BX-2010-079).

<sup>7</sup> *See* Securities Exchange Act Release No. 63539 (December 14, 2010) (SR-BX-2010-079).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> *See* Securities Exchange Act Release No. 63539 (December 14, 2010) (SR-BX-2010-079).

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meanings prescribed within the BOX Rules.

<sup>4</sup> *See* Securities Exchange Act Release No. 63539 (December 14, 2010) (SR-BX-2010-079).

<sup>5</sup> *See* Securities Exchange Act Release No. 63540 (December 14, 2010) (SR-BX-2010-080).

Commission designates the proposed rule change operative upon filing with the Commission.

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.

#### 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-2010-091 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-2010-091. 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 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 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 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-2010-091 and should be submitted on or before January 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63594; File No. SR-Phlx-2010-183]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASDAQ OMX PHLX LLC To Expand Its Short Term Option Program

December 21, 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 December 15, 2010, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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

The Exchange is filing with the Commission a proposal to expand the Short Term Option Program ("STO Program" or "Program")<sup>3</sup> so that the

<sup>17</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> Commentary .11 to Rule 1012 and Rule 1101A(b)(vi). See Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR-Phlx-2010-84) (notice of filing and immediate effectiveness permanently establishing STO Program on the Exchange). Other exchanges have also established permanent short term option programs. See Securities Exchange Act Release Nos. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018) (approval order permanently establishing short term option program); 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010) (SR-ISE-2010-72) (approval order [sic] permanently establishing short term option program); 62297 (June 15, 2010), 75 FR 35111 (June 21, 2010) (SR-NASDAQ-2010-073) (notice of filing and immediate effectiveness permanently establishing short term option program); 62296 (June 15, 2010), 75 FR 35111 (June 21, 2010) [sic] (SR-Arca-2010-059) (notice of filing and immediate effectiveness permanently establishing short term option program); 62296

Exchange may select fifteen option classes on which Short Term Option Series<sup>4</sup> may be opened.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

#### 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of this proposed rule change is to amend Rule 1012 to expand the STO Program so that the Exchange may select fifteen option classes on which Short Term Option Series may be opened.

The STO Program is codified in Commentary .11 to Rule 1012 and Rule 1101A(b)(vi). These sections state that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than five option classes that expire on the Friday of the following business week that is a business day. In addition to the five-option class limitation, there

(June 15, 2010), 75 FR 35111 (June 21, 2010) [sic] (SR-Amex-2010-062) (notice of filing and immediate effectiveness permanently establishing short term option program); and 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010) (SR-BX-2010-047) (approval order [sic] permanently establishing short term option program).

<sup>4</sup> Short Term Option Series are series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Thursday or Friday that is a business day and that expires on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. Rules 1000(b)(44), 1000A(b)(16), Commentary .11 to Rule 1012 and Rule 1101A(b)(vi).