

Pursuant to section 15E(a)(2)(A) of the Exchange Act, not later than 90 days (or within such longer period as to which the applicant consents) after the application for registration is furnished to the Commission, the Commission shall, by order, either grant such registration or institute proceedings to determine whether such registration should be denied. Under section 15E(a)(2)(C), the Commission shall grant registration as an NRSRO to an applicant if the Commission finds that the requirements of Section 15E of the Exchange Act are satisfied and unless the Commission finds (in which case the Commission shall deny such registration) that, among other things, if the applicant were so registered, its registration would be subject to suspension or revocation under section 15E(d) of the Exchange Act.

If the Commission institutes proceedings to determine whether an application for registration should be denied, section 15E(a)(2)(B)(i)(I) of the Exchange Act requires that the Commission shall include notice of the grounds for denial under consideration and an opportunity for a hearing. Section 15E(a)(2)(B)(i)(II) provides that the proceedings shall be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission. The Commission may extend the time for conclusion of such proceedings, pursuant to section 15E(a)(2)(B)(iii), for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for such finding, or for such longer period as to which the applicant consents. Section 15E(a)(2)(B)(ii) provides that, at the conclusion of such proceedings, the Commission, by order, shall grant the application or deny the application for registration.

After furnishing its application on December 24, 2009, Dagong consented to two extensions of time for the Commission to act on the application. The first extension was for seven days and the second extension was fourteen additional days. Under Section 15E(a)(2)(B), the Commission is required to act on the application no later than April 14, 2010, unless further extensions are granted by Dagong.

Dagong has provided the following information in connection with its application to register as an NRSRO. Dagong is located in Beijing, China. Dagong has no physical presence in the United States, does not rate any U.S. companies, and has no U.S. persons subscribing to its ratings. When submitting certifications from companies that rely on its ratings for investment purposes, as required for

registration, Dagong relied exclusively on companies located in China.

In addition, to date the Commission has been unable to determine whether, under local law requirements applicable to Dagong, Dagong would be able to comply with the provisions in Section 17 of the Exchange Act, and the rules thereunder, relating to making its books and records available for Commission examination, producing books and records to the Commission, and furnishing reports to the Commission.

Accordingly, pursuant to section 15E(a)(2)(A)(ii) of the Exchange Act, the Commission is instituting proceedings to determine whether Dagong's application for registration as a nationally recognized statistical rating organization should be denied. In these proceedings, grounds for denial under consideration will include:

(I) Whether Dagong has a sufficient connection with U.S. interstate commerce to register as an NRSRO, and thereby invoke the regulatory and oversight authority of the Commission; and

(II) Whether Dagong's application for registration should be denied pursuant to Section 15E(a)(2)(C)(ii)(II) on the grounds that, if registered as an NRSRO, Dagong would be subject to having its registration suspended or revoked under section 15E(d)(1) of the Exchange Act because, in light of requirements in its home jurisdiction, Dagong would be unable to comply with provisions of the U.S. securities laws and rules (an act identified in Section 15(b)(4)(D) of the Exchange Act), including, in particular, Section 17 of the Exchange Act and Rules 17g-2 and 17g-3 thereunder.

Given the nature of the issues raised in the application, the Commission is currently of the view that a hearing on the basis of written submissions will sufficiently allow the parties to address these issues.

Accordingly, *it is ordered*, that proceedings under section 15E(a)(2)(A)(ii) of the Exchange Act be and hereby are instituted to determine whether the application of Dagong should be denied.

It is further ordered that a hearing shall be conducted on the basis of written submissions (and in accordance with the Commission's Rules of Practice, 17 CFR 201.100, *et seq.*, except as otherwise provided) addressing issues of law or fact in dispute and legal arguments supporting the parties' positions. Dagong and the interested divisions or offices of the Commission shall each file an opening submission not later than May 5, 2010 and a responsive submission not later than May 17, 2010. Each party shall simultaneously serve according to the Rules of Practice on the other party a copy of each submission. Any requests

for extensions of time (which shall be made pursuant to Rule of Practice 161), and any requests to submit oral testimony shall be considered contingent upon Dagong's consent to a reasonable extension of time pursuant to section 15E(a)(2)(B)(iii) of the Exchange Act in addition to the 90-day extension the Commission is hereby ordering as set forth below.

It is further ordered that the time period for the conclusion of all proceedings, after which the Commission is required to grant or deny the application, is extended for an additional 90 days pursuant to section 15E(a)(2)(B)(iii) of the Exchange Act to July 22, 2010. The Commission finds good cause for this 90-day extension on the basis that the application raises substantial legal questions, including questions of foreign law, which necessitate granting the parties sufficient time to prepare written submissions and the Commission sufficient time to consider those submissions.

It is further ordered that any person who seeks to participate on a limited basis, or amicus curiae, pursuant to Rules of Practice 210(c) and (d), shall file a motion for leave to participate, together with the proposed submission, with the Secretary of the Commission not later than May 5, 2010.

It is further ordered that the Secretary of the Commission shall serve this Order forthwith upon Dagong in accordance with Rule of Practice 141; and that notice to all other persons shall be given by publication of this Order and Notice in the **Federal Register**; and that this Order and Notice and any subsequent orders granting or denying the application shall be posted on the Commission's Web site at <http://www.sec.gov> and published in the SEC Docket.

By the Commission.
Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 22, 2010 at 1 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries

will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c), (5), (7), 9(B) and (10) and 17 CFR 200.402(a), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, April 22, 2010 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

An adjudicatory matter; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: April 15, 2010.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2010-9116 Filed 4-16-10; 11:15 am]

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In The Matter of Apogee Technology, Inc.; Order of Suspension of Trading

April 16, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Apogee Technology, Inc. ("Apogee") because it has been delinquent in its required periodic reports since March 2009. Apogee is quoted on the Pink Sheets OTC Markets, Inc. under the ticker symbol ATCS.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is

suspended for the period from 9:30 a.m. EDT on April 16, 2010, through 11:59 p.m. EDT on April 29, 2010.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2010-9144 Filed 4-16-10; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61891; File No. SR-BX-2010-026]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Chapter V, Section 7 (Customer Orders and Order Flow Providers)

Date: April 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 31, 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 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 proposes NASDAQ OMX BX, Inc. (the "Exchange") proposes to amend Chapter V, Section 17 (Customer Orders and Order Flow Providers) of the Rules of the Boston Options Exchange Group, LLC ("BOX"). 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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Chapter V, Section 17 (Customer Orders and Order Flow Providers) of the BOX Rules in order to eliminate some of its restrictions. Section 17(c) currently provides that an Order Flow Provider ("OFP")³ shall not enter into BOX, as principal or agent, Limit Orders in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the OFP or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis.

The Exchange is proposing that these restrictions be eliminated so that they are no longer applicable to instances where an OFP is acting as principal on its own behalf or is acting as agent on behalf of other broker-dealer or Public Customer orders.⁴ Because broker-dealer and Public Customer orders are not subject to priority on the BOX Book that is any better than Market Makers, BOX does not believe it is necessary to impose the Rule's restrictions on the entry of broker-dealer and Public Customer orders. The Exchange believes that the elimination of these restrictions will permit entities other than Market Makers to enter orders on both sides of the market more freely, which may result in more orders on the BOX Book and therefore increased liquidity on the BOX market, all to the benefit of investors.

³ See Chapter I, Section 1 (Definitions) of the BOX Rules which defines the term "Order Flow Provider" or "OFP" to mean those Options Participants representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading.

⁴ The Exchange notes that the Securities and Exchange Commission ("Commission") has previously found that it is consistent with the Securities Exchange Act of 1934 ("the Act") for an options exchange not to prohibit a user of its market from effectively operating as a market maker by holding itself out as willing to buy and sell options contracts on a regular or continuous basis without registering as a market maker. See Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (Order Approving, among other things, a Proposed Rule Change to Establish Rules Governing the Trading of Options on the NASDAQ Options Market ("NOM")).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.