

Number SR-FINRA-2011-007 and should be submitted on or before March 29, 2011.

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

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64009; File No. SR-BX-2011-014]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Trading Rules To Expand the Short Term Option Series Program

March 2, 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 March 1, 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 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) and Chapter XIV, Section 10 (Terms of Index Option Contracts) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to expand the Short Term Option Series Program (“Weeklys Program”) so that BOX may select fifteen option classes on which Weekly options may be opened. The text of the proposed rule change is available from the principal office of the Exchange, on the Commission’s Web site at <http://www.sec.gov>, 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of this proposed rule change is to amend Chapter IV, Section 6 (Series of Options Contracts Open for Trading) and Chapter XIV, Section 10 (Terms of Index Option Contracts) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to expand the Short Term Option Series Program (“Weeklys Program”) so that BOX may select fifteen option classes on which Weekly options may be opened.<sup>3</sup> The Weeklys Program is codified in the Supplementary Material to the BOX Rules Sections identified above. These rules provide that after an option class has been approved for listing and trading on BOX, BOX may open for trading on 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 is also a limitation that no more than twenty series for each expiration date in those classes that may be opened for trading.<sup>4</sup>

<sup>3</sup> The Exchange’s Weeklys Program became effective on July 15, 2010. See Securities Exchange Act Release No. 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010) (SR-BX-2010-047).

<sup>4</sup> However, if BOX opens less than twenty (20) Weekly options for a Weekly Option Expiration Date, additional series may be opened for trading on BOX when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current price of the underlying security. BOX may also open additional strike prices of Weekly Option Series that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers (market-makers trading for their own account shall not be considered when determining customer interest under this provision).

Furthermore, the strike price of each Weekly option has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the Weekly options are initially opened for trading on BOX, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. The Exchange does not propose any changes to these additional Weeklys Program limitations. The Exchange proposes only to increase from five to fifteen the number of option classes that may be opened pursuant to the Weeklys Program.

The principal reason for the proposed expansion is customer demand for adding, or not removing, Weekly option classes from the Program. Since there is reciprocity in matching other exchanges’ Weekly option choices, BOX discontinues trading Weekly option classes that other exchanges change from week-to-week. BOX believes that these class pick changes have negatively impacted investors and traders, particularly retail public customers, who have, on occasion requested that BOX add Weekly option classes.

BOX understands that a retail investor recently requested another exchange to reinstate a Weekly option class that the exchange had removed from trading because of the five-class option limit within the Weekly Program. The investor advised that the removed class was a powerful tool for hedging a market sector, and that various strategies that the investor put into play were disrupted and eliminated when the class was removed. BOX feels that it is essential that such negative, potentially very costly impacts on retail investors are eliminated by modestly expanding the Program to enable additional classes to be traded.

With regard to the impact of this proposal on system capacity, BOX has analyzed its capacity and represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Weeklys Program.

BOX believes that the Weeklys Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. Furthermore, BOX has had to eliminate option classes on numerous occasions because of the limitation imposed by the

<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.

Program.<sup>5</sup> For these reasons, the Exchange requests an expansion of the current Weeklys Program and the opportunity to provide investors with additional short term option classes for investment, trading, and risk management purposes.

Finally, the Commission has requested, and BOX has agreed for the purposes of this filing, to submit a report to the Commission providing an analysis of the Weeklys Program (the "Report"). The Report will cover the period from the date of effectiveness of the Weeklys Program through January 2011, and will describe the experience of BOX with the Weeklys Program in respect of the options classes that BOX included in such program.<sup>6</sup>

The Report will be submitted on a confidential basis under separate cover at the same time as this proposed rule change.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</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. The Exchange believes that expanding the number of classes eligible to participate in the Weeklys Program will allow the investing public and other market participants to better manage their risk exposure, and would benefit investors by giving them more flexibility to closely tailor their

<sup>5</sup> As discussed above, because of the reciprocity provision of the Weeklys Program, the classes that BOX lists to participate in the Weeklys Program change when another exchange changes its class selections for the Weeklys Program.

<sup>6</sup> The Report would include the following: (1) Data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Weeklys Program; (3) an assessment of the impact of the Weeklys Program on the capacity of BOX, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Weeklys Program and how BOX addressed such problems; (5) any complaints that BOX or the Exchange received during the operation of the Weeklys Program and how they were addressed; and (6) any additional information that would assist in assessing the operation of the Weeklys Program.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

investment decisions in a greater number of securities. While the expansion of the Weeklys Program will generate additional quote traffic, BOX does not believe that this increased traffic will become unmanageable since the proposal is limited to a fixed number of classes. Further, BOX does not believe that the proposal will result in a material proliferation of additional series because it is limited to a fixed number of classes and BOX does not believe that the additional price points will result in fractured liquidity.

### 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 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>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</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 because the proposal is substantially similar to that of another exchange that has been approved by the Commission.<sup>11</sup> Therefore, the

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</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>11</sup> See Securities Exchange Act Release No. 63875 (February 9, 2011), 76 FR 8793 (February 15, 2011) (SR-Phlx-2010-183) (order approving expansion of Short Term Option Program).

Commission designates the proposal operative upon filing.<sup>12</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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2011-014 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-2011-014. 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 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

<sup>12</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).

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-2011-014 and should be submitted on or before March 29, 2011.

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

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64014; File No. SR-NYSEAmex-2011-10]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period of the Exchange's Prior Approvals To Receive Inbound Routes of Equities Orders From Archipelago Securities LLC

March 2, 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 February 24, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NYSE Amex. 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 extend the pilot period of the Exchange's prior approvals to receive inbound routes of equities orders from Archipelago Securities LLC ("Arca Securities"), an NYSE Amex affiliated member. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

<sup>13</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.

#### 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 those 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 parts of such statements.

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

###### 1. Purpose

Currently, Arca Securities is the approved outbound order routing facility of the Exchange.<sup>3</sup> Arca Securities is also the approved outbound order routing facility of the New York Stock Exchange ("NYSE") and NYSE Arca, Inc. ("NYSE Arca").<sup>4</sup> The Exchange has also been previously approved to receive inbound routes of equities orders by Arca Securities in its capacity as an order routing facility of the NYSE and NYSE Arca.<sup>5</sup> The Exchange's authority to receive inbound routes of equities orders by Arca Securities is subject to a pilot period ending March 31, 2011.<sup>6</sup> The Exchange hereby seeks to extend the previously approved pilot period (with the

<sup>3</sup> See Securities Exchange Act Release No. 59009 (November 24, 2008), 73 FR 73363 (December 2, 2008) (order approving SR-NYSEALTR-2008-07); see also Securities Exchange Act Release No. 59473 (February 27, 2009) 74 FR 9853 (March 6, 2009) (order approving SR-NYSEALTR-2009-18).

<sup>4</sup> See Securities Exchange Act Release No. 55590 (April 5, 2007), 72 FR 18707 (April 13, 2007) (notice of immediate effectiveness of SR-NYSE-2007-29); see also Securities Exchange Act Release No. 58680 (September 29, 2008), 73 FR 58283 (October 6, 2008) (order approving SR-NYSE-2008-76). See Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (order approving SR-NYSEArca-2006-13); see also Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (SR-PCX-2005-90); see also Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25); see also Securities Exchange Act Release No. 58681 (September 29, 2008), 73 FR 58285 (October 6, 2008) (order approving NYSEArca-2008-90).

<sup>5</sup> See Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (order approving SR-Amex-2008-62). See also Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (order approving SR-AMEX-2008-63).

<sup>6</sup> See Securities Exchange Act Release No. 62831 (September 2, 2010), 75 FR 55388 (September 10, 2010) (Notice of immediate effectiveness of SR-NYSEAmex-2010-91).

attendant obligations and conditions) for an additional six months, through September 30, 2011.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>8</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 mechanism of a free and open market and a national market system. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of equities orders from Arca Securities acting in its capacity as a facility of the NYSE and NYSE Arca, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for six months will permit both the Exchange and the Commission to further assess the impact of the Exchange's authority to receive direct inbound routes of equities orders via Arca Securities (including the attendant obligations and conditions).<sup>9</sup>

##### 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

Because the foregoing 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 for 30 days after the date on which it was filed, or such shorter time

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> The Exchange is currently analyzing the condition regarding non-public information and system changes in order to better reflect the operation of Arca Securities.