

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

#### 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. The Commission previously received comments on SR-NASDAQ-2012-043, which proposed rule change was withdrawn by the Exchange,<sup>85</sup> and all such comments are available on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

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-NASDAQ-2012-137 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-NASDAQ-2012-137. 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 Section, 100 F Street NE., Washington, DC 20549-1090, on official business days between 10:00 a.m. and 3:00 p.m. Copies of the 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-NASDAQ-2012-137 and should be submitted on or before January 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>86</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68511; SR-NYSEArca-2012-66]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the iShares Copper Trust Pursuant to NYSE Arca Equities Rule 8.201

December 21, 2012.

On June 19, 2012, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 list and trade shares of the iShares Copper Trust ("Trust") pursuant to NYSE Arca Equities Rule 8.201. BlackRock Asset Management International Inc. is the sponsor of the Trust ("Sponsor"). The proposed rule change was published for comment in the **Federal Register** on June 27, 2012.<sup>3</sup>

The Commission initially received one comment letter, which opposed the proposed rule change.<sup>4</sup> On August 8,

2012, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>5</sup> Subsequently, the Commission received additional comments on the proposed rule change.<sup>6</sup> On December 12, 2012, the Exchange filed Amendment No. 1 to the proposed rule change.

Section 19(b)(2) of the Act<sup>7</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on June 27, 2012. The 180th day after

<sup>5</sup> See Securities Exchange Act Release No. 67616, 77 FR 48181 (August 13, 2012) ("Order Instituting Proceedings").

<sup>6</sup> See letters from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated September 12, 2012; Ira P. Shapiro, Managing Director, and Deepa A. Damre, Director, Legal and Compliance, BlackRock, Inc., to Elizabeth M. Murphy, Secretary, Commission, dated September 12, 2012; Janet McGinness, General Counsel, NYSE Markets, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated September 14, 2012; Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated September 27, 2012 ("V&F September 27 Letter"); Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated November 16, 2012; and Robert B. Bernstein, Partner, Eaton & Van Winkle LLP, to Elizabeth M. Murphy, Secretary, Commission, dated December 7, 2012. By letter dated November 29, 2012, Mr. Bernstein informed the Commission that he had left V&F and would continue to represent the Copper Fabricators and RK Capital LLC in this proceeding.

In the V&F September 27 Letter, the commenter incorporated by reference all of its prior comments in opposition to NYSE Arca's proposal to list and trade shares of the JPM XF Physical Copper Trust. See V&F September 27 Letter, *supra*, at 6. Responding to that proposed rule change, the commenter submitted the following: letters from V&F, received May 9, 2012; Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated July 13, 2012; Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012; and Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012. Additionally, the commenter stated that it agreed with the arguments against that proposal set forth in a letter from U.S. Senator Carl Levin, to Elizabeth M. Murphy, Secretary, Commission, dated July 16, 2012 ("Levin Letter"), and attached the Levin Letter to the V&F July 18 Letter. See V&F July 18 Letter, *supra*, at 5. These letters opposing the proposal to list and trade shares of the JPM XF Physical Copper Trust are available at <http://www.sec.gov/comments/sr-nysearca-2012-28/nysearca201228.shtml>.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>85</sup> See *supra* note 3.

<sup>86</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. 67237 (June 22, 2012), 77 FR 38351 ("Notice").

<sup>4</sup> See letter from Robert B. Bernstein, Vandenberg & Feliu, LLP ("V&F"), to Elizabeth M. Murphy, Secretary, Commission, dated July 18, 2012 ("V&F July 18 Letter"). Comment letters are available at <http://www.sec.gov/comments/sr-nysearca-2012-66/nysearca201266.shtml>. The commenter identified itself as a U.S. law firm that represents RK Capital LLC, an international copper merchant, and four end-users of copper: Southwire Company, Encore Wire Corporation, Luvata, and AmRod Corp (collectively, the "Copper Fabricators").

publication of the notice of the filing of the proposed rule change in the **Federal Register** is December 24, 2012.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised in the comment letters that have been submitted in response to the proposed rule change. The Commission also finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the data that has been provided by the commenters to support their positions.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> designates February 22, 2013, as the date by which the Commission should either approve or disapprove the proposed rule change (SR-NYSEArca-2012-66).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68521; File No. SR-NYSEMKT-2012-58]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Deleting NYSE MKT Rules 95(c) and (d)—Equities and Related Supplementary Material

December 21, 2012.

On October 26, 2012, NYSE MKT LLC (the "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 delete NYSE MKT Rules 95(c) and (d)—Equities and related Supplementary Material. The proposed rule change was published for comment in the **Federal Register** on November 15, 2012.<sup>3</sup> The

Commission received no comment letters on the proposal.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is December 30, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would delete NYSE MKT Rules 95(c) and (d)—Equities and related Supplementary Material, and the potential issues raised by this proposal.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates February 13, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEMKT-2012-58).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-31239 Filed 12-28-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68518; File No. SR-BX-2012-076]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program

December 21, 2012.

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 20, 2012, NASDAQ OMX BX, Inc.

("Exchange" or "BX") filed with the Securities and Exchange Commission ("SEC" or "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

BX is filing with the Commission a proposal to: extend through June 30, 2013, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot") and provide a procedure for replacement of any Penny Pilot issues that have been delisted.<sup>3</sup>

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii)<sup>4</sup> to the extent needed for timely industry-wide implementation of the proposal.

Proposed new language is *italicized* and proposed deleted language is [bracketed].<sup>5</sup>

#### NASDAQ OMX BX Rules

##### Options Rules

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#### Chapter VI Trading Systems

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#### Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on BX Options. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1) If the options series is trading at less than \$3.00, five (5) cents;

(2) If the options series is trading at \$3.00 or higher, ten (10) cents; and

<sup>3</sup> The Penny Pilot was established in June 2012 and extended in July 2012. See Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR-BX-2012-030) (order approving BX option rules and establishing Penny Pilot); and 67342 (July 3, 2012), 77 FR 40666 (July 10, 2012) (SR-BX-2012-046) (notice of filing and immediate effectiveness extending the Penny Pilot through December 31, 2012).

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

<sup>5</sup> The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com/>, at BX's principal office, and at the Commission's Public Reference Room.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(57).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 68186 (November 8, 2012), 77 FR 68191.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

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