

the thirtieth day after the date of publication of notice in the **Federal Register**. The amendment clarifies where price information can be found for certain underlying exchange traded assets, and thereby provides support that the overlying Shares will be fairly priced. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>45</sup> to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>46</sup> that the proposed rule change (SR-NASDAQ-2014-027), as modified by Amendment No 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>47</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72246; File No. SR-BX-2014-027]

### 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

May 23, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on May 20, 2014, 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, 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

BX is filing with the Commission a proposal to amend Chapter VI, Section

5 (Minimum Increments) to amend Chapter VI, Section 5 (Minimum Increments) to: Extend through December 31, 2014, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.<sup>3</sup>

The Exchange requests that the Commission waive the 30-day operative delay period to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is *underlined* and proposed deleted language is [bracketed].

#### NASDAQ OMX BX Rules

##### Options Rules

\* \* \* \* \*

##### Chapter VI Trading Systems

\* \* \* \* \*

#### 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

(3) For a pilot period scheduled to expire on [June 30, 2014] *December 31, 2014*, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than \$3.00, five (5) cents if the options series is trading at \$3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [January 1, 2014] *July 1, 2014*.

<sup>3</sup> The Penny Pilot was established in June 2012 and extended in December 2013. 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 71107 (December 17, 2013), 78 FR 77528 (December 23, 2013) (SR-BX-2013-061) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2014).

(4) No Change.

(b) No Change.

\* \* \* \* \*

The text of the proposed rule change is also available on the Exchange's Web site at <http://nasdaqomxbx.cchwallstreet.com>, at the principal office of 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 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 purpose of this filing is to amend Chapter VI, Section 5 to extend the Penny Pilot through December 31, 2014, and to change the date when delisted classes may be replaced in the Penny Pilot.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is \$0.01 for all quotations in options series that are quoted at less than \$3 per contract and \$0.05 for all quotations in options series that are quoted at \$3 per contract or greater. QQQQ, SPY and IWM are quoted in \$0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2014.

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2014, and to provide revised dates for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2014. The replacement issues will be selected based on trading activity in the previous six months.<sup>4</sup>

<sup>4</sup> The replacement issues will be announced to the Exchange's membership via an Options Trader

<sup>45</sup> 15 U.S.C. 78s(b)(2).

<sup>46</sup> 15 U.S.C. 78s(b)(2).

<sup>47</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.

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</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 and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2014 and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2014, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

### *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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the

Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

### *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: (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 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)<sup>7</sup> of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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.

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-2014-027 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2014-027. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of BX. 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-2014-027 and should be submitted on or before June 20, 2014.

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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Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2013 through May 31, 2014. The month immediately preceding the replacement issues' addition to the Pilot Program (i.e. June) would not be used for purposes of the six-month analysis.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 200.30-3(a)(12).