

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. Please include File Number SR-BYX-2011-001 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-BYX-2011-001. 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 such filing will also 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 No. SR-BYX-2011-001 and should be submitted on or before February 4, 2011.

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

Elizabeth M. Murphy,
Secretary.

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¹⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63687; File No. SR-BX-2011-002]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a \$5 Strike Price Program on the Boston Options Exchange Facility

January 10, 2011.

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 January 10, 2011, NASDAQ OMX BX, Inc. (the "Exchange") 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 the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to allow BOX to list and trade series in intervals of \$5 or greater where the strike price is more than \$200 in up to five (5) option classes on individual stocks ("\$5 Strike Price Program"), and to clarify that BOX may list option classes designated by other securities exchanges that employ a similar \$5 Strike Price Program under their respective rules. 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/>.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

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 modify Chapter IV, Section 6(d) of the BOX Rules to allow BOX to list and trade options series in intervals of \$5 or greater where the strike price is more than \$200 in up to five (5) option classes on individual stocks ("\$5 Strike Price Program") to provide investors and traders additional opportunities and strategies to hedge high priced securities. Additionally, this proposed rule change will clarify that BOX may list series on any other option classes if those classes are specifically designated by other securities exchanges that employ a similar \$5 Strike Price Program under their respective rules. Similar reciprocity currently is permitted with BOX's \$1 Strike Program, \$.50 Strike Program and \$2.50 Strike Program.⁵

Currently, Chapter IV, Section 6(d)(iii) of the BOX Rules permits strike price intervals of \$10 or greater where the strike price is greater than \$200.⁶ The Exchange is proposing to add the proposed \$5 Strike Price Program as an exception to the \$10 or greater program language in Chapter IV, Section 6. The proposal would allow BOX to list series in intervals of \$5 or greater where the strike price is more than \$200 in up to five (5) option classes on individual stocks. The Exchange specifically proposes to create a new sub-section (d)(v) to Chapter IV, Section 6 which would state, "BOX may list series in intervals of \$5 or greater where the strike price is more than \$200 in up to

⁵ See Supplementary Material .02, .03, and .06 to Chapter IV, Section 6 of the BOX Rules.

⁶ Chapter IV, Section 6(d) of the BOX Rules also permits strike price intervals of \$5.00 or greater where the strike price is greater than \$25.00 but less than \$200; and \$2.50 or greater where the strike price is \$25.00 or less.

five (5) option classes on individual stocks. BOX may list \$5 strike prices on any other option classes if those classes are specifically designated by other securities exchanges that employ a similar \$5 Strike Price Program under their respective rules.⁷ BOX believes the \$5 Strike Price Program would offer investors a greater selection of strike prices at a lower cost. For example, if an investor wanted to purchase an option with an expiration of approximately one month, a \$5 strike interval could offer a wider choice of strike prices, which may result in reduced outlays in order to purchase the option. By way of illustration, using Google, Inc. (“GOOG”) as an example, if GOOG would trade at \$610⁷ with approximately one month remaining until expiration, the front month (one month remaining) at-the-money call option (the 610 strike) would trade at approximately \$17.50 and the next highest available strike (the 620 strike) would trade at approximately \$13.00. By offering a 615 strike an investor would be able to trade a GOOG front month call option at approximately \$15.25, thus providing an additional choice at a different price point.

Similarly, if an investor wanted to hedge exposure to an underlying stock position by selling call options, the investor may choose an option term with two months remaining until expiration. An additional \$5 strike interval could offer additional and varying yields to the investor. For example if Apple, Inc. (“AAPL”) would trade at \$310⁸ with approximately two months remaining until expiration, the second month (two months remaining) at-the-money call option (the 310 strike) would trade at approximately \$14.50 and the next highest available strike (the 320) strike would trade at \$9.90. The 310 strike would yield a return of 4.67% and the 320 strike would yield a return of 3.20%. If the 315 strike were available, that series would be priced at approximately \$12.20 (a yield of 3.93%) and would minimize the risk of having the underlying stock called away at expiration.

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 have the necessary systems capacity to handle the potential

⁷ The prices listed in this example are assumptions and not based on actual prices. The assumptions are made for illustrative purposes only using the stock price as a hypothetical.

⁸ The prices listed in this example are assumptions and not based on actual prices. The assumptions are made for illustrative purposes only using the stock price as a hypothetical.

additional traffic associated with the listing and trading of classes on individual stocks \$5 Strike Price Program.

The proposed \$5 Strike Price Program would provide investors increased opportunities to improve returns and manage risk in the trading of equity options that overlie high priced stocks. In addition, the proposed \$5 Strike Price Program would allow investors to establish equity options positions that are better tailored to meet their investment, trading and risk management requirements. Finally, the Exchange proposes to clarify that the options in the \$5 Strike Price Program may be listed and traded in series that are listed by BOX or other securities exchanges that employ a similar \$5 Strike Price Program, pursuant to the rules of the other securities exchanges. Similar reciprocity currently is permitted with BOX’s \$1 Strike Program, \$.50 Strike Program and \$2.50 Strike Program.⁹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ in particular, in that it is designed to promote just and equitable principles of trade, 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. The Exchange believes the \$5 Strike Price Program proposal would provide the investing public and other market participants increased opportunities because a \$5 series in high priced stocks would provide market participants additional opportunities to hedge high priced securities. This would allow investors to better manage their risk exposure. Moreover, the Exchange believes the proposed \$5 Strike Price Program would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities. While the \$5 Strike Price 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

⁹ See Supplementary Material .02, .03, and .06 to Chapter IV, Section 6 of the BOX Rules.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

believe that the additional price points will result in fractured liquidity. Finally, the Exchange believes that clarifying that BOX may list and trade options in series that are listed by BOX or other securities exchanges that employ a similar \$5 Strike Price Program will provide its Options Participants greater clarity on the types of options that may be listed by BOX.

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 Act¹² and Rule 19b-4(f)(6) thereunder.¹³

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 \$5 Strike Price Program is substantially similar to that of another exchange that is already effective and operative.¹⁴ Therefore, the Commission

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 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 Commission has waived the five-day pre-filing requirement in this case.

¹⁴ See Securities Exchange Act Release No. 63654 (January 6, 2011) (SR-Phlx-2010-158) (order approving establishment of a \$5 Strike Price Program). See also Securities Exchange Act Release No. 63658 (January 6, 2011) (SR-Phlx-2011-02) (notice of filing and immediate effectiveness of reciprocity provision related to the \$5 Strike Price Program).

designates the proposal operative upon filing.¹⁵

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. Please include File Number SR-BX-2011-002 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-2011-002. 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

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-2011-002 and should be submitted on or before February 4, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2011-772 Filed 1-13-11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63685; File No. SR-NASDAQ-2010-074]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Disapprove Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 4753(c) as a Six Month Pilot in 100 NASDAQ-Listed Securities

January 10, 2011.

I. Introduction

On June 18, 2010, The NASDAQ Stock Market LLC ("Nasdaq" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to implement, on a six-month pilot basis, a volatility-based trading pause in 100 Nasdaq-listed securities ("Volatility Guard"). On June 25, 2010, Nasdaq filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on July 15, 2010.³ The Commission received four comment letters on the proposal.⁴

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62468 (July 7, 2010), 75 FR 41258.

⁴ See Letter from Joe Ratterman, Chairman and Chief Executive Officer, BATS Global Markets, Inc., to Hon. Mary Schapiro, Chairman, Commission, dated July 1, 2010 ("BATS Letter"); Letter from Jose Marques, Managing Director, Deutsche Bank Securities Inc., to Elizabeth M. Murphy, Secretary, Commission, dated July 21, 2010 ("Deutsche Bank Letter"); Letter from Janet M. Kissane, Senior Vice President, Legal and Corporate Secretary, NYSE

Nasdaq responded to these comments on August 12, 2010.⁵ The Commission subsequently extended the time period in which to either approve the proposed rule change, or to institute proceedings to determine whether to disapprove the proposed rule change, to October 13, 2010.⁶ On October 13, 2010, the Commission issued an order instituting disapproval proceedings.⁷ The Commission thereafter received one comment letter, which requested that the proposed rule change be disapproved.⁸

Section 19(b)(2) of the Act⁹ 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 July 15, 2010. January 11, 2011 is 180 days from that date, and March 12, 2011, is an additional 60 days from that date.

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 this proposed rule change and the issues raised in the comment letters that have been submitted in connection with this filing. Specifically, the Commission believes the proposal raises issues as to whether the Volatility Guard, by halting trading on Nasdaq when the price of a security moves quickly over a short period of time, will exacerbate the volatility of trading in that security on the other exchanges and over-the-counter trading centers that remain open. In addition, because the thresholds for triggering the Volatility

Euronext, to Elizabeth Murphy, Secretary, Commission, dated August 3, 2010 ("NYSE Letter"); Letter from Ann L. Vlcek, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated June 25, 2010 ("SIFMA Letter").

⁵ See Letter from T. Sean Bennett, Assistant General Counsel, Nasdaq, to Elizabeth M. Murphy, Secretary, Commission ("Nasdaq response").

⁶ See Securities Exchange Act Release No. 62740 (August 18, 2010), 75 FR 52049 (August 24, 2010).

⁷ See Securities Exchange Act Release No. 63098, 75 FR 64384 (October 19, 2010).

⁸ See Letter from Timothy Quast, Managing Director, ModernIR, to Elizabeth M. Murphy, Secretary, Commission, dated November 11, 2010.

⁹ 15 U.S.C. 78s(b)(2).

¹⁵ 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).