

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62400; File No. SR-BX-2010-042)

June 29, 2010

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the BOX LLC Agreement

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 June 28, 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 self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ 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 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the proposed Sixth Amended and Restated Operating Agreement (“BOX LLC Agreement”), of the Boston Options Exchange Group LLC (“BOX LLC”), in connection with the restructuring of subsidiary holding companies by the Montreal Exchange Inc.,⁵ a company incorporated in Québec, Canada (“MX”), solely involving MX subsidiaries indirectly holding ownership interests in BOX LLC.

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).

⁵ The Montréal Exchange Inc. is also known in French as the Bourse de Montréal Inc.

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 website 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

On January 13, 2004, the Commission approved four Exchange proposals that together established, through an operating agreement among its owners, a Delaware limited liability company, BOX LLC, to operate BOX as an options trading facility of the Exchange.⁶

Prior to the Transfer (as defined below), MX held (i) 100% of the common stock of MX US 1, Inc., a Delaware corporation, (ii) 100% of the common shares of 3226506

⁶ See Securities Exchange Act Release No. 49066 (January 13, 2004), 69 FR 2773 (January 20, 2004) (establishing a fee schedule for the proposed BOX facility); Securities Exchange Act Release No. 49065 (January 13, 2004), 69 FR 2768 (January 20, 2004) (creating Boston Options Exchange Regulation LLC to which the Exchange would delegate its self-regulatory functions with respect to the BOX facility); Securities Exchange Act Release No. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (approving trading rules for the BOX facility); Securities Exchange Act Release No. 49067 (January 13, 2004), 69 FR 2761 (January 20, 2004) (approving certain regulatory provisions of the operating

Nova Scotia Company, a Nova Scotia unlimited liability company (“NSULC 1”) and (iii) 100% of the preferred shares and 99.9% of the common shares of 3226507 Nova Scotia Company, a Nova Scotia unlimited liability company (“NSULC 2”). NSULC 1 held 0.1% of the common shares of NSULC 2. MX US 1, Inc. held 100% of the common stock of MX US 2, Inc., a Delaware corporation, and NSULC 2 owned 100% of the preferred stock of MX US 2, Inc. MX US 2, Inc. held a 53.83% ownership interest in BOX LLC.⁷

Upon effectiveness of this rule filing, MX is expected to effect a series of transactions resulting in a new ownership structure (the “Transfer”). Following the Transfer, the ownership structure by which MX will indirectly control MX US 2, Inc. will be as follows: MX will hold 100% of the common stock of MX US 1, Inc. MX US 1, Inc. will hold (i) 100% of the equity of MX US 1, LLC, a Delaware limited liability company, and (ii) 100% of the common stock of MX US 2, Inc. NSULC 1 will be dissolved and its assets will be distributed to MX US 1, LLC. MX US 1, LLC will hold 100% of the equity of MX US 2, LLC, a Delaware limited liability company (formerly NSULC 2). MX US 2, LLC will hold 100% of the preferred stock of MX US 2, Inc. MX US 2, Inc. will hold a 53.83% ownership interest in BOX LLC.

The Exchange is submitting the proposed rule change to the Commission to amend the BOX LLC Agreement pursuant to the proposed Instruments of Accession in connection with the Transfer. As a result of the Transfer, MX US 1, LLC and MX US 2, LLC will be indirect, wholly-owned subsidiaries of MX.

agreement of BOX LLC).

⁷ See Securities Exchange Act Release No. 58822 (Oct. 21, 2008), 73 FR 63742 (Oct. 27, 2008) (SR-BSE-2008-47) (approving BOX purchase and cancellation of units held by a BOX LLC member resulting in increased ownership interest of the

Pursuant to Section 8.4(g) of the BOX LLC Agreement, as previously approved by the Commission, BOX LLC is required to amend the BOX LLC Agreement to make a Controlling Person⁸ a party to the BOX LLC Agreement if such Controlling Person establishes a Controlling Interest⁹ in any BOX Member that, alone or together with any Affiliate of such BOX Member, holds a Percentage Interest in BOX equal to or greater than 20%.¹⁰ Pursuant to the Transfer, MX US 1, LLC has acquired a Controlling Interest in MX US 2, LLC, which owns 100% of the preferred shares of MX US 2, Inc., which owns a 53.83% Controlling Interest in BOX LLC. MX US 1, LLC and MX US 2, LLC, as Controlling Persons, are required to be and will become parties to the BOX LLC Agreement pursuant to the proposed Instruments of Accession. As a result, MX US 1, LLC and MX US 2, LLC will agree to abide by all the provisions of the BOX LLC Agreement, including those provisions requiring submission to the jurisdiction of the Commission.¹¹

other members of the BOX LLC Agreement).

⁸ A “Controlling Person” is defined as “a Person who, alone or together with any Affiliate of such Person, holds a controlling interest in a [BOX] Member.” See Section 8.4(g)(v)(B), BOX LLC Agreement.

⁹ A “Controlling Interest” is defined as “the direct or indirect ownership of 25% or more of the total voting power of all equity securities of a Member (other than voting rights solely with respect to matters affecting the rights, preferences, or privileges of a particular class of equity securities), by any Person, alone or together with any Affiliate of such Person.” See Section 8.4(g)(v)(A), BOX LLC Agreement.

¹⁰ See Section 8.4(g), BOX LLC Agreement.

¹¹ The BOX LLC Agreement states, in part, that “the Members, officers, directors, agents, and employees of Members irrevocably submit to the exclusive jurisdiction of the U.S. federal courts, U.S. Securities and Exchange Commission, and the Boston Stock Exchange, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, the rules or regulations thereunder, arising out of, or relating to, BOX activities or Article 19.6(a), (except that such jurisdictions shall also include Delaware for any such matter relating to the organization or internal affairs of BOX, provided that such matter is not related to

For the reasons stated above, the Exchange is submitting to the Commission the proposed Instruments of Accession to the BOX LLC Agreement as a rule change.

2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(1),¹³ in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Act¹⁴ in that it is designed to facilitate transactions in securities, 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market

trading on, or the regulation, of the BOX Market), and hereby waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the U.S. Securities and Exchange Commission, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter hereof may not be enforced in or by such courts or agency.” See BOX LLC Agreement, Section 19.6.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5)[sic].

¹⁴ 15 U.S.C. 78f(b)(5).

system, and in general, to protect investors and the public interest. The Exchange believes that the proposed rule change to amend the BOX LLC Agreement to make MX US 1, LLC and MX US 2, LLC parties to the BOX LLC Agreement, pursuant to the proposed Instruments of Accession, should provide the Commission with sufficient authority over changes in control of BOX LLC to enable the Commission to carry out its regulatory oversight responsibilities with respect to BX and the BOX facility.

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: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)¹⁵ of the Act and Rule 19b-4(f)(6) thereunder.¹⁶

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its 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

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹⁸ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),¹⁹ which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the Exchange has represented that the Transfer is anticipated to be consummated on June 29, 2010.²⁰ In addition, the proposed rule change to amend the BOX LLC Agreement to make MX US 1, LLC and MX US 2, LLC parties to the BOX LLC Agreement, pursuant to the proposed Instruments of Accession, should provide the Commission with sufficient authority over changes in control of BOX LLC to enable the Commission to carry out its regulatory oversight responsibilities with respect to BX and the BOX facility. Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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.

the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ Id.

²⁰ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency,

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-2010-042 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-2010-042. 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 10:00

competition, and capital formation. See 15 U.S.C. 78c(f).

a.m. and 3:00 p.m. Copies of such 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–2010-042 and should be submitted on or before [date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Florence E. Harmon
Deputy Secretary

²¹ 17 CFR 200.30-3(a)(12).