

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61261; File No. SR-BX-2009-086)

December 30, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Minimum Trading Increments on the Boston Options Exchange Facility

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 24, 2009, NASDAQ OMX BX, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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 Chapter V, Section 6 (Minimum Trading Increments) of the Rules of the Boston Options Exchange Group, LLC (“BOX”). The text of the proposed rule change is available from the principal office of the Exchange, on the Exchange’s Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>, at the Commission’s Public Reference Room, and also on the Commission’s Web site at <http://www.sec.gov>.

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

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

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

<sup>4</sup> 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

On October 19, 2009 the Exchange submitted a proposed rule change to amend Chapter V, Section 33 (Penny Pilot Program) of the BOX Rules to (i) extend the Penny Pilot Program in options classes ("Penny Pilot Program" or "Pilot") previously approved by the Securities and Exchange Commission ("Commission") through December 31, 2010; (ii) expand the number of classes included in the Pilot; and (iii) replace on a semi-annual basis any Pilot Program classes that have been delisted.<sup>5</sup>

The Exchange now proposes to designate two Penny Pilot Program classes as eligible to quote and trade all options contracts in one cent increments, regardless of premium value. Specifically, the Exchange proposes to so designate SPY (SPDR S&P 500 ETF) and IWM (iShares Russell 2000 Index Fund). In selecting these classes the Exchange considered, among other things, that these symbols are (a) among the most actively traded classes nationally, with a wide array of investor interest, (b) have more series trading at a premium between \$3 and \$10,

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<sup>5</sup> See Securities Exchange Act Release No. 60886 (October 27, 2009), 74 FR 56897 (November 3, 2009) (SR-BX-2009-067).

and (c) are trading at prices that are neither extremely low nor high, but are generally trading between \$15 – \$50. The Exchange believes that classes that meet these criteria benefit the most from the ability to quote and trade all options series in penny increments.

This proposal is based on a recent Commission-approved proposal of the NYSEArca exchange.<sup>6</sup> The Exchange proposes to designate SPY and IWM as eligible to quote and trade all options contracts in one cent increments as of February 1, 2010. This date corresponds with the second phase-in date for additional classes in the Penny Pilot Program.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>7</sup> in general, and Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed 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 for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes that allowing market participants to quote in smaller increments reduces spreads, thereby lowering costs to investors.

### 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

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<sup>6</sup> See Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR-NYSEArca-2009-44).

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

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

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

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder<sup>10</sup> and 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 if consistent with the protection of investors and the public interest.

The Commission recently granted approval for a similar filing proposed by the NYSEArca.<sup>11</sup> The Exchange believes that this proposed rule change, which is essential for competitive purposes and to promote a free and open market for the benefit of investors, does not raise any new, unique or substantive issues from those raised in the approved NYSEArca proposal.

At any time within 60 days of the filing of the 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.

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, as required by Rule 19b-4(f)(6)(iii), the Exchange has submitted to the Commission 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 the proposed rule change, or such shorter time as designated by the Commission.

<sup>11</sup> See supra note 6.

#### 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-2009-086 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-2009-086. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. 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 No. SR-BX-2009-086 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Florence E. Harmon  
Deputy Secretary

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