Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.[8] Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[9] the Commission may designate a shorter time period if such action is consistent with the protection of investors and the public interest. At any time within sixty (60) days of the filing of such 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 No. SR–NSX–2010–15 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–NSX–2010–15. 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. Copies of such filing also will be available for inspection and copying at the principal office of the NSX. 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–NSX–2010–15 and should be submitted by December 29, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–30829 Filed 12–7–10; 8:45 am]

BILLING CODE 8011–01–P

[8] As required under Rule 19b–4(f)(6)(iii), NSX provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[9] 17 CFR 19b–4(f)(6)(iii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63416; File No. SR–BX–2010–083]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating to The Price Improvement Period To Permit an Initiating Participant To Designate a PIP Surrender Quantity

December 2, 2010.

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 November 24, 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter V, Section 18 (The Price Improvement Period ("PIP")) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to permit an Options Participant initiating a PIP to designate a PIP Surrender Quantity. The text of the proposed rule change is available from the principal office of the Exchange, on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/,* at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov/.*

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 proposed rule change will amend Chapter V, Section 18 (The Price Improvement Period ("PIP")) of the BOX Rules to permit an Options Participant initiating a PIP ("Initiating Participant"), at its option, to designate a lower amount for which it will retain certain priority and trade allocation privileges upon the conclusion of the PIP auction than the forty percent (40%) of the PIP Order to which the Initiating Participant is entitled as set forth in Chapter V, Sections 18(f)(i) and (f)(ii) of the BOX Rules. In certain instances, Chapter V, Sections 18(f)(i) and (f)(ii) of the BOX Rules allow an Initiating Participant to retain priority and trade allocation privileges for 40% of the size of a PIP Order upon conclusion of the PIP. This proposal will permit an Initiating Participant, when starting a PIP, to submit the Primary Improvement Order to BOX with a designation to identify the total size of the PIP Order that the Initiating Participant is willing to "surrender" to other PIP Participants ("PIP Surrender Quantity"), resulting in the Initiating Participant potentially being allocated less than the forty percent (40%) to which it may be entitled. For example, when an Initiating Participant submits a PIP Order and a Primary Improvement Order for 100 contracts and a PIP Surrender Quantity of 70 contracts, the Initiating Participant is designating that it is willing to surrender seventy percent (70%) of the PIP Order to other PIP Participants. Therefore, the Initiating Participant is only retaining priority to thirty percent (30%) of the PIP Order,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

rather than the forty percent (40%) it could have received. The Primary Improvement Order shall yield priority to certain competing orders in the circumstances set forth in Chapter V, Section 18(f)(iii) of the BOX Rules.

The proposed rule change will further provide that in no case shall the Initiating Participant's use of the Surrender Quantity function result in an allocation to the Initiating Participant that would be greater than the maximum allowable allocation the Initiating Participant would otherwise receive in accordance with the PIP allocation procedures set forth in Chapter V, Section 18(f) of the BOX Rules. The proposal specifies that the PIP Surrender Quantity shall not be effective for an amount that is lesser than or equal to sixty percent (60%) of the size of the PIP Order. In such a case, the forty percent (40%) maximum allowable priority allocation to the Initiating Participant would apply.

Additionally, the proposed rule change will modify the BOX Trading Host's trade allocation at the conclusion of the PIP to account for the PIP Surrender Quantity. The proposal specifies that when the BOX Trading Host determines the priority and trade allocation amounts for the Initiating Participant upon the conclusion of the PIP auction, the Trading Host will automatically adjust the trade allocations to the other PIP Participants according to the priority set forth in Chapter V, Section 18(e) of the BOX Rules, providing a total amount to the other PIP Participants up to the PIP Surrender Quantity. The Primary Improvement Order shall be allocated the remaining size of the PIP Order, if any. If the aggregate size of other PIP Participants' contra orders is not equal to or greater than the PIP Surrender Quantity, then the remaining PIP Surrender Quantity shall be left unfilled and the Primary Improvement Order shall be allocated the remaining size of the PIP Order as set forth in Chapter V, Section 18(f) of the BOX Rules. For example, an Initiating Participant submits a PIP Order and a Primary Improvement Order for 100 contracts and a PIP Surrender Quantity of 70 contracts. During the PIP auction only one Improvement Order for 25 contracts is received. Even though the Initiating Participant was willing to surrender 70 contracts to the other PIP Participants, there is not enough competing size in this instance to allocate 70 contracts to someone else. Therefore, the Primary Improvement Order's requirement to completely fill the PIP Order takes precedence, and the Initiating Participant is allocated the remaining 75 contracts.

BOX will provide Options Participants with three (3) business days notice, via Information Circular, about the implementation date of the PIP Surrender Quantity prior to its implementation in the BOX trading system.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[3] in general, and Section 6(b)(5) of the Act,[4] in particular. Specifically, the Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 the proposed rule change will benefit investors and Options Participants by allowing an Initiating Participant the flexibility to designate a lower amount for which it will retain certain priority and trade allocation privileges upon the conclusion of the PIP auction than the forty percent (40%) of the PIP Order to which the Initiating Participant is entitled, while providing other PIP Participants increased trade allocations.

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 Regarding 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the 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. 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–2010–083 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–2010–083. 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 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 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 publicly available. All submissions should refer to File Number SR–BX–

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

2010–083 and should be submitted on or before December 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–30804 Filed 12–7–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63414; File No. SR–NASDAQ–2010–153]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by The NASDAQ Stock Market LLC To Clarify the Exclusion of Partial Trading Days From Certain Calculations Within the Investor Support Program

December 2, 2010.

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 November 24, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or 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 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

NASDAQ is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal for the NASDAQ Options Market ("NOM" or "Exchange") to clarify that partial trading days will not be counted toward the calculation of certain Investor Support Program ("ISP") credit eligibility requirements pursuant to subsection (c)(2) of the rule.

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com/Filings/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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. NASDAQ 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 7014 to clarify that partial trading days will not be counted toward the calculation of certain ISP credit eligibility requirements pursuant to subsection (c)(2) of the rule, particularly the average daily number of shares of liquidity provided in orders entered by the member through its ISP-designated ports and executed in the Nasdaq Market Center during the month.

The Exchange established an Investor Support Program that enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity").[3] The goal of the ISP is to incentivize members to provide such targeted liquidity to the NASDAQ Market Center.[4] The Exchange noted in the ISP Filing that maintaining and increasing the proportion of orders in exchange-listed securities executed on a registered exchange (rather than relying on any of the available off-exchange execution methods) would help raise investors' confidence in the fairness of their transactions and would benefit all investors by deepening NASDAQ's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Partial trading days are not excluded from the average daily number of shares of liquidity provided and executed pursuant to certain ISP credit eligibility criteria in the rule and the Exchange now proposes a change to do so.[5]

To further the ISP goal of attracting certain targeted retail and institution liquidity, the ISP limits ISP credit eligibility to targeted liquidity-enhancing orders in large part by: Establishing a monthly ISP Execution Ratio [6] of 10 or above (subsection (c)(1)); and a monthly cap of 10 million for the average daily number of shares of liquidity provided in orders entered by the member through its ISP-designated ports and executed in the NASDAQ Market Center during the month (subsection (c)(2)). As noted, in the ISP Filing the Exchange did not exclude partial trading days from the calculation of order numbers pursuant to subsection (c)(2) of the rule. The Exchange believes that the inclusion of partial trading days [7] may serve to improperly skew the operative calculations. As such, the Exchange proposes to add new section (c)(3) that states that for purposes of determining the average daily number of shares of liquidity provided pursuant to subsection (c)(2) of this Rule, any day that the market is not open for the entire trading day will be excluded from such calculation.[8]

[3] For a detailed description of the Investor Support Program, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness) (the "ISP Filing").

[4] The Commission has recently expressed its concern that a significant percentage of the orders of individual investors are executed at over the counter ("OTC") markets, that is, at off-exchange markets; and that a significant percentage of the orders of institutional investors are executed in dark pools. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, "Concept Release"). *See also* Mary L. Schapiro, *Strengthening Our Equity Market Structure* (Speech at the Economic Club of New York, Sept. 7, 2010) ("Schapiro Speech," available on the Commission Web site) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

[5] NASDAQ notes that exclusion of partial trading days would be consistent with how the Exchange treats partial trading days for tabulation of pricing tiers under Rule 7018(j).

[6] The term "ISP Execution Ratio" is defined as: The ratio of (i) the total number of liquidity-providing orders entered by a member through its ISP-designated ports during the specified time period to (ii) the number of liquidity-providing orders entered by such member through its ISP-designated ports and executed (in full or partially) in the NASDAQ Market Center during such time period (provided that: (i) No order shall be counted as executed more than once; (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders shall be included in the tabulation; and (iii) no order shall be included in the tabulation if it executes but does not add liquidity). Rule 7014 (d)(3).

[7] A partial trading day may occur, as an example, immediately after the Thanksgiving holiday.

[8] There have been no partial trading days in the month of November previous to the date of submission of the filing and it would therefore not be retroactive in effect.