

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.<sup>7</sup> FINRA believes that the proposed rule change will provide greater clarity to members and the public regarding its rules, as well as ensure a more efficient reporting process for the SSOI.

### B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor 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) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In accordance with Rule 19b-4(f)(6),<sup>10</sup> FINRA submitted 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, or such shorter time as the Commission may designate, as specified in Rule 19b-4(f)(6)(iii) under the Act.<sup>11</sup> The first reporting period covered by the initial SSOI commences on July 1, 2012. FINRA has stated that it wishes the Commission to waive the operative

delay so that FINRA may give as much time as possible for member firms to prepare prior to the October 26, 2012 due date of the initial SSOI. Accordingly, FINRA would like the SSOI to be in final form and fully operative as of the start of the first reporting period on July 1.

Given FINRA's desire to provide member firms with a final and completed SSOI at the outset of the initial SSOI reporting period, the Commission believes that FINRA's request is reasonable and believes that waiver of the operative delay is consistent with the protection of investors and the public interest, and therefore designates the proposal operative upon filing.<sup>12</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 necessary or appropriate in the public interest, for the protection of investors, or 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-FINRA-2012-033 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-FINRA-2012-033. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA.

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-FINRA-2012-033 and should be submitted on or before July 23, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67258; File No. SR-NASDAQ-2012-059]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Establish "Benchmark Orders" Under NASDAQ Rule 4751(f)

June 26, 2012.

On May 1, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish various "Benchmark Orders" under NASDAQ Rule 4751(f). The

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> 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).

<sup>13</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.

proposed rule change was published for comment in the **Federal Register** on May 17, 2012.<sup>3</sup> The Commission received no comments on the proposal.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is July 1, 2012. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposal. The Benchmark Order would allow NASDAQ members to enter a single order in a single security that seeks to match the performance of one of three selected benchmarks—Volume Weighted Average Price, Time Weighted Average Price and Percent of Volume—over a pre-determined period of time. Benchmark Orders would not be executed by the NASDAQ matching engine, but would be directed to a system application dedicated to processing Benchmark Orders (“Application”). The Application would generate Child Orders to be sent to the NASDAQ matching engine or to the NASDAQ router, as necessary, to achieve the desired benchmark selected by the entering firm.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates August 15, 2012, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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<sup>3</sup> See Securities Exchange Act Release No. 66972 (May 11, 2012), 77 FR 29435 (May 17, 2012) (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67255; File No. SR-BOX-2012-009]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Extend a Pilot Program That Permits BOX to Have No Minimum Size Requirement for Orders Entered Into the Price Improvement Period

June 26, 2012.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 25, 2012, BOX Options Exchange LLC (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 has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> 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 proposes to amend Interpretive Material to Rule 7150 (Price Improvement Period “PIP”) to extend a pilot program that permits the Exchange to have no minimum size requirement for orders entered into the PIP (“PIP Pilot Program”). The text of the proposed rule change is available from the principal office of the Exchange, on the Exchange’s Web site at <http://boxexchange.com>, 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 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to extend the PIP Pilot Program for twelve additional months. The PIP Pilot Program allows the Exchange to have no minimum size requirement for orders entered into the PIP.<sup>4</sup> The Exchange has committed to provide certain data to the Commission during the PIP Pilot Program.<sup>5</sup> The proposed rule change retains the text of IM-7150-1 to Rule 7150 and seeks to extend the operation of the PIP Pilot Program until July 18, 2013.

The Exchange notes that the PIP Pilot Program guarantees Participants the right to trade with their customer orders that are less than 50 contracts. In particular, any order entered into the PIP is guaranteed an execution at the end of the auction at a price at least equal to the national best bid or offer. In further support of this proposed rule change, the Exchange will submit to the Commission monthly a PIP Pilot Program Report, offering detailed data from, and analysis of, the PIP Pilot Program.

To aid the Commission in its evaluation of the PIP Pilot Program, the Exchange provides the following additional information each month: (1) The number of orders of 50 contracts or greater entered into the PIP auction; (2) The percentage of all orders of 50 contracts or greater sent to the Exchange that are entered into the PIP auction; (3) The spread in the option, at the time an order of 50 contracts or greater is submitted to the PIP auction; (4) The percentage of PIP trades executed at the National Best Bid or Offer (“NBBO”) plus \$.01, plus \$.02, plus \$.03, etc.; and (5) The number of orders submitted by Order Flow Providers (“OFPs”) when the spread was at a particular increment (e.g., \$.05, \$.10, \$.15, etc.). Also, relative to item 5 above, for each spread, BOX provides the percentage of contracts in orders of fewer than 50 contracts submitted to the PIP that were traded

<sup>4</sup> The Pilot Program is currently set to expire on July 18, 2012. See Securities Exchange Act Release No. 66871 (April 27, 2012) 77 FR 26323 (May 3, 2012) (File No. 10-206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission).

<sup>5</sup> *Id.* at 26334.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).