not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change as amended is consistent with the provisions of Section 6(b)(8) of the Act,[25] which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The electronic entry of MOC/LOC interest should increase the efficiency of NYSE's market and permit accurate information to be disseminated to market participants more quickly. The modification of the procedures for the entry of MOC/LOC orders in response to imbalance publications and regulatory trading halts should likewise improve transparency and efficiency.

In connection with the change from two imbalance publications to one, the Commission notes the Exchange's representation that its customers have expressed that two imbalance publications ten minutes apart in the current electronic environment are unnecessary. Moving the cut-off time for the entry of MOC/LOC orders from 3:40 p.m. to 3:45 p.m. should allow Exchange participants additional control of the handling of their orders to be executed in the closing transaction and additional participation in active markets.

In connection with the postponing of the cancellation time for MOC and LOC orders to 3:58 p.m, the Commission notes the Exchange's representations that, with the proposed requirement that all MOC/LOC orders be entered electronically, Exchange systems will keep track of the available interest thus making it more readily available for the DMM and that systemic tracking of MOC/LOC interest makes it entirely feasible for the DMM to review in two minutes the interest eligible to participate in the closing transaction and facilitate the execution of the closing transaction.

The creation of the CO order provides an additional source of liquidity to offset an imbalance going into the closing transaction, and thus should increase the greater efficiency of the closing process.

The Commission believes that these proposed modifications are consistent with the Act because, taken as a whole, they should enhance the efficiency and transparency of the closing transaction and provide customers with a more accurate depiction of market conditions prior to the closing transaction, and therefore allow them to make better-informed trading decisions.

The Commission believes that the remainder of the proposed changes, including the codification of the hierarchy of the allocation of interest in the closing, the clarification of the definition of MOC and LOC orders, the inclusion of additional information in the Order Imbalance Information data feeds, and the rescission of the provisions governing Expiration Friday Auxiliary Procedures for the Opening and Due Diligence Requirements are either non-substantive or non-controversial in nature, while enhancing the transparency of NYSE's market at the close, and therefore are consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change, as amended (SR–NYSE–2009–111), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30927 Filed 12–29–09; 8:45 am]

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[25] 15 U.S.C. 78f(b)(8).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61229; File No. SR–BX–2009–083]

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

December 22, 2009.

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 December 16, 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)(ii) of the Act,[3] and Rule 19b–4(f)(2) 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 Fee Schedule of the Boston Options Exchange Group, LLC (''BOX''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room, on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/,* and on the Commission's Internet 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

On November 13, 2006 BOX entered into a licensing agreement (''Agreement'') with The NASDAQ OMX Group, Inc. (''NASDAQ OMX'') (formerly known as the Nasdaq Stock Market, Inc.) to use various indices and trademarks in connection with the listing and trading of index options on the full value Nasdaq-100® (''NDX'')[5]

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] Nasdaq®, Nasdaq-100® and Nasdaq-100 Index® are registered trademarks of The NASDAQ OMX Group, Inc. (which with its affiliates are the ''Corporations'') and are licensed for use by the Boston Options Exchange Group, LLC in connection with the trading of options products based on the Nasdaq-100 Index®. The product(s) have not been passed on by the Corporations as to their legality or suitability. The product(s) are not issued, endorsed, sold, or promoted by the Corporations. The Corporations make no warranties and bear no liability with respect to the product(s). The Corporations do not guarantee the accuracy and/or uninterrupted calculation of the Nasdaq-100 Index® or any data included therein. The Corporations

and the reduced value Nasdaq-100® Index (Mini-NDX® Index (MNX)).[6] The Agreement established a license fee, currently $0.16 per contract, payable by BOX to NASDAQ OMX, for NDX and MNX options contracts traded on BOX.[7]

This Agreement between BOX and NASDAQ OMX was set to expire on December 31, 2009. BOX and NASDAQ OMX have entered into an extension of the Agreement whereby a six (6) cent increase in the per contract license fee charged to BOX by NASDAQ OMX has been agreed to.

The Exchange is submitting this proposed rule change to increase the surcharge fee for transactions in NDX and MNX options by six (6) cents, to $0.22. This increase will correspondingly offset the increased costs incurred by BOX. As with certain other licensed options, the Exchange adopted and maintains a surcharge fee for trading in these options to defray the licensing costs. The Exchange believes that charging BOX Options Participants that trade these instruments is the most equitable means of recovering the costs of the license.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[10] and Rule 19b–4(f)(2) thereunder,[11] because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–2009–083 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–2009–083. 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 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 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–2009–083 and should be submitted on or before January 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30926 Filed 12–29–09; 8:45 am]

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[6] *Id.*

[7] On November 14, 2006 the Exchange established a $0.15 surcharge fee for transactions in options on NDX and MNX. *See* Securities Exchange Act Release No. 55000 (December 21, 2006), 71 FR 78479 (December 29, 2006) (SR–BSE–2006–47). The Exchange subsequently increased the surcharge fee to $0.16 in response to a corresponding increase in the license fees charged by NASDAQ OMX to BOX. *See* Securities Exchange Act Release No. 57114 (January 8, 2008), 73 FR 2961 (January 16, 2008) (SR–BSE–2008–01).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61231; File No. SR–FINRA–2009–092]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Date by Which Eligible Registrants Must Complete a Firm-Element Continuing Education Program To Qualify To Engage in a Security Futures Business

December 23, 2009.

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 December 18, 2009, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. The Commission is

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

[2] 17 CFR 240.19b–4.