

and re-licensing fees of both representatives and principals, and therefore applies equally to all categories of associated persons who would incur fees pursuant to Rule 7003(b)(1) and (2). In addition, the Commission notes that the Exchange has been waiving these fees since January 1, 2009, and believes waiving the fees for an additional three months, retroactive from July 1, 2009 until October 1, 2009, is a reasonable extension of the fee holiday. Based on the above, the Commission believes the proposed rule change constitutes an equitable allocation of reasonable dues, fees, and other charges under Section 6(b)(4) of the Act,<sup>12</sup> and is otherwise consistent with the requirements of the Act.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-BX-2009-043), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E9-22685 Filed 9-18-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60662; File No. SR-BX-2009-053]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Amend IM-2110-4 To Reflect Changes to a Corresponding FINRA Rule

September 11, 2009.

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 September 1, 2009, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") 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 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 is filing this proposed rule change to amend BX Equity Rule IM-2110-4 to reflect recent changes to a corresponding rule of the Financial Industry Regulatory Authority ("FINRA"). BX will implement the proposed rule change thirty days after the date of the filing. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com>, at the Exchange's principal office, and at the Commission's Public Reference Room.

#### 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Many of the Equity Rules adopted by BX in conjunction with its resumption of the trading of cash equities are based on rules of FINRA (formerly the National Association of Securities Dealers ("NASD")). During 2008, FINRA embarked on an extended process of moving rules formerly designated as "NASD Rules" into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, BX also proposes to initiate a process of modifying its rulebook to ensure that BX rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. In some cases, it will not be possible for the rule numbers of BX rules to mirror corresponding FINRA rules, because existing or planned BX rules make use of those numbers. However, wherever possible, BX plans

to update its rules to reflect changes to corresponding FINRA rules.

This filing addresses BX IM-2110-04, which bars trading ahead of research reports and which formerly corresponded to NASD IM-2110-04. In SR-FINRA-2008-054,<sup>4</sup> FINRA redesignated that rule as FINRA Rule 5280 and made substantive amendments to strengthen and simplify the rule. Notably, the amended FINRA rule requires FINRA members to establish, maintain and enforce policies and procedures reasonably designed to restrict or limit the flow of information between research department personnel or other persons with knowledge of the content or timing of a research report, and trading department personnel. Such policies and procedures had formerly been recommended but not required. BX is adopting the new FINRA rule in full (with minor modifications to reflect limits on its jurisdiction to regulate non-Exchange conduct), but is continuing to designate its rule as IM-2110-04 in order to maintain the 5000 Series of the BX Equity Rules for possible future use.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general, and with Sections 6(b)(5) of the Act,<sup>6</sup> in particular, in that the proposal is designed 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 system, and, in general, to protect investors and the public interest. The proposed changes will conform BX Equity Rule IM-2110-04 to recent changes made to a corresponding FINRA rule, to promote application of consistent regulatory standards.

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

The Exchange 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, as amended.

<sup>12</sup> *Id.*

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>15</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).

<sup>4</sup> Securities Exchange Act Release No. 59254 (January 15, 2009), 74 FR 4271 (January 23, 2009) (SR-FINRA-2008-054).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

*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>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

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.

**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-2009-053 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BX-2009-053. 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-2009-053 and should be submitted on or before October 13, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-22682 Filed 9-18-09; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-60659; File No. SR-FINRA-2009-044]**

**Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Adopt FINRA Rules 2262 (Disclosure of Control Relationship With Issuer), 2269 (Disclosure of Participation or Interest in Primary or Secondary Distribution) and 5260 (Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts) in the Consolidated FINRA Rulebook**

September 11, 2009.

On June 29, 2009, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to adopt without material change NASD Rules 2240 (Disclosure of Control Relationship with Issuer), 2250 (Disclosure of Participation or Interest in Primary or Secondary Distribution) and 3340 (Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts) as FINRA rules in the Consolidated FINRA Rulebook and to delete NYSE Rules 312(f)(1) through 312(f)(3) and 321.24. The proposed rule change would renumber NASD Rules 2240, 2250 and 3340 as FINRA Rules 2262, 2269 and 5260, respectively, in the Consolidated FINRA Rulebook.

The proposed rule change was published for comment in the **Federal Register** on July 24, 2009.<sup>3</sup> FINRA filed Amendment No. 1 to the proposed rule change on September 11, 2009.<sup>4</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>6</sup> which requires, among other things, that FINRA rules 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.

The Commission believes that transferring NASD Rules 2240 and 2250 into the Consolidated FINRA Rulebook as FINRA Rules 2262 and 2269 will ensure that disclosures or notifications that member firms must provide to customers in connection with certain securities transactions will continue to be made. These rules are intended to provide disclosure to a customer about certain relationships involving the member that may present a conflict of interest. The Commission believes that repealing NYSE Rules 312(f) and 321.24

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

<sup>3</sup> See Securities Exchange Act Release No. 60330 (July 17, 2009), 74 FR 36787.

<sup>4</sup> Amendment No. 1 is a technical amendment that clarifies that the proposed rule change would not change Incorporated NYSE Rule 312(h); therefore, Amendment No. 1 does not require notice and comment.

<sup>5</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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