effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add MIAX as a Participant to the Plan. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay.[16] In addition, the Commission notes that the prior version of this Plan was published for comment, and the Commission did not receive any comments thereon.[17] Finally, the Commission does not believe that the amendment to the Plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. 4–551.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan, as amended by and between MKT, BATS, C2, CBOE, ISE, FINRA, Arca, NASDAQ, BOX, BX, Phlx and MIAX, filed with the Commission pursuant to Rule 17d-2 on November 20, 2012 is hereby approved and declared effective.

It is further ordered that those SRO participants that are not the DOSR as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOSR under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–29842 Filed 12–10–12; 8:45 am]

BILLING CODE 8011–01–P

[16] On December 3, 2012, the Commission granted MIAX's application for registration as a national securities exchange. *See* Securities Exchange Act Release No. 68341 (File No. 10–207).

[17] *See supra* note 15 (citing to Securities Exchange Act Release No. 66975).

[18] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68353; File No. SR–NYSE–2012–70]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 472, Which Addresses Communications With the Public, Adopting New Rule Text To Conform to the Changes Adopted by the Financial Industry Regulatory Authority, Inc. for Research Analysts and Research Reports as Required by the Jumpstart Our Business Startups Act

December 4, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 30, 2012, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') 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

The Exchange proposes to amend NYSE Rule 472, which addresses communications with the public, to adopt new rule text to conform to the changes adopted by the Financial Industry Regulatory Authority, Inc. (''FINRA'') for research analysts and research reports as required by the Jumpstart our Business Startups Act (the ''JOBS Act'').[4] The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, 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 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 those 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 parts 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 proposes to amend NYSE Rule 472, which addresses communications with the public, to adopt new rule text to conform to the changes adopted by FINRA for research analysts and research reports as required by the JOBS Act.[5]

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. (''NASD''), and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934, as amended (the ''Act''), NYSE, NYSER and FINRA entered into an agreement (the ''Agreement'') to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules''). NYSE MKT LLC (''NYSE MKT'') became a party to the Agreement effective December 15, 2008.[6]

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE MKT of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[7]

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Public Law 112–106, 126 Stat. 306.

[5] *See* Securities Exchange Act Release No. 68037 (October 11, 2012), 77 FR 63908 (October 17, 2012) (SR–FINRA–2012–045). *See also* FINRA Regulatory Notice 12–49.

[6] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''); and 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE MKT LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE MKT to the substance of any of the Common Rules.

[7] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of

Proposed Rule Change

The Exchange proposes to amend NYSE Rule 472 to adopt new rule text to conform to the changes adopted by FINRA for research analysts and research reports in NASD Rule 2711 and FINRA Incorporated NYSE Rule 472. FINRA amended these rules primarily to conform to the requirements of the JOBS Act. The proposed changes to NYSE Rule 472 are identical to the changes FINRA made to FINRA Incorporated NYSE Rule 472.

The JOBS Act was signed into law on April 5, 2012. Among other things, the JOBS Act is intended to help facilitate capital formation for ''emerging growth companies'' (''EGCs'') by improving the information flow about EGCs to investors. To that end, Section 105(b) of the JOBS Act amended Section 15D of the Act to prohibit the Commission or any national securities association from adopting or maintaining any rule or regulation in connection with an initial public offering (''IPO'') of an EGC that:

- Restricts, based on functional role, which associated persons of a broker, dealer or member of a national securities association, may arrange for communications between an analyst and a potential investor; or
- Restricts a securities analyst from participating in any communication with the management of an EGC that is also attended by any other associated person of a broker, dealer, or member of a national securities association whose functional role is other than as a securities analyst.

Section 105(d) further prohibits the Commission or any national securities association from adopting or maintaining any rule or regulation that prohibits a broker or dealer from publishing or distributing any research report or making a public appearance, with respect to the securities of an EGC either:

- Within any prescribed period of time following the IPO date of the EGC; or
- Within any prescribed period of time prior to the expiration date of any agreement between the broker, dealer, or member of a national securities association and the EGC or its shareholders that restricts or prohibits the sale of securities held by the EGC or its shareholders after the IPO date.

These provisions became effective upon signature of the President of the United States on April 5, 2012. On August 22, 2012, the SEC's Division of Trading and Markets provided guidance on these provisions in the form of Frequently Asked Questions (''FAQs'').[8] The Exchange is amending NYSE Rule 472 to conform with FINRA's amendments to the applicable provisions of NASD Rule 2711 and FINRA Incorporated NYSE Rule 472 to conform to the JOBS Act and the SEC staff's guidance with regard to the applicable JOBS Act provisions. The SEC staff guidance interprets the JOBS Act provisions as applicable to FINRA Incorporated NYSE Rule 472 to the same extent as NASD Rule 2711. As such, FINRA made corresponding amendments to Incorporated NYSE Rule 472. The proposed rule change corresponds identically to FINRA's amendments to FINRA Incorporated NYSE Rule 472.[9]

Arranging and Participating in Communications

NYSE Rule 472(b)(5) prohibits a research analyst from participating ''in efforts to solicit investment banking business,'' including any ''pitches'' for investment banking business or other communications with companies for the purpose of soliciting investment banking business. The FAQs interpret the JOBS Act to now allow, in connection with an IPO of an EGC, research analysts to attend meetings with issuer management that are also attended by investment banking personnel, including pitch meetings, but not ''engage in otherwise prohibited conduct in such meetings,'' including ''efforts to solicit investment banking business.'' The FAQs further explain that a research analyst that attends a pitch meeting ''could, for example, introduce themselves, outline their research program and the types of factors that the analyst would consider in his or her analysis of a company, and ask follow-up questions to better understand a factual statement made by the [EGC's] management.'' Accordingly, the proposed rule change creates an exception to NYSE Rule 472(b)(5) to reflect this guidance regarding the application of the JOBS Act.

The FAQs state that under Section 105(b) of the JOBS Act, an associated person of a broker-dealer, including investment banking personnel, may arrange communications between research analysts and investors in connection with an IPO of an EGC. As an example, the FAQs state that an investment banker could forward a list of clients to a research analyst that the analyst could, ''at his or her own discretion and with appropriate controls, contact.'' The FAQs acknowledge that no self-regulatory organization, including the Exchange, has a rule directly prohibiting this activity and further states that such activity, without more, would not constitute conduct by investment banking personnel to directly or indirectly direct a research analyst to engage in sales or marketing efforts related to an investment banking services transaction, in violation of NYSE Rule 472(b)(6)(ii).[10] Accordingly, this JOBS Act provision requires no conforming rule change.

Quiet Periods

Section 105(d) of the JOBS Act expressly permits publication of research and public appearances with respect to the securities of an EGC any time after the IPO of an EGC or prior to the expiration of any lock-up agreement. While the JOBS Act refers only to the ''expiration'' of a lock-up agreement, the FAQs note the Commission staff's belief that Congress intended for the JOBS Act provisions to apply equally to the period before a ''waiver'' or ''termination'' of a lock-up agreement. Thus, in accordance with SEC staff guidance on this JOBS Act provision, the proposed rule change amends NYSE Rule 472 to eliminate the following quiet periods with respect to an IPO of an EGC:

- NYSE Rule 472(f)(1), which imposes a 40-day quiet period after an IPO on a member organization that acts as a manager or co-manager of such IPO;
- NYSE Rule 472(f)(3), which imposes a 25-day quiet period after an IPO on a member organization that participates as an underwriter or dealer (other than manager or co-manager) of such an IPO; and
- NYSE Rule 472(f)(4) with respect to the 15-day quiet period applicable to IPO managers and co-managers prior to the expiration, waiver, or termination of a lock-up agreement or any other agreement that such member organization has entered into with a subject company or its shareholders that restricts or prohibits the sale of securities held by the subject company

the NYSE (''Dual Members''), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[8] These FAQs are available at *http://www.sec.gov/divisions/marketreg/tmjobsact-researchanalystsfaq.htm*.

[9] *See supra* note 5.

[10] *See supra* note 8. In 2003 and 2004, the Commission, self-regulatory organizations, and other regulators instituted settled enforcement actions against 12 broker-dealers to address conflicts of interest between the firms' research and investment banking functions (''Global Settlement''). As the guidance point out, firms subject to the Global Settlement should also be mindful of the requirements of that court order as they remain in place.

or its shareholders after the completion of an IPO.

The FAQs note that the JOBS Act makes no reference to quiet periods after a secondary offering or during a period of time after expiration, termination or waiver of a lock-up agreement. Accordingly, the FAQs note that NYSE Rule 472(f)(2), which imposes a 10-day quiet period on managers and co-managers following a secondary offering and the remaining portion of NYSE Rule 472(f)(4) relating to quiet periods *after* the expiration, termination or waiver of a lock-up agreement, remain fully in effect. Nonetheless, the FAQs express the SEC staff's belief that the policies underlying the JOBS Act are equally applicable to quiet periods during these other times. The Exchange agrees that elimination of those quiet periods would advance the policy objectives of the JOBS Act and therefore has proposed to amend NYSE Rule 472(f) accordingly.

The Exchange also proposes to make a non-substantive change to correct the existing text of current NYSE Rule 472(f)(6), which would become NYSE Rule 472(f)(7) as a result of the proposed changes described above.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, because it 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 mechanisms of, a free and open market and a national market system.

The proposed changes to NYSE Rules 472(b)(5), (f)(1), (f)(3) and (f)(4) (with respect to the 15-day quiet period before the expiration, termination or waiver of a lock-up agreement) conform those rules to statutory mandates. The proposed additional changes to NYSE Rules 472(f)(2) and (f)(4) further the policies underlying the statutory mandates by improving information flow to investors with respect to EGCs without sacrificing the reliability of research reports, as the other objectivity safeguards in NYSE Rule 472 and SEC Regulation AC[13] are effective and will continue to apply. In addition, the Exchange believes that the proposed rule changes will remove impediments to and perfect the mechanisms of a free and open market and a national market system not only because it will conform Exchange rules to statutory mandates, but also because it will harmonize Exchange rules with identical FINRA rules.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the 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 prior to 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission hereby grants the request.[19] Waiving the 30-day operative delay will allow the Exchange to conform its rules to statutory mandates and harmonize Exchange rules with identical FINRA rules. The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay and, therefore, designates the proposal as operative upon filing.

At any time within 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 email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2012–70 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–NYSE–2012–70. 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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 242.500–05.

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSE–2012–70 and should be submitted on or before January 2, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–29852 Filed 12–10–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68361; File No. SR–BOX–2012–020]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Expand the Short Term Options Series Program

December 5, 2012.

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 4, 2012, BOX Options Exchange LLC (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 Exchange. 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

BOX Options Exchange LLC (the ''Exchange'') proposes to amend interpretive material to Rule 5050 and to Rule 6090 to expand the Short Term Option Series Program. 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://boxexchange.com,* 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

The Exchange proposes to amend IM–5050–6 to Rule 5050 and IM–6090–2 to Rule 6090 to provide for the ability to open up to five consecutive expirations under the Short Term Option Series Program (''Weeklys Program'') for trading on BOX, to allow for the Exchange to delist certain series in the Weeklys Program that do not have open interest and to expand the number of series in the Weeklys Program under limited circumstances when there are no series at least 10% but not more than 30% away from the current price of the underlying security.[3]

Currently, BOX may select up to 30 currently listed option classes on which Short Term Option Series (''STOS'') may be opened in the Weeklys Program and BOX may also match any option classes that are selected by other securities exchanges that employ a similar program under their respective rules.[4] For each option class eligible for participation in the Weeklys Program, the Exchange may open up to 30 STOS for each expiration date in that class.

This proposal seeks to allow the Exchange to open STOS for up to five consecutive week expirations. The Exchange intends to add a maximum of five consecutive week expirations under the Weeklys Program; however it will not add a STOS expiration in the same week that a monthly options series expires or, in the case of Quarterly Option Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. In other words, the total number of consecutive expirations will be five, including any existing monthly or quarterly expirations.[5]

The Exchange notes that the Weeklys Program has been well-received by market participants, in particular by retail investors. The Exchange believes that the current proposed revision to the Weeklys Program will permit the Exchange to meet increased demand from BOX market participants and provide them with the ability to hedge in a greater number of option classes and series.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of expirations that participate in the Weeklys Program.

In addition, the Exchange is proposing to add new language to IM–5050–6(b) and IM–6090–2(b) to allow the Exchange, in the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, to delist series with no open interest in both the call and the put series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security. Further, in the event that all existing series have open interest and there are no series at least 10% above or below the current price of the underlying security, the Exchange may list additional series, in excess of the 30 allowed currently under IM–5050–6(b) and IM–6090–2(b) that are at least 10% and not more than 30% above or below the current price of the underlying security. This change is

[20] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The Exchange adopted the Weeklys Program on a permanent basis on July 15, 2010. *See* Securities Exchange Act Release No. 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010) (SR–BX–2010–047).

[4] *See* Securities Exchange Act Release No. 65773 (November 17, 2011), 76 FR 72490 (November 23, 2011) (SR–BX–2011–075). *See also,* Exchange IM–5050–6(b)(1) and note that currently, BOX may open Short Term Options Series that expire on the Friday of the following business week.

[5] For example, if quarterly options expire week 1 and monthly options expire week 3 from now, the proposal would allow the following expirations: week 1 quarterly, week 2 STOS, week 3 monthly, week 4 STOS, and week 5 STOS. If quarterly options expire week 3 and monthly options expire week 5, the following expirations would be allowed: week 1 STOS, week 2 STOS, week 3 quarterly, week 4 STOS, and week 5 monthly.