

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70258; File No. SR-BX-2013-050]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change the Expiration Date For Most Option Contracts to the Third Friday of the Expiration Month Instead of the Saturday Following the Third Friday

August 26, 2013.

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> notice is hereby given that on August 21, 2013, NASDAQ OMX PHLX LLC (“BX” or “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 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

The Exchange proposes to amend Exchange rules to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. 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

The Exchange is proposing to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. More specifically, the Exchange is proposing to amend rule text referencing Saturday expirations. The Exchange notes, however, that this change will apply to all standard expiration contracts including those in which the rules are silent on the expiration date. The Exchange is making this filing to harmonize its rules in connection with a recently approved rule filing made by The Options Clearing Corporation (“OCC”) which made substantially similar changes.<sup>3</sup> The Exchange believes that the industry must remain consistent in expiration dates, and, thus, is proposing to update its rules to remain consistent with those of OCC. In addition, the Exchange understands that other exchanges have and will be filing similar rules to effect this industry-wide initiative.<sup>4</sup>

Most option contracts (“standard expiration contracts”) currently expire at the “expiration time” (11:59 p.m. Eastern Time) on the Saturday following the third Friday of the specified expiration month (the “expiration date”).<sup>5</sup> With this filing, the Exchange is proposing to give advance notice to its members and member organizations that the expiration date for standard expiration contracts is changing to the third Friday of the expiration month.<sup>6</sup> (The expiration time would continue to be 11:59 p.m. Eastern Time on the expiration date.) The change would apply only to standard expiration contracts expiring after February 1, 2015, and the Exchange, similar to OCC, does not propose to change the expiration date for any outstanding

option contracts. The change will apply only to series of option contracts opened for trading after the effective date of the OCC rule change and having expiration dates later than February 1, 2015.

Option contracts having non-standard expiration dates (“non-standard expiration contracts”) will be unaffected by this proposed rule change, except that FLEX options having expiration dates later than February 1, 2015 cannot expire on a Saturday unless they are specified by OCC as grandfathered.<sup>7</sup>

In order to provide a smooth transition to the Friday expiration OCC has begun to move the expiration exercise procedures to Friday for all standard expiration contracts even though the contracts would continue to expire on Saturday.<sup>8</sup> After February 1, 2015, virtually all standard expiration contracts will actually expire on Friday. The only standard expiration contracts that will expire on a Saturday after February 1, 2015 are certain options that were listed prior to the effectiveness of the OCC rule change, and a limited number of options that may be listed prior to necessary systems changes of the options exchanges, which are expected to be completed in August 2013. After these systems changes are made, BX will not list any additional options with Saturday expiration dates falling after February 1, 2015. BX understands that the other exchanges are committed to the same listing schedule.<sup>9</sup>

The Exchange notes that OCC, industry groups, clearing members and the other exchanges have been active participants in planning for the transition to the Friday expiration.<sup>10</sup> In March 2012, OCC began to discuss moving standard contract expirations to Friday expiration dates with industry groups, including two Securities Industry and Financial Markets Association (“SIFMA”) committees, the Operations and Technology Steering Committee and the Options Committee, and at two major industry conferences, the SIFMA Operations Conference and the Options Industry Conference.<sup>11</sup> OCC also discussed the project with the Intermarket Surveillance Group and at an OCC Operations Roundtable. In each case, there was broad support for the initiative.<sup>12</sup>

Certain option contracts have already been listed with Saturday expiration dates as distant as December 2015

<sup>3</sup> See Securities Exchange Act Release No. 34-69772 (June 17, 2013), 78 FR 37645 (June 21, 2013) (order approving SR-OCC-2013-004).

<sup>4</sup> See Securities Exchange Act Release Nos. 70091 (August 1, 2013), 78 FR 48212 (August 7, 2013) (SR-CBOE-2013-073) and 69996 (July 17, 2013), 78 FR 44183 (July 23, 2013) (SR-MIAX-2013-32).

<sup>5</sup> Examples of options with non-standard expiration contracts include: Quarterly Equity and Exchange-Traded Fund Shares (“ETFs”) Option Series (Chapter IV, Section 6, Commentary .04), Quarterly Options Series for indexes (Chapter XIV, Section 11(g)), Short Term Option Series (Chapter IV, Section 6, Commentary .07) and Short Term Option Series for indexes (Chapter XIV, Section 11(h)).

<sup>6</sup> The Exchange will provide notice to members and member organizations regarding the anticipated change by issuing an Options Trader Alert.

<sup>7</sup> See note 5 *supra*.

<sup>8</sup> See SR-OCC-2013-04.

<sup>9</sup> See note 4 *supra*.

<sup>10</sup> See note 8 *supra*.

<sup>11</sup> *Id.*

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

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

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

(which is the furthest out expiration as of the date of this filing). Additionally, until BX completes certain systems enhancements in August 2013, it remains possible that additional option contracts may be listed with Saturday expiration dates beyond February 1, 2015. For these contracts, transitioning to a Friday expiration for newly listed option contracts expiring after February 1, 2015 would create a situation under which certain options with open interest would expire on a Saturday while other options with open interest would expire on a Friday in the same expiration month.

Clearing members have expressed a clear preference to not have a mix of options with open interest that expire on different days in a single month.<sup>13</sup> Accordingly, OCC represented in its recently approved filing that it will not issue and clear any new option contract with a Friday expiration if existing option contracts of the same options class expire on the Saturday following the third Friday of the same month. However, Friday expiration processing will be in effect for these Saturday expiration contracts. As with standard expiration options during the transition period, exercise requests received after Friday expiration processing is complete but before the Saturday contract expiration time will continue to be processed without fines or penalties.

Thus, the Exchange is proposing to update its rules to reflect the above discussed change. More specifically, the Exchange is proposing to add Section 2(p) to Chapter XIV, Index Rules to define "expiration date" to be consistent with the revised OCC definition.<sup>14</sup> Thus, consistent with the OCC filing, the Exchange is proposing to add language to these rules stating that any series expiring prior to February 1, 2015 will have a Saturday expiration date while any series expiring on or after February 1, 2015 will have a Friday expiration date.<sup>15</sup>

The Exchange also is proposing to adopt changes to Chapter XIV, Index Rules, Sections 11(a)(5) and 11(d) for consistency to reflect the change in the expiration date definition. To the extent applicable to the timeframes herein, the Exchange is also proposing, with this filing, to replace any reference in the purpose section of any past Exchange rule filings or alerts to any expiration date other than Friday for a standard options contract with the new Friday

standard. Essentially, the Exchange is now proposing to replace any relevant historic references to expiration dates to be replaced with the proposed Friday expiration. As stated above, the Exchange believes the proposed change will keep the Exchange consistent with the processing at OCC and will enable the Exchange to give effect to the industry-wide initiative. In addition, the Exchange understands that other exchanges will be filing similar rules, thus creating a uniform expiration date for standard options on listed classes.<sup>16</sup>

The Exchange plans to release an Options Trader Alert to its members and member organizations to inform them of this change prior to the implementation of the rule.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>17</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>18</sup> requirements that the rules of an exchange be 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>19</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that keeping its rules consistent with those of the industry will protect all participants in the market by eliminating confusion. The proposed changes thus allow for a more orderly market by allowing all options markets, including the clearing agencies, to have the same expiration date for standard options.

In addition, the proposed changes will foster cooperation and coordination with persons engaged in regulating clearing, settling, processing

information with respect to, and facilitating transactions in securities by aligning a pivotal part of the options processing to be consistent industry wide. If the industry were to differ, investors would suffer from confusion and be more vulnerable to violate different exchange rules. The proposed changes do not permit unfair discrimination between any members because they are applied to all members equally. In the alternative, the Exchange believes that it helps all members by keeping the Exchange consistent with OCC practices and those of other Exchanges.

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

BX 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. Specifically, the Exchange does not believe the proposed rule change will impose a burden on intramarket competition because it will be applied to all members equally. In addition, the Exchange does not believe the proposed rule change will impose any burden to intermarket competition because it will be applied industry wide and apply to all market participants. The proposed rule change is structured to enhance competition because the shift from an expiration date of the Saturday following the third Friday to the third Friday is anticipated to be adopted industry-wide and will apply to all multiply listed classes. This in turn will allow BX to compete more effectively with other exchanges making similar rule changes.

## 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. The Exchange notes, however, that a favorable comment was submitted to the OCC filing.

## 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A)

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> With the exception of expirations that were listed prior to the effective date of the OCC filing and have open interest.

<sup>16</sup> See note 4 *supra*.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> *Id.*

of the Act<sup>20</sup> and Rule 19b-4(f)(6)<sup>21</sup> thereunder.

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-BX-2013-050 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-2013-050. 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 10:00 a.m. and 3:00 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-2013-050 and should be submitted on or before September 20, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70253; File No. SR-NASDAQ-2013-107]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Global Tactical Commodity Strategy Fund of First Trust Exchange-Traded Fund VII

August 26, 2013.

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 August 16, 2013, The NASDAQ Stock Market LLC ("Exchange" or "Nasdaq") 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 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 proposes to list and trade the shares of the First Trust Global Tactical Commodity Strategy Fund (the "Fund") of First Trust Exchange-Traded Fund VII (the "Trust") under Nasdaq Rule 5735

("Managed Fund Shares"). The shares of the Fund are collectively referred to herein as the "Shares."

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at Nasdaq'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, 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares<sup>3</sup> on the Exchange.<sup>4</sup> The Fund will be an actively managed exchange-traded fund ("ETF"). The Shares will be

<sup>3</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>4</sup> The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR-NASDAQ-2008-039). The Fund would not be the first actively-managed fund listed on the Exchange; see Securities Exchange Act Release No. 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR-NASDAQ-2012-004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the Commission has previously approved the listing and trading of a number of actively managed WisdomTree funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. See, e.g., Securities Exchange Act Release No. 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR-NYSEArca-2011-21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6). 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>22</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.