

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59475; File No. SR-BX-2009-014)

February 27, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating to Zero Bid Orders on the Boston Options Exchange Facility

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 February 26, 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 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 Chapter V, Section 14 (Order Entry) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to clarify the treatment of certain Zero Bid Orders.<sup>3</sup> The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet website at

<http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/>.

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

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

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

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the BOX Rules.

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

The purpose of the proposed rule change is to amend Chapter V, Section 14 of the BOX Rules to clarify the treatment of Market Orders to sell and BOX-Top Orders to sell when the highest bid on BOX is zero in the options series for a particular order (“Zero Bid Order”). Currently, Section 14 states, in part, that: “[i]n the case where the lowest offer for any options contract is \$.05, and an Options Participant enters a Market Order to sell that series, any such Market Order shall be considered a Limit Order to sell at a price of \$.05.”<sup>4</sup>

The Exchange seeks to amend Chapter V, Section 14 of the BOX Rules to (1) clarify the specific circumstances under which an order will be considered a Zero Bid Order, (2) address the treatment of Zero Bid Orders in options classes that trade in other than \$.05 increments, and (3) address the treatment of Zero Bid Orders that would cause a locked or crossed market.

The Exchange proposes to amend Section 14 so that it will apply equally to Market Orders to sell and BOX-Top Orders to sell when the highest bid on BOX is zero in the options series. In this case such Zero Bid Orders shall be considered a Limit Order

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<sup>4</sup> See Chapter V, Section 14 of the BOX Rules.

to sell at a price, above zero, that is equal to the minimum trading increment applicable to that particular options series.

Consequently, where the BOX market displays a zero bid and the options series is subject to the Penny Pilot Program,<sup>5</sup> the Zero Bid Order will be considered a Limit Order to sell at a price of \$.01. If the options series is not subject to the Penny Pilot Program, the Zero Bid Order will be considered a Limit Order to sell at a price of \$.05 or \$.10, depending upon the minimum trading increment for the specific options series of the Zero Bid Order.

The Exchange also seeks to clarify that if the resulting Limit Order would cause either a locked or crossed market, then the original Market Order or BOX-Top Order will be rejected by the Trading Host.

## 2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in 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 amendments will give greater clarification to Options Participants regarding the handling of Zero Bid Orders and provide enhanced treatment of

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<sup>5</sup> BOX may trade options contracts in one-cent increments in certain approved issues through March 27, 2009, as part of the Penny Pilot Program. See Securities Exchange Act Release No. 56566 (September 27, 2007), 72 FR 56400 (October 3, 2007) (SR-BSE-2007-40).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

such orders on BOX.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) by order approve such proposed rule change, or
- (b) institute proceedings to determine whether the proposed rule change should

be 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2009-014 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–2009-014. 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 business days between the hours of 10 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 available publicly. All

submissions should refer to File Number SR–BX–2009-014 and should be submitted on or before [date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).