

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-NYSE-2009-76 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-2009-76. 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 the filing also will be available for inspection and copying at the principal office of NYSE. 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-2009-76 and should be submitted on or before September 8, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-19730 Filed 8-17-09; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60465; File No. SR-BX-2009-041]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Eliminate Chapter V, Section 13 (Unusual Market Conditions) of the BOX Trading Rules and To Modify Related Rules

August 10, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on August 3, 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 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 purpose of the proposed rule change is to eliminate Chapter V, Section 13 (Unusual Market Conditions) of the Trading Rules of the Boston Options Exchange Group, LLC ("BOX") and to modify related rules. 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 Web site 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 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 purpose of the proposed rule is to eliminate Chapter V, Section 13, as well as certain ancillary rules, which deal with so-called "fast markets." The Exchange believes that "fast market" conditions do not occur on the electronic and automated BOX market. In cases in which a system malfunction or other occurrence caused a delay in disseminating accurate quotes, rather than relying on the current rules in Chapter V, Section 13, the Exchange would halt trading until the issue could be resolved.

The Exchange proposes to eliminate Chapter V, Section 13, as well as certain ancillary rules relating to fast markets. The Exchange has never declared a fast market. Generally, a fast market is characterized by heavy trading and high price volatility in which orders may be submitted to market makers at such a rapid pace that a backlog of orders builds, causing delays in execution. If such a fast market occurred, delays could in turn cause significant price differentials between the quoted price and executed price. Generally, Chapter V, Section 13 provides that if the Exchange declared a fast market, it may inform traders that quotes are not firm and to take other actions as necessary in furtherance of a fair and orderly market.

Chapter V, Section 13 provides for an Options Official to determine that the level of trading activity or the existence of unusual market conditions is such that BOX is incapable of collecting, processing, and making available to quotation vendors the data for the option in a manner that accurately reflects the current state of the market on BOX. Pursuant to current rules, if an Options Official determined the market in the option to be "fast," the Official could take various steps including suspending minimum size requirements for quotations, turning off the Price Improvement Period ("PIP") process, or taking other actions in order to promote a fair and orderly market.

In an electronic market such as BOX, during trading hours, orders are

<sup>21</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

matched automatically with quotes on the other side of the market according to time priority, and executed immediately.<sup>4</sup> Because there is no trading floor and all orders are received and managed electronically, all orders on BOX are executed with matching contra orders within a fraction of a second after the matching quote is received.<sup>5</sup> Any backlog in processing orders would be a result of a systems malfunction rather than from fast market conditions. Should any such backlog occur, the Exchange would halt trading on BOX until the issue could be resolved.<sup>6</sup> Accordingly, the Exchange believes Chapter V, Section 13 is unnecessary in the BOX Rules and should be removed.

In addition to removing Chapter V, Section 13, the proposed rule change would also remove certain rules related to fast markets. The Exchange proposes to modify Chapter VI, Section 6(a) to remove a fast market rule exception to the general rule that all Market Maker bids or offers must be of a size of at least ten (10) contracts. The Exchange also proposes to amend Section 6(c). First, Section 6(c)(ii)(2) will be removed to reflect the previously described removal of Chapter V, Section 13. Second, references to Rule 11Ac1-1 will be replaced with Rule 602 of Regulation NMS under the Exchange Act ("Rule 602"). With the implementation of Regulation NMS, Rule 11Ac1-1, in pertinent part, has been incorporated into Rule 602. The proposed rule change would also modify Chapter XIV (Index Rules), Section 9(b) (Trading Sessions) by eliminating the declaration of a fast market as a factor in determining whether to delay the opening of the index options market.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>7</sup> in general, and Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that 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 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. Specifically, the proposal will align the BOX Rules to more accurately reflect the circumstances surrounding trading on an electronic exchange and promote transparency.

### *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.

### *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 the 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 Exchange 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-2009-041 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-2009-041. 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 the 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-2009-041 and should be submitted on or before September 8, 2009.

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

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60476; File No. SR-CBOE-2009-056]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Hybrid Matching Algorithms

August 11, 2009.

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 July 31,

<sup>9</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.

<sup>4</sup> See BOX Trading Rules, Chapter V, Section 16.

<sup>5</sup> Subject to certain exceptions written into the BOX Trading Rules, such as Directed Orders (Chapter VI, Section 5(b)-(c)), and other exposure periods (See generally Chapter V, Section 16 (Execution and Price/Time Priority)).

<sup>6</sup> See BOX Trading Rules, Chapter V, Section 10(a).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).