



January 24, 2011

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

RE: File No. SR-BX-2010-059; NASDAQ OMX BX, Inc.; Order Instituting Proceedings To Determine Whether To Disapprove Proposed Rule Change, as Modified by Amendment No. 1, To Create a Listing Market on the Exchange

Dear Ms. Murphy:

On behalf of its members, the Biotechnology Industry Organization (BIO) is pleased to provide comments to the SEC regarding the creation of the NASDAQ OMX BX Venture Market (BX).

BIO represents more than 1,200 biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnologies, thereby expanding the boundaries of science to benefit humanity by providing better healthcare, enhanced agriculture, renewable fuels, and a cleaner and safer environment.

BIO applauds NASDAQ OMX and the Commission's efforts in creating the BX. In this time of economic uncertainty and volatility in our capital markets, our emerging, high-growth biotech companies vitally need the alternative listing which the BX market will uniquely supply. Without the proposed platform, many of these companies will have no avenue of going public – which may be critical to a company's ultimate viability - because they are unable to meet the higher quantitative listing criteria for national securities – and even smaller – exchanges.

The BX will help small biotech companies on several fronts:

First, the BX will provide a potential cushion for current public companies that may be struggling on the NASDAQ Capital Market or the NASDAQ Global Market. This is particularly true for small biotech companies whose financial metrics tend to fluctuate

more than other industries. In 2010, at least 50 public biotech companies were forced to delist from current NASDAQ OMX markets. Among the most cited reasons was not being in compliance with the \$1 minimum bid price and the minimum \$50 million market capitalization standard. Under the BX's lower quantitative standards of \$0.25 and \$2 million, respectively, can provide these companies relief while still taking part in a well functioning, well regarded, liquid stock exchange.

The BX will also provide the opportunity for private small companies to become public, thereby greatly expanding their capital financing opportunities. BX offers a legitimate platform to small biotech companies who desire to list on a public exchange, and will serve as a gateway to an otherwise closed avenue of funding under existing exchanges. Additionally, the BX gives credibility to its companies by administering a well-regulated market that embraces investor protections and requires that numerous qualitative standards be maintained.

Perhaps the greatest contribution the BX Venture Market will make is in assisting capital formation in public markets. The recent drop in the number of U.S.-listed companies on exchanges makes the need for capital formation especially acute. The BX market will offer investors a valuable source of liquidity, as well as provide for a more efficient allocation of capital. In doing so, BIO believes the increased liquidity the BX offers to the biotech industry will reduce the risks associated with committing capital for extended periods of time with little to no control on when or how to recoup capital when needed. We expect this will entice more buyers and sellers into a market, that heretofore, has not enjoyed the luxury of a liquid market with such high qualitative standards. Small early-stage companies, who could otherwise fail without adequate capital, will more easily garner funding from venture capital and private equity sources because the companies will offer a potential exit strategy for investors, which without BX, would remain much more uncertain. Also, the BX allows retail investors the opportunity to invest in small biotech companies that, in many ways, have been limited mostly to private investment companies. The BX encourages all types of investors who would otherwise sit on the sidelines to invest because of the exit strategy it provides. In general, BIO believes the BX is a positive development at an opportune time and will benefit investors, emerging companies and the lagging job market.

BIO enthusiastically supports most all of the reduced quantitative listing parameters laid out for BX participation, including \$1 million of stockholders' equity or \$5 million in total assets for companies not previously listed on a national securities exchange; \$2 million market value of listed securities for companies, regardless of whether or not previously listed on a national securities exchange; and \$.25 minimum bid price per share for companies previously listed on a national securities exchange.

Although we generally agree with the proposed standards, there are two issues with which we disagree and for which have found no justification in the rule.

First, for companies that have never been publicly traded, BIO supports lowering the proposed \$1 bid price to \$.25, in order to maintain consistency. Companies previously

listed on an exchange have a \$.25 minimum bid price standard when listing on BX. Also, once listed on BX, all companies – regardless of previous status – must maintain only a \$.25 minimum bid price per share. A scaled-back bid price for first-time publicly traded companies participating in the BX would help ensure a smooth, consistent transition to an exchange. BIO believes these standards should be harmonized at a \$.25 minimum bid price per share for all BX entrants. The proposal does not articulate nor justify why there should be inconsistent standards applied to companies, based on their previous activities..

Second, BIO urges an increase in the amount of days a company has to regain compliance with the BX's listing standards from 90 days to 180 days. BIO strongly supported NASDAQ OMX's own efforts to increase the length of time companies had to regain compliance during the economic crisis. As companies, particularly companies trading publicly for the first time, learn the nuances of the BX, it is important to provide them the similar necessary ample time to adjust to the market.

BIO appreciates the efforts of the Commission and NASDAQ OMX in creating the BX Venture Market, and looks forward to working with both in the future. If you have further questions, please contact me or Shelly Mui-Lipnik, Director of Capital Formation and Financial Services Policy, at (202) 962-9200.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan F. Eisenberg". The signature is fluid and cursive, with a large initial "A" and "E".

Alan F. Eisenberg
Executive Vice President
Emerging Companies and Business Development
Biotechnology Industry Organization (BIO)