

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62373; File No. SR-BX-2010-038)

June 24, 2010

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate Certain Rule Text Which Has Been Made Unnecessary Due to the Decommissioning of the OCC Hub

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 June 21, 2010, NASDAQ OMX BX, Inc. (“BX” or the “Exchange”) filed with the Securities and Exchange Commission (the “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

NASDAQ OMX BX, Inc. (the “Exchange”) proposes to amend the Rules of the Boston Options Exchange Group, LLC (“BOX”) to eliminate certain rule text which has been made unnecessary due to the decommissioning of the Options Clearing Corporation (“OCC”) Hub. The text of the proposed rule change is available on BX’s Web site, on the Commission’s Web site, at BX, 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

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

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

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange was previously a party to the Plan for the Purpose of Creating and Operating an InterMarket Option Linkage (“Linkage Plan”).<sup>3</sup> One of the essential aspects of the Linkage Plan was the central data and communications network (“Hub”), operated and maintained by the OCC that electronically linked the several options exchanges. The Linkage Plan was recently replaced by the Options Order Protection and Locked/Crossed Market Plan (“Decentralized Plan”).<sup>4</sup>

Unlike the Linkage Plan, which exclusively required use of the OCC Hub, the Decentralized Plan enables the Plan Participants thereto to act jointly in establishing a framework for a non-exclusive method of providing and achieving order protection and addressing Locked and Crossed Markets in Eligible Options Classes. Upon the migration from

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<sup>3</sup> See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) (File No. 4-429) (Order approving the Linkage Plan and the original parties thereto). The Exchange became a party to the Linkage Plan on January 14, 2004 by executing a copy of said Linkage Plan with the Commission as well as completing the other steps required. Terms not otherwise defined herein shall have the meaning assigned to them in the BOX Rules, the Decentralized Plan, or the Linkage Plan, respectively.

<sup>4</sup> See Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (File No. 4-546) (Order Approving the National Market System Plan Relating to Options Order Protection and Locked/Crossed Market Plan). The Exchange amended the BOX Rules to reflect the Exchange’s filing to become a participant in the Decentralized Plan. See Securities Exchange Act Release No. 60530 (August 18, 2009), 74 FR 43200 (August 26, 2009) (SR-BX-2009-028).

the Linkage Plan to the Decentralized Plan, and for a short period thereafter, BOX and BOX Options Participants continued to utilize the sending of P and P/A Orders via the OCC Hub to fulfill their obligations to seek the best price available for their customers and to prevent Trade-Throughs. Thus the Exchange maintained and enforced certain rule text regarding the sending and receipt of P and P/A Orders and use of the OCC Hub.

BOX has not utilized the sending of P and P/A Orders or the OCC Hub since it began using non-affiliated third party routing (“TPR”) broker/dealers (“Routing Broker(s)”) to route options Eligible Orders to one or more Away Exchange(s) when such Away Exchange(s) display the Best Bid or Best Offer in accordance with the Decentralized Plan.<sup>5</sup> The recent decommissioning of the OCC Hub has rendered the legacy rule text pertaining to the Linkage Plan obsolete, including rule text regarding P and P/A Orders and the OCC Hub. This proposal seeks to remove such rule text, and make such other changes to the BOX Rules, as necessary, so as to render the BOX Rules consistent with current Exchange practices.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section

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<sup>5</sup> See Securities Exchange Act Release No. 60832 (October 16, 2009), 74 FR 54607 (October 22, 2009) (SR-BX-2009-066) (Notice of Filings and Order Granting Accelerated Approval of Proposed Rule Change Relating to Chapter XII of the BOX Rules). See also Securities Exchange Act Release No. 61399 (January 22, 2010), 75 FR 54607 (January 28, 2010) (SR-BX-2010-007) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Order Routing Pilot on the Boston Options Exchange Facility). See also Securities Exchange Act Release No. 61536 (February 18, 2010), 75 FR 8763 (February 25, 2010) (SR-BX-2010-014) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Order Routing on the Boston Options Exchange Facility). Chapter XII, Section 5, describes Eligible Orders, as “orders that are specifically designated by Options Participants as eligible for routing will be routed to an Away Exchange.”

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 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 for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed changes will render the BOX Rules consistent with current Exchange practices and provide great clarity to BOX Options Participants.

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

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the

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

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

protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

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-BX-2010-038 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.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

All submissions should refer to File Number SR-BX-2010-038. 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 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 available publicly. All submissions should refer to File Number SR-BX-2010-038 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).