

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60416; File No. SR-BX-2009-045)

July 31, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Amend the Fee Schedule of the Boston Options Exchange Group, LLC

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on July 31, 2009, NASDAQ OMX BX, Inc. (“BX” or “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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing an amendment to the Fee Schedule of the Boston Options Exchange Group, LLC (“BOX”). 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 any comments

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below, and the most significant aspects of such statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently submitted a proposed rule change⁴ with the Commission which added the Non-Penny Pilot Class Pricing Structure as Section 8 of the BOX Fee Schedule.⁵ Executions on BOX in these Non-Penny Pilot Classes resulting from orders sent via the InterMarket Linkage System ("Linkage Orders") are currently subject to 'standard' billing on BOX.

In conjunction with the above referenced rule change the Exchange is now proposing to apply the Non-Penny Pilot Class Pricing Structure to all Linkage Orders in Non-Penny Pilot Classes sent to and executed on BOX. If approved, this proposal will conform Linkage Fees with the fees charged to BOX Participants for transactions in the in [sic] same Non-Penny Pilot Classes.

For example, an inbound Linkage Order, whether a P or P/A Order, routed to BOX from an away market executes against an order resting on the BOX Book. The inbound Linkage Order is the remover of liquidity. The inbound Linkage Order will receive a \$0.30 credit according to the Non-Penny Pilot Class pricing structure. The inbound Linkage Order will ultimately receive a \$0.10 credit in total (the \$0.30 Non-Penny Pilot Class Pricing Structure

⁴ See SR-BX-2009-044.

credit less the standard \$0.20 inbound Linkage Order transaction fee). Prior to this proposal the inbound Linkage Order would be charged \$0.20 in total.

Alternatively, a Public Customer order is entered into the BOX Trading Host and is routed to an away market as an outbound Linkage Order. The Public Customer's Linkage Order is the remover of liquidity from the BOX Book. The Public Customer will ultimately receive a \$0.30 total credit according to the Non-Penny Pilot Class pricing structure as the standard transaction fee for the routing of Linkage Orders by BOX to away markets is free. Prior to this proposal the Public Customer's routed order neither received a credit nor was charged a fee.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁶ in general, and Section 6(b)(4) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In particular, the proposed change will allow the fees charged on BOX to remain competitive with other exchanges.

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.

⁵ The Non-Penny Pilot Class Pricing Structure applies to all classes listed for trading on BOX that are not included in the Penny Pilot Program, as referenced in Chapter V, Section 33 of the BOX Rules ("Non-Penny Pilot Classes").

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

III. 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 (www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2009-045 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-2009-045. 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 (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 10:00 am and 3:00 pm. 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-2009-045 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁸ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁹ which requires that the rules of an exchange to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Commission finds good cause for approving this proposal before the 30th day after the publication of notice thereof in the Federal Register. The proposal seeks to conform the Exchange's fees charged for linkage transactions in Non-Penny Pilot Classes with the fees charged for transactions to BOX Participants in the same Non-Penny Pilot Classes. The Commission notes that the proposal would reduce net costs for both inbound and outbound Linkage Orders. The Exchange requests that the effective date of the proposed rule change be August 3, 2009. The Commission believes that accelerating approval of this proposal would allow the Exchange to implement this new Linkage Fee in conjunction with the implementation of other related transactions fees on August 3, 2009 and would allow the fees/credits applicable

⁸ In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(5).

to Linkage Orders to conform to such other fees.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-BX-2009-045) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).