

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60633; File No. SR-BX-2009-052)

September 8, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Audit Trail Information

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 August 25, 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 15 (Audit Trail) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to clarify the information that the BOX Rules currently require to be submitted to the BOX order entry system. 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/>.

---

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 this proposal is to make changes to BOX Rules Chapter V, Section 15(b) to clarify the information required for orders submitted to the BOX Trading Host. The proposed changes will result in the modification of one (1) information item and the clarification regarding certain information items in the Supplementary Material.

The item to be modified is account identification.<sup>5</sup> The proposed change will allow Participants to align the terms utilized in their system protocols to the requirements and language of BOX Rules Chapter V, Section 15(b). There has been some uncertainty regarding the information required under the categories “customer identification” and “account identification”. Therefore, the proposed change from “account identification” to “account type” will clarify the details, without altering the scope, which the Exchange is requiring by using the same term provided in technical system guides. As a result of enhancements to BOX systems, the ‘type’ of account, or sometimes referred to as “customer type” (i.e. Public Customer, Market Maker, etc.), is represented by one of

---

<sup>5</sup> See BOX Rules Chapter V, Section 15(b)(ix).

several particular order origin codes, where the order origin code represents a separate and distinct account type.<sup>6</sup> These order origin codes must be submitted to the BOX order entry system for each order and are used by the Trading Host.

The Exchange proposes to add Supplementary Material to Section 15 to specify that the identity of the individual/terminal completing the order ticket and customer identification<sup>7</sup> (the specific customer or account number) are not required to be submitted into the order entry system. These are not details that the Exchange currently routinely utilizes for any trading or surveillance purpose and thus are not submitted in the order entry system, BOX Rules Chapter V, Section 1(b)(iv) continues to require that Participants must maintain procedures and controls to monitor and supervise the entry of orders. Further, this type of specific information should be maintained as part of the Participant's books and records requirements, and if requested, must be provided to the Exchange.<sup>8</sup>

This proposed change will not result in a decrease in the useful information BOX currently gathers about an order. BOX will continue to gather all details essential to an order submitted to BOX and to allow BOX to properly prioritize and match orders and report resulting transactions to the Options Clearing Corporation ("OCC"). In fact, system enhancements have improved the Exchange's ability to surveil BOX trading and Participant compliance with BOX Rules.

Participants will still be required to submit orders in a manner prescribed by the Exchange.

---

<sup>6</sup> See BOXR Regulatory Circular 2007-02.

<sup>7</sup> See BOX Rules Chapter V, Section 15(b)(vii) and (viii).

<sup>8</sup> See BOX Rules Chapter VIII (Records, Reports and Audits).

## 2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>9</sup> in general, and Section 6(b)(5) of the Act,<sup>10</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 items and language that this proposal seeks to modify will not affect BOX's ability to prioritize and match orders nor the reporting of executions to the OCC. Additionally, the renaming of terms will align them with the updated BOX system protocol.

### 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.

---

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>13</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 proposal 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

---

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2009-052 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-2009-052. 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 10:00 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-2009-052 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Florence E. Harmon  
Deputy Secretary

---

<sup>14</sup> 17 CFR 200.30-3(a)(12).