

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60686; File No. SR-BX-2009-041)

September 18, 2009

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

On August 3, 2009, NASDAQ OMX BX, Inc. (the “Exchange”), filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change 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 proposed rule change was published for comment in the Federal Register on August 18, 2009.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

The proposed rule eliminates Chapter V, Section 13, as well as certain ancillary rules, which deal with fast markets.<sup>4</sup> 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

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

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

<sup>3</sup> See Securities Exchange Act Release No. 60465 (August 10, 2009), 74 FR 41765 (“Notice”).

<sup>4</sup> In addition to removing Chapter V, Section 13, the proposed rule change also removes certain rules related to fast markets. Specifically, 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: (1) remove Section 6(c)(ii)(2) of Chapter VI to reflect the previously described removal of Chapter V, Section 13; (2) replace references to Rule 11Ac1-1 with Rule 602 of Regulation NMS under the Exchange Act; and (3) modify Section 9(b) (Trading Sessions) of Chapter XIV (Index Rules) by eliminating the declaration of a fast market as a factor in determining whether to delay the opening of the index options market.

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. 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. BOX represents that 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.

BOX notes in its filing that in an electronic market such as BOX, during trading hours, orders generally are matched automatically with quotes on the other side of the market according to time priority, and executed immediately.<sup>5</sup> BOX states that any backlog in processing orders would be a result of a systems malfunction rather than from fast market conditions, and should any such backlog occur, the Exchange would halt trading on BOX until the issue could be resolved.<sup>6</sup>

After careful review, 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.<sup>7</sup> In particular, the Commission finds that the proposed rule change is

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<sup>5</sup> See BOX Trading Rules, Chapter V, Section 16. BOX further states that because there is no trading floor and all orders are received and managed electronically, orders on BOX are executed with matching contra orders within a fraction of a second after the matching quote is received, 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> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that a national securities exchange have rules that are 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. The Exchange stated in its filing that it has never declared a fast market and that any backlog of orders would be the result of a system malfunction. The Commission notes that if there were a backlog of orders, the Exchange would halt trading until such issue could be resolved pursuant to Chapter V, Section 10(a) of the BOX Trading Rules. For the foregoing reasons, the Commission finds the proposed rule change is consistent with the Act.

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

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-BX-2009-041) is approved.

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>9</sup> 15 U.S.C. 78s(b)(2).

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