

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61169; File No. SR-BX-2009-078)

December 15, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend BOX Trading Rules Chapters III and XIV

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 1, 2009, NASDAQ OMX BX, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ 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 add BOX Trading Rules Chapter III, Section 8(e) and Chapter XIV (Index Rules), Section 7(c) (Exemptions from Position Limits) to allow Options Participants to rely upon exemptions granted by other exchanges; amend Chapter III, Section 9 (Exercise Limits) to clarify that exercise limit exemption [sic] will apply to all Options Participants; and add Chapter III, Section 10 (Reports Related to Position

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

Limits) to clarify how an Options Participant may aggregate its long or short positions for purposes of filing its reports of these limits with the Exchange. 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 it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

Exercise Limit Exemptions:

The Exchange proposes to modify Chapter III, Section 9 (Exercise Limits) to change "Market Maker" to "Options Participant", in order to provide that all Options Participants may utilize applicable exemptions granted under Section 8 regarding an Exercise Limit. Other exchanges, such as the International Securities Exchange ("ISE"), allow all members to utilize approved exempted position limit [sic] in calculating an option's exercise limits.⁵

⁵ See Securities Exchange Act Release No. 34-60500 (August 13, 2009), 74 FR 42345 (August 21, 2009)(SR-ISE-2009-62); See also Chicago Board Options

Exemptions Granted by other Exchanges:

As proposed, Chapter III, Section 8 and Chapter XIV, Section 7, will allow Options Participants to rely upon exemptions granted by other exchanges. Specifically, proposed Chapter III, Section 8(e) and proposed Chapter XIV, Section 7(c) would provide that an Options Participant may rely upon any available exemptions from applicable position limits that are granted by another options exchange for any options contract traded on the Exchange, provided that the Options Participant provides the Exchange either with a copy of any written exemption issued by another options exchange or with a written description of any exemption issued by another options exchange that is not in writing, where such description contains sufficient detail for BOXR staff to verify the validity of that exemption with the issuing options exchange. In addition, the Options Participant must fulfill all conditions precedent for such exemption and comply at all times with the requirements of such exemption with respect to the Options Participant's trading on BOX. This proposed change is based on Chapter III, Section 8 and Chapter XIV Section 8 of Options Rules of the NASDAQ Stock Market, LLC ("NOM") and recently filed proposals by NYSE ARCA, Inc. ("ARCA") and NYSEAmex which were effective upon filing.⁶

The Exchange notes that position limits are similar across options exchanges. Because Options Participants frequently have membership and/or trading privileges on other exchanges, it is important that ad hoc position limit exemptions granted by other options exchanges ("exemption grants") are available to Options Participants to the

Exchange ("CBOE") Rule 4.12, NYSEAmex, LLC ("AMEX") Rule 905(a).

⁶ See Securities Exchange Act Release No. 34-61033 (November 19, 2009), 74 FR 62614 (November 30, 2009) (SR-NYSEArca-2009-100); Securities Exchange Act Release No. 34-61034 (November 19, 2009), 74 FR 62625 (November 30, 2009) (SR-NYSEAmex-2009-80).

extent that such exemption grants are reduced to writing and verifiable by BOXR staff pursuant to the proposed changes to Chapter III Section 8(e) and Chapter XIV, Section 7(c). The proposed rule change does not give the Exchange the ability to expand the exemption grants but only to recognize the exemption so that the position limit process would be the same across the exchanges.

The Exchange believes that by adding uniformity and predictability to the position limit process, the proposed rule change should be beneficial to the Exchange, its Options Participants, and their customers. Moreover, the proposed rule change should promote competition by allowing trades across options exchanges that are similar with respect to position limits.⁷

Reports Related to Position Limits:

As proposed, Supplementary Material .01 to Chapter III, Section 10, will specify that when calculating an aggregate long or short position in options, Options Participants need to combine (i) long positions in put options with short positions in call options, and (ii) short positions in put options with long positions in call options.

2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁸ in general, and Section 6(b)(5) of the Act,⁹ 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

⁷ The Exchange notes that all reporting requirements pursuant to Chapter III, Section 10 (Reports Related to Position Limits) remain in force.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will promote consistency between the BOX Rules and those of other options exchanges with respect to position limit and exercise limit procedures.

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

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. As such, the Exchange requests that the Commission waive the 30-day operative delay period for “non-controversial” proposals and make the proposed rule change effective and operative upon filing.¹⁰ The proposed rule change is based upon the rules of other options exchanges, and as such is not in any way novel or controversial. The Commission believes that waiving the 30-day operative delay is consistent with the

¹⁰ 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.

protection of investors and the public interest because such waiver will bring uniformity and predictability to the position limit process. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.¹¹

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. Please include File Number SR-BX-2009-078 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-2009-078. 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

¹¹ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,¹² 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, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE, Washington, DC 20549. 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

¹² The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/>.

submissions should refer to File Number SR–BX–2009-078 and should be submitted on or before [date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).