

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61536; File No. SR-BX-2010-014)

February 18, 2010

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Order Routing on the Boston Options Exchange Facility

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 February 8, 2010, 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 self-regulatory organization. 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 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 Chapter XII, Section 5 (Order Routing to Away Exchanges) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to make the Order Routing Pilot Permanent. The text of the proposed rule change is available from the principal office of the Exchange, on the Commission’s Web site at [www.sec.gov](http://www.sec.gov) and also on the Exchange’s Internet website 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 the 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 the proposed rule change is to remove Supplementary Material .03 to Chapter XII, Section 5, to make the rules governing the outbound order routing process permanent. On October 16, 2009 the Commission approved<sup>5</sup> the Exchange’s proposal to amend Chapter XII of the BOX Rules to provide for the use by BOX of certain non-affiliated third party routing broker/dealers (“Routing Broker(s)”) to route options orders to one or more Away Exchange(s) when such Away Exchange(s) display the Best Bid or Best Offer in accordance with the Options Order Protection and Locked/Crossed Market Plan (“Decentralized Plan”).<sup>6</sup>

The Exchange requested that the proposal be approved on a pilot basis for three (3) months starting from the date of the approval of submission of filing. The Commission approved

---

<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 Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Chapter XII of the BOX Rules) (“Approval Order”). See also Chapter XII, Section 5 of the BOX Rules. Chapter XII, Section 5 is consistent with rules approved for other national securities exchanges. See e.g. Approval Order at 54609, note 24. Terms not otherwise defined herein shall have the meaning proscribed in the BOX Rules.

<sup>6</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's proposal on an accelerated basis<sup>7</sup> for a pilot period to expire on January 15, 2010.<sup>8</sup> On January 15, 2010, the effective date of the Order Routing Pilot was extended until March 15, 2010.<sup>9</sup> The Exchange believes permanent approval is appropriate. There have been no comments, or complaints pertaining to the Order Routing Pilot. The routing process is operating as intended. Moreover, as previously noted, Chapter XII, Section 5 is consistent with rules approved for other national securities exchanges.<sup>10</sup>

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>11</sup> in general, and Section 6(b)(5) of the Act,<sup>12</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 Exchange believes that permanent approval of the Order Routing Pilot will result in an ongoing benefit to investors by affording BOX Options Participants the choice, on a voluntary basis, to have their

---

<sup>7</sup> The Exchange requested accelerated approval to allow BOX to establish and implement mechanisms to remain fully compliant with the Decentralized Plan and BOX Rules and to no longer rely upon a Commission-granted exemption from Rule 608(c) of Regulations NMS. The pilot period also allowed interested parties an opportunity to comment on the proposal before it was permanently approved.

<sup>8</sup> See Supra note 5.

<sup>9</sup> See Securities Exchange Act Release No. 61399 (January 22, 2010), 75 FR 4603 (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).

<sup>10</sup> See Supra note 5.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

orders routed 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.

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 is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</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. The Exchange believes that this proposed rule change, which is essential for competitive purposes and to promote a free and open market for the benefit of investors, does not raise any new, unique or substantive issues from those raised in the Exchanges initial proposal to implement the Order Routing Pilot or the recent extension to

---

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, as required under Rule 19b-4(f)(6)(iii), the Exchange has submitted to the Commission written notice of its intent to file the proposed rule change, along with a brief description and the 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 Pilot,<sup>15</sup> and the rules are consistent with those of other exchanges.<sup>16</sup> The Exchange believes permanent approval is appropriate. There have been no comments, or complaints pertaining to the Order Routing Pilot. The routing process is operating as intended.

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-2010-014 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-2010-014. 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

---

<sup>15</sup> See Supra note 5 and note 9.

<sup>16</sup> See Supra note 5.

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 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-2010-014 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>17</sup>

Florence E. Harmon  
Deputy Secretary

---

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