

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59742; File No. SR-BX-2009-014)

April 9, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving a Proposed Rule Change Relating to Zero Bid Orders on the Boston Options Exchange Facility

On February 26, 2009, NASDAQ OMX BX, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change relating to zero bid orders on the Boston Options Exchange Facility. The proposed rule change was published for comment in the Federal Register on March 6, 2009.³ The Commission received no comments on the proposal. This order approves the proposal.

The proposed rule change amends Chapter V, Section 14 of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to clarify the treatment of Market Orders to sell and BOX-Top Orders to sell when the highest bid on BOX is zero in the options series for a particular order (“Zero Bid Order”). Currently, Section 14 states, in part, that: “[i]n the case where the lowest offer for any options contract is \$.05, and an Options Participant enters a Market Order to sell that series, any such Market Order shall be considered a Limit Order to sell at a price of \$.05.”⁴

The Exchange is amending Section 14 so that it will apply equally to Market Orders to sell and BOX-Top Orders to sell when the highest bid on BOX is zero in the options series. In

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59475 (February 26, 2009), 74 FR 9830.

⁴ See Chapter V, Section 14 of the BOX Rules.

this case such Zero Bid Orders will be considered Limit Orders to sell at a price, above zero, that is equal to the minimum trading increment applicable to that particular options series.

Consequently, where the BOX market displays a zero bid and the options series is subject to the Penny Pilot Program,⁵ the Zero Bid Order will be considered a Limit Order to sell at a price of \$.01. If the options series is not subject to the Penny Pilot Program, the Zero Bid Order will be considered a Limit Order to sell at a price of \$.05 or \$.10, depending upon the minimum trading increment for the specific options series of the Zero Bid Order. Further, if the resulting Limit Order would cause either a locked or crossed market, then the original Market Order or BOX-Top Order will be rejected by the Trading Host.

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 exchange⁶ and, in particular, the requirements of Section 6 of the Act.⁷ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁸ in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes that the proposed rule change will provide greater clarification to market participants regarding the handling of Zero Bid Orders on BOX. In addition, the Commission believes that the proposal will benefit the public interest by preventing locked or crossed markets in situations where the Limit Order resulting from the Zero Bid Order would cause such a lock or cross.

⁵ BOX may trade options contracts in one-cent increments in certain approved issues through July 3, 2009, as part of the Penny Pilot Program. See Securities Exchange Act Release No. 59629 (March 26, 2009), 74 FR 15021 (April 2, 2009) (SR-BX-2009-17).

⁶ The Commission has considered the proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-BX-2009-014) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon
Deputy Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).