

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59804; File No. SR-BX-2009-020)

April 21, 2009

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Regarding Market Maker Obligations

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 April 8, 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 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

The purpose of the proposed rule change is to amend Chapter VI, Section 6 (Market Maker Quotations) of the BOX Rules to amend certain Market Maker obligations. 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/>.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 amend Chapter VI, Section 6 (Market Maker Quotations) of the BOX Rules to amend certain Market Maker obligations. As proposed, the Exchange will amend the obligations of a Market Maker regarding the Request for Quote (“RFQ”) process. The new language found in section 6 (b) clarifies that within three seconds of receiving an RFQ that a Market Maker must continuously maintain, without interruption, a valid two-sided quote for at least thirty seconds. However, if during that thirty second time span, the quote becomes invalid,³ the Market Maker must as soon as practicable, but within five seconds, post a valid two sided quote. In addition, current section 6(d)(ii) , which provided for a Market Maker to submit a quote in the interests of a fair an orderly market when called upon by Options Official will be removed. Instead, as proposed, section 6(b)(iv) will be used for circumstances where an Options Official determines, that a Market Maker should be called upon to quote in the interests of a fair and orderly market. Specifically, this new section will provide that an Options Official may, whenever on the judgment of such official, in the interest of a fair and orderly market, call upon Market Makers to post a quote in the same manner as if an RFQ was issued by an Options Participant. Options Participants will receive the message in the same manner whether the request is issued by a Participant or an Options Official. Similarly, a Market Maker is required to continuously maintain, without interruption, a valid two-sided quote for at least thirty seconds. However, if during that

³ One example of such a circumstance is an execution resulting from that quote.

thirty second time span, the quote becomes invalid, the Market Maker must, as soon as practicable, but within five seconds post a valid two sided quote.

In addition, as proposed, section 6(d) will establish quoting standards based upon a percentage of time measurement. The proposal will clarify that this section entitled “continuous quoting” reflects quoting parameters based on a daily time measurement. The proposal also seeks to remove references to series and replace them with class. Consequently, under the proposal, Market Makers will be required to submit valid quotes on a daily basis for at least 80% of the time that a class is open in 90% of their appointed classes. In addition, on a daily basis, a Market Maker shall post valid quotes at least sixty percent (60%) of the time in each of its appointed classes during the time that the class is open for trading. Thus, allowing a Market Maker to focus their strategy on the entire class to which it was appointed, rather than implementing a strategy utilizing each series within a class. This allows a Market Maker, if it chooses, to bring more liquidity to the more actively traded series, rather than focusing on series with less activity.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁴ in general, and Section 6(b)(5) of the Act,⁵ 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

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

a national market system, and, in general, to protect investors and the public interest.

Specifically, the proposal will simplify the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is 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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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-2009-020 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-2009-020. 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 No. SR-BX-2009-020 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Florence E. Harmon
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(12).