

All submissions should refer to File Number SR-ISE-2009-31. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2009-31 and should be submitted on or before June 30, 2009.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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.⁷ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4),⁸ of the Act, which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facilities.

ISE recently amended DECN's fee schedule for ISE Members to increase the per share rebate in securities priced at or above a \$1.00 that are reported to Tape A and Tape C from \$0.0025 to \$0.003 for orders that add liquidity on EDGX, and also increased the fee for

orders that remove liquidity on EDGX from \$0.0026 to \$0.0028 per share.⁹ The fee changes made pursuant to SR-ISE-2009-29 became operative on June 1, 2009. DECN receives rebates and is charged fees for transactions it executes on EDGX or EDGA in its capacity as an introducing broker for its non-ISE member subscribers.

The current proposal, which will apply retroactively to June 1, 2009, will allow DECN to pass through the revised rebates and fees to the non-ISE member subscribers for which it acts as an introducing broker. The Commission finds that the proposal is consistent with the Act because it will provide rebates and charge fees to non-ISE member subscribers that are equivalent to those established for ISE member subscribers in the Member Fee Filing.¹⁰

ISE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice in the **Federal Register**. As discussed above, the proposal will allow DECN to pass through to non-ISE member subscribers the revised rebate and fees established for ISE member subscribers in the Member Fee Filing, resulting in equivalent rebates and fees for ISE member and non-member subscribers. In addition, because the proposal will apply the revised rebates and fees retroactively to June 1, 2009, the revised rebates and fees will have the same effective date, thereby promoting consistency in the DECN's fee schedule. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-ISE-2009-31) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,
Deputy Secretary.

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⁹ See Securities Exchange Act Release No. 60031 (June 3, 2009) (notice of filing and immediate effectiveness of File No. SR-ISE-2009-29) (the "Member Fee Filing").

¹⁰ See note 9, *supra*.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60026; File No. SR-BX-2009-020]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving Proposed Rule Change Regarding Market Maker Obligations

June 2, 2009.

On April 8, 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 regarding market maker obligations. The proposal was published in the **Federal Register** on April 28, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

The Exchange proposes to amend Chapter VI, Section 6 (Market Maker Quotations) of the BOX Rules to change certain obligations of a Market Maker regarding the Request for Quote ("RFQ") process. The proposed rule change in Section 6(b)(ii) clarifies that within three seconds of receiving an RFQ, a Market Maker must continuously maintain, without interruption, a valid two-sided quotation for at least thirty seconds. If however, during that thirty second time span, the quotation becomes invalid, the Market Maker must post a valid two sided quotation as soon as practicable, but within five seconds. The Exchange also proposes to remove Section 6(d)(ii), which provided that a Market Maker may be required to submit a single quotation or maintain continuous quotations in one or more series when called upon by an Options Official, if the official believes it is necessary to do so in the interest of a fair and orderly market, and replace it with Section 6(b)(iv). As proposed, Section 6(b)(iv) will provide that an Options Official may, in the interest of a fair and orderly market, call upon Market Makers to post a quotation in the same manner as if an RFQ was issued by an Options Participant.

Finally, the Exchange proposes to amend Section 6(d) to establish market maker quoting standards based upon a percentage of time measurement. As proposed, the section will clarify that "continuous quoting" reflects quoting parameters based on a daily time measurement and will remove

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59804 (April 21, 2009), 74 FR 19256 (April 28, 2009).

⁷ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(4).

references to series and replace them with class. Specifically, a Market Maker will be required to submit valid quotations on a daily basis for at least eighty percent (80%) of the time that a class is open for trading in at least ninety percent (90%) of its appointed classes. Further, on a daily basis, a Market Maker will be required to post valid quotations at least sixty percent (60%) of the time in each of its appointed classes during the time that the class is open for trading. The Exchange states that this proposed change should allow Market Makers to focus their strategy on the entire class to which it is appointed, rather than implementing a strategy utilizing each series within a class. At the same time, the proposal 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.

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.⁴ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁵ which requires that an exchange have rules 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 Commission notes that under the proposal, Market Maker quoting obligations will be based on a daily time measurement, as opposed to a requirement to continuously provide quotations in a specified percentage of appointed options. Market Makers will, however, still be subject to requirements on how often they must quote. Specifically, Market Makers will be required to submit valid quotations on a daily basis for at least 80% of the time that a class is open in 90% of their appointed classes and be required to post valid quotations at least 60% of the time in each of its appointed classes during the time that the class is open for trading. The Commission also notes that the proposal helps to clarify Market Maker quoting obligations in response to an

RFQ or a request by an Options Official to quote in the interest of a fair and orderly market. The Commission believes these changes are consistent with the Act.

Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-BX-2009-020) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60015; File No. SR-NYSEAmex-2009-19]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change To Adopt Rules To Implement the Options Order Protection and Locked/Crossed Market Plan

June 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 11, 2009, the NYSE Amex LLC ("NYSE Amex" or "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 Exchange proposes to adopt rules to implement the Options Order Protection and Locked/Crossed Market Plan. The text of the proposed rule change is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office and at the Commission's Public Reference Room.

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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt rules to implement the Plan. These rules will replace Rules 990NY through 993NY of the Exchange's rules in their entirety. The proposed rules also will amend or remove various other rules to accommodate the Plan.

Background to the Plan and the Implementing Rules

NYSE Amex filed the current version of the Plan on November 25, 2008.³ The Plan would replace the current Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Old Plan"). The Old Plan requires its participant exchanges to operate a stand-alone system or "Linkage" for sending order-flow between exchanges to limit trade-throughs. The Options Clearing Corporation ("OCC") operates the Linkage system. The Linkage rules provide for unique types of Linkage orders, with a complicated set of requirements as to who may send such orders and under what conditions.

While the Linkage largely has operated satisfactorily, it is under significant strain. When the Commission approved the Old Plan in 2000, average daily volume ("ADV") in the options market was approximately 2.6 million contracts across all exchanges. Now the ADV has increased to more than 10 million contracts, putting added strain on the ability of market makers to comply with the complex Linkage rules. At the same time, the options markets have been moving towards quoting in pennies, and are quoting in pennies options representing over half the total industry

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The November 25, 2008 filing was Amendment No. 1 to the Plan. The American Stock Exchange LLC (the predecessor to NYSE Amex LLC) initially filed the Plan on June 17, 2008.