

setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as "generally accepted" under Section 108 of the Act.<sup>1</sup> As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2009. In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2009.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB and the Governmental Accounting Standards Board ("GASB"), the FASB's sister organization, which sets accounting standards used by state and local governmental entities. The Commission has been advised by the FAF that neither the FAF, the FASB nor the GASB accept contributions from the accounting profession.

After its review, the Commission determined that the 2009 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly, *it is ordered*, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

**Elizabeth M. Murphy,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59462; File No. SR-CBOE-2009-010]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Regulatory Circular RG02-101 Issued Under Rule 17.50(g)(6)—Imposition of Fines for Minor Rule Violations**

February 26, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

"Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 18, 2009, Chicago Board Options Exchange, Inc. filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder.<sup>4</sup> 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 Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") proposes to amend Regulatory Circular RG02-101 (Violations of Trading Conduct and Decorum Policies) issued in accordance with Exchange Rule 17.50(g)(6)—Imposition of Fines for Minor Rule Violations to provide the Exchange with the flexibility to allow Exchange members and their associated persons to bring certain foods and/or drinks to the trading floor as set forth by the Exchange in a separate Regulatory Circular. CBOE is also proposing several non-substantive changes. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/Legal>), at the Exchange's Office of the Secretary, and at the Commission.

#### **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 and is set forth in sections (A), (B), and (C) below.

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

###### **1. Purpose**

CBOE is proposing to amend Regulatory Circular RG02-101 to enable the Exchange to adopt policies providing exceptions to the existing

prohibition of food and drinks on the trading floor. In adopting this flexibility, the Exchange may notify members through a separate Regulatory Circular of food or drinks that would be permissible on the trading floor and, if applicable, any limitations on such permissible food and drinks. Violations of the food or drink policy would continue to be subject to the existing fine schedule as set forth in Exhibit 5. CBOE is proposing to adopt this flexibility to accommodate Members and Associated Persons that are unable to leave the trading floor during the day.

CBOE is also proposing several non-substantive changes. First, CBOE is proposing to remove the previous Regulatory Circular number as a new number will be assigned when the amended circular is issued. In addition, CBOE is proposing to update the contact information included on the Regulatory Circular. In particular, the Exchange is proposing issue the circular from its Legal Division and Member and Regulatory Services Division rather than the Floor Officials Committee. Further, CBOE is proposing to amend the Regulatory Circular to reflect existing staff that may be contacted regarding questions about the Regulatory Circular and remove contact information that is no longer current. CBOE is also proposing to delete an unnecessary comma in the reference to one of the earlier circulars listed.

###### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(1) of the Act<sup>6</sup> in particular, to enable the Exchange to enforce compliance by its members and persons associated with its members with the rules of the Exchange.

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

CBOE 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*

No written comments were solicited or received with respect to the proposed rule change.

<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)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

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

<sup>6</sup> 15 U.S.C. 78f(b)(1).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(3)<sup>8</sup> thereunder because it is concerned solely with the administration of the Exchange. 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-CBOE-2009-010 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-CBOE-2009-010. 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 the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-CBOE-2009-010 and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon,

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59475; File No. SR-BX-2009-014]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating to Zero Bid Orders on the Boston Options Exchange Facility

February 27, 2009.

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 26, 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 self-regulatory organization. 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 amend Chapter V, Section 14 (Order Entry) of the Rules of the Boston Options Exchange Group, LLC (“BOX”) to clarify the treatment of certain Zero Bid Orders.<sup>3</sup> 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 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

The purpose of the proposed rule change is to amend Chapter V, Section 14 of the BOX Rules 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.”<sup>4</sup>

The Exchange seeks to amend Chapter V, Section 14 of the BOX Rules to (1) clarify the specific circumstances under which an order will be considered a Zero Bid Order, (2) address the treatment of Zero Bid Orders in options classes that trade in other than \$.05 increments, and (3) address the treatment of Zero Bid Orders that would cause a locked or crossed market.

The Exchange proposes to amend 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 this case such Zero Bid Orders shall be considered a Limit Order 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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(3).

<sup>9</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the BOX Rules.

<sup>4</sup> See Chapter V, Section 14 of the BOX Rules.