

designates the proposal operative upon filing.¹³

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. Please include File No. SR-NYSEAmex-2009-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEAmex-2009-11. 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, 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 NYSE Amex. 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-NYSEAmex-2009-11 and should be submitted on or before May 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-8683 Filed 4-15-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59742; File No. SR-BX-2009-014]

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

April 9, 2009.

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 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.

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.

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).

⁹ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 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.

¹³ For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-8737 Filed 4-15-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59746; File No. SR-NYSE-2009-08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC Rescinding NYSE Rule 110 Which Establishes the Role of Competitive Traders and Exchange Rule 107A Which Establishes the Role of the Registered Competitive Market Makers

April 10, 2009.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on April 6, 2009, New York Stock Exchange LLC ("NYSE" or the "Exchange") 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 self-regulatory organization. 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 rescind NYSE Rule 110 which establishes the role of Competitive Traders ("CTs") and Exchange Rule 107A which establishes the role of the Registered Competitive Market Makers ("RCMMs"). The Exchange also proposes to make conforming amendments to NYSE Rules 36, 98, 123, 111, 476A, 800, 900 and 1600 to eliminate references to RCMMs and CTs. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

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 rescind NYSE Rule 110 which sets forth the role of CTs and NYSE Rule 107A which sets forth the role of RCMMs. With the rescission of NYSE Rule 110 and NYSE Rule 107A, CTs and RCMMs will no longer be recognized classes of Floor Traders on the NYSE Floor.

The Exchange also proposes to make conforming amendments to NYSE Rules 36, 98, 476A, 111, 800, 900 and 1600 to eliminate references to RCMMs and CTs.

I. Background of CTs and RCMMs

The rules establishing CTs and RCMMs were enacted to create classes of Floor Traders that would commit capital to trade in a manner that would provide additional liquidity, contribute to mitigating price fluctuations and enhance competition. CTs were the class of Floor Traders that the Exchange established first in 1964.⁴ CTs were Floor Traders registered with and approved by the Exchange to trade for an account for which the CT had an interest.

Section 11(a) of the Securities and Exchange Act of 1934 (the "Act"),⁵ as amended by the 1975 Amendments, makes it unlawful, in part, for Exchange members to effect any transaction on the Floor for their own accounts. Section 11(a)(1)(A) stated that it would exempt from this general prohibition transactions made by a dealer acting in the capacity of a market maker ("market maker exception").⁶ A market maker is defined in Section 3(a)(38) of the Act as "any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis."⁷

In order to maintain a class of trader that could be called in to add depth and liquidity to the markets in listed stocks, the Exchange established the RCMM class of Floor trader in 1978.⁸ RCMMs functioned as proprietary traders that serve as supplemental market makers on the Floor. Historically, RCMMs were called upon to narrow the spread between bids and offers, improve the depth of the market in a given security and enter a bid or offer on the side of the market when called upon to do so by a Floor official. In their capacity as dealers, RCMMs were expected to provide a degree of competition to the specialists on the NYSE.

On February 24, 1981, the Commission adopted Rule 11a1-5⁹ to exempt from the proprietary trading prohibition of Section 11(a)(1) certain transactions by RCMMs registered on the Exchange. The Commission determined that RCMMs had the potential to provide sufficient benefits to their markets to warrant an exemption from the statutory prohibition pursuant to Section 11(a)(1)(H).¹⁰ Rule 11a1-5 set forth that "any transaction by a New York Stock Exchange registered competitive market maker * * * effected in compliance with their respective governing rules shall be deemed to be of a kind which is consistent with the purposes of Section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets."¹¹

II. Functions and Obligations of the RCMMs and CTs

CTs and RCMMs are classes of Floor traders that commit capital to trade in a manner that provides additional liquidity, contribute to mitigating price fluctuations and enhance competition. A member registered as an RCMM is permitted, with certain limitations, to act as both a Floor Broker and RCMM in the same trading session. However, an RCMM may not act as both Floor Broker and RCMM in the same security in the same trading session.

As a Floor Broker, the RCMM executes orders as agent for his customers, including other Floor Brokers. In his capacity as a Floor Broker, the RCMM acts solely as agent for his customer and does not commit capital or initiate on-Floor orders,

⁸ See Securities Exchange Act Release No. 14718 (May 1, 1978), 43 FR 19738 (May 8, 1978) (SR-NYSE-78-24).

⁹ 17 CFR 240.11a1-5.

¹⁰ This provision has since been changed to Section 11(a)(1)(I).

¹¹ See Securities Exchange Act Release No. 17569, 46 FR 14888 (March 3, 1981).

⁴ NYSE Rule 110 (Amended May 21, 1964 and July 16, 1964, effective August 3, 1964).

⁵ 15 U.S.C. 78k(a).

⁶ 15 U.S.C. 78k(a)(1)(A).

⁷ 15 U.S.C. 78c(a)(38).

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.