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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68041; File No. SR-BX-2012-065)

October 11, 2012

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add an Additional Execution Algorithm and Priority Overlays to Govern the Priority of Orders

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 October 2, 2012, NASDAQ OMX BX, Inc. (the “Exchange” or “BX”) 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 add an additional execution algorithm and priority overlays to govern the priority of orders. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.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 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 in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 BX Options market launched on June 29, 2012 as a fully automated, price/time priority execution system built on the core functionality of the NASDAQ Options Market (“NOM”).³ BX Options operates as an all-electronic system (“System” or “Trading System”) with no physical trading floor and provides for the electronic display and execution of orders in price/time priority without regard to the status of the entities that are entering orders. The BX Options market closely resembles NOM, including, most prominently, by offering true price/time priority across all orders and participants rather than differentiating between participant/trading interest. Like on NOM, all trading interest entered into the System is automatically executable.

In its proposed rule change to create the BX Options market, BX stated that, initially, BX Options would have the same market structure and rules as NOM, focusing on a price/time priority market.⁴

BX further stated that, over time, as the BX Options market secured more participants, it would introduce additional, innovative technology.⁵ At this time, BX proposes its first enhancement to BX Options by offering a different priority rule. Currently, Chapter VI, Section

³ See BX Options Rules, Chapter VI, Section 1(e)(11). Securities Exchange Act Release No. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR-BX-2012-030) (Approving the establishment of the BX Options market).

⁴ See *id.* at 39278.

⁵ Securities Exchange Act Release No. 66983 (May 14, 2012), 77 FR 29730 (May 18, 2012) (Notice of filing of SR-BX-2012-030).

10, Book Processing, provides that the System, like NOM, will have a single execution algorithm based on price/time priority. The System and rules provide for the ranking, display, and execution of all orders in price/time priority without regard to the status of the entity entering an order. For each order, among equally-priced or better-priced trading interest, the System currently executes against available contra-side displayed contract amounts in full, in price/time priority.

At this time, the Exchange proposes to amend Chapter VI, Section 10, to provide for a Size Pro-Rata execution algorithm. In order to make clear that only one of the two execution algorithms is applicable to a particular option, BX proposes to add introductory language to Section 10(1) to state that the Exchange will determine to apply, for each option, one of the execution algorithms described in subparagraphs (A)⁶ or (B). The Exchange will issue an Options Alert specifying which execution algorithm will govern which options any time a change is made.

Further, BX proposes to adopt new subparagraph (B) to provide that when the Size Pro-Rata execution algorithm is in effect the System shall execute trading interest in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. Within each price level, if there are two or more quotes or orders at the best price, trading interest will be executed based on the size of each Participant's quote or order as a percentage of the total size of all orders and quotes resting at that price. If this is not a whole number, it will be rounded down to the nearest whole number. If there are residual contracts remaining after rounding, such contracts will be distributed one

⁶ BX is also proposing to amend subparagraph (A) to provide that, respecting the price/time execution algorithm, within each price level, if there are two or more quotes or orders at the best price, trading interest will be executed in time priority. This is intended to be clearer and match the new language in subparagraph (B).

contract at a time to the remaining Participants in time priority. The Size Pro-Rata execution algorithm will, initially, always operate with the priority overlays, as described further below. The Size Pro-Rata execution algorithm is similar to the Pro-Rata Priority provision in CBOE Rule 6.45A(a)(ii), which provides that resting quotes and orders in the book are prioritized according to price. CBOE Rule 6.45A(a)(ii) further provides that if there are two or more quotes or orders at the best price then trades are allocated proportionally according to size (in a pro-rata fashion). The executable quantity is allocated to the nearest whole number, with fractions 1/2 or greater rounded up and fractions less than 1/2 rounded down. If there are two market participants that both are entitled to an additional 1/2 contract and there is only one contract remaining to be distributed, the additional contract will be distributed to the market participant whose quote or order has time priority. This is substantially similar to the proposal at hand.⁷ However, CBOE provides for rounding to the nearest whole number, while the proposal at hand provides for the BX Options market to round down in each case to the nearest whole number. BX does not believe this is a significant difference between the two methods. The following examples demonstrate how rounding differs between CBOE's rule and BX's proposal:

Example 1⁸ – CBOE rounding approach

Order 1: Buy 10 contracts for 1.84, Non-Market Maker broker-dealer

Order 2: Buy 10 contracts for 1.84, Public Customer

Quote: 1.84 (70) x 1.86 (10) MM1

Order 3: Buy 10 contracts for 1.84, Market Maker

⁷ Meaning, BX's general pro-rata priority rule is substantially similar to CBOE's operating without a customer or market maker priority overlay, which are discussed below.

⁸ In each example, the orders and quotes are listed in the order in which they were received. Example 1 is intended to show how rounding works pursuant to CBOE's rules, but does not include the operation of the priority overlays, which will, as described below, initially always operate with the Size Pro-Rata execution algorithm.

Market: 1.84 (100 contracts total) x 1.86 (10 contracts)

Sell order received: Sell 25 contracts at 1.84

Execution:

Order 1 represents 10 of 100 (10%) total contracts at 1.84.

10% of 25 contracts (which is the sell order) execute = 2.5, rounds up to 3 contracts.

Order 2 represents 10 of 100 (10%) total contracts at 1.84.

10% of 25 contracts (which is the sell order) execute = 2.5, rounds up to 3 contracts.

MM1's quote represents 70 of 100 (70%) total contracts at 1.84.

Again, 70% of 25 contracts execute = 17.5, rounds up to 18 contracts but to avoid over-allocation, MM1 receives 17.

Order 3 represents 10 of 100 (10%) total contracts at 1.84.

10% of 25 contracts (which is the sell order) execute = 2.5, rounds up to 3 contracts but to avoid over-allocation, Order 3 receives 2.

Example 2 – BX Options proposed rounding approach⁹

Order 1: Buy 10 contracts for 1.84, Non-Market Maker broker-dealer

Order 2: Buy 10 contracts for 1.84, Public Customer

Quote: 1.84 (70) x 1.86 (10) MM1

Order 3: Buy 10 contracts for 1.84, Market Maker

Market: 1.84 (100 contracts total) x 1.86 (10 contracts)

Sell order received: Sell 25 contracts at 1.84

Execution:

Order 1 represents 10 of 100 (10%) total contracts at 1.84.

10% of 25 contracts (which is the sell order) execute = 2.5, rounds down to 2 contracts.

Order 2 represents 10 of 100 (10%) total contracts at 1.84.

10% of 25 contracts (which is the sell order) execute = 2.5, rounds down to 2 contracts.

MM1's quote represents 70 of 100 (70%) total contracts at 1.84.

⁹ CBOE and BX methodology results in the same allocation in this example, but there could be instances where the result differs, depending on the number of contracts involved.

Again, 70% of 25 contracts execute = 17.5, rounds down to 17 contracts.

Order 3 represents 10 of 100 (10%) total contracts at 1.84.

10% of 25 contracts (which is the sell order) execute = 2.5, rounds down to 2 contracts.

Total executed: 23. There are 2 residual contracts remaining from the 25 contract sell order. The remaining 2 contracts are allocated one at a time based on time as follows:

Order 1 receives 1 additional residual contract.

Order 2 receives 1 additional residual contract.

The 25 contract sell order is now completely executed.

BX believes that this rounding method is appropriate and fair, and will be clear to Participants. In particular, BX has chosen to round down because it is a more efficient way to calculate the distribution of non-whole number allocations. Rather than having to break a tie by time whenever there are two or more Participants entitled to $\frac{1}{2}$ a contract, BX will simply round down in all cases and distribute any residual one contract at a time to each Participant based on time priority as illustrated in Example 2 above.

In addition, BX proposes to adopt two priority overlays. The new subparagraph (C), Priority Overlays Applicable to Size Pro-Rata Execution Algorithm, will provide that the Exchange will apply these priority overlays. BX plans to initially implement the Size Pro-Rata execution algorithm with both the Public Customer and Market Maker priority overlays.

The first priority overlay, Public Customer Priority, is proposed to be subparagraph (1)(C)(i). Under this priority overlay, interest at the highest bid and lowest offer shall have priority except that Public Customer orders shall have priority over non-Public Customer orders at the same price. If there are two or more Public Customer orders for the same options series at the same price, priority shall be afforded to such Public Customer orders in the sequence in which they are received by the System. For purposes of this Rule, a Public Customer order does

not include a Professional Order. This is substantially similar to CBOE Rule 6.45A(a)(ii)(1) and ISE Rule 713(d).

The second proposed priority overlay is contained in subparagraph (1)(C)(ii), Market Maker Priority. Under this priority overlay, the highest bid and lowest offer shall have priority except that BX Options Market Maker orders, after all Public Customer orders have been fully executed in time priority, shall have priority over all other Participant orders at the same price. The Public Customer priority is always a part of the Market Maker Priority overlay and both overlays will always apply to the Size Pro-Rata execution algorithm initially.¹⁰ If there are two or more BX Options Market Maker quotes and orders for the same options series at the same price, those orders shall be executed based on the Size Pro-Rata execution algorithm.¹¹ If there are contracts remaining after all Market Maker interest has been fully executed (meaning, Non-Public Customer and Non-Market Maker), such contracts shall be executed based on the Size Pro-Rata execution algorithm.¹²

The following is an example of the Public Customer and Market Maker priority overlays applied to the proposed Size Pro-Rata execution algorithm:

Example 3:

Order 1: Buy 10 contracts for 1.84, Non-MM broker-dealer

Order 2: Buy 10 contracts for 1.84, Public Customer

Quote MM1: 1.84 (10) x 1.86 (10)

Order 3: Buy MM 1.84 (10)

¹⁰ BX may later file a proposed rule change to make available the Size Pro-Rata execution algorithm without the Public Customer or Market Maker priority overlays, or with just the Public Customer priority overlay.

¹¹ This is similar to Phlx Rule 1014(g)(vii)(B)(1)(b).

¹² This is similar to Phlx Rule 1014(g)(vii)(B)(1)(d).

Sell order received: Sell 21 contracts at 1.84

Execution:

Order 2 allocated 10 contracts because of Public Customer priority

Quote MM1 represents 10 of 20 (50%) total MM contracts at 1.84. 50% of 11 contracts to execute = 5.5, rounds down to 5 contracts.

Order 3 represents 10 of 20 (50%) total MM contracts at 1.84. 50% of 11 contracts to execute = 5.5, rounds down to 5 contracts.

Remaining 1 contract is allocated to MM1 based on time among MMs.

Order 1 is not executed because Market Makers have priority over non-Market Maker broker-dealers. Order 1 would only be executed if all interest at the Public Customer priority level and the Market Maker level was first completely executed.

In summary, this proposed rule change will allow for a different execution algorithm for BX Options. To be clear, two different execution algorithms will not operate in the same option. In addition, when the Size Pro-Rata execution algorithm is selected by BX, the proposed new priority overlays will be applied first as part of the execution algorithm used to allocate the order. These additional priority overlays are Public Customer priority and Market Maker priority, which will only apply to the Size Pro-Rata execution algorithm. BX notes that the execution algorithm will be selected and communicated by BX to its Participants. The Public Customer and Market Maker priority overlays will, initially, always operate with the Size Pro-Rata execution algorithm.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁴ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest, because it will provide additional execution algorithms and priority overlays on BX Options, which operate on other exchanges, as explained in detail below. These additional execution algorithms and priority overlays provide Participants with additional choices among the many competing exchanges with regard to their execution needs and strategies. The Exchange believes that adding this flexibility to its rules will allow for greater customization, resulting in enhanced service to its customers and users, which would continue to be a purely objective method for allocating option trades. Furthermore, BX Options operates in an intensely competitive environment and seeks to offer the same services that its competitors offer and in which its customers would find value.

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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the

Act¹⁵ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or 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-2012-065 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-2012-065. 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

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

comments on the Commission's Internet website (<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 website viewing and printing 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 Number SR-BX-2012-065 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill
Deputy Secretary

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¹⁷ 17 CFR 200.30-3(a)(12).