Down Plan will be operational during the same time period as the proposed extended pilot, the Exchange believes that maintaining the pilot for at least through the phased implementation of the Plan is operational will help to protect against unanticipated consequences. To that end, the extension will allow the Exchange to determine whether Article 20, Rule 10 is necessary once the Plan is operational and, if so, whether improvements can be made. Further, the Exchange believes it consistent with the protection of investors and the public interest to adopt objective criteria to nullify transactions that occur outside of the Plan's price bands when such transactions should not have been made but were due to a systems or technology issue.

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

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that FINRA and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistent rules across market centers.

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

No written comments were either solicited or received.

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

Because the 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[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.

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 email to *rule-comments@sec.gov.* Please include File Number SR–CHX–2013–04 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–CHX–2013–04. This file number should be included on the subject line if email 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 Web site 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 the 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–CHX–2013–04 and should be submitted on or before February 28, 2013.

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

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–02706 Filed 2–6–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68807; File No. SR–NSX–2013–02]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Adopt a New Order Type Called the ''Auto-Ex Only'' Order

February 1, 2013.

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 January 23, 2013, National Stock Exchange, Inc. (''NSX'' or 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

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

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

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to: (1) add new definitions to clarify its Automatic Execution Mode of order interaction (''Auto-Ex''); and (2) implement a new order type called ''Auto-Ex Only,'' which would only interact with orders entered though Auto-Ex mode.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, 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 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 is proposing to: (1) add new definitions to clarify Auto-Ex mode; and (2) implement a new order type called the ''Auto-Ex Only'' order under NSX Rule 11.11(c)(13), which would allow a User [3] to submit an order that will only interact with orders entered through NSX's Auto-Ex mode.

Auto-Ex Only Order Type

On August 31, 2006, the Securities and Exchange Commission (the ''SEC'' or ''Commission'') approved amendments to NSX trading rules to provide for a price-time priority market with two modes of order interaction: (1) Auto-Ex and (2) Order Delivery.[4] Every User of the Exchange's trading system, NSX BLADE® (''Blade''), is eligible to use the Auto-Ex mode, under which Blade matches and executes like-priced orders (including against orders entered via Order Delivery mode) that are resting on the NSX Book [5] in accordance with the process described in Exchange Rule 11.13(b)(1). Unlike Auto-Ex, a User must meet certain eligibility standards prior to submitting displayed and undisplayed orders using Order Delivery Mode (''Order Delivery Participant'').[6]

An incoming marketable order would be executed immediately against contra-side orders entered via Auto-Ex mode resting in the NSX Book. However, that same incoming marketable order may experience a delay if matched against an order resting on the NSX Book that was entered by an Order Delivery Participant via Order Delivery mode. The potential delays are due to [sic] Exchange sending an Order Delivery Notification [7] to the Order Delivery Participant that posted the order requiring them to execute a potential match. The Order Delivery Participant must respond within defined time frames set by the Exchange with a complete fill, a partial fill, or instruction to cancel in full.[8]

To avoid such delays, the Exchange proposes to implement the Auto-Ex Only order, a new order type that would allow Users to submit an immediate-or-cancel (''IOC'') limit or market order with ''Auto-Ex Only'' handling instructions. Auto-Ex Only orders would be executed solely against orders with price-time priority entered via Auto-Ex mode and posted to the NSX Book. An Auto-Ex Only order would not interact with any orders resting on the NSX Book entered via Order Delivery Mode nor would it be routed away to another trading center. Like an IOC order,[9] an unexecuted portion of an Auto-Ex Only order would be cancelled if not fully matched for execution against Auto-Ex orders with price/time priority on the NSX Book.

The Exchange notes that its price/time priority and order execution rules [10] would limit an Auto-Ex Only Order's ability to interact with certain undisplayed orders. In addition, orders entered via Order Delivery mode with price time priority may also inhibit an Auto-Ex Only order's ability to interact with undisplayed liquidity. Specifically, an Auto-Ex Only order would first execute against displayed orders on the NSX Book. An Auto-Ex Only order could be precluded from interacting with an undisplayed order (*i.e.,* a Zero Display Reserve Order [11]) entered via Auto-Ex mode if the undisplayed order shares a price point with an order entered via Order Delivery mode.[12] Similarly, an order entered via Order Delivery mode could also prevent an incoming Auto-Ex Only order from interacting with the undisplayed portion of a Reserve Order [13] under circumstances in which the order entered via Order Delivery mode has price/time priority. Like displayed orders, the displayed portion of a Reserve Order will interact against incoming Auto-Ex Only orders only to the extent that there are no orders entered via Order Delivery mode in the NSX Book with price/time priority.

Lastly, the Exchange notes that Users may not rely on the Auto-Ex Only order for compliance with Rule 611 of Regulation NMS because the Auto-Ex Only order will not interact with orders entered via Order Delivery mode that may be deemed ''protected quotations'' on the Exchange.[14]

The following examples describe the functionality of the proposed Auto-Ex Only order. Each example lists orders

[3] A ''User'' is any ETP Holder or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.9. *See* Exchange Rule 1.5(U).

[4] *See* Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (SR–NSX–2006–08). The Exchange's two modes of order interaction are described in NSX Rule 11.13(b).

[5] Exchange Rule 1.5 defines ''NSX Book'' as ''the System's electronic fie [sic] of orders.''

[6] *See* NSX Rule 11.13(b)(2) and the Interpretations and Policies thereto. Order Delivery Participants typically submit their orders as ''Post Only'' in order to preclude acting as a liquidity taker (in Auto-Ex) and to prevent the Exchange from routing the order away.

[7] An Order Delivery Notification refers to a message sent by the Exchange to the Order Delivery Participant communicating the details of the full or partial quantity of an inbound contra-side order that potentially may be matched within the System for execution against an order entered via Order Delivery mode.

[8] *See* NSX Rule 11.13(b)(2) and the Interpretations and Policies thereto.

[9] Under NSX Rule 11.11(b)(1), an IOC order is a limit order that is to be executed in whole or in part as soon as such order is received, and the portion not so executed is to be treated as cancelled. An order designated as IOC is not eligible to be routed away pursuant to NSX Rule 11.15.

[10] *See* NSX Rule 11.14(a) and, with respect to Reserve Orders (including Zero Display Reserve Orders), NSX Rule 11.14(a)(4).

[11] *See* NSX Rule 11.11(c)(2)(A). A User may enter a Reserve Order with zero display quantity, in which case the Reserve Order will be known as a ''Zero Display Reserve Order.''

[12] An Auto-Ex Only order would interact with an undisplayed order where an order entered via Order Delivery mode is also undisplayed and has priority behind a displayed order not entered via Order Delivery mode. *See* Example 4 *infra.*

[13] Under Exchange Rule 11.11(c)(2), a Reserve Order is defined as a ''limit order with a portion of the quantity displayed (''displayed quantity'') and with a reserve portion of the quantity (''reserve quantity'') that is not displayed.''

[14] Rule 611 of Regulation NMS, among other things, requires a trading center to establish, maintain, and enforce written policies and procedures reasonably designed to prevent ''trade-throughs''—the execution of trades at prices inferior to protected quotations displayed by other trading centers. To be protected, a quotation must be immediately and automatically accessible. 17 CFR 242.611. An Auto-Ex-Only order cannot be used as an Inter-market Sweep Order.

resting in the NSX Book in price/time priority.

Example One:

National Best Bid and Offer (''NBBO''): 134.50–134.51

Bids on the NSX Book:

134.50 × 400 (Order Delivery)
134.50 × 200 (Auto-Ex)

Incoming Order:

Limit Order to sell 400 at 134.50

Result: Currently, the Exchange would match the incoming limit order to sell 400 shares at 134.50 against the order entered via Order Delivery mode and send an Order Delivery Notification to the Order Delivery Participant that posted the order. A potential delay may occur while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full.

If submitted as a proposed Auto-Ex Only order, the entire order will be cancelled (like an IOC order) because the order is not eligible to execute against the order entered via Order Delivery mode with price/time priority ahead of the Auto-Ex order resting on the NSX Book. A User sending an Auto-Ex Only order would receive an immediate cancellation and avoid the delay inherent in otherwise interacting with an order entered via Order Delivery.

Example Two:

NBBO: 134.50–134.51

Bids on the Exchange Book:

134.50 × 400 (Auto-Ex mode)
134.50 × 200 (Order Delivery mode)

Incoming Order:

Limit Order to sell 400 at 134.50

Result: Currently, an incoming limit order to sell 400 shares at 134.50 will be fully executed at 134.50 against the displayed Auto-Ex order of 400 shares that is resting at the top of the NSX Book. The system would operate the same under these circumstances, regardless of which order type was selected, because the only resting order that could interact with the incoming order was entered via Auto-Ex mode.

Example Three:

NBBO: 134.50–134.51

Bids on the Exchange Book:

134.50 × 400 (Auto-Ex mode)
134.50 × 200 (Order Delivery mode)

Incoming Order:

Limit Order to sell 600 at 134.50

Result: Currently, an incoming limit order to sell 600 shares will execute at 134.50 against the 400 share Auto-Ex order resting at the top of the NSX Book. The Exchange would then match the remaining 200 shares against the order entered via Order Delivery mode and send an Order Delivery Notification to the Order Delivery Participant that posted the order. A potential delay may occur while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full.

If submitted as a proposed Auto-Ex Only order, the incoming limit order to sell 600 shares will receive a partial fill of 400 shares at 134.50 against the order entered via Auto-Ex mode at the top of the NSX Book, and the remaining balance will be cancelled because, as per its instructions, it could not interact with the resting order entered via Order Delivery mode with second-in-time priority.

Example Four:

NBBO: 134.50–134.51

Bids on the Exchange Book:

Midpoint Peg × 500 (Auto-Ex mode/Dark)
134.50 × 400 (Order Delivery mode)
134.50 × 200 (Auto-Ex mode)

Incoming Order:

Limit Order to sell 1000 at 134.50

Result: Currently, an incoming limit order to sell 1000 shares priced at 134.50 would execute against the Midpoint Peg Dark Auto-Ex order of 500 shares at 134.505.

The Exchange would then match the 400 shares at a price of 134.50 against the order entered via Order Delivery mode and send an Order Delivery Notification to the Order Delivery Participant that posted the order. A potential delay may occur while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full. The 100 shares at a price of 134.50 would then execute against the 200 share order ender [sic] via Auto-Ex mode with third-in-time priority.

If submitted as an Auto-Ex Only order, the incoming limit order to sell 1000 shares will receive a partial fill of 500 shares at 134.505 against the Midpoint Peg Dark Auto-Ex order with first price priority on the NSX Book and the remaining balance of 500 shares will be canceled because, as per its instructions, it cannot interact with the order entered via Order Delivery mode that has next price/time priority. The Midpoint Peg Dark Auto-Ex order executes first because, even though it is a Dark order, it is an Auto-Ex order with first (price) priority.

Example Five:

NBBO: 134.51–134.52

Bids on the Exchange Book:

134.50 × 400 (Auto-Ex mode)
134.50 × 200 (Order Delivery mode)

Incoming Order:

Limit Order to sell 1000 at 134.50

Result: Currently, an incoming limit order to sell 1000 shares at 134.50 would be routed to the away market to be matched against the protected NBBO. If submitted as an Auto-Ex Only order, an incoming limit order to sell any amount, will be cancelled because it would otherwise trade through the NBBO in violation of Rule 611 of Regulation NMS [15] and Auto-Ex Only orders, as per their instructions, are not to be routed away to another market center.

Example Six:

NBBO: 134.50–134.51

Bids on the Exchange Book:

134.50 × 400 (Auto-Ex mode)
134.50 × 800 (Auto-Ex mode)
134.50 × 600 (Auto-Ex mode)
134.50 × 200 (Order Delivery mode)
134.50 × 400 (Auto-Ex mode)

Incoming Order:

Limit Order to sell 5000 shares at 134.50

Result: Currently, an incoming limit order to sell 5000 shares at 134.50 would execute 2200 shares in the NSX Book at 134.50. The Exchange would then match 200 shares at a price of 134.50 against the order entered via Order Delivery mode and send an Order Delivery Notification to the Order Delivery Participant that posted the order. A potential delay may occur while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full. The remaining 2600 shares would route to an away market to be matched against the protected NBBO in compliance with Rule 611 of Regulation NMS.[16]

If submitted as an Auto-Ex Only order, an incoming limit order to sell 5000 shares at 134.50 will receive a partial fill for 1800 shares at 134.50 by being matched against the top three orders on NSX Book, each of which was entered via Auto-Ex mode. The remaining shares will be canceled because the order, as per its instructions, is not eligible for execution against the order entered via Order Delivery that is next in priority.

Example Seven:

NBBO: 134.50–134.52

Bids on the NSX Book:

134.50 × 400 (Auto-Ex mode)
134.50 × 200 (Order Delivery mode)

Incoming Order:

Market Order to sell 600 shares at 134.50

Result: Currently, an incoming market order to sell 600 shares at 134.50 would execute 400 shares against the order

[15] 17 CFR 242.611.

[16] 17 CFR 242.611.

entered via Auto-Ex mode resting in the NSX Book at 134.50. The Exchange would then match the remaining 200 shares at a price of 134.50 against the order entered via Order Delivery mode and send an Order Delivery Notification to the Order Delivery Participant that posted the order. A potential delay may occur while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full.

If submitted as an Auto-Ex Only order, an incoming market order to sell 600 shares will execute only against the Auto-Ex order for 400 shares at 134.50. The remaining unexecuted shares will cancelled because the order, as per its instructions, is not eligible for execution against the order entered via Order Delivery mode that is next in priority.

Example Eight:

NBBO: 134.50–134.51

Bids on the Exchange Book:

134.50 × 100/500 (Auto-Ex mode/ Reserve Order showing 100 displayed and 500 undisplayed)
134.50 × 200 (Auto-Ex mode)
134.50 × 400 (Order Delivery mode)

Incoming Order:

Limit Order to sell 1000 at 134.50

Result: Currently, an incoming limit order to sell 1000 shares priced at 134.50 would execute 100 shares at 134.50 against the Reserve Order's displayed quantity; would execute 200 at 134.50 against the second-priority Auto-Ex order. The Exchange would then match 400 shares at a price of 134.50 against the order entered via Order Delivery mode and send an Order Delivery Notification to the Order Delivery Participant that posted the order. A potential delay may occur while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full. On the next three passes through the NSX Book (and assuming a fill of 400 shares against the order entered via Order Delivery mode), the balance of the incoming order of 300 shares would be filled (in 100 lot increments on each pass/refresh) at 134.50 against the refreshed, displayed portion of the Reserve Order.

If submitted as An Auto-Ex Only order, an incoming limit order to sell 1000 shares will receive a fill of 100 shares at 134.50 against the displayed portion of the Auto-Ex Reserve Order; a fill of 200 shares at 134.50 against the next Auto-Ex order with second-in-time priority; and the remaining balance of 700 shares will cancelled because, as per its instructions, it cannot interact with the order entered via Order Delivery mode that has next price/time priority. The displayed portion only of the Auto-Ex Reserve Order executes first because it has first time priority, but the balance of the Reserve Order is not matched for execution because the remaining portions of the Reserve Order would refresh and become displayed with a time priority after the resting order entered via Order Delivery mode, the presence of which cancels the unfilled balance of the Auto-Ex Only order before it can be matched against the refreshed portions of the Reserve Order.

Rationale for Auto-Ex Only Order

The proposed Auto-Ex Only order will benefit Users by allowing them to interact only with orders entered via Auto-Ex mode, thereby avoiding the delays associated with interacting with orders entered via Order Delivery mode. Currently, when an incoming Auto-Ex order is matched against an order entered via Order Delivery mode, the Exchange sends an Order Delivery Notification to the Order Delivery Participant that posted the order. The incoming Auto-Ex order may experience a potential delay while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full. Conversely, an Auto-Ex Only order would provide Users with a quicker response by avoiding the processing time associated with potential interaction with [sic] resting order entered via Order Delivery mode.

Proposed Definitions

Lastly, the Exchange proposes to amend NSX Rule 1.5 and 11.11 to include definitions for Auto-Ex Mode and Auto-Ex Orders. First, the Exchange proposes to define ''Automatic Execution Mode'' under Exchange Rule 1.5 as ''[t]he mode of order interaction on the Exchange as described in Rule 11.13(b)(1).'' Second, the Exchange proposes to define ''Auto-Ex Order'' under Exchange Rule 11.11(c)(11) as ''[a] limit or market order that is automatically executed by the System against any marketable contra side order as in the manner described in Rule 11.13(b)(1).'' As discussed earlier, the Commission approved in 2006 amendments to NSX trading rules to provide for a price-time priority market with two modes of order interaction: (1) Auto-Ex and (2) Order Delivery.[17] These definitions are meant to add clarity to Exchange Rules and improve the ability to reference Auto-Ex mode elsewhere in future amendments to Exchange rules.

2. Statutory Basis

The Exchange believes the proposed Auto-Ex Only order is consistent with Section 6 of the Act,[18] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed Auto-Ex Only order furthers the objective of Section 6(b)(5) of the Act[20] because it promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system. The proposed Auto-Ex Only order allows Users to choose to only interact with orders entered via Auto-Ex mode, thereby avoiding the delays associated with interacting with orders entered via Order Delivery mode. Currently, when an incoming Auto-Ex order is matched against an order entered via Order Delivery mode, the Exchange sends an Order Delivery Notification to the Order Delivery Participant who posted the order alerting them of a potential match. The incoming Auto-Ex order may experience a potential delay while awaiting the Order Delivery Participant's response with a complete fill, a partial fill, or instruction to cancel in full. On the contrary, an Auto-Ex Only order would provide Users with a quicker response by interacting only with orders entered via Auto-Ex mode, thereby avoiding the processing delays associated with [sic] potential interaction with [sic] resting order entered via Order Delivery mode. Therefore, the Exchange believes the quicker response times resulting from the use of the Auto-Ex Only order promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system.

Lastly, the Exchange believes the proposed definitions under Exchange Rules 1.5 and 11.11 are consistent with Section 6(b)[21] of the Act, in general, and furthers the objectives of Section 6(b)(5)[22] in that they are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system. The Exchange believes that adding these definitions will add clarity to the Exchange's Rules and, therefore,

[17] *See* Exchange Act Release No. 54391, *supra* note 4.

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed Auto-Ex Only order will benefit Users by allowing them to interact only with orders entered via Auto-Ex mode, thereby avoiding the delays associated with interacting with orders entered via Order Delivery mode. The proposed definitions under Exchange Rules 1.5 and 11.11 are meant to simply add clarity to Exchange rules. Therefore, the Exchange believes the proposed Auto-Ex Only Order and definitions under Exchange Rules 1.5 and 11.11 do not impose 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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the 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 email to *rule-comments@sec.gov.* Please include File Number SR–NSX–2013–02 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–NSX–2013–02. This file number should be included on the subject line if email 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 Web site 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 the 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–NSX–2013–02* and should be submitted on or before February 28, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–02708 Filed 2–6–13; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68817; File No. SR–MIAX–2013–03]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the MIAX Options Fee Schedule

February 1, 2013.

Pursuant to the provisions of 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 January 29, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend the MIAX Options Fee Schedule (''Fee Schedule'') to establish fees for the MIAX Clearing Trade Drop Port, a connection to a messaging interface that will provide real-time trade clearing information to the participants to a trade on MIAX and to the participants' respective clearing firms.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on February 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX'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 Item IV below. The Exchange has prepared summaries, set

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.