

provisions of MRX Rule 713 and the Supplementary Material to that rule apply with respect to other orders and quotes with the same price. Finally, proposed Rule 701(l) provides that upon the opening of the option series, regardless of an execution, the system will disseminate the price and size of the Exchange's best bid and offer.

9. Implementation

The Exchange states that it intends to begin implementation of the proposed rule change in the third quarter of 2017.⁸⁸ The Exchange represents that migration of the Exchange system to Nasdaq INET technology will be on a symbol by symbol basis and that the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates.⁸⁹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁹¹ which requires, among other things, that the rules of a national securities exchange be 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 Exchange proposes to delete in its entirety the current opening process and replace it with an opening rotation similar to the process in place on its affiliated exchanges, Phlx, ISE Gemini, and ISE. In making this change, the Exchange delineates, unlike in the current, more opaque rule, detailed steps of the opening process. By providing more clearly each sequence of the opening process, the Commission notes that the proposed rule helps market participants understand how the

new opening rotation will operate. To that extent, the new opening process may promote transparency, reduce the potential for investor confusion, and assist market participants in deciding whether to participate in MRX's opening rotation. Further, if they do participate in the new opening process, the proposed rule may help provide market participants with the confidence and certainty as to how their orders or quotes will be processed.

Further, the Commission believes that the proposed rule change is designed to promote just and equitable principles of trade by seeking to ensure that option series open in a fair and orderly manner. For example, the Commission notes that the proposed rule change is designed to mitigate the effects of the underlying security's volatility as the overlying option series undergoes the opening rotation. Specifically, the proposed rule provides for a range of no less than 100 milliseconds and no more than 5 seconds in order to ensure that the Exchange has the ability to adjust the period for which the underlying must be open on the primary market before the opening process commences. Moreover, the Commission notes that the proposed rule provides an orderly process for handling eligible interests during the opening rotation, while seeking to avoid opening executions at suboptimal prices. For instance, the new process ensures that the Exchange will not open with the Exchange's BBO if there is a Zero Bid Market, no ABBO, and no Quality Opening Market. Likewise, the Exchange will not open an option series with a trade unless one following conditions is met: (1) The Potential Opening Price is at or within the Pre-Market BBO and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market. Finally, while the new opening process attempts to maximize the number of contracts executed on the Exchange during such rotation, including by seeking additional liquidity, if necessary, the Commission notes that the new opening process, unlike the current process, takes into consideration away market interests and ensures that better away prices are not traded through. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹² that the proposed rule change (SR-MRX-2017-01), as modified by Amendment No. 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹³

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81198; File No. S7-24-89]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of the Thirty-Ninth Amendment to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis

July 25, 2017.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 608 thereunder,² notice is hereby given that on June 30, 2017, the Participants³ in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("NASDAQ/UTP Plan" or "Plan") filed with the Securities and Exchange Commission ("Commission") a proposal to amend the NASDAQ/UTP Plan.⁴

⁹² 15 U.S.C. 78s(b)(2).

⁹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ The Participants are: Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, Investors' Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX, Inc., NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC, and NYSE National, Inc. (collectively, the "Participants").

⁴ The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the

Continued

⁸⁸ See Notice, *supra* note 3, at 28113.

⁸⁹ See *id.* For a more detailed description of the proposed rule change, see Notice, *supra* note 3.

⁹⁰ 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).

⁹¹ 15 U.S.C. 78f(b)(5).

These amendments represent Amendment 39 to the NASDAQ/UTP Plan (“Amendments”). The Amendments propose to effectuate changes that certain Participants have made to their names and addresses, as set forth in Section I(A) of the NASDAQ/UTP Plan and to update the listing of Participant identifying codes set forth in Section VIII(C) of the Plan. Pursuant to Rule 608(b)(3)(ii) under Regulation NMS,⁵ the Participants designate the Amendments as concerned solely with the administration of the Plans and as “Ministerial Amendments” under Section XVI of the Nasdaq/UTP Plan. As a result, the Amendments were effective upon filing and were submitted by the Chairman of the Plan’s Operating Committee. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

The Amendments effectuate changes that certain Participants have made to their names and addresses, as set forth in Section I(A) of the NASDAQ/UTP Plan and to update the listing of Participant identifying codes set forth in Section VIII(C) of the Plan.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Because the Amendments constitute “Ministerial Amendments” under Section XVI of the Nasdaq/UTP Plan, the Chairman of the Plan’s Operating Committee may submit the Amendments to the Commission on behalf of the Participants in the Plan. Because the Participants have designated the Amendments as concerned solely with the administration of the NASDAQ/UTP Plan, the Amendments become effective upon filing with the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The Participants assert that the Amendments do not impose any burden on competition because they merely effectuate a change in the names and addresses of certain Participants. For the

required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. See Securities Exchange Act Release No. 55647 (April 19, 2007), 72 FR 20891 (April 26, 2007).

⁵ 17 CFR 242.608(b)(3)(ii).

same reasons, the Participants do not believe that the Amendments introduce terms that are unreasonably discriminatory for purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

See Item I.C. above.

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks general comments on the Amendments. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are 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 S7–24–89 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–24–89. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all written statements with respect to the proposed Amendments that are filed with the Commission, and all written communications relating to the proposed Amendments 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 Web site viewing and printing at the principal office of the Plans. 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 S7–24–89 and should be submitted on or before August 21, 2017.

By the Commission.

Brent J. Fields,
Secretary.

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