

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85946; File No. SR–NYSEArca–2019–04]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend NYSE Arca Rule 5.2–E(j)(3) and To Adopt Generic Listing Standards for Investment Company Units Based on an Index or Portfolio of Municipal Securities

Correction

In notice document 2019–11446 beginning on page 25599 in the issue of Monday, June 3, 2019, make the following correction:

On page 25602, in the third column, in the second paragraph, in the last line “June 24, 2019” should read “July 8, 2019”.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86060; File No. SR–BX–2019–017]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Order Routing Rule in BX Chapter VI, Section 11

June 6, 2019.

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 May 29, 2019, Nasdaq BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II 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 amend Chapter VI, Section 11, titled “Order Routing”.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqbx.cchwallstreet.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 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 Exchange proposes to amend BX Chapter VI, Section 11, titled “Order Routing” to conform the rule text of BX’s Chapter VI, Section 11, where applicable, to Phlx Rule 1093 where the routing behavior is identical. Further the Exchange is amending BX Chapter VI, Section 11 to add more clarity and correct the current Rule. The proposed changes will be discussed below in greater detail.

Universal Change

The Exchange proposes to amend the term “BX Options” to simply state “Exchange” throughout this rule.

Chapter VI, Section 11(a)

Nasdaq Phlx LLC recently amended its routing rule.³ As stated above, BX proposes to conform the rule text of BX Chapter VI, Section 11, where applicable, to Phlx Rule 1093 where the routing behavior is identical. The Exchange notes that the amendments to BX Chapter VI, Section 11 reflect the current operation of the System. The purpose of the amendment is to align the rule to the specific operation of the routing functionality on BX.

The Exchange proposes to provide rule text within paragraph (a) to BX Chapter VI, Section 11⁴ similar to Phlx

³ See Securities Exchange Act Release No. 85519 (April 5, 2019), 70 FR 14686 (April 11, 2019) (SR–Phlx–2019–07).

⁴ Proposed BX Chapter VI, Section 11(a) would provide, “BX offers two routing strategies, SEEK and SRCH. Each of these routing strategies will be explained in more detail below. An order may in the alternative be marked Do Not Route or “DNR”. The Exchange notes that for purposes of this rule the System will route SEEK and SRCH Orders with

Rule 1093(a). While Phlx offers a FIND and SRCH routing strategy, BX offers a SEEK and SRCH⁵ routing strategy.⁶ In addition, Phlx’s All-or-None⁷ Order type differs from BX. The BX BBO is representative of the displayed orders on the BX Order Book. Finally, BX defines a Public Customer at Chapter I, Section 1(a)(50), while Phlx defines Public Customer within Rule 1093(a).⁸

The Exchange proposes a new second paragraph at BX Chapter VI, Section 11(a).⁹ This paragraph does not conform to Phlx Rule 1093. The proposed rule

no other contingencies. Immediate or Cancel (“IOC”) Orders will be cancelled immediately if not executed, and will not be routed. The System checks the Order Book for available contracts for potential execution against the SEEK or SRCH Orders. After the System checks the Order Book for available contracts, orders are sent to other available market centers for potential execution. When checking the Order Book, the System will seek to execute at the price at which it would send the order to an away market. For purposes of this rule, a Route Timer shall not exceed one second and shall begin at the time orders are accepted into the System, and the System will consider whether an order can be routed at the conclusion of each Route Timer. Finally, for purposes of this rule, “exposure” or “exposing” an order shall mean a notification sent to participants with the price, size, and side of interest that is available for execution. Exposure notifications will be sent to participants in accordance with the routing procedures described in Section 11(c)(ii) below except if an incoming order is joining an already established BBO price when the ABBO is locked or crossed with the BBO, in which case such order will join the established BBO price and no exposure notification will be sent. An order exposure will be sent if the order size is modified. For purposes of this rule BX’s opening process is governed by Chapter VI, Section 8 and includes an opening after a trading halt (“Opening Process”).”

⁵ The SRCH routing functionalities for Phlx and BX are different and therefore are not being conformed.

⁶ BX does not have a FIND routing strategy similar to Phlx.

⁷ See Phlx Rule 1078. Phlx’s All-or-None Order is non-displayed. This order type could cause Phlx’s Order Book to differ from the displayed PBBO. BX has no such non-displayed order type.

⁸ BX Section 1(a)(50) provides, “The term “Public Customer” means a person that is not a broker or dealer in securities and is not a professional as defined within BX Rule at Chapter I, Section 1(a)(49).”

⁹ The second paragraph of proposed BX Chapter VI, Section 11(a) would provide, “Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. The term “System routing table” refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. The Exchange reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. The order routing process shall be available to Participants from 9:30 a.m. Eastern Time until market close and shall route orders as described below. Participants can designate orders as either available for routing or not available for routing. All routing of orders shall comply with Chapter XII, Options Order Protection and Locked and Crossed Market Rules.”

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

text currently exists within the BX rule and is being amended and relocated as described herein. The first sentence of current BX Chapter VI, Section 11(a)¹⁰ is being amended and relocated to proposed BX Chapter VI, Section 11(a). The current sentence provides, “For System securities, the order routing process shall be available to Participants from 9:30 a.m. Eastern Time until market close and shall route orders as described below.” The amendment to the rule text is not substantive. The Exchange proposes to relocate the remainder of current BX Chapter VI, Section 11(a) to the first sentence of the second paragraph of proposed BX Chapter VI, Section 11(a). Finally, the Exchange proposes to relocate current BX Chapter VI, Section 11(a)(1)¹¹ to the second paragraph of proposed Chapter VI, Section 11(a).

Proposed BX Chapter VI, Section 11(a)(i)¹² is being relocated from current BX Chapter VI, Section 11(c)¹³ with some minor non-substantive changes to the rule text to conform the paragraph to Phlx Rule 1093(a)(i).

¹⁰ Current BX Chapter VI, Section 11(a) provides, “For System securities, the order routing process shall be available to Participants from 9:30 a.m. Eastern Time until market close and shall route orders as described below. Participants can designate orders as either available for routing or not available for routing. All routing of orders shall comply with Chapter XII, Options Order Protection and Locked and Crossed Market Rules.”

¹¹ Current BX Chapter VI, Section 11(a)(1) provides, “The system provides a number of routing options pursuant to which orders are sent to other available market centers for potential execution, per the entering firm’s instructions. Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. The term “System routing table” refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. The Exchange reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice.” The Exchange notes that this partial sentence is being deleted as unnecessary “The system routing options are:”

¹² Current BX Chapter VI, Section 11(b) is reserved and is being deleted.

¹³ Current BX Chapter VI, Section 11(c) provides, “Priority of Routed Orders. Orders sent by the System to other markets do not retain time priority with respect to other orders in the System and the System shall continue to execute other orders while routed orders are away at another market center. Once routed by the System, an order becomes subject to the rules and procedures of the destination market including, but not limited to, order cancellation. A routed order can be for less than the original incoming order’s size. If a routed order is subsequently returned, in whole or in part, that routed order, or its remainder, shall receive a new time stamp reflecting the time of its return to the System, unless any portion of the original order remains on the System, in which case the routed order shall retain its timestamp and its priority.”

Current BX Chapter VI, Section 11(d)¹⁴ is proposed to be relocated to proposed BX Chapter VI, Section 11(a)(ii) with some minor non-substantive changes.

The Exchange proposes to relocate BX Chapter VI, Section 11(e)¹⁵ and (f)¹⁶ to proposed BX Chapter VI, Section 11(a)(ii)(A)–(F). Current Chapter VI,

¹⁴ Current BX Chapter VI, Section 11(d) provides, “Options Participants whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on BX Options.”

¹⁵ Current BX Chapter VI, Section 11(e) provides, “BX Options shall route orders in options via Nasdaq Execution Services, LLC (“NES”), a broker-dealer that is a member of an unaffiliated SRO which is the designated examining authority for the broker-dealer. NES serves as the Routing Facility of BX Options. The sole function of the Routing Facility will be to route orders in options listed and open for trading on BX Options to away markets either directly or through one or more third-party unaffiliated routing broker-dealers pursuant to BX Options rules on behalf of BX Options. The Exchange and NES may not use a routing broker for which the Exchange or any affiliate of the Exchange is the designated examining authority. The Routing Facility is subject to regulation as a facility of BX, including the requirement to file proposed rule changes under Section 19 of the Act.

Use of NES to route orders to other market centers is optional. Parties that do not desire to use NES must designate orders as not available for routing.

The Exchange will determine the logic that provides when, how, and where orders are routed away to other exchanges. Except as provided in subparagraph (f) below, the routing broker(s) cannot change the terms of an order or the routing instructions, nor does the routing broker have any discretion about where to route an order.

BX Options shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including the Routing Facility), and any other entity; or, where there is a routing broker, the Exchange, the Routing Facility and any routing broker, and any other entity, including any affiliate of the routing broker (and if the routing broker or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of the routing broker or affiliate that provides the other business activities and the segment of the routing broker that provides the routing services).

The books, records, premises, officers, directors, agents, and employees of the Routing Facility, as a facility of the Exchange, shall be deemed to be the books, records, premises, officers, directors, agents, and employees of the Exchange for purposes of and subject to oversight pursuant to the Exchange Act. The books and records of the Routing Facility, as a facility of the Exchange, shall be subject at all times to inspection and copying by the Exchange and the Commission.”

¹⁶ Current BX Chapter VI, Section 11(f) provides, “Market Access. In addition to the Exchange Rules regarding routing to away trading centers, NES has, pursuant to Rule 15c3–5 under the Act, implemented certain tests designed to mitigate risks associated with providing the Exchange’s Members with access to such away trading centers. Pursuant to the policies and procedures developed by NES to comply with Rule 15c3–5, if an order or series of orders are deemed to be violative of applicable pre-trade requirements under Rule 15c3–5, the order will be rejected prior to routing and/or NES will seek to cancel the order if it has been routed.”

Section 11(g), “Cancellation of Orders and Error Account” is being re-lettered from “g” to “b” with no changes to the rule text.

DNR Orders

The Exchange proposes to add a new BX Chapter VI, Section 11(a)(iii)¹⁷ with the following text, “The following order types are available:”. The Exchange proposes to relocate and amend current BX Chapter VI, Section 11(a)(1)(C)¹⁸ to

¹⁷ Proposed BX Chapter VI, Section 11(a)(iii) provides, “DNR Order. A DNR Order will never be routed outside of BX regardless of the prices displayed by away markets. A DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR Order will remain in the BX Order Book and be displayed at a price one minimum price variation (“MPV”) inferior to that away best bid/offer. If the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO. The Exchange shall immediately expose the order at the ABBO to participants, provided the option series has opened for trading. Any incoming order interacting with such a resting DNR Order will execute at the ABBO price, unless the ABBO is improved to a price which crosses the DNR’s displayed price, in which case the incoming order will execute at the previous ABBO price. Should the best away market change its price to an inferior price level, the DNR Order will automatically re-price from its one MPV inferior to the original away best bid/offer price to one minimum trading increment away from the new away best bid/offer price or its original limit price, and expose such orders at the ABBO to participants only if the re-priced order locks or crosses the ABBO. Once priced at its original limit price, it will remain at that price until executed or cancelled. Should the best away market improve its price such that it locks or crosses the DNR Order limit price, the Exchange will execute the resulting incoming order that is routed from the away market that locked or crossed the DNR Order limit price.

¹⁸ Current BX Chapter VI, Section 11(a)(1)(C) provides, “DNR Order. A DNR order will never be routed outside of the Exchange regardless of the prices displayed by away markets. A DNR order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR order will remain in the Exchange book and be displayed at the better of a price one minimum price variation away from that ABBO or the established Exchange BBO. A DNR order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the Exchange BBO will be exposed at the NBBO to market participants. Any incoming order interacting with such a resting DNR order will receive the best away market price. Should the best away market change its price, or move to an inferior price level, the DNR order will automatically re-price from its one minimum price variation away from the original away best bid/offer price to one minimum trading increment away from the new away best bid/offer price or its original limit price, and expose such orders at the NBBO to market participants only if the re-priced order locks or crosses the ABBO and is not already displayed at its limit price. Should the best away market improve its price such that it locks or crosses the DNR order limit price, the Exchange will execute the resulting incoming order that is routed from the away market that locked or crossed the DNR order limit price. An order

proposed BX Chapter VI, Section 11(a)(iii) with some amendments. This proposed rule text is identical to Phlx Rule 1093(a)(iii)(A).

The Exchange proposes to amend the second and third sentence of current BX Chapter VI, Section 11(a)(1)(C), which states,

A DNR order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR order will remain in the Exchange book and be displayed at the better of a price one minimum price variation away from that ABBO or the established Exchange BBO. A DNR order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the Exchange BBO will be exposed at the NBBO to market participants.

The Exchange proposes to instead provide at proposed BX Chapter VI, Section 11(a)(iii)(A), “A DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR Order will remain in the BX Order Book and be displayed at a price one minimum price variation (“MPV”) ¹⁹ inferior to that away best bid/offer.” The Exchange is amending “one minimum price variation away from that ABBO or the established Exchange BBO” to “one minimum price variation (“MPV”) inferior to that away best bid/offer.” Further, the Exchange provides at proposed BX Chapter VI, Section 11(a)(iii)(A), “If the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO. The Exchange shall immediately expose the order at the ABBO to participants, provided the option series has opened for trading.” An order that the Options Participant has elected not to make eligible for routing will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one MPV above (for offers) or below (for bids) the national best price. The Exchange displays the DNR Order at one MPV away in compliance with Regulation NMS. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-

exposure alert may be sent if the order size is modified.”

¹⁹ Any reference to minimum price variance in the rules will be replaced with “MPV.”

Through and Locked and Crossed Markets restrictions.²⁰ This proposed new sentence will add greater transparency as to the manner in which the Exchange handles locked and cross orders today and re-prices those orders.

The Exchange proposes to remove the current sentence within current BX Chapter VI, Section 11(a)(1)(C), which provides, “A DNR order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the Exchange BBO will be exposed at the NBBO to market participants.” The Exchange proposes to state at proposed BX Chapter VI, Section 11(a)(iii)(A), “The Exchange shall immediately expose the order at the ABBO to participants, provided the option series has opened for trading.” The Exchange notes that inserting “ABBO” more clearly provides that the away market is considered because the local book has already been exhausted in this scenario. The Exchange proposes to amend the next sentence of current BX Chapter VI, Section 11(a)(1)(C), which provides, “Any incoming order interacting with such a resting DNR order will receive the best away market price.” The Exchange proposes to instead state at proposed BX Chapter VI, Section 11(a)(iii)(A), “Any incoming order interacting with such a resting DNR order will execute at the ABBO price, unless the ABBO is improved to a price which crosses the DNR’s displayed price, in which case the incoming order will execute at the previous ABBO price.” The Exchange is expanding this language because it is accounting for a scenario where an ABBO was disseminated after the crossing condition took place. This is a change to reflect the current practice and amend the rule text to conform to the manner in which the System is operating. While the ABBO can improve, when it crosses the DNR Order the updated ABBO cannot be utilized to execute the DNR Order. The Exchange is amending the sentence of current BX Chapter VI, Section 11(a)(1)(C), “Should the best away market change its price, or move to an inferior price level, the DNR order will automatically re-price from its one minimum price variation away from the original away best bid/offer price to one minimum trading increment away from the new away best bid/offer price or its original limit price, and expose such orders at the NBBO to market participants only if the re-priced

²⁰ Also, an order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions.

order locks or crosses the ABBO and is not already displayed at its limit price.” The Exchange proposes to state within proposed BX Chapter VI, Section 11(a)(iii)(A), “Should the best away market change its price to an inferior price level, the DNR Order will automatically re-price from its one MPV inferior to the original away best bid/offer price to one minimum trading increment away from the new away best bid/offer price or its original limit price, and expose such orders at the ABBO to participants only if the re-priced order locks or crosses the ABBO.” The Exchange is rewording this sentence because the NBBO by definition includes the BBO. However, if the DNR order locks or crosses the BBO, the DNR order will immediately execute. Only if the DNR order locks or crosses the ABBO will the DNR order be exposed. This amendment reflects current practice.

The Exchange proposes to add a new sentence to proposed Chapter VI, Section 11(a)(iii)(A) which states, “Once priced at its original limit price, it will remain at that price until executed or cancelled.” The Exchange believes the addition of this sentence, similar to rule text in Phlx today ²¹ will add more clarity to the manner in which the DNR Order will be priced.

The proposed rule text is intended to bring more clarity to the current rule regarding DNR Orders. The Exchange believes that adding context around a DNR Order when that order is locked or crossed will provide more transparency to the current rule. The Exchange notes that consistent with SEEK and SRCH Orders, a DNR Order that is locked or crossed will display one MPV away from the ABBO. The Exchange believes that the proposed language will benefit market participants because it provides greater information.

SEEK Order

The Exchange proposes to relocate SEEK Orders which are currently within BX Chapter VI, Section 11(a)(1)(A) into proposed new BX Chapter VI, Section 11(a)(iii)(B).²²

The first sentence of current BX Chapter VI, Section 11(a)(1)(A) is proposed to be relocated to proposed BX Chapter VI, Section 11(a)(iii)(B).²³ The Exchange proposes to add the following

²¹ See Phlx Rule 1093(a).

²² Phlx does not have SEEK Orders.

²³ Proposed BX Chapter VI, Section 11(a)(iii)(B) provides, “SEEK is a routing option pursuant to which an order will first check the System for available contracts for execution, and then is sent to other available market centers for potential execution. Orders initiate their own route timers and are routed in the order in which their route timers end.”

sentence to proposed BX Chapter VI, Section 11(a)(iii)(B), “Orders initiate their own route timers and are routed in the order in which their route timers end.” Specifically, each order begins a separate Route Timer, which cannot be early terminated. Each individual order’s Route Timer must complete before the order can route to an away market. The Exchange believes that this language makes clear how the SEEK Order is prioritized today for routing purposes, which is sequentially based on the Route Timer.

The Exchange proposes to add new text at BX Chapter VI, Section 11(a)(iii)(B)(1)²⁴ which provides, “If a SEEK is received during an Opening Process it may route as part of the Opening Cross pursuant to Chapter VI, Section 8(b)(7).” The Exchange proposes to introduce the defined term “Opening Process” within proposed BX Chapter VI, Section 11(a).²⁵

The Exchange proposes to amend current Chapter VI, Section 11(a)(1)(A), by utilizing the defined term “Opening Process” instead of “after the opening process or received during open trading” and remove the phrase “a Route Timer not to exceed one second” which is also defined within the term Route Timer in proposed Chapter VI, Section 11(a). The term “NBBO” is being replaced with the term “ABBO” because it is a more accurate representation than NBBO because the local market has been exhausted and this portion of the rule is describing the SEEK Order reacting to the ABBO. The proposed sentence would provide at proposed BX Chapter VI, Section 11(a)(iii)(B)(2), “If a SEEK Order is received after an Opening Process and it is marketable against the ABBO when the ABBO is better than the displayed Exchange BBO, a Route Timer will initiate and expose the SEEK Order at the ABBO to allow market participants an opportunity to interact with the remainder of the SEEK Order.” The Exchange proposes to replace the current sentence within current Chapter VI, Section 11(a)(1)(A), “During the Route Timer, the SEEK order will be included in the displayed Exchange BBO at the better of a price one MPV away from the ABBO or the established Exchange BBO.” The Exchange proposes to state in its place at the end

²⁴ Proposed BX Chapter VI, Section 11(a)(iii)(B)(1) provides, “If a SEEK is received during an Opening Process it may route as part of the Opening Cross pursuant to Chapter VI, Section 8(b)(7).”

²⁵ The last sentence of the first paragraph of proposed BX Chapter VI, Section 11(a) provides, “For purposes of this rule BX’s opening process is governed by Chapter VI, Section 8 and includes an opening after a trading halt (“Opening Process”).”

of proposed BX Chapter VI, Section 11(a)(iii)(B)(2), “During the Route Timer, the SEEK Order will be included in the displayed Exchange BBO, unless the SEEK Order locks or crosses the ABBO, in which case it will be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO.” The Exchange is adding a locked and crossed scenario to the rule and indicating the price at which the SEEK Order would display. This additional information is intended to describe the condition that would cause the SEEK Order to reprice, the locked or crossed market.²⁶

Proposed BX Chapter VI, Section 11(a)(iii)(B)(3)²⁷ is the same as the current rule text at BX Chapter VI, Section 11(a)(1)(A), however the Exchange proposes to amend current BX Chapter VI, Section 11(a)(1)(A) which states, “If, during the Route Timer, any new interest arrives opposite the SEEK order that is equal to or better than the ABBO price, the SEEK order will trade against such new interest at the ABBO price.” The Exchange proposes to replace this sentence within proposed Chapter VI, Section 11(a)(iii)(B)(3) with, “If during the Route Timer, the ABBO moves and crosses the SEEK Order, any new interest arrives opposite the SEEK Order that is marketable against the SEEK Order will trade at the SEEK Order price.” This scenario is not currently described in the current rule. This new sentence will address the specific situation where the ABBO cross a SEEK Order and the price at which the SEEK Order would trade. In this situation, the away market has crossed the BBO. The contra interest would therefore execute at the SEEK Order

²⁶ Proposed BX Chapter VI, Section 11(a)(iii)(B)(2), would provide, “If a SEEK Order is received after an Opening Process and it is marketable against the ABBO when the ABBO is better than the displayed Exchange BBO, a Route Timer will initiate and expose the SEEK Order at the ABBO to allow market participants an opportunity to interact with the remainder of the SEEK Order. During the Route Timer, the SEEK Order will be included in the displayed Exchange BBO, unless the SEEK Order locks or crosses the ABBO, in which case it will be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO.”

²⁷ Proposed BX Chapter VI, Section 11(a)(iii)(B)(3) provide, “If during the Route Timer in subparagraph (2) above any new interest arrives opposite the SEEK order that is equal to or better than the ABBO price, the SEEK Order will trade against such new interest at the ABBO price. If during the Route Timer, the ABBO moves and crosses the SEEK Order, any new interest arrives opposite the SEEK Order that is marketable against the SEEK Order will trade at the SEEK Order price. When checking the Order Book, the System will seek to execute at the price at which it would send the order to a destination market center. Eligible unexecuted orders will continue to be routed as described in subparagraph (B)(2).”

price. The new language will provide market participants with greater transparency as to the manner in which the System currently handles a SEEK Order in that particular situation.

The Exchange proposes to amend rule text within current BX Chapter VI, Section 11(a)(1)(A) with proposed BX Chapter VI, Section 11(a)(4)²⁸ by amending the first sentence from “If contracts remain unexecuted after routing, they are posted on the book” to “If contracts remain unexecuted after routing, they are posted on the Order Book at its limit price.” This new text seeks to make clear the price at which the SEEK Order would post in the first sentence and therefore provides additional information which is also contained in the second sentence of that paragraph, which reflects current rule text. The remainder of proposed BX Chapter VI, Section 11(a)(4) captures current text within current BX Chapter VI, Section 11(a)(1)(A).

The Exchange proposes to delete a relocated sentence within current BX Chapter VI, Section 11(a)(1)(A), which provides, “SEEK orders will not be eligible for routing until the next time the option series is subject to a new opening or reopening.” The aforementioned sentence was relocated to proposed BX Chapter VI, Section 11(a) and utilizes the defined term “Opening Process” within proposed BX Chapter VI, Section 11(a).²⁹

SRCH Order

The Exchange proposes to relocate SRCH Orders which are currently in BX Chapter VI, Section 11(a)(1)(B) to proposed BX Chapter VI, Section 11(a)(iii)(C). As noted herein, Phlx and BX SRCH Orders differ.

The first sentence of current BX Chapter VI, Section 11(a)(1)(B) is proposed to be relocated to proposed BX Chapter VI, Section 11(a)(iii)(C).³⁰ The Exchange proposes to add the following second sentence to proposed BX

²⁸ Proposed BX Chapter VI, Section 11(a)(iii)(B)(4) provides, “If contracts remain unexecuted after routing, they are posted on the Order Book at its limit price. While on the Order Book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not re-expose or route the order to the locking or crossing market center.”

²⁹ Proposed BX Chapter VI, Section 11(a)(iii)(B)(5) provides, “SEEK Orders will not be eligible for routing until the next time the option series is subject to a new Opening Process.”

³⁰ Proposed BX Chapter VI, Section 11(a)(iii)(C) provides, “SRCH Order is a routing option pursuant to which an order will first check the System for available contracts for execution, and then is sent to other available market centers for potential execution. Orders initiate their own route timers and are routed in the order in which their route timers end.”

Chapter VI, Section 11(a)(iii)(C), “Orders initiate their own route timers and are routed in the order in which their route timers end.” Specifically, each order begins a separate Route Timer, which cannot be early terminated. Each individual order’s Route Timer must complete before the order can route to an away market. The Exchange believes that this language makes clear how the SRCH Order is prioritized today for routing purposes, which is sequentially based on the Route Timer.

The Exchange proposes to amend the third sentence of current BX Chapter VI, Section 11(a)(iii)(B) which provides, “During the Route Timer, the SRCH order will be included in the displayed Exchange BBO at the better of a price one MPV away from the ABBO or the established Exchange BBO.” The Exchange proposes the following rule text within proposed BX Chapter VI, Section 11(a)(iii)(C)(2),

During the Route Timer described in subparagraph (1), the SRCH Order will be included in the displayed Exchange BBO, unless the SRCH Order locks or crosses the ABBO, in which case it will be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO. If there exists a locked market upon receipt of the SRCH Order, the SRCH Order may display at the locked ABBO price.

The Exchange is adding a locked and crossed scenario to the rule and indicating the price at which the SRCH Order would display. This additional information is intended to describe the condition that would cause the SRCH Order to reprice the locked or crossed market.

The Exchange proposes to relocate the fourth through sixth sentences of current BX Chapter VI, Section 11(a)(1)(B) to proposed BX Chapter VI, Section 11(a)(iii)(C)(3).³¹ The proposed new rule text is substantially similar to the proposed rule text except that the Exchange proposes to add a new sentence to this paragraph which provides, “If during the Route Timer, the ABBO moves and crosses the SRCH Order, any new interest arrives opposite the SRCH Order that is marketable

³¹ Proposed BX Chapter VI, Section 11(a)(iii)(C)(3) provides, “If, during the Route Timer described in subparagraph (1), any new interest arrives opposite the SRCH Order that is equal to or better than the ABBO price, the SRCH order will trade against such new interest at the ABBO price. If during the Route Timer, the ABBO moves and crosses the SRCH Order, any new interest arrives opposite the SRCH Order that is marketable against the SRCH Order will trade at the SRCH Order price. When checking the Order Book, the System will seek to execute at the price at which it would send the order to a destination market center. Eligible unexecuted orders will continue to be routed as described in subparagraph (C)(1).”

against the SRCH Order will trade at the SRCH Order price.” This new sentence will address the specific situation where the ABBO cross a SRCH Order and the price at which the SRCH Order would trade. In this situation, the away market has crossed the BBO. The contra interest would therefore execute at the SRCH Order price. The new language will provide market participants with greater transparency as to the manner in which the System currently handles a SRCH Order in that particular situation.

The Exchange proposes to relocate and amend the seventh and eighth sentences of current BX Chapter VI, Section 11(a)(1)(B) to proposed BX Chapter VI, Section 11(a)(iii)(C)(4)³² which state, “If contracts remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, it will be re-exposed, provided it is not on the book at its limit price, and re-route. An order exposure alert may be sent if the order size is modified.” The Exchange is adding the phrase “at the limit price” within this sentence to correctly note that the price at which the order is posted at on the Order Book. Further, the Exchange proposes to amend the penultimate sentence of current BX Chapter VI, Section 11(a)(1)(B) as the sentence is incorrect. The Exchange proposes to amend this incorrect sentence to provide at proposed BX Chapter VI, Section 11(a)(iii)(C)(4), “While on the Order Book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not re-expose or route the order to the locking or crossing market center.” The Exchange notes that the current text which states that the SRCH Order would be re-exposed is incorrect. The current practice is that the order is not re-exposed because the SRCH Order is being locked or crossed by an away market and the Exchange is not required to re-expose the SRCH Order in this scenario. The final sentence of Current Chapter VI, Section 11(a)(i)(B) is being relocated to proposed Section 11(a) as noted herein.

Current Chapter VI, Section 11(a)(1)(D)

The Exchange proposes to delete BX Chapter VI, Section 11(a)(1)(D) because the Exchange has relocated the locked and crossed scenarios into the text of SEEK and SRCH as explained herein.

³² Proposed BX Chapter VI, Section 11(a)(iii)(C)(4) provides, “If contracts remain un-executed after routing, they are posted on the Order Book at its limit price. While on the Order Book at the limit price, should the order subsequently be locked or crossed by another market center, the order will not re-expose and may route at the end of route timer.”

The proposed text also addresses new interest trading opposite the order as well as eligible unexecuted interest. The Exchange believes that this paragraph is unnecessary with the proposed text for SEEK and SRCH.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³³ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁴ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest because the Exchange is adding more detail to its routing rule to provide market participants with greater transparency. The Exchange believes the added scenarios will provide more context to routing in general and for the specific routing strategies for the benefit of investors and the public interest. Also, in defining terms and utilizing consistent language throughout the rule, the Exchange believes the proposed rule will provide transparency with respect to the manner in which BX routes orders. The Exchange continues to offer various choices to its market participants with respect to routing.

Chapter VI, Section 11

The Exchange’s proposal to utilize the term “System” will conform this rule to other BX rules which utilize that term. Explaining the Route Timer at the beginning of this proposed rule will provide context to use of the term throughout the rule and avoid repetitiveness. Replacing the term “NBBO” with the term “ABBO,” where appropriate, is consistent with the Act because the term “ABBO” refers to the away market and not the local market, which is a more accurate term in situation where the local market has been exhausted. Defining minimum price variation and Opening Process will bring greater transparency to proposed Chapter IV, Section 11. The Exchange believes that it is consistent with the Act to refer to the Opening Process within Chapter VI, Section 8 when referring to routing during the Opening Process to avoid confusion with respect to governing rules. The Exchange’s proposal to add the concept of DNR at the beginning of the rule to make clear up-front that this option is available when selecting a routing strategy is a structural non-substantive change intended to bring greater clarity to the rule.

The Exchange proposes to more specifically explain within the rule text

³³ 15 U.S.C. 78f(b).

³⁴ 15 U.S.C. 78f(b)(5).

what is meant by “exposure” or “exposing” an order. The Exchange proposes to make clear that exposure shall mean a notification sent to participants that includes the price, size, and side of interest that is available for execution. The Exchange believes that this additional language in consistent with the Act because it will assist market participants in understanding the manner in which these terms are used throughout this rule.

The Exchange’s proposal to not disseminate an exposure notification to participants if an incoming order is joining an already established BBO price when the ABBO is locked or crossed with the BBO is consistent with the Act because in this case, such order will join the established BBO price, which is already disseminated. The Exchange believes that exposing an order which reflects a disseminated price could cause confusion rather than inform investors and the general public of the availability of an order. Today, the Exchange executes responses at a price at or better than the ABBO on a first come, first served basis prior to routing the order to an away market in accordance with the rules currently in effect in Chapter VI, Section 11. If a response is received which is executable against the full volume of the order, it may execute immediately. Since the order was filled, the Route Timer no longer exists because the order no longer exists. The Exchange believes that this notification is not necessary in the case of an incoming order that joins an already established BBO price when the ABBO is locked or crossed with the BBO as other orders previously established the BBO on the Order Book. The established BBO price is a disseminated price which is available to market participants. A second notification with the exposure message would reflect the same price as the disseminated BBO price and would not offer market participants new information.

The remainder of the rule changes in the introduction are non-substantive rule changes that simply seek to reorganize and add transparency to the current rule text.

DNR Orders

The Exchange’s proposal to add a new sentence to proposed new Chapter VI, Section 11(a)(iii)(A), that is not in the current rule text, that provides, “If the DNR order is locking or crossing the ABBO, the DNR order shall be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO” is consistent with the Act

because this behavior is compliant with Regulation NMS. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions.³⁵ The Exchange’s proposal to account for a scenario where an ABBO was disseminated after the crossing condition took place is consistent with the Act because an updated ABBO that crosses the DNR Order cannot be utilized to execute the DNR Order. The Exchange believes that adding context around a DNR Order when that order is locked or crossed will provide more transparency to the rule. The Exchange notes that consistent with SEEK and SRCH Orders, a DNR Order that is locked or crossed will display one MPV away from the ABBO. The Exchange believes that the proposed language will benefit market participants because it provides greater information.

The Exchange’s proposal to remove the sentence within current BX Chapter VI, Section 11(a)(1)(C) which provides, “A DNR order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the Exchange BBO will be exposed at the NBBO to market participants” and instead provide within proposed BX Chapter VI Section 11(a)(iii)(A), “The Exchange shall immediately expose the order at the ABBO to participants, provided the option series has opened for trading” is consistent with the Act. The Exchange notes that inserting “ABBO” more clearly provides that the away market is considered because the local book has already been exhausted in this scenario. This amendment will protect investors and the public interest by avoiding confusion. Adding locking and crossing scenarios will account for a scenario where an ABBO was disseminated after the crossing condition took place. This is a change to reflect the current practice and amend the rule text to conform to the manner in which the System is operating. While the ABBO can improve, when it crosses the DNR Order the updated ABBO cannot be utilized to execute the DNR Order. The Exchange’s proposal to amend rule text, within proposed BX Chapter VI Section 11(a)(iii)(A) to provide, “Should the best

³⁵ Also, an order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions.

away market change its price to an inferior price level, the DNR Order will automatically re-price from one MPV inferior to the original away best bid/offer price to one minimum trading increment away from the new away best bid/offer price or its original limit price, and expose such orders at the ABBO to participants only if the re-priced order locks or crosses the ABBO” is consistent with the Act. The Exchange is rewording this sentence because the NBBO by definition includes the BBO. However, if the DNR order locks or crosses the BBO, the DNR order will immediately execute. Only if the DNR order locks or crosses the ABBO will the DNR order be exposed. The proposed rule text is intended to bring more clarity to the current rule regarding DNR Orders. The Exchange believes that adding context around a DNR Order when that order is locked or crossed will provide more transparency to the current rule. The Exchange believes that the proposed language will benefit market participants because it provides greater information.

The Exchange’s proposal to add a new sentence to proposed Chapter VI, Section 11(a)(iii)(A), “Once priced at its original limit price, it will remain at that price until executed or cancelled” is consistent with the Act. The Exchange believes the addition of this sentence, similar to rule text in Phlx today³⁶ will add more clarity to the manner in which the DNR Order will be priced.

SEEK and SRCH Orders

The Exchange’s proposal to expand the current language within SEEK and SRCH Orders to add a reference to an Opening Process as defined within proposed BX Chapter VI, Section 11(a) will add clarity to the rule text. Also, making clear that each order begins a separate Route Timer, which cannot be early terminated and the individual order’s Route Timer must complete before the order can route to an away market is consistent with the Act because the Exchange is allowing the entire time on the Route Timer to obtain the best price for the order.³⁷ In order to maintain priority within the System, the SEEK and SRCH Order is prioritized today for routing purposes, which is sequentially based on the Route Timer.

SEEK Order

The Exchange’s proposal to utilize the more precise terms “ABBO” in place of “NBBO” where the local market has been exhausted when describing SEEK

³⁶ See Phlx Rule 1093(a).

³⁷ See proposed BX Rule Chapter VI, Sections 11(a)(iii)(B) and 11(a)(iii)(C).

Order behavior is consistent with the Act because the term is more accurate.³⁸ The Exchange's proposal to note a scenario where the ABBO moves and crosses the SEEK Order during a Route Timer.³⁹ If the away market price crosses the BBO, the market is crossed and contra interest would execute at the price the order rested on the Order Book. If the away price locks the displayed price, the contra interest would execute at its displayed price. This proposed rule text is consistent with the Act because it would not permit a trade-through but would allow a SEEK Order to trade where the order is marketable, but does not trade-through. The new language will provide market participants with greater transparency as to the manner in which the System will handle a SEEK Order in that particular situation. This is also applicable to SRCH Orders.

SRCH Order

The Exchange's proposal to add new rule text within proposed BX Chapter VI, Section 11(a)(iii)(C)(3) concerning a SRCH Order, "If during the Route Timer, the ABBO moves and crosses the SRCH Order, any new interest arrives opposite the SRCH Order that is marketable against the SRCH Order will trade at the SRCH Order price" is consistent with the Act. This new sentence will address the specific situation where the ABBO cross a SRCH Order and the price at which the SRCH Order would trade. In this situation, the away market has crossed the BBO. The contra interest would therefore execute at the SRCH Order price. The new language will provide market participants with greater transparency as to the manner in which the System currently handles a SRCH Order in that particular situation"⁴⁰ is consistent with the Act because this situation accounts for a locked and crossed market scenario and provides information as to the manner in which the SRCH Order would display. This information provides market participant with greater transparency.

The Exchange's proposal to amend the penultimate sentence of current BX Chapter VI, Section 11(a)(1)(B) to provide, "While on the Order Book at the limit price, should the order subsequently be locked or crossed by another market center, the order will not re-expose and may route at the end of route timer" is consistent with the Act

because the Exchange would not disseminate an exposure notification to participants because the SRCH Order is being locked or crossed by an away market and the Exchange is not required to re-expose the SRCH Order in this scenario.

Current Chapter VI, Section 11(a)(1)(D)

The Exchange's proposal to delete current BX Chapter VI, Section 11(a)(1)(D) is consistent with the Act because the Exchange has relocated the locked and crossed scenarios into the text of SEEK and SRCH as explained herein. The proposed text also addresses new interest trading opposite the order as well as eligible unexecuted interest. The Exchange believes that this paragraph is unnecessary and redundant in light of the proposed text for SEEK and SRCH.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed routing rules apply to all market participants including routing during an Opening Process. The Exchange believes that adding greater detail to its rules does not impose an undue burden on competition, rather it provides greater transparency as to the potential outcomes when utilizing different routing strategies. Further, the Exchange notes that market participants may elect not to route their orders. The Exchange continues to offer various options to its market participants with respect to routing.

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 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 Act⁴¹ and Rule 19b-4(f)(6) thereunder.⁴²

⁴¹ 15 U.S.C. 78s(b)(3)(A).

⁴² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁴³ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁴⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative 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 Exchange to immediately provide members with greater information and transparency on potential order routing strategies available on the Exchange. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.⁴⁵

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 email to rule-comments@sec.gov. Please include File Number SR-BX-2019-017 on the subject line.

give the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

⁴³ 17 CFR 240.19b-4(f)(6).

⁴⁴ 17 CFR 240.19b-4(f)(6)(iii).

⁴⁵ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁸ See proposed BX Chapter VI, Section 11(a)(1)(A).

³⁹ See proposed BX Chapter VI, Section 11(a)(iii)(B)(2).

⁴⁰ See proposed BX Chapter VI, Section 11(a)(iii)(C)(3).

Paper Comments

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

All submissions should refer to File Number SR-BX-2019-017. 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 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2019-017, and should be submitted on or before July 3, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁶

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-12339 Filed 6-11-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86049; File No. SR-PEARL-2019-20]

Self-Regulatory Organizations; Miami PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 510, Minimum Price Variations and Minimum Trading Increments To Extend the Penny Pilot Program

June 6, 2019.

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 May 30, 2019, Miami PEARL, LLC ("MIAX PEARL" or the "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 Rule 510, Minimum Price Variations and Minimum Trading Increments, Interpretation and Policy .01 to extend the pilot program for the quoting and trading of certain options in pennies.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/pearl>, at MIAX PEARL'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 forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the "Penny Pilot Program" or "Program"). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of \$0.01 for all series in such option classes with a price of less than \$3.00; and in minimum increments of \$0.05 for all series in such option classes with a price of \$3.00 or higher. Options overlying the PowerShares QQQ™ ("QQQ"), SPDR® S&P 500® ETF ("SPY"), and iShares® Russell 2000 ETF ("IWM"), however, are quoted and traded in minimum increments of \$0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007³ and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2019.⁴ The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through December 31, 2019.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular, in that it is 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

³ See Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR-CBOE-2006-92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR-ISE-2006-62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR-Phlx-2006-74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR-NYSEArca-2006-73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR-Amex-2006-106).

⁴ See Securities Exchange Act Release No. 84865 (December 19, 2019), 83 FR 66813 (December 27, 2018) (SR-PEARL-2018-26) (extending the Penny Pilot Program from December 31, 2018 to June 30, 2019).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁴⁶ 17 CFR 200.30-3(a)(12).