

ETP that does not have a closing cross. The Commission notes that the primary listing market's closing price for a security is relied upon by market participants for a variety of reasons, including, but not limited to, calculation of index values, calculation of the net asset value of mutual funds and exchange-traded products, the price of derivatives that are based on the security, and certain types of trading benchmarks such as volume weighted average price strategies. The Commission believes that the proposed methodology for determining the NOCP for a Nasdaq-listed ETP that does not have a closing cross could provide a NOCP that is more reflective of the current value of the ETP than a potentially stale last sale price, especially for a thinly-traded ETP.<sup>19</sup> In particular, the Nasdaq last sale trade for an ETP that occurred earlier in a trading day or even from a prior trading day may no longer be reflective of the value of the ETP, which should be priced relative to the value of its components.<sup>20</sup> The Commission therefore believes that the Exchange's proposal is reasonably designed to achieve the Act's objectives to protect investors and the public interest. Accordingly, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act.

#### IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>19</sup> See Notice, *supra* note 3, at 44344–45. Moreover, according to the Exchange, when there is no closing cross at 4:00:00 p.m., the Exchange's internal research has shown that using the T–WAM of the time period between 3:58:00 p.m. and 3:59:55 p.m. results in a price that reflects a fair current valuation and is reflective of the price that was calculated by the closing cross. See *id.* at 44344 n.12 and 44345. See also Nasdaq Letter, *supra* note 6 (providing more details regarding the Exchange's internal research relating to this proposal).

<sup>20</sup> See Notice, *supra* note 3, 44345. According to the Exchange, the proposal would not apply to NextShares because its reference trading price is reset to 100 every day for quoting purposes and the actual net asset value does not correspond to this reference price, and therefore the midpoints are not applicable in determining a more accurate fair value of the basket. See *id.* at 44344 n.4. The proposal also would not apply to corporate securities because, unlike ETPs, they do not have a net asset value along with an arbitrage component that keeps the prices in line. See *id.*

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR–NASDAQ–2019–061 on the subject line.

#### 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–NASDAQ–2019–061. 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–NASDAQ–2019–061, and should be submitted on or before December 5, 2019.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. As discussed above, in Amendment No. 1, the Exchange provided additional justification for its proposed methodology for determining

the NOCP for Nasdaq-listed ETPs and specified that it will implement the proposed rule change within 30 calendar days following Commission approval. The Commission notes that Amendment No. 1 does not materially alter the substance of the proposal and provides additional clarity and justification to the proposal.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>21</sup> to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>22</sup> that the proposed rule change (SR–NASDAQ–2019–061), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

Jill M. Peterson,  
Assistant Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87490; File No. SR–NYSENAT–2019–25]

#### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37 To Specify in Exchange Rules the Exchange's Use of Data Feeds From NYSE Chicago, Inc.

November 7, 2019.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”) <sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on October 31, 2019, NYSE National, Inc. (“NYSE National” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> *Id.*

<sup>23</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

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

The Exchange proposes to: (1) Amend Rule 7.37 to specify in Exchange rules the Exchange's use of data feeds from NYSE Chicago, Inc. ("NYSE Chicago") for order handling and execution, order routing, and regulatory compliance; and (2) amend Rule 7.45 to reflect that Archipelago Securities LLC ("Arca Securities") would function as a routing broker for the Exchange's affiliate, NYSE Chicago. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

#### **1. Purpose**

The Exchange proposes to update and amend the table in Rule 7.37 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, execution and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the table would be amended to include NYSE Chicago, which intends to migrate to the Pillar trading platform.<sup>4</sup> Rule 7.37 currently provides that the Chicago Stock Exchange, Inc., the predecessor name of NYSE Chicago, utilizes the securities information processor ("SIP") data feed as its primary source for the handling, execution and routing of orders, as well as for regulatory compliance, and does not use a secondary source. Once NYSE

Chicago transitions trading to Pillar, it would use a direct data feed as its primary source and the SIP data feed as a secondary source. To reflect these changes, the Exchange proposes to amend Rule 7.37 to specify which data feeds the Exchange would use for NYSE Chicago. Specifically, the Exchange proposes to amend the rule to provide that NYSE Chicago would use the direct data feed as the primary source and would use the SIP data feed as a secondary source.

Additionally, the Exchange proposes to amend Rule 7.45 to reflect that Arca Securities would function as a routing broker for the Exchange's affiliate, NYSE Chicago. Specifically, the Exchange proposes to amend Rule 7.45(c)(1) and (2) to reference NYSE Chicago as an affiliate of the Exchange for the purposes of the inbound routing function performed by Arca Securities. The proposed rule change would provide more clarity and transparency to all the functions that Arca Securities performs on behalf of the Exchange and its affiliates, which now includes NYSE Chicago. The Exchange is not proposing any substantive change to the rule.

#### **2. Statutory Basis**

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>6</sup> in particular, because 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 mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to update the table in Rule 7.37 to include NYSE Chicago will ensure that Rule 7.37 correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, execution and routing of orders, and for performing the regulatory compliance checks to each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency. The Exchange

believes the proposed rule change to amend Rule 7.45 also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because the proposed rule change would enhance the clarity and transparency in Exchange Rules surrounding the inbound routing function performed by Arca Securities for the Exchange's affiliate, NYSE Chicago.

### **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 change is not designed to address any competitive issue but rather would provide the public and investors with information about which data feeds the Exchange uses for execution and routing decisions, and provide clarity in Exchange rules that Arca Securities would perform the inbound routing function on behalf on the Exchange's affiliate, NYSE Chicago.

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

No written comments were solicited or received with respect to the proposed rule change.

## **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 prior to 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to 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.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> NYSE Chicago has announced that, subject to rule approvals, it will transition to trading on Pillar on November 4, 2019. See Trader Update, available here: [https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago\\_Migration\\_update\\_9.4.pdf](https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago_Migration_update_9.4.pdf).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

to Rule 19b-4(f)(6)(iii),<sup>10</sup> 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 Exchange represents that the proposal would correctly identify and publicly state on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, execution and routing of orders, and for performing the regulatory compliance checks to each of those functions. Further, the Exchange represents that the proposal would enhance the clarity and transparency in Exchange Rules surrounding the inbound routing function performed by Arca Securities for the Exchange's affiliate, NYSE Chicago. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and hereby waives the operative delay and designates the proposed rule change as operative upon filing.<sup>11</sup>

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>12</sup> of the Act 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2019-25 on the subject line.

##### *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-NYSE-2019-25. 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-NYSE-2019-25 and should be submitted on or before December 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87487; File No. SR-BX-2019-040]

### Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

November 7, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 29, 2019, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("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 Rule 4759, as described below. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on November 4, 2019.

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 Rule 4759, which lists the proprietary

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.