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–Phlx–2021–09 and should be submitted on or before August 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\(^{31}\)

J. Matthew DeLesDernier, Assistant Secretary.

[FR Doc. 2021–16231 Filed 7–29–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Opening Process

July 26, 2021.

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 July 19, 2021, Nasdaq MRX, LLC ("MRX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the 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 MRX Options 3, Section 8, “Options Opening Process.” Specifically, the Exchange proposes to amend the definition of Valid Width Quote at Options 3, Section 8(a)(8). MRX’s Opening Process for an option series is conducted pursuant to Options 3, Section 8 paragraphs (f)–(l), on or after 9:30 a.m. Eastern the ABBO, if any, is not crossed and the System has received, within two minutes\(^{3}\) of the opening trade or quote on the market for the underlying security,\(^{4}\) a Valid Width Quote. The System will accept a Primary Market Maker’s Valid Width Quote or the Valid Width Quote of at least one Competitive Market Maker.\(^{5}\)

Today, MRX requires a Primary Market Maker to enter a Valid Width Quote in 90% of their assigned series, not later than one minute following the opening of the market for the underlying security.\(^{6}\) In the case of index options, the timing is within two minutes of the receipt of the opening price in the underlying index or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options. In both cases the Exchange may designated a shorter time period where it is disseminated to membership on the Exchange’s website.

\(^{3}\) The Exchange may designated a shorter time period where it is disseminated to membership on the Exchange’s website.

\(^{4}\) In the case of index options, the timing is within two minutes of the receipt of the opening price in the underlying index or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options. In both cases the Exchange may designated a shorter time period where it is disseminated to membership on the Exchange’s website.

\(^{5}\) The Exchange proposes an amendment within Options 3, Section 8(c)(1)(A) as described below.

\(^{6}\) In the case of index options, a Primary Market Maker must enter a Valid Width Quote in 90% of their assigned series, not later than one minute following the receipt of the opening price in the underlying index. The Primary Market Maker assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. See Options 3, Section 8(c)(3). The Exchange proposes to make a technical amendment to Options 3, Section 8(c)(3) which is described below.
to in-the-money series where the market for the underlying security is wider than the differential set forth above. The bid/ask differentials for in-the-money options series may be as wide as the quotation for the underlying security on the primary market, or its decimal equivalent rounded down to the nearest minimum increment. The Exchange may establish differences other than the above for one or more series or classes of options. Such differences will be posted by the Exchange on its website.

This proposed language is similar to Nasdaq BX, Inc. (“BX”). The Exchange proposes to widen the current bid/ask differentials for several reasons.

First, the proposal would conform the Valid Width Quote definition of MRX to that of BX. BX refers to a difference not to exceed $5 between the bid and offer within the description of a Valid Width Quote, similar to BX Options 2, Section 4(f) and 5(d)(2) that describes intra-day quotes. By amending MRX’s Valid Width Quote, the Exchange notes that the $5 difference is akin to MRX’s intra-day requirement within MRX Options 2, Section 4(b)(4).

Second, the proposed differential would simplify the differential for Primary Market Makers, who would continue to be required to submit a Valid Width Quote during the Opening Process in their assigned options series. Widening the differentials would allow Primary Market Makers and Competitive Market Makers that elect to quote during the Opening Process, an ability to quote wider during the Opening Process when an underlying is volatile.

As of July 30, 2021

<table>
<thead>
<tr>
<th>Bid price low end of</th>
<th>Bid price high end of</th>
<th>Maximum bid/ask differential</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00</td>
<td>$1.99</td>
<td>$0.75</td>
</tr>
<tr>
<td>2.00</td>
<td>4.99</td>
<td>1.20</td>
</tr>
<tr>
<td>5.00</td>
<td>9.99</td>
<td>1.50</td>
</tr>
<tr>
<td>10.00</td>
<td>19.99</td>
<td>2.40</td>
</tr>
<tr>
<td>20.00</td>
<td>20.00+</td>
<td>3.00</td>
</tr>
</tbody>
</table>

Also, options with an expiration more than nine months away continue to be permitted a Valid Width Quote bid/ask differential of $5.00. The Exchange will continue to utilize the differentials currently posted on its website until such time as it provides notice to Members of a change.

Third, the Exchange also proposes to add rule text to state that such differentials will be posted by the Exchange on its website. Posting the current differentials on its website would allow Members to easily refer to the quoting obligations for the Opening Process.

Technical Amendment

The Exchange proposes to amend “Quotes” to “Quote” within Options 3, Section 8(c)(1)(B). The Exchange also proposes to remove two incorrect citations to Options 3, Section 8(c)(1)(iii). The “ii” was removed in a prior rule change.

2. Statutory Basis

The Exchange believes that its proposal to establish a $5 difference is consistent with Section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an 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 regulating, clearing, settling, processing information with respect to, and 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.

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed $5 difference for the Valid Width Quote is more appropriate because it reflects the Exchange’s experience in administering the rule and would continue to give Market Makers flexibility including during the Opening Process. The Exchange notes that the current standard is not being applied as the Exchange has established Valid Width Quote differentials which differ from those described within Options 3, Section 8(a)(8). Widening the Valid Width Quote requirement would provide Primary Market Makers, and Competitive Market Makers that elect to quote during the Opening Process, additional flexibility when submitting Valid Width Quotes during the Opening Process thereby allowing these Market Makers the ability to quote wider in instances where the Exchange has not established Valid Width Quote differentials which differ from those in the rule because volatile market conditions exist or there is news regarding an underlying security which may impact pricing. Primary Market Makers are integral to the Exchange’s Opening Process as MRX is dependent on receiving a Valid Width Quote to open an options series. With this proposal, Primary Market Makers would continue to be required to submit a Valid Width Quote during the Opening Process in their assigned options series.

The proposal would conform the Valid Width Quote definition of MRX to...
that of BX.18 BX refers to a difference not to exceed $5 between the bid and offer within the description of a Valid Width Quote, similar to BX Options 2, Section 4(f) and 5(d)(2) that describes intra-day quotes. By amending MRX’s Valid Width Quote, the Exchange notes that the $5 difference is akin to MRX’s intra-day requirement within MRX Options 2, Section 4(b)(4).19 Also, today, MIAX and Emerald require market makers to enter a valid width NBBO with a difference of no more than $5 between the bid and offer.20

Not all options markets have bid/ask differentials. In 2019, Cboe removed its quote width requirements while citing corresponding rules of its affiliated exchanges.21 Cboe noted in the 2019 Rule Change that the current quote width requirement at the time for generally all classes was $10, however, its Market-Makers consistently maintained two-sided quotes that were much tighter than the required width. Cboe opined that, even if markets experienced periods of stress or volatility, they remained obligated to maintain two-sided markets and engage in a course of dealings that must be reasonably calculated to contribute to the maintenance of a fair and orderly market, which includes refraining from making bids or offers that are inconsistent with such course of dealings and updating quotations in response to changed market conditions.22 Cboe noted that it did not believe that continuing to provide for a quote width requirement was necessary nor would it impact the maintenance of fair and orderly markets because Market-Makers already quoted at a bid/ask spread much narrower than the requirements and were required to continuously fulfill their obligations to engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market.23

Unlike Cboe, MRX does require its Market Makers to quote both during the Opening Process and intra-day within certain established bid/ask differentials. The Exchange notes that widening its Valid Width Quote differential during the Opening Process will not impact the maintenance of fair and orderly markets because Market Makers on MRX, unlike other markets that do not require quoting during the Opening Process, will continue to require that its Market Makers provide Valid Width Quotes during the Opening Process, thereby ensuring liquidity. Also, Market Makers may quote tighter than the defined Valid Width Quote differential. Finally, similar to Cboe’s argument in the 2019 Rule Change, Market Makers are required to continuously fulfill their obligations to engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market.

Today, the Exchange has discretion to set other differentials,24 similar to MIAX and Emerald.25 The Exchange currently is utilizing that discretion to set different bid/ask differentials based on its observation of market openings. Currently, the Exchange requires Market Makers to submit Valid Width Quotes which are tighter than the proposed $5 difference.

The Exchange’s robust Opening Process seeks to encourage quality markets. As noted herein, unlike a majority of options markets,26 it requires Primary Market Makers to quote during the Opening Process to ensure liquidity as well as an efficient Opening Process where options series are opened quickly and at fair prices.

The proposal to add rule text to state that such differences will be posted by the Exchange on its website27 would allow Members to easily refer to the quoting obligations for the Opening Process.

Technical Amendment

The Exchange’s proposal to amend “Quotes” to “Quote” within Options 3, Section 8(c)(1)(B) and remove two incorrect citations to Options 3, Section 8(c)(1)(C) will bring greater clarity to the Exchange’s Rules.

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)(iii) of the Act and 

18 See supra note 8.
19 See supra note 9.
20 MIAX and Emerald require Market Makers to submit a valid width NBBO in the opening where the bid and offer of the NBBO differ no more than $5 for options on equities and index series with differences of no more than $5 between the bid and offer. MIAX and Emerald Rule 603(b)(4)(ii) provides that bidding and offering so as to make differences of no more than $5 between the bid and offer. This $5 difference is also provided in MIAX and Emerald Rule 603(b)(4)(ii) which may establish differences other than the bid/ask differentials described in (i) above for one or more option series or classes, respectively. See MIAX and Emerald Rules 503.
22 Id.
23 Id.
24 See Options 3, Section 8(a)(6), the Exchange may establish differentials other than the established bid/ask differentials for one or more series or classes of options.
25 See MIAX and Emerald Rules 503.
26 See supra note 17.
27 Id.
subparagraph (f)(6) of Rule 19b–4 thereunder.\textsuperscript{31} 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 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–MRX–2021–09 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–MRX–2021–09 on the subject line.

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–MRX–2021–09 and should be submitted on or before August 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\textsuperscript{32}

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021–16226 Filed 7–29–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


SECURITIES AND EXCHANGE COMMISSION

GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Opening Process

July 26, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),\textsuperscript{1} and Rule 19b–4 thereunder,\textsuperscript{2} notice is hereby given that on July 19, 2021, Nasdaq GEMX, LLC ("GEMX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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


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 Commission’s Public Reference Room. 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

GEMX proposes to amend Options 3, Section 8, “Options Opening Process.” Specifically, the Exchange proposes to amend the definition of Valid Width Quote at Options 3, Section 8(a)(8).

GEMX’s Opening Process for an option series is conducted pursuant to Options 3, Section 8 paragraphs (f)–(j), on or after 9:30 a.m. Eastern Time if the ABBO, if any, is not crossed and the System has received, within two minutes\textsuperscript{3} of the opening trade or quote on the market for the underlying security,\textsuperscript{4} a Valid Width Quote. The System will accept a Primary Market Maker’s Valid Width Quote or the Valid Width Quote of at least one Competitive Market Maker.\textsuperscript{5} Today, GEMX requires a Primary Market Maker to enter a Valid Width Quote in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security.\textsuperscript{6} Primary Market exchanges are required to post a Valid Width Quote in 90% of their assigned series within two minutes of the opening price in the underlying index or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options. In both cases the Exchange may designate a shorter time period if it is disseminated to membership on the Exchange’s website.

\textsuperscript{3} The Exchange may designate a shorter time period if it is disseminated to membership on the Exchange’s website.

\textsuperscript{5} In the case of index options, the timing is within two minutes of the receipt of the opening price in the underlying index or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options.

\textsuperscript{6} In both cases the Exchange may designate a shorter time period if it is disseminated to membership on the Exchange’s website.

\textsuperscript{5} The Exchange proposes an amendment within Options 3, Section 8(c)(1)(B) as described below.

\textsuperscript{6} In the case of index options, a Primary Market Maker must enter a Valid Width Quote in 90% of their assigned series, not later than one minute following the receipt of the opening price in the underlying index. The Primary Market Maker assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one

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