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All submissions should refer to File Number SR-OCC-2017-809 and should be submitted on or before August 22, 2018.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2018-16824 Filed 8-6-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83756; File No. SR-BYX-2012-019]

Self-Regulatory Organization; Cboe BYX Exchange, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program

August 1, 2018.

On November 27, 2012, the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")¹ that granted the BATS BYX-Exchange, Inc. (nka "Cboe BYX" or the "Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement ("RPI") Program (the "Program"). The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.² The exemption was granted coterminous with the effectiveness of the pilot Program and has been extended five times;³ both the pilot Program and

exemption are scheduled to expire on July 31, 2018.

The Exchange now seeks to extend the exemption until December 31, 2018.⁴ The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until December 31, 2018.⁵ In its request to extend the exemption, the Exchange notes that the Program was implemented gradually over time. Accordingly, the Exchange has asked for additional time to allow itself and the Commission to analyze data concerning the Program, which the Exchange committed to provide to the Commission, as well as to allow additional opportunities for greater participation in the Program.⁶ For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds that extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

THEREFORE, IT IS HEREBY ORDERED, that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612(c) of Regulation NMS that allows it to accept and rank orders priced equal to or greater than \$1.00 per share in

Program); 74111 (January 22, 2015), 80 FR 4598 (January 28, 2015) (SR-BYX-2015-05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); and 74115 (January 22, 2015), 80 FR 4324 (January 27, 2015) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 76965 (January 22, 2016), 81 FR 4682 (January 27, 2016) (SR-BYX-2016-01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 76953 (January 21, 2016), 81 FR 4728 (January 27, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 78180 (June 28, 2016), 81 FR 43306 (July 1, 2016) (SR-BYX-2016-15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 78178 (July 5, 2016), 81 FR 43689 (July 5, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 81368 (August 10, 2017), 82 FR 38960 (August 16, 2017) (SR-BatsBYX-2017-18) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 81364 (August 8, 2018), 82 FR 38733 (August 15, 2017) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program).

⁴ See letter from Anders Franzon, Senior Vice President and Associate General Counsel, Cboe BYX, to Brent J. Fields, Secretary, Commission, dated July 30, 2018.

⁵ See SR-CboeBYX-2018-015.

⁶ See RPI Approval Order, *supra* note 2, at 77 FR at 71657.

increments of \$0.001, in connection with the operation of its RPI Program.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934. Responsibility for compliance with any applicable provisions of the federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83757]

Order Granting Applications by Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, and Nasdaq PHLX LLC for Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain CAT Rules Incorporated by Reference

August 1, 2018.

Nasdaq BX, Inc. ("BX"), Nasdaq GEMX, LLC ("GEMX"), Nasdaq ISE, LLC ("ISE"), Nasdaq MRX, LLC ("MRX"), and Nasdaq PHLX LLC ("Phlx") (each the "Exchange" and collectively, the "Exchanges") have filed with the Securities and Exchange Commission (the "Commission") an application for an exemption from the rule filing requirements of Section 19(b) of the Securities Exchange Act of 1934 (the "Exchange Act")¹ with respect to certain rules of The Nasdaq Stock Market LLC (the "Nasdaq Market") that the Exchanges seek to incorporate by reference. Section 36(a)(1) of the Exchange Act,² subject to certain limitations, authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

⁷ 17 CFR 200.30-3(a)(83).

¹ 15 U.S.C. 78s(b).

² 15 U.S.C. 78mm(a)(1).

¹ 17 CFR 242.612(c).

² See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) ("RPI Approval Order") (SR-BXY-2012-019).

³ See Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2012) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 71250 (January 7, 2014), 79 FR 2234 (January 13, 2012) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement

The Nasdaq Market and the Exchanges are Participants in the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan” or “Plan”).³ Each Participant in the CAT NMS Plan is required to enforce compliance by its members with the provisions of the Plan by adopting a Compliance Rule applicable to its members.⁴ In 2017, pursuant to the CAT NMS Plan, the Nasdaq Market and the Exchanges each adopted a Compliance Rule.⁵ On April 10, 2018, the Exchanges filed proposed rule changes with the Commission to delete each Exchange’s Compliance Rule from the rulebook and instead incorporate by reference, in each respective Exchange’s rulebook, the Nasdaq Market’s Compliance Rule (“Nasdaq Market Compliance Rule”).⁶

The Exchanges request, pursuant to Rule 0–12 under the Exchange Act,⁷ that the Commission grant the Exchanges an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to each Exchange’s rules that are effected solely by virtue of a change to the Nasdaq Market Compliance Rule. Specifically, the Exchanges request that they be permitted to incorporate by reference changes made to the Nasdaq Market Compliance Rule that would be incorporated by reference in the Exchanges’ rulebooks, without the need for each Exchange to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act.⁸ By

virtue of incorporating the Nasdaq Market Compliance Rule by reference, members of each Exchange will be required to comply with the Nasdaq Market Compliance Rule as though it is fully set forth within each of the Exchanges’ rulebooks.⁹

The Exchanges do not intend to incorporate by reference any trading rules. Instead, they represent that the Nasdaq Market Compliance Rule is regulatory in nature. Further, the Exchanges represent that they will, as a condition of this exemption, provide written notice to their members whenever the Nasdaq Market proposes a change to the Nasdaq Market Compliance Rule.¹⁰ Such notice will alert the members of each Exchange to the proposed rule change and give them an opportunity to comment on the proposal. The Exchanges state that they will also inform members in writing when the Commission approves any such proposed rule change.¹¹

The Exchanges believe this exemption is appropriate because it will result in the Exchanges’ rules pertaining to CAT NMS Plan compliance to remain consistent at all times, thus ensuring consistent regulation of joint members of the Nasdaq Market and Exchanges with respect to the incorporated rules.¹²

The Commission has issued exemptions similar to the Exchanges’ request.¹³ In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission

Fields, Secretary, Commission, dated April 10, 2018, at 2–3.

⁹ *Id.* at 2.

¹⁰ The Exchanges also state that they will provide such notice on their websites in the same section they use to post their own proposed rule change pursuant to Rule 19b–4(l) of the Exchange Act. In addition, the Exchanges state that their website will include a link to the Nasdaq Market website where the proposed rule change would be located. *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ See, e.g., Securities Exchange Act Release Nos. 80338 (March 29, 2017), 82 FR 16464 (April 4, 2017) (order granting exemptive request from MIAx PEARL, LLC relating to rules of Miami International Securities Exchange, LLC incorporated by reference); 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.’s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (“BATS Options Market Order”); and 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080, and granting exemptive request relating to rules incorporated by reference by The NASDAQ Options Market).

statement that it would consider similar future exemption requests from other self-regulatory organizations (“SROs”), provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission’s release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act;¹⁴

- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (e.g., the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.¹⁵

The Commission believes that the Exchanges have satisfied each of these conditions. Further, the Commission also believes that granting the Exchanges an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of the Commission’s and the Exchanges’ resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.¹⁶ The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchanges from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules they incorporate by reference. This exemption is conditioned upon the Exchanges promptly providing written notice to their members whenever the

¹⁴ See 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (“Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule”).

¹⁵ See BATS Options Market Order, *supra* note 13 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (“2004 Order”).

¹⁶ See BATS Options Market Order, *supra* note 13, 75 FR at 8761; see also 2004 Order, *supra* note 15, 69 FR at 8502.

³ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (“CAT NMS Plan Approval Order”). All capitalized terms not otherwise defined herein have the meaning ascribed to them in the CAT NMS Plan or CAT NMS Plan Approval Order.

⁴ *Id.* at 84945, 84950.

⁵ See Securities Exchange Act Release No. 80256, 82 FR 14526 (March 21, 2017) (order approving the Compliance Rules for the Nasdaq Market and the Exchanges). On January 29, 2018, the Nasdaq Market filed a proposed rule change with the Commission to relocate the Nasdaq Market Compliance Rule to a new section General 7 in its rulebook. See Securities Exchange Act Release No. 82604 (January 30, 2018), 83 FR 5154 (February 5, 2018) (SR–NASDAQ–2018–007).

⁶ See Securities Exchange Act Release Nos. 83077 (April 20, 2018), 83 FR 18358 (April 26, 2018) (SR–Phlx–2018–30); 83081 (April 20, 2018), 83 FR 18371 (April 26, 2018) (SR–BX–2018–015); 83079 (April 20, 2018), 83 FR 18362 (April 26, 2018) (SR–ISE–2018–35); 83083 (April 20, 2018), 83 FR 18384 (April 26, 2018) (SR–GEMX–2018–13); and 83085 (April 20, 2018), 83 FR 18364 (April 26, 2018) (SR–MRX–2018–12). Although the proposed rule changes were filed pursuant to Section 19(b)(3)(A)(iii) of the Exchange Act, and thereby became effective upon filing with the Commission, the Exchanges stipulated in their filings that the incorporation by reference would not be operative until such time as the Commission grants this exemptive request.

⁷ 17 CFR 240.0–12.

⁸ See Letter from Angela S. Dunn, Principal Associate General Counsel, Nasdaq Inc., to Brent J.

Nasdaq Market changes a rule that the Exchanges have incorporated by reference.

Accordingly, it is ordered, pursuant to Section 36 of the Exchange Act,¹⁷ that the Exchanges are exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in its request that incorporate by reference certain Nasdaq Market rules that are the result of changes to such Nasdaq Market rules, provided that the Exchanges promptly provide written notice to their members whenever the Nasdaq Market proposes to change a rule that the Exchanges have incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83762; File No. SR-OCC-2017-810]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Partial Amendments No. 1, 2, and 3 to Advance Notice Concerning Updates to and Formalization of OCC's Recovery and Orderly Wind-Down Plan

August 1, 2018.

I. Introduction

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing, and Settlement Supervision Act of 2010 ("Clearing Supervision Act")¹ and Rule

19b-4(n)(1)(i)² under the Securities Exchange Act of 1934 ("Act"),³ The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") an advance notice pursuant to which OCC would formalize and update its Recovery and Orderly Wind-Down Plan ("RWD Plan" or "Plan"), consistent with the applicable requirement in Rule 17Ad-22(e)(3)(ii)⁴ ("Advance Notice"). The Advance Notice was published for public comment in the **Federal Register** on January 23, 2018.⁵ On January 23, 2018, the Commission requested OCC provide it with additional information regarding the Advance Notice.⁶ OCC responded to this request for information, and the information was received on July 13, 2018.⁷ On July 11 and 12, 2018, OCC filed Partial Amendment No. 1 and Partial Amendment No. 2 to the Initial Filing. On July 12, 2018, OCC also filed a partial amendment ("Partial Amendment No. 3") to the Initial Filing. This Partial Amendment No. 3 is intended to supersede and replace Amendments No. 1 and 2 in their entirety.⁸ Therefore, the Initial Filing

² 17 CFR 240.19b-4(n)(1)(i).

³ 15 U.S.C. 78a *et seq.*

⁴ 17 CFR 240.17Ad-22(e)(3)(ii).

⁵ See Securities Exchange Act Release No. 82514 (January 17, 2018), 83 FR 3224 (January 23, 2018) (SR-OCC-2017-810) (hereinafter referred to as the "Initial Filing"). Initial Filing, 83 FR 3224.

⁶ See Memorandum from Office of Clearance and Settlement, Division of Trading and Markets, dated January 23, 2018, available at <https://www.sec.gov/comments/sr-occ-2017-810/occ2017810-2948228-161854.pdf>.

⁷ See Memorandum from Office of Clearance and Settlement, Division of Trading and Markets, dated July 17, 2018, available at <https://www.sec.gov/comments/sr-occ-2017-810/occ2017810-4062513-169149.pdf>.

⁸ This Partial Amendment No. 3 is substantially the same as Partial Amendments No. 1 and 2 but would correct certain technical errors in the previous amendments (e.g., update a cross-reference to OCC filing SR-OCC-2017-809, as now amended by Amendment No. 2, and correct a pagination error in Exhibits 4 and 5). Substantive changes to the

together with Partial Amendment No. 3 reflects the changes being proposed.

The Advance Notice, as amended by Partial Amendment No. 3 is described in Item II below, which Item has been prepared by OCC. The Commission is publishing this notice to solicit comments on the Advance Notice, as amended by Partial Amendments No. 1, 2 and 3, from interested persons.

II. Clearing Agency's Statement of the Terms of Substance of Partial Amendment No. 3 to the Advance Notice

This Partial Amendment No. 3 would make the following three amendments to the Initial Filing: (1) Removal of sections of the RWD Plan concerning OCC's proposed authority to require cash settlement of certain physically delivered options and single stock futures; (2) updating the list of OCC's Critical Support Functions;⁹ and (3) making three changes to Chapter 5 of the RWD Plan in order to conform to a change contemporaneously proposed in Amendment No. 2 to OCC advance notice filing SR-OCC-2017-809 concerning enhanced and new tools for recovery scenarios.¹⁰

With regard to the removal of sections of the RWD Plan concerning OCC's proposed authority to require cash settlement of certain physically delivered options and single stock futures, OCC proposes to amend the following text on pages 16-17 and 55 of the Initial Filing (new text is underlined and proposed deletions are marked in strikethrough text).

Initial Filing, as reflected in Partial Amendment No. 3, are described in Item II below.

⁹ The amendment to the list of Critical Support Functions would be made to the confidential and redacted portions of the RWD Plan.

¹⁰ See Amendment No. 2 to SR-OCC-2017-809. The three amendments to Chapter 5 also would be made to the confidential and redacted portions of the RWD Plan.

¹⁷ 15 U.S.C. 78mm.

¹⁸ 17 CFR 200.30-3(a)(76).

¹ 12 U.S.C. 5465(e)(1).