

submissions available to the public or entering the comment into ADAMS.

## II. Further Information

The NRC seeks public comment on the proposed SRP-draft section revision of Section 14.3.3, “Piping Systems and Components—Inspections, Tests, Analyses, and Acceptance Criteria.” This re-notice includes revisions initiated by the staff to address editorial issues and provide further clarification on particular issues. This revision supersedes the previous revision issued on September 11, 2017, and the staff will not be addressing previously submitted comments. Following NRC staff evaluation of public comments, the NRC intends to finalize SRP Section 14.3.3, Revision 1 in ADAMS and post it on the NRC’s public website at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/>. The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC regulations, and compliance with the SRP is not required.

## III. Backfitting and Issue Finality

Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule), or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The staff’s position is based upon the following considerations.

1. *The draft SRP positions, if finalized, do not constitute backfitting, inasmuch as the SRP is guidance directed to the NRC staff with respect to its regulatory responsibilities.*

The SRP provides interim guidance to the staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in staff guidance intended for use by only the staff are not matters that constitute backfitting as that term is defined in 10 CFR 50.109(a)(1) or involve the issue finality provisions of 10 CFR part 52.

2. *Backfitting and issue finality—with certain exceptions discussed below—do not apply to current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, the subject of either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52 were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to this general principle are applicable whenever a 10 CFR part 50 operating license applicant references a construction permit or a 10

CFR part 52 combined license applicant references a license (e.g., an early site permit) and/or an NRC regulatory approval (e.g., a design certification rule) for which specified issue finality provisions apply.

The NRC staff does not currently intend to impose the positions represented in the draft SRP section in a manner that constitutes backfitting or is inconsistent with any issue finality provision in 10 CFR part 52. If in the future the NRC staff seeks to impose a position stated in this draft SRP section in a manner that would constitute backfitting or be inconsistent with these issue finality provisions, the NRC staff must make the showing as set forth in the Backfit Rule or address the regulatory criteria for set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

3. *The staff has no intention to impose the draft SRP positions on existing nuclear power plant licenses either now or in the future (absent a voluntary request for a change from the licensee, holder of a regulatory approval, or a design certification applicant).*

The NRC staff does not intend to impose or apply the positions described in this draft SRP section to existing (already issued) licenses (e.g., operating licenses and combined licenses) and regulatory approvals. Hence, this draft SRP guidance—even if considered guidance subject to the Backfit rule or the issue finality provisions in 10 CFR part 52—need not be evaluated as if it were a backfit or as being inconsistent with these issue finality provisions. If, in the future, the NRC staff seeks to impose a position in this draft SRP section on holders of already issued licenses in a manner that would constitute backfitting or does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

Dated at Rockville, Maryland, this 20th day of September 2018.

For the Nuclear Regulatory Commission.

**Jennivine K. Rankin,**

*Acting Chief, Licensing Branch 3, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84195; File No. SR–NYSEArca–2018–54]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Commentary .01 to NYSE Arca Rule 8.600–E Relating to Certain Generic Listing Standards for Managed Fund Shares

September 19, 2018.

On July 18, 2018, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to amend Commentary .01 to NYSE Arca Rule 8.600–E relating to certain generic listing standards for Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on August 7, 2018.<sup>3</sup> The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 21, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates November 5, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 83759 (August 1, 2018), 83 FR 38753.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*

proposed rule change (File Number SR–NYSEArca–2018–54).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84215; File No. SR–BX–2018–044]

### Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Conform the Exchange's By-Law Provisions Regarding the Chief Regulatory Officer to Those of Its Affiliate, Nasdaq PHLX LLC

September 19, 2018.

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 September 6, 2018, 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 conform the Exchange's By-Law provisions regarding the Chief Regulatory Officer to those of its affiliate, Nasdaq PHLX LLC.

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 its By-Laws at Article V, Section 5.10 to conform its provisions regarding the Exchange's Chief Regulatory Officer (“CRO”) to those of its affiliate, Nasdaq PHLX LLC (“Phlx”).<sup>3</sup> By-Law Article V, Section 5.10 presently requires that an officer of the Exchange<sup>4</sup> with the position of Executive Vice President or Senior Vice President be designated as the CRO of the Exchange. The Exchange now proposes to remove the requirement that the CRO be an Executive Vice President or Senior Vice President of the Exchange. The Exchange believes that this requirement is unnecessary and notes that there may be officers of the Exchange who are well qualified to serve in the CRO role, but who may not hold the position of an Executive Vice President or Senior Vice President.<sup>5</sup> The Exchange does not seek to amend any of the current responsibilities of the CRO as set forth in Section 5.10;<sup>6</sup> rather, the proposed changes are intended to give the Exchange more flexibility to attract and retain well qualified officers to the role of CRO that are not designated as an Executive Vice President or Senior Vice President of the Exchange. As noted above, the Exchange desires to conform the requirements to become CRO in its By-Laws to those in the By-Laws of Phlx, which do not contain a similar restriction in Article IV, Section 4–7 of its By-Laws that its CRO be an Executive

<sup>3</sup> See Phlx By-Law Article IV, Section 4–7 (Chief Regulatory Officer).

<sup>4</sup> In Exhibit 5, the references to “Corporation” mean the Exchange.

<sup>5</sup> The Exchange notes that Phlx's CRO currently holds the position of Vice President.

<sup>6</sup> The CRO's responsibilities include general supervision of the regulatory operations of the Exchange, including responsibility for overseeing the Exchange's surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another SRO to which the Exchange is a party. In addition, the CRO shall meet with the Regulatory Oversight Committee of the Exchange in executive session at regularly scheduled meetings of such committee, and at any time upon request of the CRO or any member of the Regulatory Oversight Committee. Unlike Phlx, the Exchange's By-Laws provide that the CRO may also serve as the General Counsel of the Exchange. See By-Law Article V, Section 5.10.

Vice President or Senior Vice President of Phlx.<sup>7</sup>

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(1) of the Act,<sup>9</sup> in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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 proposed changes will remove the requirement currently in Article V, Section 5.10 of the Exchange's By-Laws that the CRO be an Executive Vice President or Senior Vice President of the Exchange. As discussed above, the current responsibilities of the CRO as provided in Article V, Section 5.10 remain unchanged under this proposal, and the CRO will continue to have general oversight of the regulatory operations of the Exchange and be obligated to meet regularly with the Regulatory Oversight Committee. The proposed rule change is intended to provide the Exchange with greater flexibility to attract and retain capable individuals who are well qualified to serve in the CRO role. In addition, the proposed amendments will have the additional benefit of bringing the Exchange's requirements on the CRO role into greater conformity with those of its affiliate, Phlx, thereby creating equivalent standards among the affiliated exchanges owned by Nasdaq, Inc. (“HoldCo”).<sup>11</sup> As such, the Exchange believes that its proposal will bring greater consistency to its rules, which is beneficial to both investors and the public interest.

<sup>7</sup> See note 5 above.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(1).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> The Nasdaq Stock Market LLC (“NSM”), Nasdaq ISE, LLC (“ISE”), Nasdaq GEMX, LLC (“GEMX”), and Nasdaq MRX, LLC will file similar proposals to conform their By-Laws with Phlx's By-Laws. ISE, GEMX, MRX, NSM, BX, and Phlx will hereinafter be referred to collectively as “Affiliated Exchanges.”

<sup>6</sup> 17 CFR 200.30–3(a)(31).

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

<sup>2</sup> 17 CFR 240.19b–4.