

situates EXGN with its other proprietary products, NDX and NDXP, which are all based on the Nasdaq-100 Index. The Exchange believes that its proposal is equitable and not unfairly discriminatory because the Exchange will uniformly exclude EXGN from MARS for all market participants.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. The Exchange notes that with its products, market participants are offered an opportunity to transact in NDX, NDXP, XND, or EXGN, or separately execute options overlying QQQ. Offering these products provides market participants with a variety of choices in selecting the product they desire to utilize to transact in the Nasdaq-100 Index.

Further, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed EXGN pricing will apply uniformly to all similarly situated market participants. Specifically, all Non-Customers will be assessed a uniform Options Transaction Charge and options surcharge while Customers receive free executions. As discussed above, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts other market participants, thus facilitating tighter spreads and increased order flow.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁰

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-Phlx-2023-19 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-Phlx-2023-19. 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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make

available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-Phlx-2023-19 and should be submitted on or before June 26, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-11823 Filed 6-2-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, June 7, 2023 at 10:00 a.m.

PLACE: The meeting will be webcast on the Commission's website at www.sec.gov.

STATUS: This meeting will begin at 10:00 a.m. (ET) and will be open to the public via webcast on the Commission's website at www.sec.gov.

MATTERS TO BE CONSIDERED:

1. The Commission will consider whether to adopt rules under the Securities Exchange Act of 1934 ("Exchange Act") that are designed to prevent fraud, manipulation, and deception in connection with transactions in security-based swaps as well as to prevent the personnel of a security-based swap dealer or major security-based swap participant from taking actions to coerce, mislead, or otherwise interfere with such entity's chief compliance officer.

2. The Commission will consider whether to adopt rule amendments to Regulation M under the Exchange Act that remove certain existing rule exceptions that reference credit ratings and substitute in their place new exceptions that are based on alternative standards of creditworthiness.

3. The Commission will consider whether to approve a proposed amendment to the CAT NMS Plan to implement a revised funding model ("Executed Share Model") for the consolidated audit trail ("CAT") and to establish a fee schedule for Participant CAT fees in accordance with the Executed Share Model.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 200.30-3(a)(12).

CONTACT PERSON FOR MORE INFORMATION:

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: May 31, 2023.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023-11960 Filed 6-1-23; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97620; File No. SR-BX-2023-013]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Options 3 Rules and Options 5, Section 4

May 30, 2023.

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 16, 2023, 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, 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 Options 3, Options Trading Rules, at: Section 4 Entry and Display of Quotes; Section 5, Entry and Display of Orders; Section 7, Types of Orders and Quote Protocols; Section 8, Options Opening Process; Section 11, Auction Mechanisms; Section 13, Price Improvement Auction (“PRISM”); Section 15, Risk Protections; and Options 3, Section 18, Detection of Loss of Communication. The Exchange also proposes to amend Options 5, Section 4, Order Routing.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

BX proposes to amend Options 3, Options Trading Rules, at: Section 4, Entry and Display of Quotes; Section 5, Entry and Display of Orders; Section 7, Types of Orders and Quote Protocols; Section 8, Options Opening Process; Section 11, Auction Mechanisms; Section 13, Price Improvement Auction (“PRISM”); Section 15, Risk Protections; and Options 3, Section 18, Detection of Loss of Communication. The Exchange also proposes to amend Options 5, Section 4, Order Routing. Each change will be discussed below. The amendments proposed herein seek to codify the current System functionality. The proposed amendments will not result in System changes.

Option 3, Sections 4 and 5

The Exchange proposes to codify existing functionality that allows Market Makers to submit their quotes to the Exchange in block quantities as a single bulk message. In other words, a Market Maker may submit a single message to the Exchange, which may contain bids and offers in multiple series. The Exchange’s current rules do not specify bulk messaging for orders. The Exchange has historically provided Market Makers with information regarding bulk messaging in its publicly available technical specifications.³ To promote greater transparency, the Exchange is seeking to codify this functionality in its Rulebook. Specifically, the Exchange proposes to amend BX Options 3, Section 4(b)(3) to memorialize that quotes may be

³ See https://www.nasdaq.com/docs/2023/01/12/0054-Q23_SQF_8.2b%20akg_NAM.pdf (specifying for bulk quoting of up to 200 quotes per quote block message). The specifications note in other places the manner in which a Participant can send such quote block messages.

submitted as a bulk message. The Exchange also proposes to add a definition of “bulk message” in new subparagraph (i) of Options 3, Section 4(b)(3), which will provide that a bulk message means a single electronic message submitted by a Market Maker to the Exchange which may contain a specified number of quotations as designated by the Exchange.⁴ The bulk message, submitted via SQF,⁵ may enter, modify, or cancel quotes. Bulk messages are handled by the System in the same manner as it handles a single quote message. MRX recently added bulk messages to MRX Options 3, Section 4(b)(3).⁶ The proposed amendment to the Rulebook to add BX Options 3, Section 4(b)(3) will not result in a System change.

The Exchange also proposes to amend BX Options 3, Section 4(b)(6) to provide the following.

A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through, violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) *as non-displayed*, and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Where a quote is re-priced to avoid a locked or crossed market, the best bid or offer will be non-displayed and the re-priced order will be displayed at a price that is one minimum trading increment inferior to the ABBO. A similar change is proposed for Options 3, Section 5(d). MRX recently amended Options 3,

⁴ *Id.* As noted above, quote bulk messages can presently contain up to 200 quotes per message. This is the maximum amount that is permitted in a bulk message. The Exchange would announce any change to these specifications in an Options Technical Update distributed to all Participants.

⁵ “Specialized Quote Feed” or “SQF” is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. See Options 3, Section 7(e)(1)(B).

⁶ See Securities Exchange Act, Release No. 95982 (October 4, 2022), 87 FR 61391 (October 11, 2022) (SR-MRX-2022-18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules in Connection With a Technology Migration to Enhanced Nasdaq Functionality) (“SR-MRX-2022-18”).