

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82545; File No. SR-BX-2018-001)

January 19, 2018

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add a New Rule 4765 and Commentary Thereto to Codify Participant Risk Settings and to Authorize the Exchange to Share those Risk Settings with the Clearing Member that Clears Transactions on behalf of the Participant

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 January 11, 2018, 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 add a new Rule 4765 and commentary thereto to codify Participant risk settings in the Exchange’s trading system and to authorize the Exchange to share such risk settings with the clearing member that clears transactions on behalf of the Participant.

The text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

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Rules of Nasdaq BX

Equity Rules

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Rule 4765. Exchange Sharing of Participant Risk Settings

The Exchange may share any Participant risk settings in the trading system specified in the commentary below with the clearing member that clears transactions on behalf of the Participant. For purposes of this Rule, the term “Participant” has the meaning set forth in Rule 4701(c).

Commentary:

The Exchange offers certain risk settings applicable to a Participant’s activities on the Exchange. The risk settings currently offered by the Exchange are:

- (a) Share Size Control – When enabled by a Participant, this optional control will allow a Participant to limit the number of shares that the Participant may associate with an order placed on the Exchange;
- (b) ISO Control – When enabled by a Participant, this optional control will prevent a Participant from entering an ISO order onto the Exchange;
- (c) Cancel-on-Disconnect Control – When enabled by a Participant, this optional control will allow a Participant, when it experiences a disruption in its connection to the Exchange, to immediately cancel all pending Exchange orders except for Good-Till-Canceled orders (RASH & FIX only);
- (d) The BX Kill Switch – This control is described in Rule 4764;
- (e) Limit Order Protection – This control is described in Rule 4757(d);
- (f) Price Collar Check – This control will automatically restrict a routed order from executing at a price that differs from the NBBO (at the time of order entry) by more than five percent or \$0.25, whichever difference is greater. The system will proceed to route an order unless and until it crosses the greater of these two price collars, and

if it does so, then the system will block further routings of the order that fall outside of the collars. For example, if the NBBO is \$99 x \$100 at the time of entry of a buy order, then the system will route the order at prices at or below \$105, but will stop doing so if the offer price rises above \$105 (five percent of the NBO).

(g) Maximum Order Volume Check – This control will automatically reject an order for routing away that exceeds a maximum volume of shares. As applied to equity orders, the default maximum order volume is set at 25,000 shares, but the Participant may request that the Exchange set a higher default based on historic volume.

(h) Cumulative Order Volume Check – This control will automatically block an attempt by a Participant using a particular MPID to route orders away to buy or sell equity securities that, cumulatively, exceed 9.5 million shares during a five second time period; and

(i) Duplication Control – This control will automatically reject an order that a Participant submits to the Exchange to the extent that it is duplicative of another order that the Participant submitted to the Exchange during the prior five seconds.

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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 adopt proposed commentary to Rule 4765, which codifies a comprehensive list of Participant risk settings in the Exchange’s trading system. The Exchange also proposes to adopt new Rule 4765 to authorize the Exchange to share these risk settings with the clearing member that clears transactions on behalf of the Participant. For purposes of Rule 4765, the term “Participant” has the meaning set forth in Rule 4701(c).³

Participants are required to be members of the Exchange. Rule 4618 states that “all transactions through the facilities of the Nasdaq BX Equities Market shall be cleared and settled through a registered clearing agency using a continuous net settlement system.” It further provides that this requirement may be satisfied by “direct participation, use of direct clearing services, by entry into a correspondent clearing arrangement with another member that clears trades through such a clearing agency....” Further, pursuant to Rule 4627, every clearing member acting on a Participant’s behalf that constitutes a side of a system trade is responsible for honoring such trades of that Participant.

All Participants that are not clearing members require a clearing member’s consent to clear transactions on their behalf in order to conduct business on the Exchange. Each Participant that transacts through a clearing member on the Exchange must have an arrangement between the Participant and the clearing member. The Exchange is provided notice of which clearing members have relationships with which Participants. The clearing member that guarantees the Participant’s transactions on the Exchange has a financial interest in understanding the risk

³ Rule 4701(c) defines a “Participant” as an entity that fulfills the obligations contained in Rule 4611 regarding participation in the System, and includes Equities ECNs, Equities Market Makers, and Order Entry Firms.

tolerance of the Participant. The proposal would provide the Exchange with authority to directly provide clearing members with information that may otherwise be available to such clearing members by virtue of their relationship with the respective Participants.⁴

The proposed commentary to Rule 4765 would codify a list of risk settings that are currently offered by the Exchange and would be covered by proposed Rule 4765. This list is comprehensive with respect to the risk settings that the Exchange presently offers. Certain of these risk settings are mandatory for Participants, meaning that the Exchange either imposes specific risk tolerances that are uniform for all Participants or it sets default risk tolerances, but it affords flexibility to Participants to select their own risk tolerance levels. In certain instances, the Exchange does not require Participants to utilize risk settings, but instead makes them available for use at the option of Participants. The risk settings set forth in the proposed commentary to Rule 4765 comprise the following:

- Share Size Control - When enabled by a Participant, this optional control will allow a Participant to limit the number of shares that the Participant may associate with an order placed on the Exchange;
- ISO Control – When enabled by a Participant, this optional control will prevent a Participant from entering an ISO order onto the Exchange;
- Cancel-on-Disconnect Control – When enabled by a Participant, this optional control will allow a Participant, when it experiences a disruption in its connection to the Exchange, to immediately cancel all pending Exchange orders except for Good-Till-Canceled orders (RASH & FIX only);

⁴ The Exchange notes that its proposal would cover Sponsored Participants, as set forth in Rule 4615, meaning that the proposal would authorize the Exchange to share the risk settings of Sponsored Participants with clearing members that clear trades on their behalf.

- The BX Kill Switch – This control is described in Rule 4764;
- Limit Order Protection – This control is described in Rule 4757(d);
- Price Collar Check – This control will automatically restrict a routed order from executing at a price that differs from the NBBO (at the time of order entry) by more than five percent or \$0.25, whichever difference is greater. The system will proceed to route an order unless and until it crosses the greater of these two price collars, and if it does so, then the system will block further routings of the order that fall outside of the collars. For example, if the NBBO is \$99 x \$100 at the time of entry of a buy order, then the system will route the order at prices at or below \$105, but will stop doing so if the offer price rises above \$105 (five percent of the NBO).
- Maximum Order Volume Check – This control will automatically reject an order for routing away that exceeds a maximum volume of shares. As applied to equity orders, the default maximum order volume is set at 25,000 shares, but the Participant may request that the Exchange set a higher default based on historic volume.
- Cumulative Order Volume Check – This control will automatically block an attempt by a Participant using a particular MPID to route orders away to buy or sell equity securities that, cumulatively, exceed 9.5 million shares during a five second time period; and
- Duplication Control – This control will automatically reject an order that a Participant submits to the Exchange to the extent that it is duplicative of another order that the Participant submitted to the Exchange during the prior five seconds.

As set forth above, the proposal to authorize the Exchange to share any of the Participant's risk settings with the clearing member that clears transactions on behalf of the

Participant would be limited to the risk settings specified in the proposed commentary to Rule 4765. The Exchange notes that use by a Participant of the risk settings offered by the Exchange is optional for share size, ISO, kill switch, and cancel-on disconnect controls, and is required in other instances.⁵ By using the optional risk settings, following this proposed Rule change a Participant therefore also opts-in to the Exchange sharing its risk settings with its clearing member. The Exchange notes that any Participant that does not wish to share its mandatory risk settings with its clearing member could avoid sharing such settings by becoming a clearing member.

To the extent that a clearing member might reasonably require a Participant to provide access to its risk settings as a prerequisite to continuing to clear trades on the Participant's behalf, the Exchange's proposal to share those risk settings directly reduces the administrative burden on Participants and ensures that clearing members are receiving information that is up-to-date and conforms to the settings active in the Exchange's trading system. Further, the Exchange believes that the proposal will help such clearing members to better monitor and manage the potential risks that they assume when clearing for Participants of the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed 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

⁵ As noted above, for the Maximum Order Volume Check, the Exchange sets a default order volume but Participants have flexibility to adjust this level.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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 proposed rule change will allow the Exchange to directly provide a Participant's risk settings to the clearing member that clears trades on behalf of the Participant. A clearing member guarantees transactions executed on BX for members with whom it has entered into a clearing arrangement, and therefore bears the risk associated with those transactions. The Exchange therefore believes that it is appropriate for the clearing member to have knowledge of what risk settings the Participant may utilize within the Exchange's trading system. The proposal will permit clearing members who have a financial interest in the risk settings of Participants with whom the Participants have entered into clearing arrangements to better monitor and manage the potential risks assumed by clearing members, thereby providing clearing members with greater control and flexibility over setting their own risk tolerance and exposure and aiding clearing members in complying with the Act. To the extent a clearing member might reasonably require a Participant to provide access to its risk settings as a prerequisite to continuing to clear trades on the Participant's behalf, the Exchange's proposal to share those risk settings directly reduces the administrative burden on Participants and ensures that clearing members are receiving information that is up-to-date and conforms to the settings active in the Exchange's trading system. Moreover, the proposal will foster cooperation and coordination with persons engaged in facilitating transactions in securities and more generally, will protect investors and the public interest, by reducing administrative burdens on both clearing members and other Participants and by allowing clearing members to better monitor their risk exposure.

The Exchange further believes that codifying the risk settings described above in proposed commentary to Rule 4765 is consistent with the Act. These settings assist Participants in managing and controlling the risks associated with their access to and activity on the Exchange, both for the benefit of Participants and investors. The Exchange's risk settings, moreover, are consistent with risk settings employed by other exchanges, such as Cboe BYX. Although the Exchange presently offers these risk settings, codifying them will provide additional transparency to Participants regarding the risk settings offered by the Exchange. It will also foster cooperation and coordination with persons engaged in facilitating transactions in securities and more generally, will protect investors and the public interest, by providing additional transparency regarding risk settings offered by the Exchange.

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, as amended. The proposed rule change is not designed to address any competitive issues and does not pose an undue burden on non-clearing members because, unlike clearing members, non-clearing members do not guarantee the execution of a Participant's transactions on the Exchange. Moreover, the proposal to share risk settings with clearing members will not burden competition among clearing members because it will apply to all clearing members equally and regardless of size. The Exchange notes that this proposal will not affect competition among Participants because the proposal provides for sharing of all of Participants' risk settings set forth in the commentary to Rule 4765. Any Participant that does not wish to share its risk settings with its clearing member could avoid sharing such settings by becoming a clearing member. Lastly, the proposal to codify the Exchange's risk settings will not burden competition among Participants

because the risk settings are already available to or required of Participants and will continue to be available or required of all Participants going forward.

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) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

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.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 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.

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 e-mail to rule-comments@sec.gov . Please include File Number SR-BX-2018-001 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-BX-2018-001. This file number should be included on the subject line if e-mail 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-BX-2018-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Eduardo A. Aleman
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(12).