

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100792; File No. SR-BX-2024-028)

August 21, 2024

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Introduce BX Options Trade Outline

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 August 9, 2024, 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 Exchange has designated the proposed rule change as constituting a “non-controversial” rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. 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 introduce BX Options Trade Outline.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/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.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 introduce BX Options Trade Outline.⁵ Patterned after PHLX Options Trade Outline “PHOTO,”⁶ BX Trade Options Outline will replicate in substance⁷ PHOTO and the other trade outline products currently offered by Nasdaq ISE, LLC (“ISE”),⁸ Nasdaq GEMX, LLC (“GEMX”),⁹ and the options market operated by the Nasdaq Stock Market

⁵ A proposal to introduce MRX Options Trade Outline on the MRX Exchange is being submitted concurrently with this filing.

⁶ See PHLX Rules, Options 7, Section 10; Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121) (introducing PHOTO on September 1, 2010).

⁷ The underlying information for BX Options Trade Outline will be the same as the other trade outline products offered by the Nasdaq exchanges. Presentation will differ, however, in that data will not be subdivided into categories. For example, the trade outline products offered by PHLX, ISE, GEMX and NOM subdivide the aggregate volume traded for each reported series into categories according to the quantity of contracts (less than 100, 100-199, and greater than 200). BX Options Trade Outline will not separate this information into quantitative categories, but rather will provide the same aggregate volume information as PHOTO and the other Nasdaq exchanges without separating the information into categories according to the quantity of contracts.

⁸ See Nasdaq ISE Rules, Options 7, Section 10(A) and (B) (Nasdaq ISE Open/Close Trade Profile End of Day; Nasdaq ISE Open/Close Trade Profile Intraday).

⁹ See Nasdaq GEMX Rules, Options 7, Sections 7(D) (Nasdaq GEMX Open/Close End of Day Trade Profile) and 7(E) (Nasdaq GEMX Open/Close Intraday Trade Profile).

LLC (“Nasdaq Options Market” or “NOM”).¹⁰ It is also similar to trade outline products offered by exchanges not affiliated with Nasdaq.¹¹

Information will be provided on an End of Day, Intra-Day, and historical basis.

BX Options Trade Outline, like all of these other trade outline products, provides data to help market participants understand market sentiment on the Exchange and to support the creation of trading models useful in both options and equities markets. Market participants have expressed an interest in purchasing a trade outline product from the Exchange similar to those products already sold on the PHLX and other Nasdaq affiliates. BX Options Trade Outline is being introduced to meet that demand, and to offer investors an additional perspective on investor sentiment.

BX Options Trade Outline

BX Options Trade Outline will provide aggregate quantity and volume information for trades on the Exchange for all series¹² during a trading session. Information is provided in the following categories: (i) total exchange volume for Intra-Day information and total exchange and industry volume for End of Day information for each reported series; (ii) open interest for the

¹⁰ See Nasdaq Rules, Options 7, Section 4 (Nasdaq Options Trade Outline (“NOTO”).

¹¹ See, e.g., Securities Exchange Act Release No. 94913 (May 13, 2022), 87 FR 30534 (May 19, 2022) (SR-Cboe-2022-023) (describing End-of-Day and Intraday Open-Close Data as a summary of trading activity on the exchange at the option level by origin, side of the market, price and transaction type); Securities Exchange Act Release No. 93803 (December 16, 2021), 86 FR 72647 (December 22, 2021) (SR-NYSEAMER-2021-46) (describing the NYSE Options Open-Close Volume Summary as a volume summary of trading activity on the exchange at the option level by origin, side of the market, contract volume and transaction type); Securities Exchange Act Release No. 93132 (September 27, 2021), 86 FR 54499 (October 1, 2021) (SR-NYSEArca-2021-82) (describing the NYSE Options Open-Close Volume Summary as a volume summary of trading activity on the exchange at the option level by origin, side of the market, contract volume and transaction type); Securities Exchange Act Release No. 97174 (March 21, 2023), 88 FR 18201 (March 27, 2023) (SR-BOX-2023-09) (describing the BOX exchange Open-Close Data report as providing volume by origin, buying/selling, and opening/closing criteria); Securities Exchange Act Release No. 91964 (May 21, 2021), 86 FR 28667 (May 27, 2021) (SR-PEARL-2021-24) (introducing the Open-Close Report).

¹² Every options series trades as a distinct symbol; the terms “series” and “symbol” are therefore synonyms.

series; (iii) aggregate quantity of trades and aggregate trade volume effected to open a position,¹³ characterized by origin type (Customers,¹⁴ Broker-Dealers,¹⁵ BX Options Market Makers,¹⁶ Firms,¹⁷ and Professionals¹⁸); and (iv) aggregate quantity of trades and aggregate trade volume effected to close a position,¹⁹ characterized by origin type (Customers, Broker-Dealers, BX Options Market Makers, Firms, and Professionals).²⁰

BX Trade Outline End of Day will also provide opening buy, closing buy, opening sell and closing sell information, which shall include option first trade price, option high trade price, option low trade price, and option last trade price.

¹³ This would include the aggregate number of “opening purchase transactions,” defined as a BX Options Transaction that creates or increases a long position in an options contract, see Options 1, Section 1(a)(35), and the aggregate number of “opening writing transactions,” defined as a BX Options Transaction that creates or increases a short position in an options contract. See Options 1, Section 1(a)(36).

¹⁴ The term “Customer” applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(a)(48)). See Options 7, Section 1(a).

¹⁵ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(a).

¹⁶ The term “BX Options Market Maker” is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security. See Options 7, Section 1(a).

¹⁷ The term “Firm” applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC. See Options 7, Section 1(a).

¹⁸ The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Options 1, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants. See Options 7, Section 1(a).

¹⁹ This would include the aggregate number of “closing purchase transactions” in the affected series, defined as a BX Options Transaction that reduces or eliminates a short position in an options contract, see Options 1, Section 1(a)(19), and the aggregate number of “closing writing transactions,” defined as a BX Options Transaction that reduces or eliminates a long position in an options contract. See Options 1, Section 1(a)(20).

²⁰ These are the same types of information available on PHOTO, and the other trade outline products offered by Nasdaq exchanges.

End of Day information will be available the next business day. Intra-Day information is updated at 10-minute intervals over the course of the trading day. Historical information will be available upon request.

This information will be available to all market participants, including both members and non-members, for all series and symbols in End of Day, Intra-Day, and historical files (upon request).

BX Options Trade Outline will provide proprietary Exchange trading data and will not include any intraday trading data from any other exchange.²¹ The information provided, both in End of Day and Intraday formats, is not a real-time data feed. BX Options Trade Outline is a completely voluntary product in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase it only if they voluntarily choose to do so.

The End of Day file will be updated during an overnight process with additional fields²² and will be available the following morning, providing aggregate data for the entire trading session.

Intra-Day information will be released in scheduled “snapshots” available every 10 minutes for all options series over the course of the trading day. The snapshot will be updated to

²¹ The End of Day report includes a field that presents Total Industry Volume for the Series.

²² The additional fields are: First Trade Price, High Trade Price, Low Trade Price, Last Trade Price, Underlying Close, Moneyness, Total Exchange volume, Total Industry Volume for the Series, and Open Interest.

reflect whatever activity occurred, or to indicate that no activity occurred.²³ This is the same schedule currently offered on PHLX, ISE, GEMX, and Nasdaq Options Market.²⁴

Historical data will be available in both End of Day and Intra-Day formats for all option series traded for every calendar month after December 2014, based on specific request.²⁵

Fees for BX Options Trade Outline will be proposed in a separate filing.

The proposed date of implementation, subject to the regulatory process, will be September 2, 2024.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁷ 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 Exchange believes that BX Options Trade Outline would further broaden the availability of U.S. option market data to investors. The proposal promotes transparency through the dissemination of aggregate quantity and volume information for trades on the Exchange for

²³ Subscribers will receive the first snapshot at 9:42 a.m. ET, representing data captured from 9:30 a.m. to 9:40 a.m., and the second calculation at 9:52 a.m., representing data from both the most recent snapshot and previous snapshots, and continuing over the course of the trading day. The final Intra-Day snapshot will be distributed at 4:15 p.m.

²⁴ See Supra, notes 4 through 7.

²⁵ Market participants generally use historical files for model testing and research, and the period of time required by a particular market participant will depend on its unique testing and research needs as well as whether it is using End of Day or Intra-Day information. Some customers, for example, may request years of data, while others only months, or even a single month. The same principle applies to End of Day vs. Intra-Day information.

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(5).

all series during a trading session, and would benefit investors by promoting better informed trading throughout the trading day and at the end of the day. The proposed product is well-understood in the market, and provides the same information as ISE, GEMX, NOM, and substantially the same information as many exchanges not affiliated with Nasdaq.

The Exchange believes that BX Options Trade Outline would further broaden the availability of U.S. option market data to investors consistent with the principles of the Act. The proposed rule change would promote better informed trading by, for example, disseminating information that may indicate investor sentiment. Data recipients may also be able to enhance their ability to analyze option trade and volume data on an intraday basis, and create and test trading models and analytical strategies. BX Options Trade Outline will provide a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in particular series.²⁸

Trade outline products have been available on multiple exchanges for many years and are well known in the market and used by many market participants. PHLX Options Trade Outline, which is a model for BX Options Trade Outline, has been available for well over a decade.²⁹ Similar products available on other Nasdaq exchanges include ISE Trade Profile,³⁰ GEMX Trade Profile,³¹ and Nasdaq Options Trade Outline.³² Trade outline products are also offered by

²⁸ While such information is valuable, it is not necessary for trading.

²⁹ See Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121) (introducing PHOTO on September 1, 2010).

³⁰ See Nasdaq ISE Rules, Options 7, Section 10(A) and (B) (Nasdaq ISE Open/Close Trade Profile End of Day; Nasdaq ISE Open/Close Trade Profile Intraday).

³¹ See Nasdaq GEMX Rules, Options 7, Sections 7(D) (Nasdaq GEMX Open/Close End of Day Trade Profile) and 7(E) (Nasdaq GEMX Open/Close Intraday Trade Profile).

³² See Nasdaq Rules, Options 7, Section 4 (Nasdaq Options Trade Outline (“NOTO”)).

competitor exchanges such a Cboe,³³ NYSE American,³⁴ NYSE Arca,³⁵ BOX,³⁶ and MIAX PEARL.³⁷ The trade outline products offered by the Nasdaq-affiliated exchanges provide exactly the same information as the proposed BX Options Trade outline, and those offered by other exchanges provide substantially the same information, including both Intra-Day and End of Day data.

BX Options Trade Outline will foster investor protection by expanding the amount of information available to investors. Adding information from another exchange to the current mix of trade outline products will help investors become better informed about market sentiment and therefore better able to protect their interests.

Approval of this proposal will expand customer choice. Trade outline products can serve as substitutes or complements, depending on the information needs of the market participant. In general, the value of a trade outline product depends on trading volume on a particular exchange; the higher the volume of transactions on an exchange, the more valuable the information on market sentiment. Customers can choose to purchase multiple trade outline products, or to substitute the product of one exchange for another, based on their particular trading strategy and

³³ See, e.g., Securities Exchange Act Release No. 94913 (May 13, 2022), 87 FR 30534 (May 19, 2022) (SR-Cboe-2022-023) (describing End-of-Day and Intraday Open-Close Data as a summary of trading activity on the exchange at the option level by origin, side of the market, price and transaction type).

³⁴ See, e.g., Securities Exchange Act Release No. 93803 (December 16, 2021, 86 FR 72647 (December 22, 2021) (SR-NYSEAMER-2021-46) (describing the NYSE Options Open-Close Volume Summary as a volume summary of trading activity on the exchange at the option level by origin, side of the market, contract volume and transaction type).

³⁵ See, e.g., Securities Exchange Act Release No. 93132 (September 27, 2021), 86 FR 54499 (October 1, 2021) (SR-NYSEArca-2021-82) (describing the NYSE Options Open-Close Volume Summary as a volume summary of trading activity on the exchange at the option level by origin, side of the market, contract volume and transaction type).

³⁶ See, e.g., Securities Exchange Act Release No. 97174 (March 21, 2023), 88 FR 18201 (March 27, 2023) (SR-BOX-2023-09) (describing the BOX exchange Open-Close Data report as providing volume by origin, buying/selling, and opening/closing criteria).

³⁷ See, e.g., Securities Exchange Act Release No. 91964 (May 21, 2021), 86 FR 28667 (May 27, 2021) (SR-PEARL-2021-24) (introducing the Open-Close Report).

information needs. Adding a new exchange to the product mix will expand the number of options available to market participants, and will foster competition among the exchanges offering these products. As noted above, this proposal is a direct response to customer demand.

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.

Nothing in the proposal burdens inter-market competition (the competition among self-regulatory organizations) because this proposal does not impose any burden on the ability of other exchanges to compete. As explained above, many exchanges not affiliated with Nasdaq currently offer competing products and the introduction of BX Options Trade Outline will assist the Exchange in competing with those other exchanges.

Nothing in the proposal burdens intra-market competition (the competition among consumers of exchange data) because BX Options Trade Outline will be available to any market participant, including both members and non-members.

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 after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest,

it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁸ and Rule 19b-4(f)(6)³⁹ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)⁴⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁴¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay does not present market participants with any new or novel issues, as the proposed product is well-understood in the market, and provides the same information as trade outline products offered by PHLX, ISE, GEMX, and NOM,⁴² and substantially the same information as many exchanges not affiliated with Nasdaq.⁴³ The Exchange also states that the proposed trade outline product will promote better informed trading throughout the trading day and at the end of the day by disseminating information that may indicate investor sentiment, and which may allow data recipients to create and test trading models and analytic strategies. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public

³⁸ 15 U.S.C. 78s(b)(3)(A).

³⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

⁴⁰ 17 CFR 240.19b-4(f)(6).

⁴¹ 17 CFR 240.19b-4(f)(6)(iii).

⁴² See supra note 7.

⁴³ See supra note 11.

interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.⁴⁴

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-BX-2024-028 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.

⁴⁴ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to file number SR-BX-2024-028. 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 (<https://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 a.m. and 3 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-BX-2024-028 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Vanessa A. Countryman,

Secretary.

⁴⁵ 17 CFR 200.30-3(a)(12).