

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-81953; File No. SR-BX-2017-044)

October 26, 2017

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove References to Surrender Feature for Auto-Match Submissions in the Price Improvement Auction

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 October 16, 2017, 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 modify BX rules at Chapter VI, Section 9, entitled “Price Improvement Auction (“PRISM”)” to correct an error.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

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 filed a proposed rule change to establish a price improvement mechanism.<sup>3</sup> By way of background, this price improvement mechanism or “PRISM” includes auto-match functionality in which a Participant (an “Initiating Participant”) may electronically submit for execution an order it represents as agent on behalf of a Public Customer, Professional customer, broker dealer, or any other entity (“PRISM Order”) against principal interest or against any other order it represents as agent (an “Initiating Order”) provided it submits the PRISM Order for electronic execution into the PRISM Auction (“Auction”) pursuant to the proposed Rule.<sup>4</sup> To initiate the Auction, the Initiating Participant must mark the PRISM Order for Auction processing, and specify either: (a) a single price at which it seeks to execute the PRISM Order (a “stop price”); (b) that it is willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all PRISM Auction Notifications (“PAN”) responses, and trading interest (“auto-match”) in which case the PRISM Order will be stopped at the NBBO on the Initiating Order side;<sup>5</sup> or (c) that it is willing to either: (i) stop the entire order at a single stop price and auto-match PAN responses and trading interest at a price or prices that improve the stop price to a specified price (a “No Worse Than” or “NWT” price); (ii) stop the entire order at

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<sup>3</sup> See Securities Exchange Act Release No. 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR-BX-2015-032).

<sup>4</sup> BX only conducts auctions for Simple Orders. Only one Auction may be conducted at a time in any given series. Once commenced, an Auction may not be cancelled.

<sup>5</sup> This is accomplished by marking the Initiating Order with a market (MKT) price.

a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the NBBO on the Initiating Order side, and auto-match PAN responses and trading interest at a price or prices that improve the stop price up to the NWT price. In all cases, if the BX BBO on the same side of the market as the PRISM Order represents a limit order on the book, the stop price must be at least the Minimum Increment better than the booked limit order's limit price.

When starting an Auction, the Initiating Participant may submit the Initiating Order with a designation of “surrender” to other PRISM Participants (“Surrender”), which will result in the Initiating Participant forfeiting priority and trade allocation privileges. If Surrender is specified the Initiating Order will only trade if there is not enough interest available to fully execute the PRISM Order at prices which are equal to or improve upon the stop price.<sup>6</sup> At the time the Exchange filed to permit Surrender within the BX PRISM auction,<sup>7</sup> the rule text at Chapter VI, Section 9(ii)(A)(1) provided that, “When starting an Auction, the Initiating Participant may submit the Initiating Order with a designation of “surrender” to the other PRISM Participants (“Surrender”) which will result in the Initiating Participant forfeiting the priority and trade allocation privileges which he is otherwise entitled to as per Section 9(ii)(E)(2)(a) and (b) and Section 9(ii)(F)(2)(a) and (b).” Section 9(ii)(E)(2)(b) and Section 9(ii)(F)(2)(b) refer to the auto-match functionality. The Exchange has not offered Surrender with respect to auto-match. The Exchange does not believe that auto-match is suitable for Surrender. By definition the purpose of the auto-match feature is that the Initiating Participant is going to match all responses and seek a greater allocation. This language is at odds with the Surrender feature where the Initiating

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<sup>6</sup> Surrender is not applied if both the Initiating Order and PRISM Order are Public Customer Orders.

<sup>7</sup> See note 3 above.

Participant is not seeking allocation. Depending on the option selected, the Initiating Participant may elect in the single stop option selection to give up the allocation priority, if Surrender is selected,<sup>8</sup> or with the auto-match option the Initiating Participant will only be allocated the remainder in accordance with the allocation percentages in Section 9(ii)(E)(2)(b).<sup>9</sup> This similarly applies to Section 9(ii)(F)(2)(b).<sup>10</sup>

The Exchange inadvertently included the references to Section 9(ii)(E)(2)(b) and Section 9(ii)(F)(2)(b) when discussing Surrender. Surrender only applies to the single stop price feature. The Exchange proposes to amend its rule text to update its rules to delete these references to make the rule text accurate.

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<sup>8</sup> See Chapter VI, Section 9(ii)(E)(2)(a) and Section 9(ii)(F)(2)(a).

<sup>9</sup> See Chapter VI, Section 9(ii)(E)(2)(b), which states, “If the Initiating Participant selected the auto-match option of the PRISM Auction the Initiating Participant shall be allocated an equal number of contracts as the aggregate size of all other quotes, orders and PAN responses at each price point until a price point is reached where the balance of the order can be fully executed, except that the Initiating Participant shall be entitled to receive up to 40% (multiple competing quotes, orders or PAN responses) or 50% (one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the stop price is the final price) after Public Customer interest has been satisfied but before remaining interest. If there are other quotes, orders and PAN responses at the final price point the contracts will be allocated to such interest pursuant to Chapter VI, Section 9(ii)(E)(3) through (5) below. Any remaining contracts shall be allocated to the Initiating Participant.” There is no reference to the Surrender provision in this paragraph similar to reference at Chapter VI, Section 9(ii)(E)(2)(a).

<sup>10</sup> See Chapter VI, Section 9(ii)(F)(2)(b), which states, “If the Initiating Participant selected the auto-match option of the PRISM Auction the Initiating Participant shall be allocated an equal number of contracts as the aggregate size of all other quotes, orders and PAN responses at each price point until a price point is reached where the balance of the order can be fully executed, except that the Initiating Participant shall be entitled to receive up to 40% (multiple competing quotes, orders or PAN responses) or 50% (one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the stop price is the final price), after Public Customer interest has been satisfied but before remaining interest. If there are other quotes, orders and PAN responses at the final price point the contracts will be allocated to such interest pursuant to Chapter VI, Section 9(ii)(F)(3) through (4) below. Any remaining contracts shall be allocated to the Initiating Participant.” There is no reference to the Surrender provision in this paragraph similar to reference at Chapter VI, Section 9(ii)(F)(2)(a).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</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, by updating references in the PRISM rule which indicate Surrender applies to the auto-match feature. The Exchange inadvertently referenced the auto-match feature. The Surrender feature only applies to the single stop price feature. The Exchange does not believe that auto-match is suitable for Surrender. By definition the purpose of the auto-match feature is that the Initiating Participant is going to match all responses and seek a greater allocation. This language is at odds with the Surrender feature where the Initiating Participant is not seeking allocation. The Exchange believes that correcting the rule text to remove the references to auto-match will perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by updating these references to the BX PRISM rule. This amendment will correct the references within the BX PRISM rule to make clear the manner in which the auction operates.

### 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. The Exchange inadvertently referenced the auto-match feature as applicable to Surrender provision. No BX Participant is able today to utilize the Surrender feature when selecting auto-match. This

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

amendment will correct the references within the BX PRISM rule to make clear the manner in which the auction operates.

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)(iii) of the Act<sup>13</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup>

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.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2017-044 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2017-044. 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-2017-044 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.<sup>15</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).