

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-86426; File No. SR-GEMX-2019-09)

July 22, 2019

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 2 (Options Market Participants) and Options 3 (Options Trading Rules)

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 July 17, 2019, Nasdaq GEMX, LLC (“GEMX” 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 2 (Options Market Participants) and Options 3 (Options Trading Rules) relating to certain order types.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqgemx.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

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

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

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 purpose of the proposed rule change is amend Options 2 (Options Market Participants) and Options 3 (Options Trading Rules) relating to certain order types. Each change is described in more detail below.

**Stopped Orders**

The Exchange proposes to amend its rules to remove Stopped Orders as an order type. A Stopped Order is a limit order that meets the requirements of Options 5, Section 2(b)(8).<sup>3</sup> As provided in Options 5, Section 2(b)(8), a “stopped order” is defined as an order for which, at the time of receipt for the order, a Member had guaranteed an execution at no worse than a specified price, where: (i) the stopped order was for the account of a Customer; (ii) the Customer agreed to the specified price on an order-by-order basis; and (iii) the price of the Trade-Through was, for a stopped buy order, lower than the national Best Bid in the options series at the time of execution, or, for a stopped sell order, higher than the national Best Offer in the options series at the time of execution. To execute Stopped Orders, Members must enter them into the Facilitation Mechanism or Solicited Order Mechanism pursuant to Options 3, Section 11.<sup>4</sup>

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<sup>3</sup> See Options 3, Section 7(b)(5).

<sup>4</sup> Stopped orders were originally introduced on the Exchange as a Trade-Through exception under the Options Order Protection and Locked/Crossed Market Plan (the “Plan”). GEMX adopted rules to implement the Trade-Through exception for stopped orders as an order type. See Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10-209).

Due to a lack of demand for Stopped Orders, the Exchange plans to decommission the functionality supporting this order type.<sup>5</sup> To reflect this elimination, the Exchange proposes to delete all references to Stopped Orders as follows:

- Options 2, Section 6(a), which currently allows Market Makers to enter all order types in the options classes to which they are appointed, except for Stopped Orders, Reserve Orders, and Customer Cross Orders.
- Options 3, Section 7(b)(5), which defines a Stopped Order.

The Exchange proposes to implement the amendments relating to Stopped Orders by November 1, 2019.

### **All-Or-None Orders**

The Exchange also proposes to amend Options 3, Section 8 (Opening) to remove specific references to the manner in which All-Or-None Orders<sup>6</sup> (“AONs”) will be treated in the Exchange’s opening process. The Exchange previously amended its rules to provide that an AON may only be entered into the System with a time-in-force designation of Immediate-Or-Cancel,<sup>7</sup> and deleted related rule text that described an AON as persisting in the Exchange’s order book.<sup>8</sup> The Exchange, however, inadvertently did not remove such AON references from

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<sup>5</sup> No member has used this order type since the Exchange’s previous trading system migrated over to Nasdaq INET technology in 2017.

<sup>6</sup> An All-Or-None Order is a limit or market order that is to be executed in its entirety or not at all. An All-Or-None Order may only be entered as an Immediate-or-Cancel Order. See Options 3, Section 7(c).

<sup>7</sup> An Immediate-Or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled. See Options 3, Section 7(b)(3). See Securities Exchange Act Release No. 80102 (February 24, 2017), 82 FR 12381 (March 2, 2017) (SR-ISEGemini-2017-08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to All-or-None Orders).

<sup>8</sup> See Securities Exchange Act Release No. 82128 (November 20, 2017), 82 FR 56082 (November 27, 2017) (SR-GEMX-2017-51).

the opening process rule in Options 3, Section 8. At the time the Exchange’s opening process was adopted, AONs were not restricted and could trade as a limit or market order to be executed in its entirety or not at all.<sup>9</sup> With the amendments in SR-ISEGemini-2017-08, an AON does not persist in the order book and is therefore treated the same as any other Immediate-or-Cancel Order. As such, the carve-outs specified in Section 8(b), (g) and (j)(6) are unnecessary since an All-or-None Order would execute immediately or cancel similar to other orders which trade in the same manner. The Exchange believes removing these references will eliminate confusion.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</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 Exchange believes that removing Stopped Orders as an order type is consistent with the Act because it would simplify the functionality available on the Exchange and reduce the complexity of its order types. The Exchange’s affiliated options markets, Nasdaq BX (“BX”), The Nasdaq Options Market (“NOM”), Nasdaq PHLX (“Phlx”) and Nasdaq ISE, LLC do not offer stopped orders as an order type.

The Exchange also believes that it is consistent with the Act to remove unnecessary and confusing references to AONs in the opening rule set forth in Options 3, Section 8 as AONs will

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<sup>9</sup> See Securities Exchange Act Release No. 80014 (February 10, 2017), 82 FR 10952 (February 16, 2017) (SR-ISEGemini-2016-18).

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

now immediately trade or cancel. The Exchange originally specified the manner in which AONs would trade in the opening because at the time the opening process was adopted, this order type traded differently as compared to other order types. That distinction has become unnecessary because AONs trade the same as other Immediate-or-Cancel Orders. Updating Options 3, Section 8 to remove an unnecessary and inaccurate distinction will protect investors and the public interest by clarifying the rule.

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 proposed rule change would allow the Exchange to remove an order type that no Member uses today, and eliminate unnecessary and inaccurate references to AONs within its opening rule, thereby making clear the order types available for trading on the Exchange and reducing potential confusion.

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>12</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup>

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory

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 (<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-GEMX-2019-09 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-GEMX-2019-09. 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

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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.

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-GEMX-2019-09 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>14</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).