

SECURITIES AND EXCHANGE COMMISSION
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October 9, 2019

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend The Nasdaq Options Market LLC Rules at Chapter VI and Chapter VII

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 September 26, 2019, The Nasdaq Stock Market LLC (“Nasdaq” 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 amend The Nasdaq Options Market LLC Rules at Chapter VI, Section 5, “Minimum Increments,” Chapter VI, Section 6, “Acceptance of Quotes and Orders,” Chapter VI, Section 7, “Entry and Display Orders,” Chapter VI, Section 10, “Book Processing,” Chapter VI, Section 21, “Order and Quote Protocols,” Chapter VII, Section 5, “Obligations of Market Makers,” and Chapter VII, Section 12, “Order Exposure Requirements.” The Exchange proposes to relocate certain current rules to new Rules Chapter VI, Section 22, titled “Kill Switch” and 23, titled “Detection of Loss of Communication.” The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaq.cchwallstreet.com>, 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

The Exchange proposes to amend Chapter VI, Section 5, “Minimum Increments,” Chapter VI, Section 6, “Acceptance of Quotes and Orders,” Chapter VI, Section 7, “Entry and Display Orders,” Chapter VI, Section 10, “Book Processing,” Chapter VI, Section 21, “Order and Quote Protocols,” Chapter VII, Section 5, “Obligations of Market Makers,” and Chapter VII, Section 12, “Order Exposure Requirements.” The Exchange proposes to relocate certain current rules to new Rules Chapter VI, Section 22, titled “Kill Switch” and 23, titled “Detection of Loss of Communication.” Each rule change will be discussed in greater detail below.

Chapter VI, Section 5 Minimum Increments

The Exchange proposes to amend Chapter VI, Section 5 to add a new Section 5(c) which provides, “A quote submitted to the System with an invalid trading increment will be re-priced. The quote will be rounded up to the nearest valid minimum price variation for offers and rounded down for bids.” Today, a quote submitted to NOM with an invalid trading increment will be re-priced. The Exchange will round the price up to the nearest valid minimum price variation for offers and will round the price down for bids. The Exchange believes that providing this transparency within the Exchange’s rules will provide Market Makers with greater

information on the manner in which invalid increments will be handled by the System and provide them with expectations.

Chapter VI, Section 6 Acceptance of Quotes and Orders

Currently, Chapter VI, Section 6 is titled “Acceptance of Quotes and Orders.” The Exchange proposes to retitle Chapter VI, Section 6 as “Entry and Display of Quotes.” The Exchange proposes to add an (a) before the first paragraph. The Exchange is removing references to orders in this Rule because it also proposes to adopt a new Chapter VI, Section 7, titled “Entry and Display of Orders” to describe requirements for order entry.

The Exchange proposes to add a new section (b) to Chapter VI, Section 6 to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at proposed Chapter VI, Section 6(b), “Quotes are subject to the following requirements and conditions:”. The Exchange proposes to add at Chapter VI, Section 6(b)(1) that “Market Makers may generate and submit option quotations.” Current Chapter VII, Section 6 makes clear that Market Makers may submit quotes,³ however the Exchange proposes to create a list of rules related to quote submission within this rule for ease of reference. The Exchange proposes to provide at proposed Chapter VI, Section 6(b)(2) that “The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.” The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Rule Chapter VI, Section 6(b)(3) states that “Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted

³ Chapter VII, Section 6(b) provides, “A Market Maker that enters a bid (offer) in a series of an option in which he is registered on NOM must enter an offer (bid).”

at a time for an option series.” The Exchange believes that this information will provide Market Makers with information on submitting a quote. The Exchange notes that bid or offer may be a “0,” however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Chapter VI, Section 6(b)(4) to provide clarity for entering quotes and proposes to specify, “The System accepts quotes beginning at a time specified by the Exchange and communicated on the Exchange’s website.”⁴ The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Rule Chapter VI, Section 6(b)(5):

Firm Quote. When quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule, orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange’s quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

⁴ The system settings page is located:
http://www.nasdaqtrader.com/content/technicalsupport/NOMOptions_SystemSettings.pdf.

NOM Chapter VII, Section 6(b)(5) describes Firm Quote for purposes of quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.⁵ The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following proposed new Chapter VI, Section 6(b)(6):

Trade-Through Compliance and Locked or Crossed Markets. 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) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, quotations may not be executed against prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is also described within Chapter XII, Options Order Protection and Locked and Crossed Market Rules.

⁵ 17 CFR §242.602.

Also, quotations may not lock or cross an away market. The repricing is provided for today within NOM Chapter VI, Section 7(b)(3)(C).⁶ By stating this limitation in the rule, Market Makers will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (“MPV”) above (for offers) or below (for bids) the national best price. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market’s quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on NOM.

Finally, the Exchange proposes at Chapter VI, Section 6 (b)(7) to provide, “Quotes submitted to the System are subject to the following: risk protections provided for in Chapter VI, Section 18. Quotes submitted with minimum increments that are not valid pursuant to Chapter VI, Section 5 will be rounded up to the nearest minimum price variation for offers and rounded down to the nearest minimum price variation for bids.” The Exchange is noting herein the manner in which a quote may be handled by the System to provide market participants with expectations as to the interplay among the various NOM Rules. Specifically, if the Market Maker does not submit a quotation compliant with Chapter VI, Section 5, the quote will not be accepted by the System because market participants are required to abide by Chapter VI, Section 5 which describes the increments with which options series are to be quoted. Chapter VI, Section 18 provides a list of all protections applicable to quotes that may be rejected. The Exchange believes that this rule will provide Options Participants with requirements and

⁶ An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions.

conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Chapter VI, Section 6(c), “Quotes will be displayed in the System as described in Chapter VI, Section 19.” Chapter VI, Section 19, titled “Data Fees and Trade Information” provides for the available feeds that Options Participants may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by NOM.

The amendment to NOM Chapter VI, Section 6 create a list of all the requirements and conditions for submitting quotes on NOM within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange’s current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.⁷ The Exchange’s proposal is intended to provide greater information with respect to Firm Quote within new NOM Chapter VI, Section 6(b)(5) and regarding trade-through and locked and crossed markets Section 6(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The

⁷ Nasdaq Phlx, Nasdaq ISE, LLC, Nasdaq GEMX, LLC and Nasdaq MRX, LLC have similar rules. See Securities Exchange Act Release Nos. 86286 (July 2, 2019), 84 FR 32794 (July 9, 2019) (SR-Phlx-2019-25) and SR-ISE-2019-23, SR-GEMX-2019-13 and SR-MRX-2019-20. The ISE, GEMX and MRX rule changes are filed on September 17, 2019, but they are not yet published [sic].

notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. NOM is required to avoid displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects 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 proposes to delete the rule text at Chapter VI, Section 6(a)(1) and (2), which states:

(a) General - A System order is an order that is entered into the System for display and/or execution as appropriate. Such orders are executable against marketable contra-side orders in the System.

(1) All System Orders shall indicate whether they are a call or put and buy or sell and a price, if any. Systems Orders can be designated as Immediate or Cancel ("IOC"), Good-till-Cancelled ("GTC"), Day ("DAY") or WAIT.

(2) A System order may also be designated as a Limit Order, a Minimum Quantity Order, a Market Order, a Price Improving Order, an All-or-None Order, or a Post-Only Order.

The Exchange notes that all order types listed in Chapter VI, Section 1(e) may be entered on NOM. All order types are executable against marketable contra-side orders in the System. The System will not permit an order to execute that is not marketable. NOM has described in this proposal that it would not trade-through an away market. All Time in Force designations noted

in Chapter VI, Section 1(g) are available to market participants entering orders on NOM. The Exchange believes that the information provided in Chapter VI, Section 6(a)(1) and (2) is also covered within Chapter VI, Section 1 and therefore proposes to delete this rule text.

The Exchange proposes to relocate Chapter VI, Section 6(a)(3), relating to zero-bid, and 6(b), relating to routing, into Chapter VI, Section 10(5) and (6). The Exchange believes that this information should be described within the rule describing allocation. Chapter VI, Section 6(c), which is reserved, is being deleted. The Exchange proposes to relocate Chapter VI, Section 6(d), related to the NOM Options Kill Switch, to new Chapter VI, Section 22. The Exchange proposes to relocate Chapter VI, Section 6(e), related to Detection of Loss of Communication, to new Chapter VI, Section 23. The Exchange believes that these two topics should be in separate rules for ease of locating those rules. The Exchange is not proposing to amend the Kill Switch or Detection of Loss of Communication rules; this rule change is non-substantive. The Exchange proposes to update internal cross-references.

Chapter VI, Section 7, Entry and Display Orders

The Exchange proposes to amend Chapter VI, Section 7 titled “Entry and Display Orders.” The Exchange proposes to retitle this rule, “Entry and Display of Orders.” Similar to Chapter VI, Section 6 for quotes, the Exchange proposes this new rule to describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Chapter VI, Section 7 is to memorialize this information within a single rule.

The Exchange proposes to amend Chapter VI, Section 7(a) to remove the title, “Entry of Orders- ”. The Exchange’s new rule text at Chapter VI, Section 7(a) proposes to make clear that multiple orders may be transmitted to the System at single or multiple price levels. This is the

case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes to amend Chapter VI, Section 7(a)(1) to remove the sentence, “Each order shall indicate the amount of Reserve Size (if applicable).” No order type on NOM has a Reserve Size.⁸ The Exchange proposes to adopt a new Chapter VI, Section 7(a)(2) which provides, “The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.”⁹ The Exchange proposes to renumber Chapter VI, Section 7(a)(2) as (a)(3). The Exchange proposes to renumber Chapter VI, Section 7(a)(3) as (a)(4) and amend the rule which provides, “Orders can be entered into the System (or previously entered orders cancelled) from the time prior to market open specified by the Exchange on its website until market close” to “Orders submitted to the System are subject to minimum increments provided for in Chapter VI, Section 5, risk protections within Chapter VI, Section 18 and the restrictions of order types within Chapter VI, Section 21(b). The Exchange is proposing to conform order entry rules across its Nasdaq Affiliated markets, where applicable. The Exchange proposed the time during which the System accepts orders within Chapter VI, Section 7(a)(2). All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, orders are currently subject the minimum increment requirements in Chapter VI, Section 5, the risk protections for orders which are listed within current Chapter VI, Section 18 as well as the restrictions of order types within Chapter VI, Section 21(b). This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may

⁸ NOM no longer has any order types with non-displayed interest; previously, NOM offered Discretionary Orders and Reserve Orders on NOM, but both have been eliminated. See Securities Exchange Act Release No. 65873 (December 2, 2011), 76 FR 76786 (December 8, 2011) (SR-NASDAQ-2011-164).

⁹ See note 4 above.

execute at multiple prices. This rule provides a list of other requirements which may impact the execution of an order.

The Exchange proposes to add new rule at Chapter VI, Section 7(a)(5) which states, “Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.” The rule text of new Chapter VI, Section 7(a)(5) is similar to Nasdaq ISE, LLC (“ISE”), Nasdaq GEMX, LLC (“GEMX”) and Nasdaq MRX, LLC (“MRX”) Options 3, Section 4(b). Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

The Exchange proposes to adopt new rule text at Chapter VI, Section 7(b) is similar to rule text at to ISE, GEMX and MRX Options 3, Section 15(a). This proposed rule provides,

NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Rule Chapter XII, Section 1(9)) will not be automatically executed by the System at prices inferior to the NBBO (as defined in Chapter XII, Section 1(11)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Chapter XII, Section 1(12)).

The Exchange believes that although NOM Rules¹⁰ make clear that orders may not execute at prices inferior to the NBBO, this rule text will provide that limitation in this proposed list of limitations for ease of reference. The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Chapter VI, Section 7 which applies to all Options Participants. In contrast, Chapter VI, Section 6, which applies to quotes entered by Market Makers, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Chapter VI, Section 6 and 7.

The Exchange proposes to state at Chapter VI, Section 7(c), “The System automatically executes eligible orders using the Exchange’s displayed best bid and offer (“BBO”) or the Exchange’s non-displayed order book (“internal BBO”). The contract size associated with Displayed Price Improving Orders to buy (sell) are displayed at the MPV below (above) the price of the Price Improving Order. Price Improving Orders will not be permitted to create a locked or crossed market or to cause a trade through violation.” This rule seeks to define the Exchange’s best bid and offer as the “BBO” and distinguish the displayed book from the non-displayed book for reference. The Exchange provides that the System automatically executes eligible orders using the Exchange’s displayed best bid and offer (“BBO”). NOM also permits members to enter non-displayed orders such as Price Improving Orders.¹¹ The non-displayed orders are available on the Exchange’s order book (“internal BBO”). NOM also reprices orders

¹⁰ Intermarket Sweep Orders (as defined in Rule Chapter XII, Section 1(9)) will not be automatically executed by the System at prices inferior to the NBBO (as defined in Chapter XII, Section 1(11)).

¹¹ NOM Rules at Chapter VI, Section 1(e)(6) states, “Price Improving Orders” are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as one cent. Price Improving Orders that are available for display shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders.”

to avoid locking or crossing another market as explained below. Therefore, on NOM, eligible orders will execute at the best price available, the BBO or the internal BBO. The Exchange believes that this information will provide Options Participants with additional information to how the Exchange describes its displayed and non-displayed orders. Further the proposal to add information related to NBBO Protection and define the Exchange's best bid and offer as the "BBO" and distinguish the displayed book from the non-displayed book for reference will bring greater transparency and clarity to the Exchange's rules. The Exchange disseminates its BBO which does not contain non-displayed information. The Exchange believes that describing the "internal BBO" will bring greater transparency to the rule as the Order Book may contain non-displayed orders which may offer better prices than the BBO. The Exchange believes describing the displayed and non-displayed order book will inform members as to availability of orders on the Order Book and protect investors and the general public by providing additional information about non-displayed order types.

The Exchange proposes to relocate current NOM Chapter VI, Section 7(b)(3)(B)¹² into Chapter VI, Section 7(c).

The Exchange proposes to provide rule text at Chapter VI, Section 7(e), similar to Chapter VI, Section 6(c) which states, "Orders will be displayed in the System as described in Chapter VI, Section 19."

The Exchange proposes to delete current Chapter VI, Section 7(b)(1)-(3) which provides,

Display of Orders— The System will display orders submitted to the System as follows:

¹² NOM Chapter VI, Section 7(b)(3)(B) provides, "The contract size associated with Displayed Price Improving Orders to buy (sell) are displayed at the MPV below (above) the price of the Price Improving Order. Price Improving Orders will not be permitted to create a locked or crossed market or to cause a trade through violation."

(1) System Book Feed—displayed orders resident in the System available for execution will be displayed via the System Book Feed.

(2) Best Priced Order Display - For each System Security, the aggregate size of all Orders at the best price to buy and sell resident in the System will be transmitted for display to the appropriate network processor.

(3) Exceptions—The following exceptions shall apply to the display parameters set forth in paragraphs (1) and (2) above:

The display of orders as well as the text relating to System Book Feed are being deleted because the data feeds are described in other rules.¹³ The Exchange believes this information is unnecessary as the data feeds are specific as to the content of the displayed information. The Exchange is also proposing to remove the rule text related to Best Priced Order Display as this information is described within Chapter XII, Options Order Protection and Locked and Crossed Markets. Specifically, NOM Chapter XII, Section 1(18) which describes a Protected Bid and Offer and the manner in which they are disseminated to the OPRA Plan. The Exchange proposes to delete Chapter VI, Section 7(b)(3) as well as subsections (A) which is reserved. Current NOM Chapter VI, Section 7(b)(3) notes exceptions to the display parameters. As noted (A) is reserved and as mentioned herein (B) and (C) are relocated within Section 7.

The Exchange's proposal to adopt a new Chapter VI, Section 7, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Chapter VI, Section 6 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Chapter VI, Section 6, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

¹³ See NOM Chapter VI, Section 19, "Data Feeds and Trade Information."

Chapter VI, Section 10, Book Processing

As noted above, the Exchange is relocating rule text from current Chapter VI, Section 6(a)(3) and 6(b) to Chapter VI, Section 10(5) and (6). The Exchange also proposes to renumber current Chapter VI, Section 10(5) as “(7)”.

Chapter VI, Section 21, Order and Quote Protocols

The Exchange proposes to amend Chapter VI, Section 21(a)(i)(B) to add the following sentence to Specialized Quote Feed (“SQF”), “Market Makers may only enter interest into SQF in their assigned options series.” The Exchange notes that today Market Makers may utilize SQF to quote only in their assigned options series.¹⁴ The Exchange proposes a similar change to QUO, a Market Maker quoting protocol, within Chapter VI, Section 21(a)(i)(D). This proposed rule text is consistent with the Act because it will add greater clarity to the current rule for the protection of investors and the public interest.

Chapter VII, Section 5, Obligations of Market Makers

The Exchange proposes to add a new Chapter VII, Section 5(d) to describe the manner in which Market Makers may enter orders on NOM. There is no rule currently describing order entry by Market Makers. The Exchange proposes to memorialize the current practice by providing “Market Makers may enter all order types defined in Chapter VI, Section 1(e) in the options classes to which they are appointed and non-appointed.” This rule will provide Market Makers with information as to the types of orders that may be entered on NOM.

Chapter VII, Section 12, Order Exposure Requirements

The Exchange proposes to amend current Chapter VII, Section 12, titled “Order Exposure Requirements.” The Exchange proposes to amend the title to “Limitations on Order Entry” to

¹⁴ See NOM Chapter VII, Section 2.

conform the rule to other Nasdaq affiliate market rules.¹⁵

The Exchange proposes to add a title to Section 12(a) which states “Limitations on Principal Transactions.” The Exchange also proposes to relocate Commentary .03 to the end of Section 12.

The Exchange proposes to relocate Commentary .01 to new Section 12(a)(1) and replace the reference to Section 12 with “This Rule.”

The Exchange proposes to add a new Chapter VII, Section 12(b) similar to Phlx Rule 1097(b) as follows:

Limit Orders. Options Participants shall not enter Public Customer limit orders into the System in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract and the entry of multiple limit orders at different prices in the same options series.

This Rule prohibits Public Customers from entering limit orders into the Order Book in the same option series in a manner where the public customer is effectively operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. This rule would limit the ability of Options Participants that are not Market Makers to compete on preferential terms, including Public Customers who are provided with certain benefits, such as priority of bids and offers. Restrictions on the entry of Professional or broker-dealer orders are not imposed because the same priority does not exist. As noted herein, Market Makers are required to register with the Exchange.¹⁶ Market Makers are afforded

¹⁵ See note 7 above.

¹⁶ See NOM Chapter VII, Section 2.

preferential pricing.¹⁷ The Exchange believes that Public Customers that desire to make markets on NOM should register with the Exchange. The Exchange’s proposal to adopt this new rule text within Chapter VII, Section 12(b) will bring greater clarity to current limitations that exist when entering orders. Section 12 is consistent with the Act and will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate NOM Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

The Exchange proposes to relocate Commentary .02 to Chapter VII, Section 12 to Section 12(c). The Exchange proposes to title this section as “Limitations on Solicitation Orders” and amend the text to conform to ISE, GEMX and MRX Options 3, Section 22. The amendments to the rule text is not substantive and simply reiterates the same exception in conformance with the language of other Nasdaq affiliated exchanges.

Finally, the Exchange proposes to relocate Commentary .04 to Chapter VII, Section 12(d) and the phrase “for purposes of violating Chapter VII, Section 12” at the end of the rule text.

This phrase will make clear that the violation is specific to this rule

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ in particular, in that it is

¹⁷ See NOM’s Pricing Schedule at Options 7

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

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 as provided for within the purpose section.

Chapter VI, Section 5 Minimum Increments

The Exchange's proposal to amend Chapter VI, Section 5 to add a new Section 5(c) which describes how a quote submitted to NOM with an invalid trading increment will be re-priced is consistent with the Act because the Exchange re-prices quotes with invalid increments instead of rejecting those quotes. A Market Maker submitting a quote with an invalid increment would experience latency if the quote was rejected instead of re-priced. The Exchange believes re-pricing is consistent with the Act and protection of investors and the public interest because it will permit Market Makers, who are professional traders, to avoid a delay in re-entering quotes. Market Makers today have their quotes re-priced and have not expressed any concern with this process. By memorializing this repricing within NOM's Rules will bring transparency as to the manner in which invalid increments will be handled by the System.

Chapter VI, Section 6 Acceptance of Quotes and Orders

The Exchange's proposal to add a new section (b) to Chapter VI, Section 6 to describe the current requirements and conditions for submitting quotes is consistent with the Act. The Exchange proposes within Chapter VI, Section 6 to create a list of all the requirements and conditions for submitting quotes on NOM within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Section 6(b)(5) and regarding trade-through and locked and crossed markets Section 6(b)(6).

The additional rule text is consistent with the Act because it adds detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. NOM is required to avoid displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest.

NOM is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange proposes to conform this rule to similar rules across other Nasdaq affiliated exchanges.²⁰ Making clear the manner in which Market Makers may generate and submit option quotations will provide these market participants with clear guidance within the rules. Chapter VII, Section 6(b)(1) makes clear that Market Makers may submit quotes.²¹ Further, Chapter VI, Section 21 describes the

²⁰ See note 7 above.

²¹ Chapter VII, Section 2 describes the manner in which Market Makers must register and Section 6(c) provides for firm quote.

SQF and QUO interfaces.²² NOM proposes to clarify that only one quote may be submitted at a time for a series. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules.

The relocations of both the Kill Switch and Detection of Loss of Communication rules is consistent with the Act because these relocations will bring greater transparency to these protection rules because they will be easier to search by the title within the Rulebook. The relocation of the zero-bid and routing information to Chapter VI, Section 10(5) and (6) is intended to locate that information with rules describing allocation.

The Exchange's proposal to eliminate rule text within current Chapter VI, Section 6(a)(1) and (2) is consistent with the Act because these rules describe order types in general. The order types are described today within Chapter VI, Section 1(e). All order types are executable against marketable contra-side orders in the System. All Time in Force designations noted in Chapter VI, Section 1(g) are available to market participants entering orders on NOM. The Exchange believes that the information provided in Chapter VI, Section 6(a)(1) and (2) is covered within

²² Chapter VI, Section 21(a)(i)(B) provides, "Specialized Quote Feed" or "SQF" is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from 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; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge request from the Market Maker. Chapter VI, Section 21(a)(i)(D) provides "Quote Using Orders" or "QUO" is an interface that allows NOM Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) options symbol directory messages (e.g., underlying); (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) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by NOM Market Makers over this interface are treated as quotes.

Chapter VI, Section 1. The Exchange believes that eliminating this rule is consistent with the Act because the rule text does not add any new information.

Chapter VI, Section 7, Entry and Display Orders

Similar to Chapter VI, Section 6, which describes requirements for quotes, the Exchange proposes to adopt a new Chapter VI, Section 7, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Chapter VI, Section 7 is to memorialize this information within a single rule to provide a list of other requirements which may impact the execution of an order. Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. NOM is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects 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’s proposal to adopt a new

Chapter VI, Section 7, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders, similar to proposed changes to Chapter VI, Section 6 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange’s new rule reflects the current requirements for submitting orders into the System. Similar to proposed Chapter VI, Section 6, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange’s proposal to adopt a new Chapter VI, Section 7 will conform proposed Rule to other Nasdaq affiliated markets filing similar rules.²³ The Exchange’s proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Chapter VI, Section 7 is consistent with the Act because it provides one rule for ease of reference which lists the current limitations and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate NOM Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

Chapter VI, Section 21, Order and Quote Protocols

The Exchange’s proposal to amend Chapter VI, Section 21(a)(i)(B) and (D) to make clear that Market Makers may only enter interest into SQF/QUO in their assigned options series is consistent with the Act. Chapter VII, Section 2, Market Maker Registration, describes the

²³ See note 7 above.

manner in which Market Makers are appointed in options series. This sentence simply provides that SQF/QUO may only be utilized for quoting in assigned options series.

Chapter VII, Section 5, Obligations of Market Makers

Memorializing information related to order entry for Market Makers within Chapter VII, Section 5 will bring greater clarity to the Rulebook. Today, Market Makers may enter all order types defined in Chapter VI, Section 1(e).

Chapter VII, Section 12, Order Exposure Requirements

The Exchange's proposal to amend Chapter VII, Section 12 to provide specific rules for limitations on entering limit orders, principal transactions and agency orders is consistent with the Act. Providing market participants with clear guidelines will protect investors and the public interest by providing additional notice of violative behavior when entering orders. The proposed rule text is similar to current Nasdaq Phlx LLC Rules.²⁴ The Exchange believes that this proposed language will provide more transparency as to the types of transactions that are not permitted today on NOM and would violate NOM Chapter III, Section 4(f). With respect to limit orders, the Exchange seeks to limit the ability of non-market makers to effectively make markets on the Exchange using automated systems that place and cancel orders in a manner that is similar to quoting. With respect to principal transactions, the Exchange is making clear that a NOM Options Participant may not take both sides of a trade (the agency side and also act as principal) on an execution without order exposure to provide the agency order the opportunity for price improvement. This rule is intended to ensure that customers receive fair executions. This rule is consistent with the Act in that it promotes just and equitable principles of trade and protects investors and the public interest. The Exchange's proposal to describe exposure of

²⁴ See Nasdaq Phlx LLC Rule 1080(c)(ii)(C)(1) and (2) and 1080(j).

agency orders mirrors language already contained with Chapter VI, Section 12. The Exchange also notes that current Chapter III, Section 4(f) would apply to the types of violations noted with respect to new Chapter VII, Section 12 provisions.

The Exchange's proposal to add additional rule text to proposed new Chapter VII, Section 12(d) will make clear that a Options Participant cannot inform another Options Participant or any other third party of any of the terms of the order in violation of Chapter VII, Section 12 will bring greater transparency to the Exchange's 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that other options markets have similar rules with respect to order and quote entry and the requirements to expose orders. The implementation of such rules may vary across options markets. Despite the variation in implementation, the Exchange does not believe this proposal creates an undue burden on inter-market competition because the requirements for order exposure are consistent with respect to all markets as well as the ability to submit quotes and orders on all options markets.

Chapter VI, Section 5 Minimum Increments

The Exchange's proposal to amend Chapter VI, Section 5 to add a new Section 5(c) which describes how a quote submitted to NOM with an invalid trading increment will be re-priced does not impose an undue burden on competition because this re-pricing applies uniformly to all Market Makers. The Exchange believes that providing this transparency within the Exchange's rules will provide market participants with greater information on the manner in which invalid increments will be handled by the System.

Chapter VI, Section 6 Acceptance of Quotes and Orders

The Exchange's proposal to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition and all Market Makers are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Chapter VI, Section 7, Entry and Display Orders

The Exchange's proposal to amend Chapter VI, Section 7, "Entry and Display Orders" to describe the current requirements and conditions for entering orders, similar to proposed changes to Chapter VI, Section 6 for quotes does not create an undue burden on competition because it will apply uniformly to all market participants. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for order entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. Making clear the manner in which Options Participants may generate and submit option orders will provide these market participants with clear guidance within the rules.

Chapter VI, Section 21, Order and Quote Protocols

The Exchange proposes to amend Chapter VI, Section 21(a)(i)(B) and (C) to make clear that Market Makers may only enter interest into SQF/QUO in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF/QUO may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

Chapter VII, Section 5, Obligations of Market Makers

Memorializing information related to order entry for Market Makers within Chapter VII,

Section 5 does not impose an undue burden on competition. Today, Market Makers may enter all order types defined in Chapter VI, Section 1(e).

Chapter VII, Section 12, Order Exposure Requirements

The Exchange's proposal to amend Chapter VII, Section 12 to provide specific rules for limitations on entering limit orders, principal transactions and agency orders does not impose an undue burden on competition because these rules provide additional specificity as to the manner in which orders may be entered on NOM. The Exchange believes that this proposed language will provide more transparency as to the types of transactions that are not permitted today on NOM and would violate NOM Chapter III, Section 4(f). These rules will apply uniformly to all NOM Options Participants.

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 Act²⁵ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁶

²⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁶ 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.

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. Please include File Number SR-NASDAQ-2019-082 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-NASDAQ-2019-082. 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-NASDAQ-2019-082 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.²⁷

Jill M. Peterson
Assistant Secretary

²⁷ 17 CFR 200.30-3(a)(12).