

Because the Plan supports further examination and analysis on the impact of tick sizes on the trading and liquidity of the securities of small capitalization companies, and the Commission believes that altering tick sizes could result in significant market-wide benefits and improvements to liquidity and capital formation, adopting rules that enforce compliance by its members with the provisions of the Plan would help promote liquidity in the marketplace and perfect the mechanism of a free and open market and national market system.

#### *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 proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the trading and quoting requirements specified in the Plan, of which other equities exchanges are also Participants. Other competing national securities exchanges are subject to the same trading and quoting requirements specified in the Plan. Therefore, the proposed changes would not impose any burden on competition, while providing certainty of treatment and execution of trading interests on the Exchange to market participants in NMS Stocks that are acting in compliance with the requirements specified in the Plan.

#### *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>42</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>43</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.

### **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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2016-093 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-2016-093. 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 Web site (<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 Web site 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

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.

filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2016-093, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>44</sup>

**Brent J. Fields,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78244; File No. SR-BX-2016-037]

### **Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing of Proposed Rule Change To Adopt Limit Order Protection**

July 7, 2016.

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 June 24, 2016, 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 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 BX Rule 4757, entitled "Book Processing" to adopt a Limit Order Protection or "LOP" for members accessing the BX.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqbx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>44</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>42</sup> 15 U.S.C. 78s(b)(3)(a)(iii).

<sup>43</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to adopt a new mechanism to protect against erroneous Limit Orders which are entered into BX. Specifically, this new feature addresses risks to market participants of human error in entering Limit Orders at unintended prices. LOP would prevent certain Limit Orders from executing or being placed on the Order Book at prices outside pre-set standard limits. The System would reject those Limit Orders, rather than executing them automatically. The proposed LOP feature is similar to a risk feature which exists today on BX<sup>3</sup> and is available for Options Participants.

The Exchange proposes to adopt a new feature, LOP for Limit Orders, which would reject Limit Orders back to the member when the order exceeds certain defined logic. The Exchange intends to apply LOP system wide. The Exchange reserves the ability to temporarily disable LOP for certain securities in the event of extraordinary market conditions in a certain symbol.<sup>4</sup> Specifically, the LOP feature would prevent certain Limit Orders at prices outside of pre-set standard limits ("LOP Limit") from being accepted by the System. LOP shall apply to all Quotes and Orders, including any modified Orders.<sup>5</sup> LOP would not apply to Market

Orders, Market Maker Peg Orders<sup>6</sup> or Intermarket Sweep Orders (ISO).<sup>7</sup> A Market Maker Peg Order is a passive order type which will not otherwise remove liquidity from the Order Book. This order type was designed to assist Market Makers with meeting their quoting obligations. Market Makers have a diverse business model as compared with other market participants. Excluding the Market Maker Peg Order from the LOP will assist Market Makers in meeting their quoting obligations. The Exchange believes that because Market Makers have other risk protections in place to prevent them from quoting outside of their financial means, the risk level for erroneous trades is not the same as with other market participants. Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk, particularly with quoting, utilizing other tools which may not be available to other market participants. An ISO is immediately executable within BX against orders against which they are marketable. The ISO designation on an order presumes that the market participant has satisfied their obligation to all protected quotes up to the limit of the ISO.

LOP would be operational each trading day. LOP would not be operational during trading halts and pauses. Also, LOP would not apply in the event that there is no established LOP Reference Price.<sup>8</sup> The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange proposes to not accept incoming Limit Orders that exceed the

<sup>6</sup> A "Market Maker Peg Order" is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2). The displayed price of the Market Maker Peg Order is set with reference to a "Reference Price" in order to keep the displayed price of the Market Maker Peg Order within a bounded price range. A Market Maker Peg Order may be entered through RASH or FIX only. A Market Maker Peg Order must be entered with a limit price beyond which the Order may not be priced. The Reference Price for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer), or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (e.g., dividends or stock splits) in the security. See BX 4702(b)(7).

<sup>7</sup> An Intermarket Sweep or ISO Order, which is an Order that is immediately executable within BX against Orders against which they are marketable, is not subject to LOP. See BX Rule 6951(g).

<sup>8</sup> For example, if there is a one-sided quote or if the LOP Reference Price is less than the greater of 10% or \$0.50.

LOP Reference Threshold. Limit Orders will not be accepted if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will not be accepted if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. The LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable percentage specified [sic] in the LOP Limit. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable percentage specified [sic] in the LOP Limit. The LOP Limit shall be the greater of 10% of the LOP Reference Price or \$0.50 for all securities across all trading sessions. The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange also notes that LOP will be applicable on all protocols.<sup>9</sup> The LOP feature will be mandatory for all BX members. The Exchange proposes to implement this rule within ninety (90) days of the approval of this proposed rule change. The Exchange will issue an Equities Trader Alert in advance to inform market participants of such implementation date.

#### 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, by mitigating risks to market participants of human error in entering Limit Orders at clearly unintended prices. The proposals are appropriate and reasonable, because they offer protections for Limit Orders which should encourage price continuity and, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

The proposed LOP feature would assist with the maintenance of fair and orderly markets by mitigating the risks associated with errors resulting in executions at prices that are away from the Best Bid or Offer and potentially erroneous. Further the proposal protects investors from potentially receiving

<sup>9</sup> BX maintains several communications protocols for members to use in entering Orders and sending other messages to BX, such as: OUCH, RASH, FLITE and FIX.

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

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

<sup>3</sup> See BX Rules at Chapter VI, Section 6(c) and Section 18.

<sup>4</sup> For example, LOP may cause a greater number of orders to be rejected in a very volatile market. In the event that the Exchange were to disable LOP in a particular symbol temporarily, the Exchange would immediately notify market participants by sending an alert via an Equities Trader Alert. The Exchange would enable LOP in that symbol as soon as is reasonably practicable and send an updated alert notifying participants that LOP was enabled.

<sup>5</sup> If an Order is modified, LOP will review the order anew and, if LOP is triggered, such modification will not take effect and the original order will be rejected.

executions away from the prevailing prices at any given time. The Exchange proposes LOP to avoid a series of improperly priced aggressive orders transacting in the Order Book. The LOP Limit is appropriate because it seeks to capture improperly priced Limit Orders and reject them to reduce the risk of, and to potentially prevent, the automatic execution of Orders at prices that may be considered clearly erroneous. The System will only execute Limit Orders priced within the LOP Limit. The proposed limit of greater than 10% or \$0.50 is a reasonable measure to ensure prices remain within the reasonable limits. This protection will bolster the normal resilience and market behavior that persistently produces robust reference prices. This feature should create a level of protection that prevents the Limit Orders from entering the Order Book outside of an acceptable range for the Limit Order to execute.

The LOP will reduce the negative impacts of sudden, unanticipated volatility, and serve to preserve an orderly market in a transparent and uniform manner, increase overall market confidence, and promote fair and orderly markets and the protection of investors. This feature is not optional and is applicable to all members submitting Limit Orders.

#### 4. Self-Regulatory Organization's Statement on Burden on Competition [sic]

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 LOP feature will provide market participants with additional price protection from anomalous executions. This feature is not optional and is applicable to all members submitting Limit Orders. Thus, the Exchange does not believe the proposal creates any significant impact on competition. This type of risk protection is in place today for BX Options Participants.<sup>12</sup> Offering this protection to the BX Market Center will not impose any undue burden on intramarket competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions. [sic]

#### 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 LOP feature will provide market participants with additional price protection from anomalous executions. This feature is not optional and is applicable to all members submitting Limit Orders. Thus, the Exchange does not believe the proposal creates any significant impact on competition. This type of risk protection is in place today for BX Options Participants.<sup>13</sup> Offering this protection to the BX Market Center will not impose any undue burden on intramarket competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions.

#### 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2016-037 on the subject line.

##### Paper Comments

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

All submissions should refer to File Number SR-BX-2016-037. 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 Web site (<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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2016-037 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Brent J. Fields,**

*Secretary.*

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<sup>12</sup> See BX Rules at Chapter VI, Section 6(c) and Section 18.

<sup>13</sup> See BX Rules at Chapter VI, Section 6(c) and Section 18.

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