

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79466; File No. SR-NYSEArca-2016-154]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Rules Governing Business Continuity and Disaster Recovery Planning

December 5, 2016.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on November 22, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “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 its rules governing business continuity and disaster recovery planning to delete Rule 2.100 (Emergency Powers) as obsolete. The proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

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

###### 1. Purpose

The Exchange proposes to amend its rules governing business continuity and

disaster recovery planning to delete Rule 2.100 (Emergency Powers) (“Rule 2.100”) as obsolete.

Rule 2.100 provides that if a qualified officer of an Affiliated Exchange declares an emergency condition under the rules of that Affiliated Exchange, a qualified Exchange officer may authorize the Exchange to perform the functions specified in the rule. Specifically, on the next trading day following the declaration of the Emergency Condition, the Exchange will, on behalf of and at the direction of the Affiliated Exchange, disseminate: (i) The official opening, re-opening, and closing trades of Affiliated Exchange-listed securities as messages of the Affiliated Exchange; and (ii) any notification for Affiliated Exchange-listed securities to the Consolidated Quotation System of a regulatory halt and resumption of trading thereafter, trading pause and resumption of trading thereafter, and Short Sale Price Test trigger and lifting thereafter, as messages of the Affiliated Exchange.

On September 29, 2016, the Commission approved amendments to the Affiliated Exchanges’ business continuity and disaster recovery plans, as described in NYSE Rule 49 and NYSE MKT Rule 49—Equities.<sup>4</sup> On November 5 and 19, 2016, the Affiliated Exchanges held the mandatory testing sessions for the operation of New Rule 49.<sup>5</sup> NYSE and NYSE MKT have determined that those tests were successful and are simultaneously filing proposed rule changes to delete the versions of NYSE Rule 49 and NYSE MKT Rule 49—Equities that reference Rule 2.100.<sup>6</sup> The Exchange therefore proposes to delete Rule 2.100 as obsolete, operative for November 23, 2016, the same day that NYSE and NYSE MKT propose as the operative date for New Rule 49.

In addition to this proposed rule change, the Exchange proposes to announce the operative date of November 23, 2016 via Trader Update.

<sup>4</sup> See Securities Exchange Act Release No. 78916 (September 23, 2016), 81 FR 67029 (September 29, 2016) (SR-NYSE-2016-48) and No. 78917 (September 23, 2016), 81 FR 67036 (September 29, 2016) (SR-NYSEMKT-2016-68) (approval orders).

<sup>5</sup> The Affiliated Exchanges announced by Trader Update that industry tests would be held on November 5, 2016 and November 19, 2016. See NYSE Trader Updates, dated September 9 and 16, 2016, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_and\\_NYSE\\_MKT\\_DR\\_Trader\\_Update\\_Final.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_and_NYSE_MKT_DR_Trader_Update_Final.pdf) and [https://www.nyse.com/publicdocs/nyse/markets/nyse/DR\\_Testing.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/DR_Testing.pdf).

<sup>6</sup> The Affiliated Exchanges have submitted proposed rule changes to amend their rules governing business continuity and disaster recovery. See SR-NYSE-2016-81 and SR-NYSEMKT-2016-109.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

In particular, the Exchange believes that amending its rules to remove an obsolete rule that is no longer operative after the Affiliated Exchanges have implemented New Rule 49 would promote the protection of investors and the public interest because it would promote clarity and transparency on the Exchange rules governing the Exchange’s and the Affiliated Exchanges’ business continuity and disaster recovery planning. The Exchange further believes that deleting the obsolete rule would remove impediments to and perfect the mechanism of a national market system because these proposed changes would add greater clarity to the Exchange’s rules and promote market transparency and efficiency.

##### B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address competitive issues but rather is designed to delete a rule that is obsolete now that the Affiliated Exchanges have implemented New Rule 49.

##### C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

operative prior to 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) of the Act and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>10</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposal would delete an obsolete rule that corresponded to rules that have been deleted by the Affiliated Exchanges. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.<sup>12</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 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 change 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:

<sup>9</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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-NYSEArca-2016-154 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-NYSEArca-2016-154. 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-NYSEArca-2016-154 and should be submitted on or before December 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79465; File No. SR-BX-2016-063]

### Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing of Proposed Rule Change To Amend the PRISM Price Improvement Auction in BX Chapter VI, Section 9 and To Make Pilot Program Permanent

December 5, 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 November 21, 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, 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 BX rules at Chapter VI, Section 9, concerning a price-improvement mechanism known as "PRISM." Parts of PRISM are currently operating on a pilot basis ("Pilot"), which was approved by the Commission in 2015,<sup>3</sup> and which is set to expire on January 18, 2017.<sup>4</sup> In this proposal, the Exchange proposes to make the Pilot permanent, and also proposes to change the requirements for providing price improvement for PRISM Orders of less than 50 option contracts.

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.

#### 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

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

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

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

<sup>4</sup> See Securities Exchange Act Release No. 78249 (July 7, 2016), 81 FR 45334 (July 13, 2016) (SR-BX-2016-038).