

Fund to redeem Shares of the Fund during the continuous offering of such Shares.

#### Rule 10b-17

Rule 10b-17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b-17(b). Based on the representations and facts in the Letter, and subject to the conditions below, we find that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust a conditional exemption from Rule 10b-17 because market participants will receive timely notification of the existence and timing of a pending distribution, and thus the concerns that the Commission raised in adopting Rule 10b-17 will not be implicated.<sup>7</sup>

#### Conclusion

*It is hereby ordered*, pursuant to Rule 101(d) of Regulation M, that the Trust, based on the representations and facts presented in the Letter, is exempt from the requirements of Rule 101 with respect to the Fund, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.

*It is further ordered*, pursuant to Rule 102(e) of Regulation M, that the Trust, based on the representations and the facts presented in the Letter, is exempt from the requirements of Rule 102 with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

*It is further ordered*, pursuant to Rule 10b-17(b)(2), that the Trust, based on the representations and the facts presented in the Letter and subject to the conditions below, is exempt from the requirements of Rule 10b-17 with respect to transactions in the shares of the Fund.

This exemptive relief is subject to the following conditions:

- The Trust will comply with Rule 10b-17 except for Rule 10b-17(b)(1)(v)(a) and (b); and
- The Trust will provide the information required by Rule 10b-17(b)(1)(v)(a) and (b) to the Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. Persons relying upon this exemptive relief shall discontinue transactions involving the Shares of the Fund, pending presentation of the facts for the Commission's consideration, in the event that any material change occurs with respect to any of the facts or representations made by the Applicants and, consistent with all preceding letters, particularly with respect to the close alignment between the market price of Shares and the Fund's NAV. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a) and 10(b), and Rule 10b-5 thereunder.

Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81776; File No. SR-NYSE-2017-49]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical and Conforming Changes to Section 703.02 of the NYSE Listed Company Manual

September 29, 2017.

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 September 20, 2017, New York Stock Exchange LLC ("NYSE" or the "Exchange") 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 self-regulatory organization. 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 make technical and conforming changes to Section 703.02 (part2) (Stock Split/Stock Rights/Stock Dividend Listing Process) ("Section 703.02 (part2)") of the NYSE Listed Company Manual ("Listed Company Manual"). 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.

<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.

<sup>7</sup> We also note that timely compliance with Rule 10b-17(b)(1)(v)(a) and (b) would be impractical in light of the nature of the Fund. This is because it is not possible for the Fund to accurately project ten days in advance what dividend, if any, would be paid on a particular record date. Further, the Commission finds, based on the Applicants' representations in the Letter, that the provision of notices as described in the Letter would not constitute a manipulative or deceptive device or contrivance comprehended within the purpose of Rule 10b-17.

<sup>8</sup> 17 CFR 200.30-3(a)(6) and (9).

*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 make certain technical and conforming changes to Section 703.02 (part2) of the Listed Company Manual.

Currently, Section 703.02(part 2) provides that "a distribution of less than 25% is traded "ex" (without the distribution) on and after the business day prior to the record date." Section 703.02 (part 2) was recently amended to conform to amendments to Securities and Exchange Act Rule 15c6-1(a), which shortened the settlement cycle from three days to two days ("T+2").<sup>4</sup> The tabulation chart in Section 703.02 (part2) setting forth the relation between record dates and normal ex-dividend dates according to the days of the week, however, was inadvertently not updated to reflect the shortened settlement cycle. The Exchange accordingly proposes to amend the tabulation chart to reflect two day settlements, as follows:

Record date	Normal ex-dividend date
Monday .....	preceding Friday.
Tuesday .....	preceding Monday.
Wednesday .....	preceding Tuesday.
Thursday .....	preceding Wednesday.
Friday .....	preceding Thursday.
Saturday .....	preceding Thursday.
Sunday .....	preceding Thursday.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and further the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, 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 the proposed changes removes [sic] impediments to and perfects the mechanism of a free and open market by conforming the tabulation chart in Section 703.02 (part 2) of the Listed

Company Manual to reflect a two day settlement, thereby reducing potential confusion, and making the Exchange's rules easier to navigate. The Exchange also believes that updating the illustrative material in the Listed Company Manual also removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having outdated or inconsistent material in the Listed Company Manual. The Exchange believes that aligning such material would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion.

*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 change is not designed to address any competitive issue but rather is solely concerned with conforming Section 703.02 (part 2) of the Listed Company Manual to reflect the two day settlement cycle. The Exchange also believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

*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 foregoing proposed rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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,<sup>7</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>10</sup> of the Act 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:

*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-NYSE-2017-49 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-NYSE-2017-49. 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

<sup>7</sup> The Exchange has fulfilled this requirement.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>4</sup> See 17 CFR 240.15c6-1(a); Securities Exchange Act Release No. 80021 (February 14, 2017), 82 FR 10931 (February 16, 2017) (SR-NYSE-2016-87) and Securities Exchange Act Release No. 81231 (July 27, 2017), 82 FR 36008 (August 2, 2017) (SR-NYSE-2017-38).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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-NYSE-2017-49 and should be submitted on or before October 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81765; File No. SR-MRX-2017-19]

### Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 716(c) on the Block Order Mechanism

September 29, 2017.

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 August 18, 2017, Nasdaq MRX, LLC ("MRX" 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 Rule 716(c) to more accurately describe the allocation methodology used in the Block Order Mechanism, and add language regarding how the block execution price is determined.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.com), at the principal office

of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in 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 Block Order Mechanism is a process by which a member can obtain liquidity for the execution of block-sized orders,<sup>3</sup> defined as orders for fifty contracts or more.<sup>4</sup> When an order is entered in the Block Order Mechanism, that order is exposed to members who are given an opportunity to respond with the prices and sizes at which they would be willing to trade with the block-sized order.<sup>5</sup> The exposure period is designated by the Exchange via circular, but must be no less than 100 milliseconds and no more than 1 second.<sup>6</sup> At the conclusion of the exposure period, either an execution will occur at a single block execution price,<sup>7</sup> or the order will be cancelled.<sup>8</sup> The purpose of the proposed rule change is to amend Rule 716(c) to more accurately describe the allocation methodology used in the Block Order Mechanism, and add language regarding how the block execution price is determined. The Exchange believes that these changes will increase transparency around the operation of the Block Order Mechanism to the benefit of members and market participants.

Currently, Rule 716(c)(2)(ii) provides that Responses, quotes, and Professional

Orders<sup>9</sup> at the block execution price will participate in the execution of the block-size order according to Rule 713(e)—i.e., the Exchange's regular allocation rule. As implemented today, however, interest that is executed in the Block Order Mechanism follows the customer priority pro-rata allocation methodology designed for the Exchange's auction mechanisms, including, for example, the Facilitation Mechanism,<sup>10</sup> Solicited Order Mechanism,<sup>11</sup> and Price Improvement Mechanism,<sup>12</sup> with the exception that those two-sided auction mechanisms also allocate contracts against the contra order. This auction allocation methodology is similar to the Exchange's regular allocation methodology but does not provide enhanced allocations to the Primary Market Maker ("PMM") pursuant to Rule 713(e) and Supplementary Material .01(b) to Rule 713.<sup>13</sup> The Exchange therefore proposes to amend Rule 716(c)(2)(ii) to provide that, at the block execution price, Priority Customer Orders and Priority Customer Responses will be executed first in time priority, and then quotes, Professional Orders, and Professional Responses will participate in the execution of the block-size order based upon the percentage of the total number of contracts available at the block execution price that is represented by the size of the quote, Professional Order, or Professional Response. In addition, the Exchange proposes to specify in Rule 716(c)(2)(i) that interest that is priced better than the block execution price is executed in full. In particular, the Exchange proposes to amend this rule to state that bids (offers) on the Exchange at the time the block order is executed that are priced higher (lower) than the block execution price, as well as Responses that are priced higher (lower) than the block execution price, will be executed in full at the block execution price. Although Rule 716(c)(2)(ii) described above explains how allocations are handled at the block execution price, the Exchange believes that additional the additional clarity that interest that is priced better than the block execution

<sup>9</sup> The term "Professional Order" means an order that is for the account of a person or entity that is not a Priority Customer. See Rule 100(a)(37C).

<sup>10</sup> See Rule 716(d).

<sup>11</sup> See Rule 716(e).

<sup>12</sup> See Rule 723.

<sup>13</sup> Supplementary Material .01(b) to Rule 713 provides that, if the PMM is quoting at the best price, it has participation rights equal to the greater of the proportion of the total size at the best price represented by the size of its quote, or a percentage allocation entitlement based on the number of other Professional Orders and market maker quotations at the best price.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Rule 716(c).

<sup>4</sup> See Rule 716(a).

<sup>5</sup> A "Response" is an electronic message that is sent by members in response to a broadcast message. See Rule 716(b).

<sup>6</sup> See Supplementary Material .04 to Rule 716.

<sup>7</sup> Responses and orders and quotes on the order book at the time the block order is executed that are priced better than the block execution price are executed at the block execution price. See Rule 716(c)(2)(i).

<sup>8</sup> See Rule 716(c)(2).