

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-CboeBYX-2018-009 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-CboeBYX-2018-009. 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 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-CboeBYX-2018-009, and should be submitted on or before July 24, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83542; File No. SR-BX-2014-048]

### Self-Regulatory Organizations; Nasdaq BX; Order Granting an Extension to Limited Exemptions From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program Until December 31, 2018

June 28, 2018.

On November 28, 2014 the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")<sup>1</sup> that granted Nasdaq BX, Inc. ("BX" or "Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement Program (the "RPI Program").<sup>2</sup> The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt its RPI Program for a one-year pilot term.<sup>3</sup> On November 20, 2015, the Commission extended the temporary exemption until December 2016 concurrently with an immediately effective filing that extended the operation of the RPI Program until December 1, 2016.<sup>4</sup> On December 1, 2016, the Commission extended the temporary exemption until December 1, 2017 concurrently with an immediately effective filing that extended the operation of the RPI Program until December 1, 2017.<sup>5</sup> On December 1,

2017, the Commission again extended the temporary exemption until June 30, 2018 concurrently with an immediately effective filing that extended the operation of the RPI Program until December 1, 2017.<sup>6</sup>

The Exchange now seeks to extend the exemption until December 31, 2018.<sup>7</sup> The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the RPI Program through the same date.<sup>8</sup> In its request to extend the exemption, the Exchange notes that given the gradual implementation of the RPI Program and the preliminary participation and results, extending the exemption would provide additional opportunities for greater participation and assessment of the results.<sup>9</sup> Accordingly, the Exchange has asked additional time to allow it and the Commission to analyze data concerning the RPI Program, which the Exchange committed to provide to the Commission.<sup>10</sup> For this reason and the reasons stated in the RPI Approval Order originally granting the limited exemption, the Commission, pursuant to its authority under Rule 612(c) of Regulation NMS, finds that pursuant to its authority under Rule 612(c) of Regulation NMS, extending the exemption is appropriate in the public interest and consistent with the protection of investors.

*Therefore, it is hereby ordered* that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612 of Regulation NMS that allows the Exchange to accept and rank orders priced equal to or greater than \$1.00 per share in increments of \$0.001, in connection with the operation of its RPI Program, until December 31, 2018.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934. Responsibility for compliance with any applicable provisions of the Federal securities laws must rest with the

<sup>6</sup> See Securities Exchange Act Release No. 82192 (December 1, 2017), 82 FR 57809 (December 7, 2017) (SR-BX-2017-055).

<sup>7</sup> See Letter from Jeffrey S. Davis, Vice President and Deputy General Counsel and Secretary, Nasdaq BX, Inc. to Eduardo A. Aleman, Assistant Secretary, Securities and Exchange Commission dated June 21, 2018 ("BX Letter").

<sup>8</sup> See SR-BX-2018-026.

<sup>9</sup> See, e.g., BX Letter at 3; RPI Approval Order, supra note 2.

<sup>10</sup> See, e.g., *id.*; RPI Approval Order, supra note 2.

<sup>36</sup> 17 CFR 200.30-3(a)(12) and (59).

<sup>1</sup> 17 CFR 242.612(c).

<sup>2</sup> See Securities Exchange Act Release No. 73702, 79 FR 72049 (December 4, 2014) (SRBX-2014-048) ("RPI Approval Order").

<sup>3</sup> See *id.*

<sup>4</sup> See Securities Exchange Act Release No. 76490 (November 20, 2015), 80 FR 74165 (November 27, 2015) (SR-BX-2015-073).

<sup>5</sup> See Securities Exchange Act Release No. 79446 (December 1, 2016), 81 FR 88290 (December 7, 2016) (SR-BX-2016-065).

persons relying on the exemptions that are the subject of this Order.

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

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

[FR Doc. 2018-14288 Filed 7-2-18; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83533; File No. SR-GEMX-2018-23]

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Exchange's Penny Pilot Program

June 28, 2018.

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 25, 2018, Nasdaq GEMX, LLC ("GEMX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I 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 to extend a pilot program to quote and to trade certain options classes in penny increments ("Penny Pilot Program").

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified 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

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is \$0.01 for all quotations in options series that are quoted at less than \$3 per contract and \$0.05 for all quotations in options series that are quoted at \$3 per contract or greater. QQQQ, SPY and IWM are quoted in \$0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on June 30, 2018.<sup>3</sup> The Exchange proposes to extend the Penny Pilot Program through December 31, 2018, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2018. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.*, beginning December 1, 2017, and ending May 31, 2018). This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>4</sup> Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> because it is designed to promote

just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

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

In accordance with Section 6(b)(8) of the Act,<sup>6</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory 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 either solicited or received.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> 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 operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

<sup>11</sup> 17 CFR 200.30-3(a)(83).

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

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

<sup>3</sup> See Exchange Act Release No. 82356 (December 19, 2017), 82 FR 61089 (December 26, 2017) (SR-GEMX-2017-57).

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 15 U.S.C. 78f(b)(8).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).