

that choose to use Dedicated Cores. As discussed above, Dedicated Cores are optional and Users may choose to utilize Dedicated Cores, or not, based on their views of the additional benefits and added value provided by utilizing a Dedicated Core. The Exchange believes the proposed fee will be assessed proportionately to the potential value or benefit received by Users with a greater number of Dedicated Cores and notes that Users may determine at any time to cease using Dedicated Cores. As discussed, Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Finally, all Users will be entitled to two Dedicated Cores at no additional cost.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Market Participants have numerous alternative venues that they may participate on, including 15 other equities exchanges, as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁰ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a

monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”²¹ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²² and paragraph (f) of Rule 19b-4²³ thereunder. 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 will 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:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-036 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-2024-036. This file number should be included on the

²¹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f).

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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBYX-2024-036 and should be submitted on or before November 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-23902 Filed 10-16-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101300; File No. SR-BX-2024-038]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX Options 7, Section 2

October 10, 2024

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 27, 2024, Nasdaq BX, Inc. (“BX” or “Exchange”) filed with the

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

Securities and Exchange Commission (“Commission”) a 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 the Exchange’s Pricing Schedule at Options 7, Section 2(1).

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on October 1, 2024.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, 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 Exchange proposes to amend a number of incentives for Lead Market Makers (“LMMs”),³ Market Makers (“MMs”),⁴ and Customers⁵ at BX Options 7, Section 2(1).

³ The term “Lead Market Maker” or (“LMM”) applies to a registered BX Options Market Maker that is approved pursuant to Options 2, Section 3 to be the LMM in an options class (options classes). See Options 7, Section 1(c).

⁴ The term “BX Options Market Maker” or (“M”) is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security. See Options 7, Section 1(c).

⁵ The term “Customer” or (“C”) applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the

Today, in Penny Symbols, the Exchange pays the following Maker Rebates: Lead Market Makers a Maker Rebate of \$0.24 per contract; Market Makers a Maker Rebate of \$0.20 per contract; Non-Customer⁶ and Firm⁷ a Maker Rebate of \$0.12 per contract; and Customer a Maker Rebate of \$0.30 per contract. Today, in Penny Symbols, the Exchange pays the following Taker Fees: Lead Market Makers, Market Makers, Non-Customer and Firm a Taker Fee of \$0.50 per contract; and Customer a Taker Fee of \$0.40 per contract.

Today, in Non-Penny Symbols, the Exchange pays the following Maker Rebates/Fees: Lead Market Makers a Maker Rebate of \$0.45 per contract; Market Makers a Maker Rebate of \$0.40 per contract; Non-Customer and Firm a Maker Fee of \$0.45 per contract; and Customer a Maker Rebate of \$1.10 per contract. Today, in Non-Penny Symbols, the Exchange pays the following Taker Fees: Lead Market Makers, Market Makers, Non-Customer and Firm a Taker Fee of \$1.25 per contract; and Customer a Taker Fee of \$0.79 per contract.

Note 2 Incentive

The Exchange proposes to amend the incentives in note 2 of Options 7, Section 2(1) that currently provide:

Lead Market Makers and Market Makers that either (1) execute more than 0.45% Customer Total Consolidated Volume (“TCV”) per day which adds liquidity in a given month (excluding Lead Market Maker and Market Maker volume which adds liquidity in SPY), or (2) increase their combined Lead Market Maker and Market Maker volume which adds liquidity in a given month by at least 70% above their March 2024 volume as measured by a percentage of TCV (excluding Lead Market Maker and Market Maker volume which adds liquidity in SPY), will receive the following incentives: (i) an additional \$0.05 per contract Maker Rebate in Penny Symbols excluding SPY, (ii) an additional \$0.01 per contract Maker Rebate in SPY, and (iii) an additional \$0.24 per contract Maker Rebate in Non-Penny Symbols. Lead Market Makers and Market Makers with no volume in the add liquidity segment for the month of March 2024 may qualify for the additional Maker Rebates by having any new volume (excluding SPY volume) considered as added

account of broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(a)(48)). See Options 7, Section 1(c).

⁶ The term “Non-Customer” applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. See Options 7, Section 1(c).

⁷ The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC. See Options 7, Section 1(c).

volume. This note 2 incentive will be available through September 30, 2024.

Proposed note 2 provides LMMs and MMs two separate paths to receive the additional Maker Rebates described above. The first path is based on liquidity adding volume on BX as a percentage of Customer Total Consolidated Volume, which is defined as the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.⁸ The first path is based on a percentage of industry volume in recognition of the fact that the volume executed by a Member may rise or fall with industry volume.

The second path is a growth incentive aimed at rewarding LMMs and MMs to grow the extent of their liquidity adding activity on the Exchange over time, relative to a benchmark month. Currently, LMMs and MMs who did not have any combined Lead Market Maker and Market Maker add liquidity volume for the month of March 2024 (and therefore lack March 2024 baseline volume against which to measure subsequent growth) would meet the proposed growth requirement through whatever volume of LMM and MM add liquidity activity (excluding in SPY) during the first month of use.⁹ Growth incentives in general are designed to further encourage Members to increase their order flow to the Exchange, which contributes to a deeper, more liquid market and provides even more execution opportunities for market participants. Increased overall order flow benefits all market participants by contributing towards a robust and well-balanced market ecosystem. Other options exchanges have utilized substantially similar growth incentives.¹⁰ The Exchange notes that it excludes LMM and MM liquidity adding volume in SPY from both paths because SPY is the most actively traded symbol on BX, and the Exchange believes that LMMs and MMs are incentivized to bring SPY liquidity

⁸ See Options 7, Section 1(a).

⁹ As discussed below, the note 2 incentives sunset on September 30, 2024 (including the growth incentive). Today, the Exchange uses this time period to evaluate the proposed growth incentive criteria to determine whether the parameters are appropriately designed to incentivize LMMs and MMs in the intended manner.

¹⁰ See, e.g., Securities Exchange Act Release Nos. 97148 (March 15, 2023), 88 FR 17068 (March 21, 2023) (SR-MRX-2023-07) (establishing growth incentive for MRX Market Makers); and 97440 (May 5, 2023), 88 FR 30370 (May 11, 2023) (SR-MRX-2023-08) (adding an expiration date for the MRX growth incentive). MRX subsequently eliminated this growth incentive upon reaching the expiration date. See Securities Exchange Act Release No. 97800 (June 26, 2023), 88 FR 42409 (June 30, 2023) (SR-MRX-2023-11).

adding volume on BX despite the exclusion of SPY volume from the note 2 qualifications. Further, today, the Exchange is encouraging SPY liquidity adding volume separately through the proposed additional \$0.01 per contract Maker Rebate in SPY described above. Currently, the proposed note 2 incentives are through September 30, 2024. The Exchange believes that this ensures that the note 2 incentives—notably the growth incentive using the benchmark month (*i.e.*, March 2024) against which LMM and MM growth would be measured—are timely and meet the intended purpose of encouraging increased order flow and liquidity adding activity.

At this time, the Exchange proposes to amend note 2 to change the March 2024 baseline volume against which to measure subsequent growth to September 2024. Similar to the prior note incentive, the Exchange will sunset the proposed note 2 incentives after six months, in this case April 30, 2025. The Exchange believes that the note 2 incentives will continue to encourage Members to send order flow to BX.

Note 4 Incentive

The Exchange proposes to amend the incentives in note 4 in Options 7, Section 2(1) that currently provide:

Participants that increase their executed Customer volume which removes liquidity in a given month by at least 70% above their March 2024 volume as measured by a percentage of TCV will receive a Taker Fee discount of \$0.05 per contract in Penny Symbols excluding AAPL, SPY, QQQ, and IWM. Participants with no Customer volume in the remove liquidity segment for the month of March 2024 may qualify for the Taker Fee discount by having any new volume considered as added volume. This note 4 incentive will be available through April 30, 2025.

Currently, the growth incentives in note 4 of Options 7, Section 2(1) have similar qualifications as the growth incentive in note 2 in that Members are measured relative to a benchmark month. Specifically, Members that increase their executed Customer volume which removes liquidity in a given month by at least 70% above their March 2024 volume as measured by a percentage of TCV receive a Taker Fee discount of \$0.05 per contract in Penny Symbols excluding AAPL, SPY, QQQ, and IWM. Accordingly, qualifying Members are paid a Customer Taker Fee of \$0.35 (instead of \$0.40) per contract in Penny Symbols. The Exchange excludes AAPL, SPY, QQQ, and IWM from the note 4 incentive because Members are already paying lower Customer Taker Fees of \$0.33 per

contract for those symbols today.¹¹ The note 4 incentive Members to grow the extent of their Customer liquidity removing activity on the Exchange over time, relative to a benchmark month. Members with no Customer volume in the remove liquidity segment for the month of March 2024 may qualify for the Taker Fee discount by having any new volume considered as added volume. Similar to the note 2 incentive proposed above, Members who did not have the requisite volume for the month of March 2024 (and therefore lack March 2024 baseline volume against which to measure subsequent growth) would meet the proposed growth requirement through whatever volume in the required segment during the first month of use. The Exchange believes that the growth incentive in note 4 encourages increased Customer order flow to the Exchange, which contributes to a deeper, more liquid market and provides even more execution opportunities for market participants. Similar to the note 2 incentive above, the note 4 incentive sunsets on September 30, 2024.

At this time, the Exchange proposes to amend note 4 to change the March 2024 baseline volume against which to measure subsequent growth to September 2024. Similar to the prior note incentive, the Exchange will sunset the proposed note 4 incentives after six months, in this case April 30, 2025. The Exchange believes that the note 4 incentives, as amended, would ensure that the proposed growth incentive is timely and meets the intended purpose of encouraging increased order flow and Customer liquidity removing activity.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market

is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers.’ . . .”¹⁴

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁵

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of eighteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Note 2 Incentive

The Exchange believes that the amended note 2 incentives are reasonable for several reasons. As discussed above, note 2 would continue to provide LMMs and MMs two separate paths to receive the proposed additional Maker Rebates of (i) \$0.05 per contract

¹⁴ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

¹⁵ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹¹ See Options 7, Section 2(1), note 1.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

in Penny Symbols excluding SPY,¹⁶ (ii) \$0.01 per contract in SPY,¹⁷ and (iii) \$0.24 per contract in Non-Penny Symbols.¹⁸ The first path would be based on liquidity adding volume on BX as a percentage of Customer Total Consolidated Volume (*i.e.*, TCV).¹⁹ The Exchange believes that the total industry percentage threshold is reasonable in order to align with increasing LMM and MM activity on BX over time. The Exchange is proposing to base the first path on a percentage of industry volume in recognition of the fact that the volume executed by a Member may rise or fall with industry volume. A percentage of industry volume calculation allows the proposed qualifications in note 2 to be calibrated to current market volumes rather than requiring a static amount of volume regardless of market conditions. The proposed threshold of 0.45% Customer Total Consolidated Volume is generally intended to reward LMMs and MMs for executing more liquidity adding volume on BX. To the extent such activity is increased by this proposal, market participants may increasingly compete for the opportunity to trade on Exchange to the benefit of all market participants. As noted above, total industry percentage thresholds are established concepts within the Pricing Schedules of BX's affiliates.²⁰

As discussed above, the second path would continue to be a growth incentive that would provide LMMs and MMs with the additional Maker Rebates outlined above if they increase their combined LMM and MM volume which adds liquidity in a given month by at least 70% above their September 2024 volume as measured by a percentage of TCV (excluding LMM and MM volume which adds liquidity in SPY). The Exchange believes that its proposal is reasonable because it will provide extra incentives to LMMs and MMs to engage in substantial amounts of liquidity adding activity on the Exchange, as well as to substantially grow the extent to which they do so relative to a recent benchmark month. The Exchange

¹⁶ Accordingly, qualifying LMMs and MMs would receive a total of \$0.29 per contract (LMMs) and \$0.25 per contract (MMs) in Penny Symbols excluding SPY.

¹⁷ Accordingly, qualifying LMMs and MMs would receive a total of \$0.25 per contract (LMMs) and \$0.21 per contract (MMs) in SPY.

¹⁸ Accordingly, qualifying LMMs and MMs would receive a total of \$0.69 per contract (LMMs) and \$0.64 per contract (MMs) in Non-Penny Symbols.

¹⁹ In particular, LMMs and MMs that execute more than 0.45% Customer Total Consolidated Volume ("TCV") per day which adds liquidity in a given month (excluding Lead Market Maker and Market Maker volume which adds liquidity in SPY) would receive the proposed note 2 incentives.

²⁰ See *supra* note 10.

believes that if the proposed growth incentive is effective, any ensuing increase in liquidity adding activity on BX will improve the quality of the market overall, to the benefit of all market participants. The Exchange also believes that it is reasonable to consider any new add liquidity volume (excluding SPY volume) for LMMs and MMs with no such volume for the month of September 2024 in order for those market participants to receive the proposed additional Maker Rebates in note 2. The proposed growth incentive is designed to attract additional liquidity from new LMMs and MMs as well as existing LMMs and MMs who may not have a large footprint on BX today. To the extent this proposal attracts such LMM and MM add liquidity volume to BX, all market participants should benefit through more trading opportunities and tighter spreads. An overall increase in activity would deepen the Exchange's liquidity pool, support the quality of price discovery, promote market transparency and improve market quality for all investors. As discussed above, the Exchange intends for the proposed note 2 incentives, including the growth incentive, to sunset on April 30, 2025, and will use this time to evaluate suitable parameters for such market participants in the targeted segment. The Exchange believes that this will ensure that the proposed incentives are timely and meet the intended purpose of encouraging increased order flow and liquidity adding activity. As noted above, other options exchanges (including the Exchange's affiliate) have previously adopted substantially similar growth incentives.²¹

The Exchange further believes that it is reasonable to exclude LMM and MM liquidity adding volume in SPY from both paths because SPY is the most actively traded symbol on BX, and Exchange believes that LMMs and MMs will continue to be incentivized to bring SPY liquidity adding volume on BX despite the exclusion of SPY volume from the note 2 qualifications. Further, the Exchange is encouraging SPY liquidity adding volume separately through the proposed additional \$0.01 per contract Maker Rebate in SPY described above.

The Exchange believes that the proposed note 2 incentives are equitable and not unfairly discriminatory for the reasons that follow. As a general matter, the Exchange believes that it is equitable and not unfairly discriminatory to provide the note 2 incentives to only LMMs and MMs because these market

participants have different requirements and additional obligations to the Exchange that other market participants do not (such as quoting requirements). As noted above, LMMs would ultimately receive higher Maker Rebates than MMs when combining the current base rebates with the proposed additional rebates.²² Nevertheless, the Exchange continues to believe that it is equitable and not unfairly discriminatory to provide more favorable pricing to LMMs compared to MMs given that LMMs are subject to heightened quoting obligations compared to Market Makers.²³ The higher rebates therefore recognize the differing contributions made to the liquidity and trading environment on the Exchange by LMMs. Overall, the Exchange believes that incentivizing both LMMs and MMs to provide greater liquidity benefits all market participants through the quality of order interaction.

The Exchange also believes that it is equitable and not unfairly discriminatory to consider any new add liquidity volume (excluding SPY volume) for LMMs and MMs with no such volume in September 2024 in order for those market participants to receive the proposed additional Maker Rebates because this is designed to attract additional liquidity and order flow from new and existing LMMs and MMs to the Exchange, as discussed above. In turn, this additional liquidity should benefit all market participants through increased liquidity and order interaction. Furthermore, the proposed growth incentive will be temporary and sunset on April 30, 2025, to ensure that the incentive is timely and meets the intended purpose of encouraging increased order flow and liquidity adding activity.

Note 4 Incentive

The Exchange believes that the proposed growth incentive in new note 4 of Options 7, Section 2(1) is reasonable for the reasons that follow. As discussed above, Members that increase their executed Customer volume which removes liquidity in a given month by at least 70% above their September 2024 volume as measured by a percentage of TCV will receive a Taker Fee discount of \$0.05 per contract in Penny Symbols excluding AAPL, SPY, QQQ, and IWM. Accordingly, qualifying Members would pay a Customer Taker Fee of \$0.35 (instead of \$0.40) per contract in Penny Symbols excluding

²² See *supra* notes 16–18.

²³ See Options 2, Section 4(j) (setting forth the 90% or higher quoting obligations for LMMs) and Section 5(d) (setting forth the 60% or higher quoting obligations for MMs).

²¹ See *supra* note 10.

AAPL, SPY, QQQ, and IWM. The Exchange believes it is reasonable to exclude AAPL, SPY, QQQ, and IWM from the note 4 incentive because Members are already paying lower Customer Taker Fees of \$0.33 per contract for those symbols today.²⁴

The Exchange believes that the proposed growth incentive is reasonable because it will provide extra incentives to Members to engage in substantial amounts of Customer liquidity removing activity on the Exchange, as well as to substantially grow the extent to which they do so relative to a recent benchmark month. The Exchange believes that if the proposed growth incentive is effective, any ensuing increase in liquidity removing activity on BX will increase trading opportunities for all market participants. The Exchange also believes that it is reasonable to consider any new Customer remove liquidity volume for Members with no such volume for the month of September 2024 in order for those Members to receive the proposed Taker Fee discount in note 4. The proposed growth incentive is designed to attract additional Customer order flow from new Members as well as existing Members who may not have a large footprint on BX today. To the extent this proposal attracts such order flow to BX, all market participants should benefit through more trading opportunities. As discussed above, the Exchange intends for the proposed growth incentive in note 4 to sunset on April 30, 2025, and will use this time to evaluate suitable parameters for such market participants in the targeted segment. The Exchange believes that this will ensure that the proposed incentive is timely and meets the intended purpose of encouraging increased order flow and Customer liquidity removing activity. As noted above, other options exchanges (including the Exchange's affiliate) have previously adopted similar growth incentives.²⁵

Further, the Exchange believes that the proposed note 4 incentive is equitable and not unfairly discriminatory for the reasons that follow. As a general matter, the Exchange believes that it is equitable and not unfairly discriminatory to provide the note 4 incentive to only Customer orders because the proposed changes are intended to increase Customer order flow, particularly Customer remove liquidity order flow, to BX. An increase in Customer order flow enhances liquidity on the

Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts other market participants that may interact with this order flow.

The Exchange also believes that it is equitable and not unfairly discriminatory to consider any new Customer remove liquidity volume for Members with no such volume in September 2024 in order for those Members to receive the proposed Taker Fee discount because this is designed to attract additional liquidity and order flow from new and existing Members to the Exchange, as discussed above. In turn, this additional liquidity should benefit all market participants through increased liquidity and order interaction. Furthermore, the proposed growth incentive will be temporary and sunset on April 30, 2025, to ensure that the incentive is timely and meets the intended purpose of encouraging increased Customer order flow and liquidity removing activity.

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.

In terms of intra-market competition, the Exchange does not believe that its proposal will place any category of market participant at a competitive disadvantage. As it relates to the proposed note 2 incentives offered to LMMs and MMs, the Exchange believes that the additional Maker Rebates should encourage the provision of liquidity from both existing and new LMMs and MMs that enhances the quality of the Exchange's market and increases the number of trading opportunities on the Exchange for all market participants who will be able to compete for such opportunities. Similarly, for the proposed note 4 incentive offered to Customers, the Exchange likewise believes that the Taker Fee discount should encourage additional Customer order flow from both existing and new Members, which would enhance BX's market quality and increase trading opportunities to the benefit of all market participants.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its

fees to remain competitive with other options exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁶

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-BX-2024-038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

²⁴ See Options 7, Section 2(1), note 1.

²⁵ See *supra* note 10.

²⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-BX-2024-038. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-BX-2024-038 and should be submitted on or before November 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-23900 Filed 10-16-24; 8:45 am]
BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35358; File No. 813-00403]

Edgar Street Capital, LLC, Elizabeth Street Capital, LLC and Jane Street Group, LLC

October 11, 2024.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the "Act") granting an exemption from all provisions of the Act, except sections 9, 17, 30, 36 through 53 and the rules and regulations under the Act. With respect to sections 17(a), (d), (e), (f), (g) and (j) of the Act, sections 30(a), (b), (e), and (h) of the Act and the Rules and Regulations and rule 38a-1 under the Act, Applicants (as defined below) request a limited exemption as set forth in the application.

SUMMARY OF APPLICATION: The requested exemption would permit Applicants to enter an order to exempt certain limited liability companies, partnerships, business trusts, or other entities ("Funds") formed for the benefit of eligible employees of Jane Street Group, LLC and its affiliates from certain provisions of the Act. Each Fund will be an "employees' securities company" within the meaning of section 2(a)(13) of the Act.

APPLICANTS: Jane Street Group, LLC; Edgar Street Capital, LLC and Elizabeth Street Capital, LLC.

FILING DATES: The application was filed on December 28, 2021, and amended on June 13, 2022, October 19, 2022, March 30, 2023, and July 17, 2024.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on November 5, 2024, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretaries-Office@sec.gov.

ADDRESSES:

The Commission: Secretaries-Office@sec.gov.

Applicants: James Dieterich, Jane Street Group, LLC: 250 Vesey Street, New York, NY 10281; John J. Mahon, Esq., Proskauer Rose LLP: 1001

Pennsylvania Avenue, Suite 600, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Toyin Momoh, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551-5325 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' fourth amended and restated application, dated July 17, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system.

The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-23980 Filed 10-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101304; File No. SR-CboeEDGA-2024-039]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Dedicated Cores

October 10, 2024.

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 30, 2024, Cboe EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission ("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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁷ 17 CFR 200.30-3(a)(12).