

open SPX positions across numerous series. RWA Packages may be executed in the SPX crowd on the trading floor if they meet certain conditions specified in Rule 6.57, including that they be initiated for the account(s) of a Cboe Options market maker, result in a change in beneficial ownership, and include a certification concerning the attributable net reduction of RWA.⁶

Further, Rule 6.57(c) sets forth a trading procedure that requires the entering firm to submit a list of the individual SPX options series, their size, and any net debit or credit bid price received, as well as contact information for the order.⁷ Cboe will thereafter post a list of the individual components of the RWA Package, the proposed net price for the RWA Package (if available), the contact information, and the time at which the two-hour request-for-quote period ("RFQ Period") concludes.⁸

Rule 6.57(c) further specifies that the response that represents the best bid or offer on a net debit or credit basis for the RWA Package has priority.⁹ In the event that equal bids or offers are received, the first RFQ response at the best bid or offer on a net debit or credit basis for the RWA Package has priority.¹⁰ If executed, the representing party must report the details of the execution to the Exchange.¹¹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act,¹² and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed 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 and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing a mechanism to facilitate the reduction of SPX options positions and concomitant RWA.¹⁵ Specifically, the Exchange represented that such a mechanism would help market makers to continue to provide critical liquidity in the options market by reducing RWA to comply with "bank capital regulations that . . . are negatively impacting the ability of [market makers] clearing through bank-affiliated clearing firms to provide liquidity."¹⁶ In reducing RWA, bank-affiliated clearing firms will be able to clear more market maker activity during periods of increased volume and volatility.¹⁷ In turn, market makers may be better able to continue quoting during those periods, lessening the risk of market dislocations or excess volatility that could occur if market makers needed to reduce their quoting activity during such periods to the detriment of investors.

Further, with respect to trading, the Exchange's rule is based on Rule 6.49A, which establishes a similar process for on-floor transfers, but improves upon that rule by adding certifications to assure compliance and increases transparency by electronically disseminating the list of series in a proposed RWA Package. All Cboe members will be given notice of and the ability to participate in the RWA Package trading process.

Finally, the Commission notes the narrow scope of proposed Rule 6.57. The proposed rule change would apply only to SPX options, which are particularly impacted by current bank-capital regulations, and any transaction must result in a net reduction of RWA. Furthermore, the proposed rule change is only effective for a limited term, ending two years from the approval date.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-CBOE-2018-056) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Extension:

Electronic Data Collection System; SEC File No. 270-621, OMB Control No. 3235-0672

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit an extension for this current collection of information to the Office of Management and Budget for approval.

The Commission invites comment on updates to its Electronic Data Collection System database (the Database), which will support information provided by members of the public who would like to file an online tip, complaint or referral (TCR) to the Commission. The Database will be a web based e-filed dynamic report based on technology that pre-populates and establishes a series of questions based on the data that the individual enters. The individual will then complete specific information on the subject(s) and nature of the suspicious activity, using the data elements appropriate to the type of complaint or subject. The information collection is voluntary. The public interface to the Database will be available using the agency's website, www.sec.gov. The Commission estimates that it takes a complainant, on average, 30 minutes to submit a TCR through the Database. Based on the receipt of an average of approximately 16,000 annual TCRs for the past three fiscal years, the Commission estimates that the annual reporting burden is 8,000 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance

⁶ See *id.* at 42726-27.

⁷ See *id.* at 42727.

⁸ See *id.* The Exchange believed that this two-hour period was sufficient to allow members to review, price, and bid/offer for the RWA Package, because the RWA Package will be available in an electronic format and the Exchange believed that firms had access to electronic systems that will aid them in evaluating and pricing the SPX positions contained in an RWA Package. See *id.*

⁹ See *id.*

¹⁰ See *id.* at 42727.

¹¹ See *id.*

¹² 15 U.S.C. 78f.

¹³ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ See Notice, *supra* note 3, at 42726, 42730.

¹⁶ *Id.* at 42726.

¹⁷ See *id.*

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).

of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Background documentation for this information collection may be viewed at the following website: www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Shagufta_Ahmed@omb.eop.gov; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F St. NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 3, 2018.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84354; File No. SR-BX-2018-042]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Align Existing Investigatory and Disciplinary Processes and Related Rules With the Investigatory and Disciplinary Processes and Related Rules of Nasdaq PHLX LLC

October 3, 2018.

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 21, 2018, Nasdaq BX, Inc. ("BX" 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 a proposal [sic] to align its existing investigatory and disciplinary processes and related rules with the investigatory and disciplinary processes and related rules of Nasdaq PHLX LLC ("Phlx").

The text of the proposed rule change is available on the Exchange's website 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 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

BX proposes to amend certain of its rules to align its existing investigatory and disciplinary processes and related rules with the investigatory and disciplinary processes and related rules of Phlx. BX notes that Phlx amended its rules recently to adopt an investigatory and disciplinary process identical in all material respects to the investigatory and disciplinary processes of Nasdaq, Inc. and BX.³ The amendment also vested the Phlx Regulation Department with the same authority proposed herein. The Exchange therefore proposes the below changes to the 8000 and 9000 Series of the BX Rules in order to conform its rules to those of Phlx

³ See Securities Exchange Act Release No. 82143 (November 22, 2017), 82 FR 56672 (November 29, 2017) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Investigatory and Disciplinary Processes Substantially Similar to Nasdaq BX, Inc. and The Nasdaq Stock Market LLC for Phlx, which, among other things, similarly enabled Phlx to retain discretion to perform these functions).

8000 and 9000 Series rules in all respects.⁴

Definition of Exchange Regulation

The Exchange proposes to revise the definition of [sic] BX Current Rule 9120(w) ("Exchange's Regulation Department") to expressly include the Exchange's Enforcement Department. The Exchange's Enforcement Department is specifically charged with pursuing disciplinary action against members, persons associated with a member, and persons subject to the Exchange's jurisdiction, in addition to FINRA's departments of Enforcement and Market Regulation.

Similarly, the Exchange proposes to add references to the "Exchange's Regulation Department" in BX Current Rule 9120(aa) (definition of the term "Party"). The Exchange also proposes to add a definition for the term "Party" as used in the BX Rule 9400 series,⁵ and to add references to "FINRA" in BX Current Rule 9120(aa)(4) to clarify that FINRA falls under the definition of "Party" as used in the BX Rule 9550 series. In addition, the Exchange is adding references to the Exchange's Regulation Department throughout the BX Rule 8000 and 9000 series.⁶ These amendments will conform the text of BX 8000 and 9000 rules to those of Phlx.⁷

⁴ The Exchange notes that the Financial Industry Regulatory Authority ("FINRA") amended its rules recently to reflect an internal reorganization of FINRA's Enforcement Operations. See Securities Exchange Act Release No. 83781 (August 6, 2018), 83 FR 39802 (August 10, 2018). In July 2017, FINRA announced its plan to consolidate its existing enforcement functions into a unified Department of Enforcement. FINRA's recent rule change makes technical and other non-substantive changes to FINRA Rules 9000 Series Code of Procedure (the "Code") to reflect the single Department of Enforcement. The rule change removed references to the Market Regulation department, its head and employees from the Code where those references reflect the previously separate Market Regulation enforcement function. In light of FINRA's reorganization, the Exchange is likewise removing references to the Market Regulation department, its head and employees from the Code, and re-lettering the remainder of those sections where such re-lettering is necessary (*i.e.* Rule 9120). Phlx will also submit a similar rule filing to remove those references in due course.

⁵ The Exchange notes that, like Phlx, it is likewise including the Department of Enforcement as a potential party to a matter under the Rule 9400 Series. The Exchange believes that including these departments in Rule 9400 Series is appropriate because they may be involved in the initiation of such a matter for BX currently. The Exchange is also adding FINRA to other parts of Rule 9400 where it is appropriate to show that FINRA may be the entity that initiated an action under the rule.

⁶ See BX Current Rules 9120, 9212, 9213, 9215, 9216, 9251, 9253, 9264, 9269, 9270, 9311, 9400, 9810, 9820, 9830, and 9840.

⁷ The Exchange is also amending Current BX Rule 9120(aa)(2), to align that rule text with FINRA's recent rule change. The term "Party" when used in the Rule 9520 Series, now means FINRA's

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.