

with which Orders in Test Group Three securities are entered with a limit price that would cross a Protected Quotation of another market center, and believes that the re-pricing functionality will be triggered infrequently.¹² The Exchange also notes that it is diligently working to eliminate the current re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, and that it anticipates this re-programming to be complete on or before December 12, 2016.

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. The purpose of this proposal is to provide the SEC and market participants with notice of Phlx's efforts to remove its re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, consistent with its statements in SR-Phlx-2016-92, SR-Phlx-2016-106, and SR-Phlx-2016-110.

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 change has become effective pursuant to Section 19(b)(3)(A)(iii)¹³ of the Act and Rule 19b-4(f)(6)¹⁴ thereunder, in that it effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-Phlx-2016-114 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-Phlx-2016-114. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR-Phlx-2016-114 and should be submitted on or before December 23, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79409; File No. SR-BX-2016-061]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .14 to Rule 4770 (Compliance With Regulation NMS Plan To Implement a Tick Size Pilot)

November 28, 2016.

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 November 14, 2016, NASDAQ BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I 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 Commentary .14 to Rule 4770 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to provide the SEC with notice of its efforts to re-program its systems to eliminate a re-pricing functionality for certain orders in Test Group Three securities in connection with the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan" or "Pilot").³

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order").

¹² For example, for the time period between October 17 and November 11, 2016, 0.08% of orders that were entered on the NASDAQ Stock Market LLC in Test Group Three securities were entered at a price that crossed the NBBO.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

NASDAQ BX Rules

* * * * *

4770. Compliance With Regulation NMS Plan To Implement a Tick Size Pilot

(a) through (d) No Change.

Commentary

.01–.13 No change.

.14 Until [November 14, 2016] December 12, 2016, the treatment of Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols in Test Group Three securities shall be as follows:

Following entry, and if market conditions allow, a Price to Comply Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Price to Display Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Display Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO up (down) to the Order's limit price.

Following entry, and if market conditions allow, the Post-Only Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO or the best price on the Exchange Book, as applicable until such time as the Post-Only Order is able to be ranked and displayed at its original entered limit price.

* * * * *

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

On September 7, 2016, the Exchange filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change ("Proposal") to adopt paragraph (d) to Exchange Rule 4770 to describe changes to system functionality necessary to implement the Plan. The Exchange also proposed amendments to Rule 4770(a) and (c) to clarify how the Trade-at exception may be satisfied. The SEC published the Proposal in the **Federal Register** for notice and comment on September 20, 2016.⁴ BX subsequently filed three Partial Amendments to clarify aspects of the Proposal. The Commission approved the Proposal, as amended, on October 7, 2016.⁵

In SR-BX-2016-050, BX had initially proposed a re-pricing functionality for Price to Comply Orders, Non-Displayed Orders, and Post-Only Orders entered through the OUCH and FLITE protocols in Group Three securities.⁶ BX subsequently determined that it would not offer this re-pricing functionality for Price to Comply Orders, Non-Displayed Orders, and Post-Only Orders entered through the OUCH and FLITE protocols in Group Three securities. As part of Partial Amendment No. 2 to SR-BX-2016-050, BX proposed to delete the relevant language from Rule 4770 related to this re-pricing functionality.

In that amendment, BX noted that this change would only impact the treatment of Price to Comply Orders, Non-Displayed Orders, and Post-Only orders that are submitted through the OUCH and FLITE protocols in Test Group Three Pilot Securities, as these types of Orders that are currently submitted to BX through the RASH or FIX protocols

⁴ See Securities Exchange Act Release No. 78838 (September 14, 2016), 81 FR 64566 (September 20, 2016) (SR-BX-2016-050).

⁵ See Securities Exchange Act Release No. 79076 (October 7, 2016) (SR-BX-2016-050).

⁶ As originally proposed, Rule 4770(d)(2) stated that Price to Comply Orders in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price. Rule 4770(d)(3) stated that, if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO up (down) to the Order's limit price. Rule 4770(d)(4) stated that, if market conditions allow, the Post-Only Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO or the best price on the BX Book, as applicable until such time as the Post-Only Order is able to be ranked and displayed at its original entered limit price.

are already subject to this re-pricing functionality and will remain subject to this functionality under the Pilot.

In the Amendment, BX further noted that its systems are currently programmed so that Price to Comply Orders, Non-Displayed Orders and Post-Only Orders entered through the OUCH and FLITE protocols in Test Group Three Securities may be adjusted repeatedly to reflect changes to the NBBO and/or the best price on the BX book. BX stated that it is re-programming its systems to remove this functionality for Price to Comply Orders, Non-Displayed Orders and Post-Only Orders entered through the OUCH and FLITE protocols in Test Group Three Securities. In the Amendment, BX stated that it anticipated that this re-programming shall be completed no later than November 30, 2016. If it appears that this functionality will remain operational by October 17, 2016, BX indicated that it would file a proposed rule change with the SEC and will provide notice to market participants sufficiently in advance of that date to provide effective notice. The rule change and the notice to market participants will describe the current operation of the BX systems in this regard, and the timing related to the re-programming.

On October 17, 2016, BX filed a proposal to extend the date by which it would complete the re-programming of its systems to eliminate the re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols.⁷ In that proposal, BX stated that it anticipated that this re-programming shall be complete on or before October 31, 2016.⁸

On October 31, 2016, BX submitted a proposed rule change to extend the date by which it would eliminate the re-pricing functionality to November 14, 2016.⁹ In that proposal, BX stated that it was still determining how to modify its systems to eliminate the current re-pricing functionality in Test Group Three securities for Price to Comply

⁷ See Securities Exchange Act Release No. 79154 (October 25, 2016) (SR-BX-2016-054).

Subsequent to the approval of SR-BX-2016-050, BX became aware that this re-pricing functionality also applies to Price to Display Orders that are entered through the OUCH and FLITE protocols in Test Group Three Securities, and included those Orders as part of SR-BX-2016-054 accordingly. Price to Display Orders will be treated in the same manner as Price to Comply Orders under the re-pricing functionality.

⁸ *Id.*

⁹ See Securities Exchange Act Release No. 79262 (November 8, 2016) (SR-BX-2016-153).

Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols.

At this time, BX is in the process of re-programming its systems to eliminate the re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols. BX anticipates that this re-programming shall be complete on or before December 12, 2016.

Therefore, the current treatment of Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols in Test Group Three securities shall be as follows:

Following entry, and if market conditions allow, a Price to Comply Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Price to Display Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Display Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO up (down) to the Order's limit price.

Following entry, and if market conditions allow, a Post-Only Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO or the best price on the BX Book, as applicable until such time as the Post-Only Order is able to be ranked and displayed at its original entered limit price.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed to promote just and equitable principles of trade, 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. The

purpose of this filing is to inform the SEC and market participants of the status of BX's attempts to re-program its systems to remove the re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, and the current treatment of such orders pending the removal of this functionality. This proposal is consistent with the Act because it provides the SEC and market participants with notice of BX's efforts in this regard, and is being submitted in connection with the statements made by BX in SR-BX-2016-050, SR-BX-2016-054, and SR-BX-2016-153 in proposing the removal of this functionality.

BX also believes that the proposal is consistent with the Act because the re-pricing functionality will not significantly impact the data gathered pursuant to the Pilot. BX notes that this re-pricing functionality only affects Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols for Test Group Three securities until the re-pricing functionality is eliminated, and only becomes relevant when an Order in a Test Group Three security would cross a Protected Quotation of another market center. BX has analyzed data relating to the frequency with which Orders in Test Group Three securities are entered with a limit price that would cross a Protected Quotation of another market center, and believes that the re-pricing functionality will be triggered infrequently.¹² The Exchange also notes that it is diligently working to eliminate the current re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, and that it anticipates this re-programming to be complete on or before December 12, 2016.

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. The purpose of this proposal is to provide the SEC and market participants with notice of BX's efforts to remove its re-pricing

functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, consistent with its statements in SR-BX-2016-050, SR-BX-2016-054 and SR-BX-2016-153.

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 change has become effective pursuant to Section 19(b)(3)(A)(iii)¹³ of the Act and Rule 19b-4(f)(6)¹⁴ thereunder, in that it effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BX-2016-061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities

¹² For example, for the time period between October 17 and November 11, 2016, 0.08% of orders that were entered on the NASDAQ Stock Market LLC in Test Group Three securities were entered at a price that crossed the NBBO.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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

All submissions should refer to File Number SR-BX-2016-061. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-BX-2016-061 and should be submitted on or before December 23, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Robert W. Errett,
Deputy Secretary.

[FR Doc. 2016-28932 Filed 12-1-16; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79404; File No. SR-NYSEArca-2016-149]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Amending Rule 6.91NY

November 28, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,²

notice is hereby given that on November 14, 2016, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.91NY (Electronic Complex Order Trading) to clarify the priority of Electronic Complex Orders and to modify aspects of its Complex Order Auction Process. The proposed rule change is available on the Exchange's Web site at 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 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 Rule 6.91 to clarify the priority of Electronic Complex Orders ("ECO")³ and to modify aspects of its Complex Order Auction ("COA") Process.

Rule 6.91 sets forth how the Exchange conducts trading of ECOs in its Complex Matching Engine ("CME"). The Exchange proposes to streamline the rule text governing the execution of

³ Per Rule 6.91, "an 'Electronic Complex Order' means any Complex Order as defined in Rule 6.62(e) that is entered into the NYSE Arca System." Rule 6.62(e) defines Complex Order as "any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy."

ECOs during Core Trading Hours⁴ to provide specificity and transparency regarding such order processing, without modifying the substance of such processing. The Exchange also proposes to amend the rules governing how ECOs that are eligible for a COA Process are executed and allocated to clarify the description of current functionality and to provide additional detail regarding order processing. The Exchange also proposes additional amendments to Rule 6.91 to clarify and add transparency to the COA Process, as described below.

Execution of ECOs during Core Trading Hours

The Exchange proposes to streamline its description of the priority of ECOs during Core Trading Hours, which the Exchange believes would add specificity and transparency to Exchange rules. Every ECO, upon entry to the System, is routed to the CME for possible execution against other ECOs or against individual quotes and orders residing in the Consolidated Book ("leg markets").⁵ The Exchange ranks and allocates ECOs residing in the Consolidated Book according to price/time priority based on the total or net debit or credit and the time of entry of the order.⁶ Paragraph (a)(2) to the Rule sets forth how ECOs are executed, including that ECOs submitted to the System may be executed without consideration of prices of the same complex order that might be available on other exchanges.⁷ The Exchange proposes to specify that ECOs may be executed without regard to prices of "either single-legged or the same complex order strategy" that might be available on other exchanges, which adds specificity and transparency to Exchange rules.⁸ The Exchange proposes to amend Rule 6.91(a)(2) by re-

⁴ Core Trading Hours are the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange. See Rule 6.1A(a)(3).

⁵ See proposed Rule 6.91(a) (the Exchange proposes to define "leg markets" in reference to individual quotes and orders in the Consolidated Book as used throughout the rule text). The Exchange also proposes to define "System" as a shorthand reference to the term "NYSE Arca System" and replace uses of the term "NYSE Arca System" with the term "System" throughout the rule text. See, e.g., proposed Rule 6.91(preamble) and paragraph (a).

⁶ See Rule 6.91(a)(1).

⁷ See Rule 6.91(a)(2). The Rule also provides that "[n]o leg of a [ECO] will be executed at a price outside the NYSE Arca best bid/offer for that leg." See *id.*

⁸ Rule 6.91(a)(2)(i) governs the execution of ECOs at the Open. The Exchange proposes a non-substantive amendment to add the term "Electronic" so that the rule text would read, "Execution of Electronic Complex orders at the Open."

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.