

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 31

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 10

Amendment No. (req. for Amendments *)

Filing by Nasdaq GEMX, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
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Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>
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Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

A proposal to amend its Rules at Options 7, Section 6.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Angela Last Name * Dunn

Title * Principal Associate General Counsel

E-mail * angela.dunn@nasdaq.com

Telephone * (215) 496-5692 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Nasdaq GEMX, LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 05/01/2024


(Title *)

By John Zecca

EVP and Chief Legal Officer

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Date: 2024.05.01 10:20:23 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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SR-GEMX-2024-10 19b-4.docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-GEMX-2024-10 Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

SR-GEMX-2024-10 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq GEMX, LLC (“GEMX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend its Rules at Options 7, Section 6.³

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”). Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn
Principal Associate General Counsel
Nasdaq, Inc.
(215) 496-5692

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed pricing changes on November 28, 2023 (SR-GEMX-2023-16) to be effective on December 1, 2023. On December 5, 2023, the Exchange withdrew SR-GEMX-2023-16 and replaced it with SR-GEMX-2023-19. On January 16, 2023, the Exchange withdrew SR-GEMX-2023-19 and submitted SR-GEMX-2024-03. On March 7, 2024, the Exchange withdrew SR-GEMX-2024-03 and submitted SR-GEMX-2024-07. On May 1, 2024, the Exchange withdrew SR-GEMX-2024-07 and submitted this filing.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange proposes to amend Options 7, Section 6, C, Ports and Other Services. Specifically, the Exchange proposes to amend the monthly caps for SQF Ports⁴ and SQF Purge Ports.⁵

Today, GEMX assesses \$1,250 per port, per month for an SQF Port as well as an SQF Purge Port.⁶ Also, today, SQF Ports and SQF Purge Ports are subject to a monthly cap of \$17,500, which cap is applicable to Market Makers.

At this time, the Exchange proposes to establish an increased SQF Fee and SQF Purge Port Cap to Primary Market Makers and Market Makers that do not provide a minimum amount of liquidity on GEMX. This proposed increased SQF Fee and SQF

⁴ “Specialized Quote Feed” or “SQF” is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, and Size Limitation Protection in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B) respectively. See Supplementary Material .03(c) to Options 3, Section 7.

⁵ SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. Dedicated SQF Purge Ports enable Market Makers to seamlessly manage their ability to remove their quotes in a swift manner. The SQF Purge Port is designed to assist Market Makers in the management of, and risk control over, their quotes. Market Makers may utilize a purge port to reduce uncertainty and to manage risk by purging all quotes in their assigned options series. Of note, Market Makers may only enter interest into SQF in their assigned options series. Additionally, the SQF Purge Port may be utilized by a Market Maker in the event that the Member has a system issue and determines to purge its quotes from the order book.

⁶ The Exchange proposes to add a comma between “per port” and “per month” in the Options 7, Section 6, C, SQF Port and SQF Purge Port Fee rule text. The Exchange also proposes to remove an extraneous period in Options 7, Section 6, C, in the second paragraph.

Purge Port Cap is intended to incentivize Primary Market Makers and Market Makers to add liquidity on GEMX for the benefit of other market participants in order to lower their fees. GEMX proposes to increase the SQF Port and SQF Purge Port Cap to \$27,500 a month if a Primary Market Maker or Market Maker does not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month.⁷ Today, GEMX caps an SQF Port and SQF Purge Port at \$17,500 a month.⁸ With this proposal, the Exchange would not assess Primary Market Makers and Market Makers an SQF Port and SQF Purge Port Cap beyond the monthly cap of \$27,500, instead of \$17,500, once the Member has exceeded the proposed port cap for the respective month. Primary Market Makers and Market Makers who transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month will continue to be subject to the \$17,500 SQF Port and SQF Purge Port Cap.

Pursuant to Supplementary Material .03(c) to Options 3, Section 7, Market Makers may only enter interest into SQF in their assigned options series. Pursuant to Supplementary Material .03(c) to Options 3, Section 7, the SQF interface allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. An SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. . . A GEMX Market Maker requires only one SQF Port to submit quotes in its assigned options series into GEMX. While a Market Maker may elect to obtain multiple SQF

⁷ For purposes of this cap, “Total Customer Volume” shall be defined as a percentage of all cleared customer volume at The Options Clearing Corporation in Multiply Listed Equity Options and Exchange-Traded Products (“TCV”).

⁸ The Exchange also proposes a technical amendment to remove an extra period in Options 7, Section 6, C.

Ports and SQF Purge Ports to organize its business,⁹ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹⁰

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹² 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 proposed pricing change to increase the SQF Port and SQF Purge Port monthly cap from \$17,500 per month to \$27,500 per month if Primary Market Makers or Market Makers do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month is reasonable because it will incentivize Primary Market Makers and Market Makers to add liquidity on GEMX to lower their costs. The Exchange believes that the total volume required to achieve the cap is reasonable as the Exchange has limited the volume to simple orders, as not all Market Makers transact complex orders. Further, 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month is an achievable number for Market Makers who currently

⁹ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

¹⁰ GEMX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, GEMX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX and only Market Makers may utilize SQF Ports. The same is true for SQF Purge Ports.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4) and (5).

add volume to the Exchange. Additionally, the Exchange believes that an SQF Fee and SQF Purge Port Cap of \$27,500, in lieu of \$17, 500, is reasonable because Primary Market Makers and Market Makers are obligated, among other things, to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.¹³ The Exchange believes that it is reasonable to increase the SQF Port and SQF Purge Port Cap to \$27,500 for Primary Market Makers and Market Makers that do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month because the Exchange believes that Primary Market Makers and Market Makers that do not contribute a minimum amount of liquidity on GEMX should not be subject to the same opportunities to lower their costs as those Primary Market Makers and Market Makers that do contribute to liquidity and therefore provide the ability for other market participants to engage with that order flow. The Exchange believes that the increase is modest and would serve to encourage Primary Market Makers and Market Makers to submit order flow to GEMX in order to lower their cost and would result in additional order competition, which also benefits market participants. The Exchange believes this proposal promotes liquidity, quote competition, and trading opportunities.

SQF Ports and SQF Purge Ports are utilized by Primary Market Makers and Market Makers to quote on GEMX. A Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market

¹³ See Options 2, Section 4(b)(1) and (3).

Maker may elect to obtain multiple SQF Ports to organize its business,¹⁴ only one SQF Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹⁵ For those Market Makers that elect to organize themselves by obtaining a greater number of SQF Ports or SQF Purge Ports, they will be subject to a cap.¹⁶ For Market Makers that only take 1 SQF Port or only a few SQF Ports or SQF Purge Ports, their costs would be far below the \$27,500 or \$17,500 threshold for the cap.

The proposed pricing change to increase the SQF Fee and SQF Purge Cap for Primary Market Makers and Market Makers to \$27,500 a month if Primary Market Makers or Market Makers do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month is equitable and not unfairly discriminatory as all Primary Market Makers and Market Makers would be able to cap their SQF Port and SQF Purge Port costs at \$17,500, provided they transacted the requisite volume, otherwise Primary Market Makers and Market Makers would be uniformly subject to the \$27,500 SQF Port and SQF Purge Port Cap. The Exchange notes that unlike other market participants, Primary Market Makers are obligated to quote in the Opening Process and intra-day.¹⁷ Additionally, Market Makers may enter quotes in the Opening

¹⁴ For example, a Market Maker may desire to utilize multiple SQF Ports and SQF Purge Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that member organization.

¹⁵ Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX.

¹⁶ The number of ports that members choose to purchase varies widely. Today, on GEMX, no Market Makers have 1 SQF Port/SQF Purge Port, 1 Market Maker had 2-5 SQF Ports/SQF Purge Ports, 4 Market Makers have between 6-10 SQF Ports/SQF Purge Ports, and 8 Market Makers have more than 11 SQF Ports/SQF Purge Ports.

¹⁷ See Options 3, Section 8 and Options 2, Section 5.

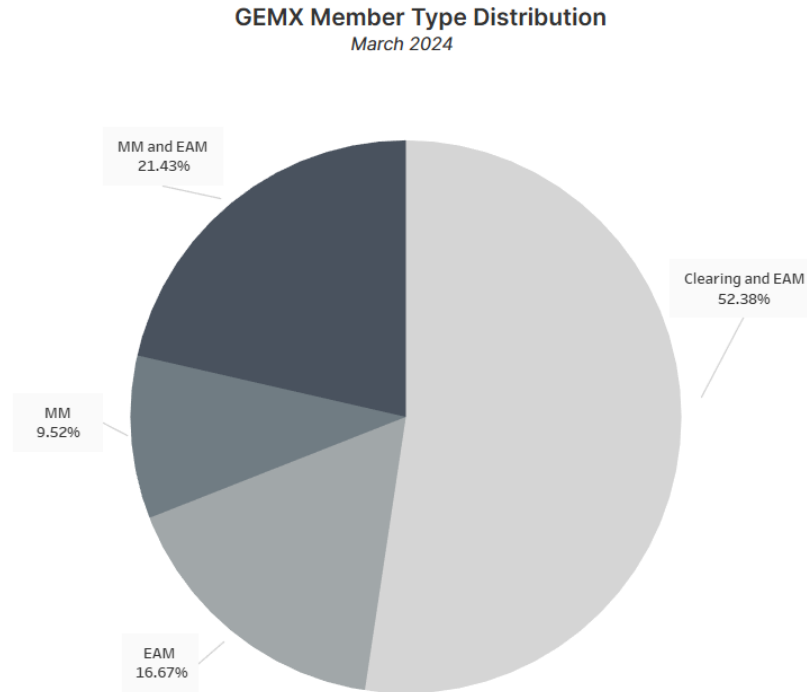
Process to open an option series and they are required to quote intra-day.¹⁸ Further, unlike other market participants, Primary Market Makers and Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.¹⁹ Finally, unlike other market participants, Primary Market Makers and Market Makers incur other costs related to their quoting obligations in addition to other fees paid by other market participants. Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,²⁰ and CMM Trading Right Fees,²¹ in addition to other fees paid by other market participants. These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to GEMX and are necessary for opening the market. Allowing Primary Market Makers and Market Makers to manage their costs by capping SQF Ports and SQF Purge Ports in addition to transaction fees enables these essential market participants to manage their business model more effectively and better allocate resources to other technologies that are necessary to manage risk and capacity to ensure that these market participants continue to compete effectively on GEMX. The following chart represents the classification of GEMX members and the percentage of Market Makers.

¹⁸ Id.

¹⁹ See Options 2, Section 4(b)(1) and (3).

²⁰ See Options 7, Section 6, A.

²¹ See Options 7, Section 6, B.



GEMX believes Primary Market Makers and Market Makers should be eligible for certain incentives because they fulfill a unique role on the Exchange and are the only market participants required to submit quotes to the Exchange. The proposed SQF Port and SQF Purge Cap is designed to ensure that Primary Market Makers and Market Makers add a certain amount of liquidity on GEMX in order to be able to cap their SQF Port and SQF Purge Port Fees at the lower cap of \$17,500 as compared to the increased cap of \$27,500. The Exchange would apply the criteria uniformly when applying the SQF Fee and SQF Purge Cap to Primary Market Makers and Market Makers.

Finally, GEMX believes the proposed SQF Fee and SQF Purge Cap is constrained by competitive forces and reasonably designed in consideration of the competitive environment in which the Exchange operates. This fee structure incents Primary Market Makers and Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

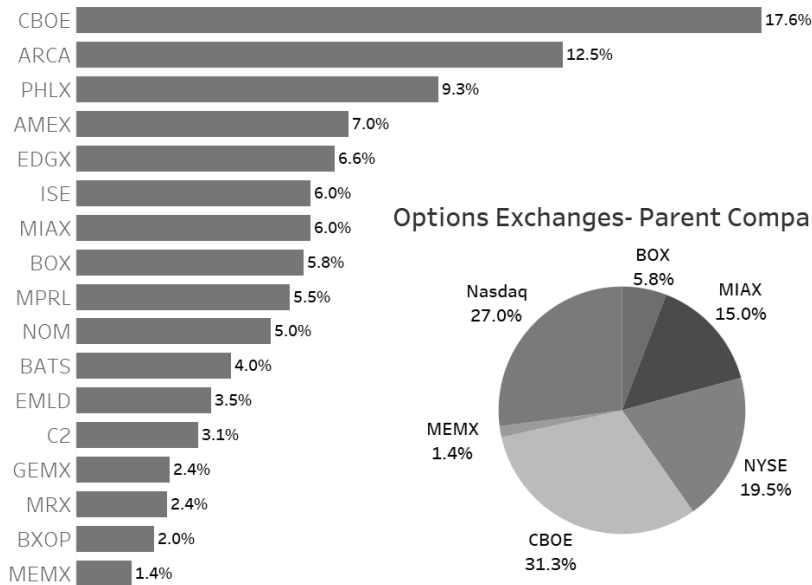
4. Self-Regulatory Organization's Statement on Burden on Competition

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.

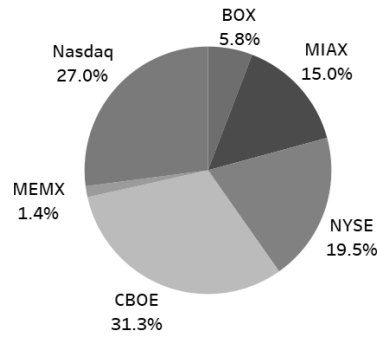
Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange believes its proposal remains competitive with other options markets who also offer order entry protocols. 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. The chart below shows the February 2024 market share for multiply listed options by exchange. Of the 17 operating options exchanges, none currently has more than a 17.6% market share. Customers widely distribute their transactions across exchanges according to their business needs and the ability of each exchange to meet those needs through technology, liquidity and functionality.

Options Market Share by Exchange: February 2024



Options Exchanges- Parent Company



Source: OCC, Nadsaq Economic Research

Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and ports.

In such an environment, the Exchange must continually adjust its fees to remain competitive with other 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.

Intramarket Competition

The proposed pricing change to increase the SQF Fee and SQF Purge Cap for Primary Market Makers and Market Makers to \$27,500 a month if Primary Market Makers or Market Makers do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month does not impose an undue burden on competition as all Primary Market Makers and Market Makers would be able to cap their

SQF Port and SQF Purge Port costs at \$17,500, provided they transacted the requisite volume, otherwise Primary Market Makers and Market Makers would be uniformly subject to the \$27,500 SQF Port and SQF Purge Port Cap. The Exchange notes that unlike other market participants, Primary Market Makers are obligated to quote in the Opening Process and intra-day.²² Additionally, Market Makers may enter quotes in the Opening Process to open an option series and they are required to quote intra-day.²³ Further, unlike other market participants, Primary Market Makers and Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.²⁴ Finally, unlike other market participants, Primary Market Makers and Market Makers incur other costs related to their quoting obligations in addition to other fees paid by other market participants. Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,²⁵ and CMM Trading Right Fees,²⁶ in addition to other fees paid by other market participants. These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to GEMX and are necessary for opening the market. Allowing Primary Market Makers and Market Makers to manage their costs by capping SQF Ports and SQF Purge Ports in addition to

²² See Options 3, Section 8 and Options 2, Section 5.

²³ Id.

²⁴ See Options 2, Section 4(b)(1) and (3).

²⁵ See Options 7, Section 6, A.

²⁶ See Options 7, Section 6, B.

transaction fees enables these essential market participants to manage their business model more effectively and better allocate resources to other technologies that are necessary to manage risk and capacity to ensure that these market participants continue to compete effectively on GEMX. GEMX believes Primary Market Makers and Market Makers should be eligible for certain incentives because they fulfill a unique role on the Exchange and are the only market participants required to submit quotes to the Exchange. The proposed SQF Port Cap is designed to ensure that Primary Market Makers and Market Makers add a certain amount of liquidity on GEMX in order to be able to cap their SQF Port and SQF Purge Port Fees at the lower cap of \$17,500 as compared to the increased cap of \$27,500. The Exchange would apply the criteria uniformly when applying the SQF Fee and SQF Purge Cap to Primary Market Makers and Market Makers.

Finally, GEMX believes the proposed SQF Fee and SQF Purge Cap is constrained by competitive forces and reasonably designed in consideration of the competitive environment in which the Exchange operates. This fee structure incents Primary Market Makers and Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁷ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

²⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-GEMX-2024-10)

May __, 2024

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 7, Section 6

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 May 1, 2024, 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, 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 its Rules at Options 7, Section 6.³

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/gemx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed pricing changes on November 28, 2023 (SR-GEMX-2023-16) to be effective on December 1, 2023. On December 5, 2023, the Exchange withdrew SR-GEMX-2023-16 and replaced it with SR-GEMX-2023-19. On January 16, 2023, the Exchange withdrew SR-GEMX-2023-19 and submitted SR-GEMX-2024-03. On March 7, 2024, the Exchange withdrew SR-GEMX-2024-03 and submitted SR-GEMX-2024-07. On May 1, 2024, the Exchange withdrew SR-GEMX-2024-07 and submitted this filing.

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 Options 7, Section 6, C, Ports and Other Services. Specifically, the Exchange proposes to amend the monthly caps for SQF Ports⁴ and SQF Purge Ports.⁵

Today, GEMX assesses \$1,250 per port, per month for an SQF Port as well as an

⁴ “Specialized Quote Feed” or “SQF” is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, and Size Limitation Protection in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B) respectively. See Supplementary Material .03(c) to Options 3, Section 7.

⁵ SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. Dedicated SQF Purge Ports enable Market Makers to seamlessly manage their ability to remove their quotes in a swift manner. The SQF Purge Port is designed to assist Market Makers in the management of, and risk control over, their quotes. Market Makers may utilize a purge port to reduce uncertainty and to manage risk by purging all quotes in their assigned options series. Of note, Market Makers may only enter interest into SQF in their assigned options series. Additionally, the SQF Purge Port may be utilized by a Market Maker in the event that the Member has a system issue and determines to purge its quotes from the order book.

SQF Purge Port.⁶ Also, today, SQF Ports and SQF Purge Ports are subject to a monthly cap of \$17,500, which cap is applicable to Market Makers.

At this time, the Exchange proposes to establish an increased SQF Fee and SQF Purge Port Cap to Primary Market Makers and Market Makers that do not provide a minimum amount of liquidity on GEMX. This proposed increased SQF Fee and SQF Purge Port Cap is intended to incentivize Primary Market Makers and Market Makers to add liquidity on GEMX for the benefit of other market participants in order to lower their fees. GEMX proposes to increase the SQF Port and SQF Purge Port Cap to \$27,500 a month if a Primary Market Maker or Market Maker does not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month.⁷ Today, GEMX caps an SQF Port and SQF Purge Port at \$17,500 a month.⁸ With this proposal, the Exchange would not assess Primary Market Makers and Market Makers an SQF Port and SQF Purge Port Cap beyond the monthly cap of \$27,500, instead of \$17,500, once the Member has exceeded the proposed port cap for the respective month. Primary Market Makers and Market Makers who transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month will continue to be subject to the \$17,500 SQF Port and SQF Purge Port Cap.

Pursuant to Supplementary Material .03(c) to Options 3, Section 7, Market

⁶ The Exchange proposes to add a comma between “per port” and “per month” in the Options 7, Section 6, C, SQF Port and SQF Purge Port Fee rule text. The Exchange also proposes to remove an extraneous period in Options 7, Section 6, C, in the second paragraph.

⁷ For purposes of this cap, “Total Customer Volume” shall be defined as a percentage of all cleared customer volume at The Options Clearing Corporation in Multiply Listed Equity Options and Exchange-Traded Products (“TCV”).

⁸ The Exchange also proposes a technical amendment to remove an extra period in Options 7, Section 6, C.

Makers may only enter interest into SQF in their assigned options series. Pursuant to Supplementary Material .03(c) to Options 3, Section 7, the SQF interface allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. An SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. . . A GEMX Market Maker requires only one SQF Port to submit quotes in its assigned options series into GEMX. While a Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,⁹ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹⁰

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹² 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 proposed pricing change to increase the SQF Port and SQF Purge Port monthly cap from \$17,500 per month to \$27,500 per month if Primary Market Makers or

⁹ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

¹⁰ GEMX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, GEMX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX and only Market Makers may utilize SQF Ports. The same is true for SQF Purge Ports.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4) and (5).

Market Makers do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month is reasonable because it will incentivize Primary Market Makers and Market Makers to add liquidity on GEMX to lower their costs. The Exchange believes that the total volume required to achieve the cap is reasonable as the Exchange has limited the volume to simple orders, as not all Market Makers transact complex orders. Further, 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month is an achievable number for Market Makers who currently add volume to the Exchange. Additionally, the Exchange believes that an SQF Fee and SQF Purge Port Cap of \$27,500, in lieu of \$17, 500, is reasonable because Primary Market Makers and Market Makers are obligated, among other things, to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.¹³ The Exchange believes that it is reasonable to increase the SQF Port and SQF Purge Port Cap to \$27,500 for Primary Market Makers and Market Makers that do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month because the Exchange believes that Primary Market Makers and Market Makers that do not contribute a minimum amount of liquidity on GEMX should not be subject to the same opportunities to lower their costs as those Primary Market Makers and Market Makers that do contribute to liquidity and therefore provide the ability for other market participants to engage with that order flow. The Exchange believes that the increase is modest and would serve to encourage Primary Market

¹³ See Options 2, Section 4(b)(1) and (3).

Makers and Market Makers to submit order flow to GEMX in order to lower their cost and would result in additional order competition, which also benefits market participants. The Exchange believes this proposal promotes liquidity, quote competition, and trading opportunities.

SQF Ports and SQF Purge Ports are utilized by Primary Market Makers and Market Makers to quote on GEMX. A Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market Maker may elect to obtain multiple SQF Ports to organize its business,¹⁴ only one SQF Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹⁵ For those Market Makers that elect to organize themselves by obtaining a greater number of SQF Ports or SQF Purge Ports, they will be subject to a cap.¹⁶ For Market Makers that only take 1 SQF Port or only a few SQF Ports or SQF Purge Ports, their costs would be far below the \$27,500 or \$17,500 threshold for the cap.

The proposed pricing change to increase the SQF Fee and SQF Purge Cap for Primary Market Makers and Market Makers to \$27,500 a month if Primary Market Makers or Market Makers do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month is equitable and not unfairly discriminatory

¹⁴ For example, a Market Maker may desire to utilize multiple SQF Ports and SQF Purge Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that member organization.

¹⁵ Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX.

¹⁶ The number of ports that members choose to purchase varies widely. Today, on GEMX, no Market Makers have 1 SQF Port/SQF Purge Port, 1 Market Maker had 2-5 SQF Ports/SQF Purge Ports, 4 Market Makers have between 6-10 SQF Ports/SQF Purge Ports, and 8 Market Makers have more than 11 SQF Ports/SQF Purge Ports.

as all Primary Market Makers and Market Makers would be able to cap their SQF Port and SQF Purge Port costs at \$17,500, provided they transacted the requisite volume, otherwise Primary Market Makers and Market Makers would be uniformly subject to the \$27,500 SQF Port and SQF Purge Port Cap. The Exchange notes that unlike other market participants, Primary Market Makers are obligated to quote in the Opening Process and intra-day.¹⁷ Additionally, Market Makers may enter quotes in the Opening Process to open an option series and they are required to quote intra-day.¹⁸ Further, unlike other market participants, Primary Market Makers and Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.¹⁹ Finally, unlike other market participants, Primary Market Makers and Market Makers incur other costs related to their quoting obligations in addition to other fees paid by other market participants. Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,²⁰ and CMM Trading Right Fees,²¹ in addition to other fees paid by other market participants. These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to GEMX and are necessary for opening the market. Allowing Primary Market Makers and Market Makers

¹⁷ See Options 3, Section 8 and Options 2, Section 5.

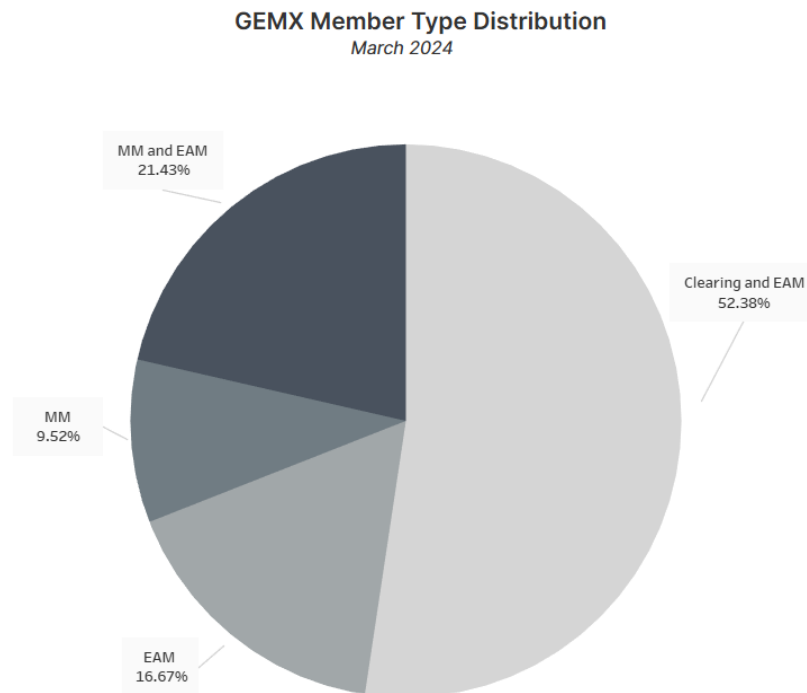
¹⁸ Id.

¹⁹ See Options 2, Section 4(b)(1) and (3).

²⁰ See Options 7, Section 6, A.

²¹ See Options 7, Section 6, B.

to manage their costs by capping SQF Ports and SQF Purge Ports in addition to transaction fees enables these essential market participants to manage their business model more effectively and better allocate resources to other technologies that are necessary to manage risk and capacity to ensure that these market participants continue to compete effectively on GEMX. The following chart represents the classification of GEMX members and the percentage of Market Makers.



GEMX believes Primary Market Makers and Market Makers should be eligible for certain incentives because they fulfill a unique role on the Exchange and are the only market participants required to submit quotes to the Exchange. The proposed SQF Port and SQF Purge Cap is designed to ensure that Primary Market Makers and Market Makers add a certain amount of liquidity on GEMX in order to be able to cap their SQF Port and SQF Purge Port Fees at the lower cap of \$17,500 as compared to the increased cap of \$27,500. The Exchange would apply the criteria uniformly when applying the

SQF Fee and SQF Purge Cap to Primary Market Makers and Market Makers.

Finally, GEMX believes the proposed SQF Fee and SQF Purge Cap is constrained by competitive forces and reasonably designed in consideration of the competitive environment in which the Exchange operates. This fee structure incents Primary Market Makers and Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

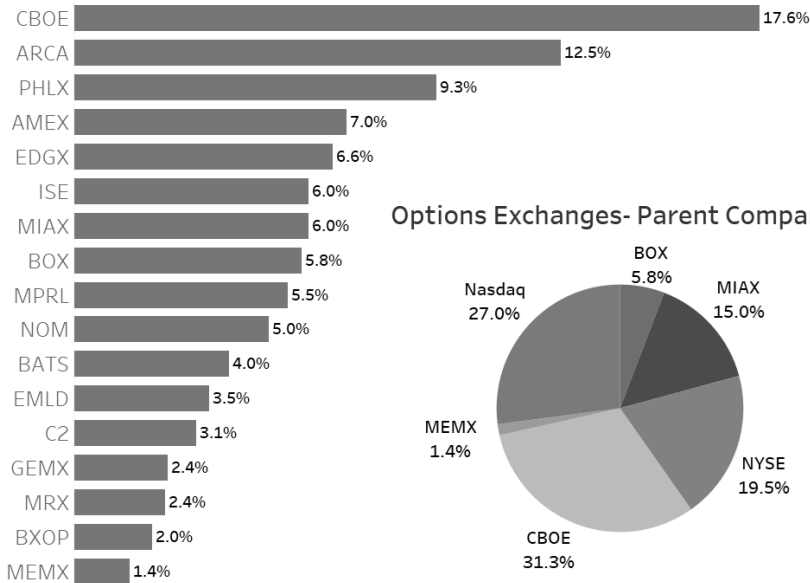
B. Self-Regulatory Organization's Statement on Burden on Competition

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.

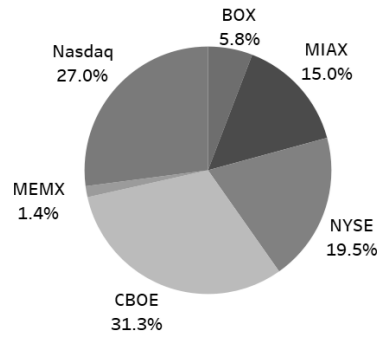
Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange believes its proposal remains competitive with other options markets who also offer order entry protocols. 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. The chart below shows the February 2024 market share for multiply listed options by exchange. Of the 17 operating options exchanges, none currently has more than a 17.6% market share. Customers widely distribute their transactions across exchanges according to their business needs and the ability of each exchange to meet those needs through technology, liquidity and functionality.

Options Market Share by Exchange: February 2024



Options Exchanges- Parent Company



Source: OCC, Nadsaq Economic Research

Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and ports.

In such an environment, the Exchange must continually adjust its fees to remain competitive with other 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.

Intramarket Competition

The proposed pricing change to increase the SQF Fee and SQF Purge Cap for Primary Market Makers and Market Makers to \$27,500 a month if Primary Market Makers or Market Makers do not transact 0.50% of Total Customer Volume in electronic simple orders that adds liquidity in a month does not impose an undue burden on competition as all Primary Market Makers and Market Makers would be able to cap their

SQF Port and SQF Purge Port costs at \$17,500, provided they transacted the requisite volume, otherwise Primary Market Makers and Market Makers would be uniformly subject to the \$27,500 SQF Port and SQF Purge Port Cap. The Exchange notes that unlike other market participants, Primary Market Makers are obligated to quote in the Opening Process and intra-day.²² Additionally, Market Makers may enter quotes in the Opening Process to open an option series and they are required to quote intra-day.²³ Further, unlike other market participants, Primary Market Makers and Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.²⁴ Finally, unlike other market participants, Primary Market Makers and Market Makers incur other costs related to their quoting obligations in addition to other fees paid by other market participants. Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,²⁵ and CMM Trading Right Fees,²⁶ in addition to other fees paid by other market participants. These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to GEMX and are necessary for opening the market. Allowing Primary Market Makers and Market Makers to manage their costs by capping SQF Ports and SQF Purge Ports in addition to

²² See Options 3, Section 8 and Options 2, Section 5.

²³ Id.

²⁴ See Options 2, Section 4(b)(1) and (3).

²⁵ See Options 7, Section 6, A.

²⁶ See Options 7, Section 6, B.

transaction fees enables these essential market participants to manage their business model more effectively and better allocate resources to other technologies that are necessary to manage risk and capacity to ensure that these market participants continue to compete effectively on GEMX. GEMX believes Primary Market Makers and Market Makers should be eligible for certain incentives because they fulfill a unique role on the Exchange and are the only market participants required to submit quotes to the Exchange. The proposed SQF Port Cap is designed to ensure that Primary Market Makers and Market Makers add a certain amount of liquidity on GEMX in order to be able to cap their SQF Port and SQF Purge Port Fees at the lower cap of \$17,500 as compared to the increased cap of \$27,500. The Exchange would apply the criteria uniformly when applying the SQF Fee and SQF Purge Cap to Primary Market Makers and Market Makers.

Finally, GEMX believes the proposed SQF Fee and SQF Purge Cap is constrained by competitive forces and reasonably designed in consideration of the competitive environment in which the Exchange operates. This fee structure incents Primary Market Makers and Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

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.²⁷ 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-GEMX-2024-10 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-GEMX-2024-10. 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

²⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

(<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-GEMX-2024-10 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Sherry R. Haywood,

Assistant Secretary.

²⁸ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq GEMX, LLC Rules

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Options Rules

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Options 7 Pricing Schedule

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Section 6. Connectivity Fees

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C. Ports and Other Services

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The below charges are assessed by GEMX for connectivity to GEMX.

A port is a logical connection or session that enables a market participant to send inbound messages and/or receive outbound messages from the Exchange using various communication protocols. Fees are prorated for the first month of service under this section. Upon cancellation, market participants are required to pay for service for the remainder of the month, regardless of whether it is the first month of service.[.]

(i) The following order and quote protocols are available on GEMX.

(1) FIX Port Fee²	\$650 per port, per month, per account number
(2) SQF Port Fee¹	\$1,250 per port, per month
(3) SQF Purge Port Fee¹	\$1,250 per port, per month
(4) OTTO Port Fee²	\$650 per port, per month, per account number

* * * * *

¹The SQF Port and the SQF Purge Port are subject to a monthly cap of \$17,500, which cap is applicable to Market Makers.

Market Makers that do not transact 0.50% of Total Customer Volume in orders that adds liquidity in a month will be assessed a maximum SQF Port Fee of \$27,500 per month. For purposes of this fee cap, “Total Customer Volume” or “TCV” shall be defined as a percentage of

all cleared customer volume at The Options Clearing Corporation in Multiply Listed Equity Options and Exchange-Traded Products.

² OTTO Port, CTI Port, FIX Port, FIX Drop Port and Disaster Recovery Port are subject to a monthly cap of \$7,500.

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