

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ BX, Inc.
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

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

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

Description

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

Proposal to amend Rule 4703 (Order Attributes) to specify the behavior of Orders with Midpoint Pegging after initial entry and posting to the Exchange Book when the market is crossed, or when there is no best bid and or offer. The Exchange also proposes to change a reference to cancelling or rejecting orders in Rule 4703.

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 * Andrew	Last Name * Madar
Title * Senior Associate General Counsel	
E-mail * Andrew.Madar@nasdaq.com	
Telephone * (301) 978-8420	Fax


Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 04/21/2017	Executive Vice President and General Counsel
By Edward S. Knight	
(Name *)	



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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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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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 Advance 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, security-based swap submission, or advance notice 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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Exhibit Sent As Paper Document

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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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 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

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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 BX, Inc. (“BX” 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 Rule 4703 (Order Attributes) to specify the behavior of Orders with Midpoint Pegging after initial entry and posting to the Exchange Book when the market is crossed, or when there is no best bid and/or offer. The Exchange also proposes to change a reference to cancelling or rejecting orders in Rule 4703.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).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 of the Exchange (the “Board”) on August 15, 2016. 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:

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

Andrew Madar
Senior Associate General Counsel
Nasdaq, Inc.
301-978-8420

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

a. Purpose

BX proposes to amend Rule 4703 (Order Attributes) to specify the behavior of Orders with Midpoint Pegging that are cancelled or rejected when the market is crossed, or when there is no best bid and/or offer after initial entry and posting to the Exchange Book. BX also proposes to change a reference to cancelling or rejecting orders in Rule 4703.

Rule 4703(d) describes the Pegging Order Attribute, including Midpoint Pegging. Pegging is an Order Attribute that allows an Order to have its price automatically set with reference to the NBBO. Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint").⁴ An Order with Midpoint Pegging is not displayed.

BX recently proposed changes to Orders with Midpoint Pegging, which were approved by the SEC on November 10, 2016.⁵ With this change, if the Inside Bid and Inside Offer are crossed or if there is no Insider Bid and Inside Offer, any existing Order with Midpoint Pegging would be cancelled and any new Order with Midpoint Pegging would be rejected.⁶

⁴ Thus, if the Inside Bid was \$11 and the Inside Offer was \$11.06, an Order with Midpoint Pegging would be priced at \$11.03.

⁵ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

⁶ Id.

BX now proposes to add language to Rule 4703(d) to specify the treatment of Orders with Midpoint Pegging after initial entry and posting to the Exchange Book when the Inside Bid and Inside Offer are subsequently crossed, or if there is subsequently no Inside Bid and/or Inside Offer. Specifically, for Orders with Midpoint Pegging entered through RASH or FIX, if the Order is on the Exchange Book and subsequently the Inside Bid and Inside Offer become crossed, or if there is no Inside Bid and/or Inside Offer, the Order will be removed from the Exchange Book and will be re-entered at the new midpoint once there is a valid Inside Bid and Inside Offer that is not crossed.

As stated in the filing proposing the new Midpoint Pegging functionality, BX believes that the midpoint of a crossed market, or where there is no Inside Bid and Inside Offer, is not a clear and accurate indication of a valid price, and may produce sub-optimal execution prices for members and investors.⁷ Prior to this change, Orders entered through RASH or FIX would have been nevertheless repriced to the midpoint of the Inside Bid and Inside Offer if the Inside Bid and Inside Offer subsequently became crossed, or would have been cancelled if there was subsequently no Inside Bid and/or Inside Offer. BX is proposing to re-enter such Orders at the new midpoint once there is an Inside Bid and Inside Offer that is not crossed because the new Inside Bid and Inside Offer is indicative of a valid price. BX is proposing to re-enter Orders submitted through RASH or FIX because BX typically assumes a more active role in managing the order flow submitted by users of these protocols, and this functionality reflects the order flow management practices of these participants.

⁷ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

While BX is only proposing to adopt this re-entry functionality for Orders that are entered through RASH or FIX, the Exchange believes that it is appropriate to also modify the treatment of Orders with Midpoint Pegging entered through OUCH or FLITE where the Inside Bid and Inside Offer subsequently becomes crossed, or there is subsequently no Inside Bid and/or Inside Offer. Accordingly, BX is proposing to amend Rule 4703(d) to state that if, after an Order with Midpoint Pegging is entered through OUCH or FLITE, the Inside Bid and Inside Offer changes so that the Midpoint is lower than (higher than) the price of an Order to buy (sell), the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Pegged Order will be cancelled back to the Participant.⁸

Finally, BX is proposing to change a reference in Rule 4703 that describes the cancellation or rejection of an Order. Specifically, Rule 4703(d) currently states that, in the case of an Order with Midpoint Pegging, if the Inside Bid and Inside Offer are locked, the Order will be priced at the locking price, if the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Order will be cancelled or rejected. BX proposes to change references to cancelling or rejecting an order to “not accepting” an Order. Depending on the context, the reference to rejecting an order may have one of two meanings.⁹ BX believes that changing references from rejecting or cancelling an

⁸ BX is proposing to change the reference in this sentence from NBBO to Inside Bid and Inside Offer to make this sentence more consistent with the rest of Rule 4703, which uses the concept of the Inside Bid and Insider Offer rather than the NBBO.

⁹ Specifically, an Order may be referred to as “rejected” if it is not initially accepted by the customer-facing BX interface. Alternatively, after an Order has been initially accepted by the customer-facing interface, and is being transmitted from one BX interface to another, it may be “rejected” if the Order is not accepted by another part of the BX system for various reasons.

Order to not accepting an Order is appropriate because the proposed language resolves the ambiguity that may arise when referring to an order rejection, and is sufficiently broad to encompass the contexts in which the concept of Order rejection or cancellation may be used.

This proposed change supplements the recently-approved changes to Orders with Midpoint Pegging, and the resulting modifications to BX systems.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 Section 6(b)(5) of the Act,¹² 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 proposed change is consistent with the Act because it supplements the recently-approved changes to Orders with Midpoint Pegging and the resulting modifications to BX systems, and reflects the Exchange's belief that the midpoint of a crossed market, or where there is no

¹⁰ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

BX initially proposed to implement the new functionality for Orders with Midpoint Pegging on November 21, 2016. See Equity Trader Alert #2016-291. However, following testing, BX has decided to delay the implementation of this new functionality to provide additional time for systems testing. The new functionality shall be implemented no later than May 31, 2017. See Securities Exchange Act Release No. 80046 (February 15, 2017), 82 FR 11385 (February 22, 2017) (SR-BX-2017-008) (extending the implementation date to no later than March 31, 2017); Securities Exchange Act Release No. 80393 (April 6, 2017), 82 FR 17711 (April 12, 2017) (SR-BX-2017-018) (extending the implementation date to no later than May 31, 2017).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

Inside Bid and/or Inside Offer, is not a clear and accurate indication of a valid price, and may produce sub-optimal execution prices for members and investors. The proposal adopts a functionality for Orders with Midpoint Pegging after initial entry and posting to the Exchange Book where the Inside Bid and Inside Offer subsequently becomes crossed, or where there is subsequently no Inside Bid and/or Inside Offer, that reflects the order flow management practices of the participants that use those protocols, e.g., re-submitting such Orders that are entered through RASH or FIX, and cancelling such Orders that are submitted through OUCH or FLITE.

The proposal to replace the reference in Rule 4703 to rejecting or cancelling an order to “not accepting” an order is consistent with the Act because the proposed language encompasses the contexts in which the concept of order rejection or cancellation may be used and resolves any ambiguity that may arise when referring to an order rejection.

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. The proposed change simply supplements the recently-approved changes to Orders with Midpoint Pegging and the resulting modifications to BX systems by adopting a functionality for Orders with Midpoint Pegging after initial entry and posting to the Exchange Book where the Inside Bid and Inside Offer subsequently becomes crossed, or where there is subsequently no Inside Bid and/or Inside Offer, that reflects the order flow management practices of the participants that use those protocols. Moreover, the use of Exchange Order types and attributes is voluntary, and no member is required to use any specific Order type or attribute or even to use any Exchange Order type or attribute or

any Exchange functionality at all. If an Exchange member believes for any reason that the proposed rule change will be detrimental, that perceived detriment can be avoided by choosing not to enter or interact with the Order type modified by this proposed rule change. Finally, the proposal will apply equally to all Orders that meet its criteria.

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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)¹³ of the Act and Rule 19b-4(f)(6) thereunder¹⁴ 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.

The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition. The proposal, which supplements the recently-approved changes to Orders with Midpoint Pegging and the resulting modifications to BX systems, reflects the Exchange's belief that the midpoint of a crossed market, or where there is no Inside Bid

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

and/or Inside Offer, is not a clear and accurate indication of a valid price, and may produce sub-optimal execution prices for members and investors, and adopts a functionality that reflects the order flow management practices of the participants that use the order entry protocols to which this functionality will apply. The proposal also adopts a standard for the re-submission or cancellation of Orders with Midpoint Pegging after initial entry and posting to the Exchange Book where the Inside Bid and Inside Offer subsequently becomes crossed, or there is subsequently no Inside Bid and/or Inside Offer, whose use is completely voluntary.

For these reasons, the Exchange does not believe that the proposed change is of sufficient magnitude that it will significantly affect the protection of investors or the public interest or impose any significant burden on competition.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits

the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii).

As noted above, the proposal supplements the recently-approved changes to Orders with Midpoint Pegging and the resulting modifications to BX systems, and reflects the Exchange's belief that the midpoint of a crossed market, or where there is no Inside Bid and/or Inside Offer, is not a clear and accurate indication of a valid price, and may produce sub-optimal execution prices for members and investors.¹⁵ BX has submitted a proposed rule change to the SEC stating that it intends to implement the new functionality relating to Orders with Midpoint Pegging no later than May 31, 2017.¹⁶ Given that this filing supplements the Orders with Midpoint Pegging proposal, and given that BX intends to implement the changes to Orders with Midpoint Pegging shortly, BX requests that the Commission waive the 30-day operative delay so that this proposal will be operative on the same date as the changes to Orders with Midpoint Pegging, and its attendant benefits to investors, are implemented.

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.

¹⁵ See Securities Exchange Act Release No. 78909 (September 22, 2016), 81 FR 66708 (September 28, 2016) (SR-BX-2016-046); see also Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (order approving SR-BX-2016-046).

¹⁶ See supra note 9.

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-BX-2017-021)

April __, 2017

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 4703 (Order Attributes)

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 April 21, 2017, 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, 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 4703 (Order Attributes) to specify the behavior of Orders with Midpoint Pegging after initial entry and posting to the Exchange Book when the market is crossed, or when there is no best bid and/or offer. The Exchange also proposes to change a reference to cancelling or rejecting orders in Rule 4703.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 4703 (Order Attributes) to specify the behavior of Orders with Midpoint Pegging that are cancelled or rejected when the market is crossed, or when there is no best bid and/or offer after initial entry and posting to the Exchange Book. BX also proposes to change a reference to cancelling or rejecting orders in Rule 4703.

Rule 4703(d) describes the Pegging Order Attribute, including Midpoint Pegging. Pegging is an Order Attribute that allows an Order to have its price automatically set with reference to the NBBO. Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint").³ An Order with Midpoint Pegging is not displayed.

³ Thus, if the Inside Bid was \$11 and the Inside Offer was \$11.06, an Order with Midpoint Pegging would be priced at \$11.03.

BX recently proposed changes to Orders with Midpoint Pegging, which were approved by the SEC on November 10, 2016.⁴ With this change, if the Inside Bid and Inside Offer are crossed or if there is no Insider Bid and Inside Offer, any existing Order with Midpoint Pegging would be cancelled and any new Order with Midpoint Pegging would be rejected.⁵

BX now proposes to add language to Rule 4703(d) to specify the treatment of Orders with Midpoint Pegging after initial entry and posting to the Exchange Book when the Inside Bid and Inside Offer are subsequently crossed, or if there is subsequently no Inside Bid and/or Inside Offer. Specifically, for Orders with Midpoint Pegging entered through RASH or FIX, if the Order is on the Exchange Book and subsequently the Inside Bid and Inside Offer become crossed, or if there is no Inside Bid and/or Inside Offer, the Order will be removed from the Exchange Book and will be re-entered at the new midpoint once there is a valid Inside Bid and Inside Offer that is not crossed.

As stated in the filing proposing the new Midpoint Pegging functionality, BX believes that the midpoint of a crossed market, or where there is no Inside Bid and Inside Offer, is not a clear and accurate indication of a valid price, and may produce sub-optimal execution prices for members and investors.⁶ Prior to this change, Orders entered through RASH or FIX would have been nevertheless repriced to the midpoint of the Inside Bid and Inside Offer if the Inside Bid and Inside Offer subsequently became crossed, or would have been cancelled if there was subsequently no Inside Bid and/or

⁴ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

⁵ Id.

⁶ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

Inside Offer. BX is proposing to re-enter such Orders at the new midpoint once there is an Inside Bid and Inside Offer that is not crossed because the new Inside Bid and Inside Offer is indicative of a valid price. BX is proposing to re-enter Orders submitted through RASH or FIX because BX typically assumes a more active role in managing the order flow submitted by users of these protocols, and this functionality reflects the order flow management practices of these participants.

While BX is only proposing to adopt this re-entry functionality for Orders that are entered through RASH or FIX, the Exchange believes that it is appropriate to also modify the treatment of Orders with Midpoint Pegging entered through OUCH or FLITE where the Inside Bid and Inside Offer subsequently becomes crossed, or there is subsequently no Inside Bid and/or Inside Offer. Accordingly, BX is proposing to amend Rule 4703(d) to state that if, after an Order with Midpoint Pegging is entered through OUCH or FLITE, the Inside Bid and Inside Offer changes so that the Midpoint is lower than (higher than) the price of an Order to buy (sell), the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Pegged Order will be cancelled back to the Participant.⁷

Finally, BX is proposing to change a reference in Rule 4703 that describes the cancellation or rejection of an Order. Specifically, Rule 4703(d) currently states that, in the case of an Order with Midpoint Pegging, if the Inside Bid and Inside Offer are locked, the Order will be priced at the locking price, if the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Order will be cancelled or rejected.

⁷ BX is proposing to change the reference in this sentence from NBBO to Inside Bid and Inside Offer to make this sentence more consistent with the rest of Rule 4703, which uses the concept of the Inside Bid and Insider Offer rather than the NBBO.

BX proposes to change references to cancelling or rejecting an order to “not accepting” an Order. Depending on the context, the reference to rejecting an order may have one of two meanings.⁸ BX believes that changing references from rejecting or cancelling an Order to not accepting an Order is appropriate because the proposed language resolves the ambiguity that may arise when referring to an order rejection, and is sufficiently broad to encompass the contexts in which the concept of Order rejection or cancellation may be used.

This proposed change supplements the recently-approved changes to Orders with Midpoint Pegging, and the resulting modifications to BX systems.⁹

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,

⁸ Specifically, an Order may be referred to as “rejected” if it is not initially accepted by the customer-facing BX interface. Alternatively, after an Order has been initially accepted by the customer-facing interface, and is being transmitted from one BX interface to another, it may be “rejected” if the Order is not accepted by another part of the BX system for various reasons.

⁹ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

BX initially proposed to implement the new functionality for Orders with Midpoint Pegging on November 21, 2016. See Equity Trader Alert #2016-291. However, following testing, BX has decided to delay the implementation of this new functionality to provide additional time for systems testing. The new functionality shall be implemented no later than May 31, 2017. See Securities Exchange Act Release No. 80046 (February 15, 2017), 82 FR 11385 (February 22, 2017) (SR-BX-2017-008) (extending the implementation date to no later than March 31, 2017); Securities Exchange Act Release No. 80393 (April 6, 2017), 82 FR 17711 (April 12, 2017) (SR-BX-2017-018) (extending the implementation date to no later than May 31, 2017).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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 proposed change is consistent with the Act because it supplements the recently-approved changes to Orders with Midpoint Pegging and the resulting modifications to BX systems, and reflects the Exchange's belief that the midpoint of a crossed market, or where there is no Inside Bid and/or Inside Offer, is not a clear and accurate indication of a valid price, and may produce sub-optimal execution prices for members and investors. The proposal adopts a functionality for Orders with Midpoint Pegging after initial entry and posting to the Exchange Book where the Inside Bid and Inside Offer subsequently becomes crossed, or where there is subsequently no Inside Bid and/or Inside Offer, that reflects the order flow management practices of the participants that use those protocols, e.g., re-submitting such Orders that are entered through RASH or FIX, and cancelling such Orders that are submitted through OUCH or FLITE.

The proposal to replace the reference in Rule 4703 to rejecting or cancelling an order to "not accepting" an order is consistent with the Act because the proposed language encompasses the contexts in which the concept of order rejection or cancellation may be used and resolves any ambiguity that may arise when referring to an order rejection.

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 proposed change simply supplements the recently-approved changes to Orders with Midpoint Pegging and the resulting modifications to BX systems by adopting a

functionality for Orders with Midpoint Pegging after initial entry and posting to the Exchange Book where the Inside Bid and Inside Offer subsequently becomes crossed, or where there is subsequently no Inside Bid and/or Inside Offer, that reflects the order flow management practices of the participants that use those protocols. Moreover, the use of Exchange Order types and attributes is voluntary, and no member is required to use any specific Order type or attribute or even to use any Exchange Order type or attribute or any Exchange functionality at all. If an Exchange member believes for any reason that the proposed rule change will be detrimental, that perceived detriment can be avoided by choosing not to enter or interact with the Order type modified by this proposed rule change. Finally, the proposal will apply equally to all Orders that meet its criteria.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the

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 e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2017-021 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-BX-2017-021. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The

proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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-2017-021 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Robert W. Errett
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

Rules of NASDAQ BX

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4703. Order Attributes

As described in Rule 4702, the following Order Attributes may be assigned to those Order Types for which they are available.

(a) – (c) No Change.

(d) **Pegging.** Pegging. Pegging is an Order Attribute that allows an Order to have its price automatically set with reference to the NBBO; provided, however, that if the Exchange is the sole market center at the Best Bid or Best Offer (as applicable), then the price of any Displayed Order with Primary Pegging (as defined below) will be set with reference to the highest bid or lowest offer disseminated by a market center other than the Exchange. An Order with a Pegging Order Attribute may be referred to as a "Pegged Order." For purposes of this rule, the price to which an Order is pegged will be referred to as the Inside Quotation, the Inside Bid, or the Inside Offer, as appropriate. There are three varieties of Pegging:

- Primary Pegging means Pegging with reference to the Inside Quotation on the same side of the market. For example, if the Inside Bid was \$11, an Order to buy with Primary Pegging would be priced at \$11.
- Market Pegging means Pegging with reference to the Inside Quotation on the opposite side of the market. For example, if the Inside Offer was \$11.06, an Order to buy with Market Pegging would be priced at \$11.06.
- Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint"). Thus, if the Inside Bid was \$11 and the Inside Offer was \$11.06, an Order with Midpoint Pegging would be priced at \$11.03. An Order with Midpoint Pegging is not displayed. An Order with Midpoint Pegging may be executed in sub-pennies if necessary to obtain a midpoint price.

Pegging is available only during Market Hours. An Order with Pegging may specify a limit price beyond which the Order may not be executed; provided, however, that if an Order has been assigned a Pegging Order Attribute and a Discretion Order Attribute, the Order may execute at any price within the discretionary price range, even if beyond the limit price specified with respect to the Pegging Order Attribute. If an Order with Pegging is priced at its limit price, the price of the Order may nevertheless be changed to a less aggressive price based on changes to the Inside Quotation. In addition, an Order with Primary Pegging or Market Pegging may specify an Offset Amount, such

that the price of the Order will vary from the Inside Quotation by the selected Offset Amount. The Offset Amount may be either aggressive or passive. Thus, for example, if a Participant entered an Order to buy with Primary Pegging and a passive Offset Amount of \$0.05 and the Inside Bid was \$11, the Order would be priced at \$10.95. If the Participant selected an aggressive Offset Amount of \$0.02, however, the Order would be priced at \$11.02. An Order with Primary Pegging and an Offset Amount will not be Displayed, unless the Order is Attributable. An Order with Midpoint Pegging will not be Displayed. An Order with Market Pegging and no Offset behaves as a “market order” with respect to any liquidity on the Exchange Book at the Inside Quotation on the opposite side of the market because it is immediately executable at that price. If, at the time of entry, there is no price to which a Pegged Order can be pegged, the Order will be rejected; provided, however, that a Displayed Order that has Market Pegging, or an Order with a Non-Display Attribute that has Primary Pegging or Market Pegging, will be accepted at its limit price. In the case of an Order with Midpoint Pegging, if the Inside Bid and Inside Offer are locked, the Order will be priced at the locking price, if the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Order will not be accepted[cancelled or rejected]. However, even if the Inside Bid and Inside Offer are locked, an Order with Midpoint Pegging that locked an Order on the Exchange Book would execute.

Primary Pegging and Market Pegging are available through RASH and FIX only. An Order entered through OUCH or FLITE with Midpoint Pegging will have its price set upon initial entry to the Midpoint, unless the Order has a limit price that is lower than the Midpoint for an Order to buy (higher than the Midpoint for an Order to sell), in which case the Order will be ranked on the Exchange Book at its limit price. Thereafter, if the [NBBO] Inside Bid and Inside Offer changes so that the Midpoint is lower than (higher than) the price of an Order to buy (sell), the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Pegged Order will be cancelled back to the Participant.

An Order entered through RASH or FIX with Pegging will have its price set upon initial entry and will thereafter have its price reset in accordance with changes to the relevant Inside Quotation. An Order with Pegging receives a new timestamp whenever its price is updated and therefore will be evaluated with respect to possible execution (and routing, if it has been assigned a Routing Order Attribute) in the same manner as a newly entered Order. If the price to which an Order is pegged is not available, the Order will be rejected. For an Order with Midpoint Pegging, if the Inside Bid and Inside Offer become crossed or if there is no Inside Bid and/or Inside Offer, the Order will be removed from the Exchange Book and will be re-entered at the new midpoint once there is a valid Inside Bid and Inside Offer that is not crossed.

Primary Pegging Orders and Market Pegging Orders are subject to a collar. Any portion of a Primary Pegging Order or Market Pegging Order that would execute, either on the Exchange or when routed to another market center, at a price of more than \$0.25 or 5 percent worse than the NBBO at the time when the order reaches the System, whichever is greater, will be cancelled.

(e) – (l) No Change.

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