

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 123	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2021 - * 032	Amendment No. (req. for Amendments *)	
Filing by NASDAQ BX, Inc. 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"/>
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <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 Section 806(e)(1) * <input type="checkbox"/>			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 checked="" type="checkbox"/>		Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>			
<b>Description</b> Provide a brief description of the action (limit 250 characters, required when Initial is checked *).  An Amendment to Options 4 Listing Rules.					
<b>Contact Information</b> 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					
<b>Signature</b> 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 07/20/2021 By John Zecca (Name *) EVP and Chief Legal Counsel  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.  john.zecca@nasdaq.com					

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 the “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend BX’s Rules at Options 2, Section 5, Market Maker Quotations; Options 4, Options Listing Rules; and Options 4A, Section 12, Terms of Index Options Contracts. This proposal also reserves Options 4C. Finally, the Exchange proposes to reserve some sections with the Equity Rules.

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 November 5, 2020. 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 the Options 4, Options Listing Rules, to conform BX's Options 4 Listing Rules to Nasdaq ISE, LLC's ("ISE") Options 4 Listing Rules. The Exchange also proposes to amend BX Options 4A, Section 12, Terms of Index Options Contracts and reserve BX Options 4C. Finally, the Exchange also proposes to amend Options 2, Section 5, Market Maker Quotations to relocate rule text concerning bid/ask differentials for long-term options contracts from BX Options 4 and Options 4A, similar to ISE.

The Exchange also proposes a technical amendment to General 9, Section 51, Research Analysts and remove stray periods through Options 4. Each rule change is described below.

Options 4, Options Listing Rules

Conforming BX's Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange's continued effort to promote efficiency in the manner in which it administers its rules. The Exchange proposes to amend these rules to conform to ISE Options 4 Rules.

*Section 1. Designation of Securities*

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Securities traded on the Exchange are options contracts, each of which is designated by reference to the issuer of the underlying security or name of underlying foreign currency, expiration month or expiration date, exercise price and type (put or call).

with the following rule text,

The Exchange trades options contracts, each of which is designated by reference to the issuer of the underlying security, expiration month or expiration date, exercise price and type (put or call).

The Exchange proposes to amend this sentence within Options 4, Section 1 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

*Section 2. Rights And Obligations Of Holders And Writers*

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Subject to the provisions of this Chapter, the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation.

with the following rule text,

The rights and obligations of holders and writers shall be as set forth in the Rules of the Clearing Corporation.

The Exchange proposes to amend this sentence within Options 4, Section 2 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

*Section 3. Criteria for Underlying Securities*

Options 4, Section 3 of the Options Listing Rules is being updated to conform to ISE Options 4, Section 3.

The Exchange proposes to amend Options 4, Section 3(a)(i) and (ii) to conform to ISE Options 4, Section 3(a)(1) and (2) by changing the “i. and ii.” to “(1) and (2),” respectively. Also, the Exchange proposes to remove the phrase “with the SEC” within

current BX Options 4, Section 3(a)(i). These amendments are non-substantive.

The Exchange proposes to amend Options 4, Section 3(b) to reword the rule text to ISE Options 4, Section 3(b). The Exchange proposes to replace the current rule text of Options 4, Section 3(b) which states,

In addition, the Exchange shall from time to time establish standards to be considered in evaluating potential underlying securities for the Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the standards established by the Exchange does not necessarily mean that it will be selected as an underlying security. The Exchange may give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, an underlying security will not be selected unless:

with the following rule text,

In addition, the Exchange shall from time to time establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, however absent exceptional circumstances, an underlying security will not be selected unless:

The new rule text permits the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing BX with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE

will permit BX to list similar options as ISE for competitive purposes. The proposal to replace the term “standards” with “guidelines” within paragraph 3(b) is non-substantive.

The Exchange is amending numbering within Options 4, Section 3(b) as well as removing extraneous rule text within current Options 4, Section 3(b)(iii), namely “or Rules thereunder.” The Exchange proposes to relocate Options 4, Section 3(k) into new Options 4, Section 3(b)(6) without change. This would align BX Options 4, Section 3(b)(6) with ISE Options 4, Section 3(b)(6). This provision states,

Notwithstanding the requirements set forth in Paragraphs 1, 2, 4 and 5 above, the Exchange may list and trade an options contract if (i) the underlying security meets the guidelines for continued approval in Options 4, Section 4; and (ii) options on such underlying security are traded on at least one other registered national securities exchange.

The Exchange proposes to renumber BX Options 4, Section 3(c) and make minor amendments to rule text within current Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g) to conform the rule text to ISE Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g). The proposed changes are non-substantive.<sup>3</sup>

The Exchange proposes to amend an “up” to “on” within BX Options 4, Section 3(d). This proposed change is non-substantive.

The Exchange proposes non-substantive amendments to amend BX Options 4,

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<sup>3</sup> The proposed changes replace the word “standards” with “guidelines,” insert “Options 4” before “Section 3,” and remove 2 extraneous uses of “this.” Similar replacements are made throughout current Options 4, Section 3(c), including amending a capitalized “Paragraph.”

Section 3(f) and (g)<sup>4</sup> in addition to conforming the numbering to ISE Options 4, Section 3(f) and (g).

The Exchange proposes to relocate current BX Options 4, Section 3(h) describing a market information sharing agreement to proposed BX Options 4, Section 3(i). This text is currently located within ISE rules at Options 4, Section 3(i).

Current BX Options 4, Section 3(i) is being re-lettered as proposed Options 4, Section 3(h). The Exchange proposes to add the defined term “Financial Instruments” within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term “Money Market Instruments” similar to ISE Options 4, Section 3(h). The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as “Financial Instruments” with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading. The remainder of the changes are non-substantive in nature and simply conform the location of words similar to ISE.<sup>5</sup> The

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<sup>4</sup> The proposed changes replace the word “standards” with “guidelines,” insert “Rule” instead of “Section 3,” and remove an unnecessary “or.”

<sup>5</sup> The amendment to current Options 4, Section 3(i)(B)(4) to add, “...which the Exchange-Traded Fund shares are based...” makes clear that this text applies to Exchange-Traded Fund shares. Also the word “indexes” is being changed to “indices” within this paragraph and “similar entity” is being relocated within the paragraph.



Exchange also proposes to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust. The Exchange no longer lists these products and proposes to remove them the products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future.

The Exchange will file a proposal with the Commission if it determines to list these products in the future. Finally, the Exchange proposes to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, “all of the following conditions are met.” Paragraph (h) would simply end with “provided that:” and direct market participants to subparagraphs (1) and (2).

The Exchange proposes to capitalize “the” at the beginning of Options 4, Section 3(h)(1) and remove “; and” at the end of the paragraph and instead at a period so that subparagraphs (1) and (2) are not linked, but rather read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. Similar to ISE Options 4, Section 3(h)(2), the Exchange proposes to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares. Specifically, the Exchange proposes to amend Options 4, Section 3(h)(2) to provide, “Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the following criteria.” ISE Options 4, Section 3(h) has the identical text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes, or portfolios that include non-U.S. securities.

This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange proposes to amend Options 4, Section 3(h)(2)(A) to remove the phrase “for series of portfolio depositary receipts and index fund shares based on international or global indexes,”. Today, Options 4, Section 3(h), subparagraphs (h)(1)<sup>6</sup> and (h)(v)<sup>7</sup> permit the Exchange to list options on Exchange-Traded Fund Shares based

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<sup>6</sup> Subsection (h)(i) concerns passive Exchange-Traded Fund Shares. Subsection (h)(1) provides, “represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments).”

<sup>7</sup> Subsection (h)(v) concerns active Exchange-Traded Fund Shares. Subsection (h)(v) Provides, “represents an interest in a registered investment company (“Investment Company”) organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (“NAV”), and when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (“Managed Fund Share”).”

on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). The identical rule text exists within ISE Options 4, Section 3(h)(2)(A).

The Exchange also proposes to amend the term “comprehensive surveillance agreement” within Options 4, Section 3(h)(2) (A) – (D) to instead provide “comprehensive surveillance sharing agreement.” This amendment will bring greater clarity to the term. Further, the Exchange proposes to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” within Options 4, Section 3(h)(2)(B), (C), and (D) to clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. The Exchange notes that “not available” is intended for cases where the Exchange does not have access to the index components, in those cases the Exchange would look to the portfolio components. The term “not applicable” is intended if the fund is active and does not track an index and only the portfolio is available. These amendments will conform the rule text to ISE Options 4, Section 3(h)(2)(A) – (D).

The Exchange also proposes to wordsmith Options 4, Section 3(h)(2)(B) to amend the phrase to provide, “any non-U.S. component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund’s portfolio of securities that are not subject to comprehensive surveillance

sharing agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;”. Finally, the Exchange proposes to wordsmith Options 4, Section 3(h)(2)(C) and (D) to relocate the phrase “on which the Exchange-Traded Fund Shares are based” and add “or portfolio” to bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B). The Exchange believes that the revised wording will bring greater clarity to the rule text and conform the rule text to ISE Options 4, Section 3(h)(2)(B) – (D). The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(C)(2)(A)(ii) to correct a typographical error by changing a “than” to a “that.” The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(h)(1) to change “In” to “in.”

As noted above BX Options 4, Section 3(h), which describes a market information sharing agreement, was relocated to proposed Options 4, Section 3(i), similar to ISE Options 4, Section 3(i).

The Exchange proposes to amend Options 4, Section 3(j) to conform the rule text to ISE Options 4, Section 3(j). The proposed changes are non-substantive.<sup>8</sup>

As noted, above, Options 4, Section 3(k) was relocated to new Options 4, Section 3(b)(6).

The Exchange proposes to remove the header “Index-Linked Securities” within Options 4, Section 3(l), and re-letter Options 4, Section 3(l)(i) as Section 3(k). Proposed Options 4, Section 3(k) has non-substantive numbering and citation amendments.

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<sup>8</sup> The amendment to current Options 4, Section 3(j) replace the word “standards” with “guidelines.”

Options 4, Section 3(m) is being removed as BX does not list U.S. Dollar-Settled Foreign Currency Options.

*Section 4. Withdrawal of Approval of Underlying Securities*

The Exchange proposes to remove the first sentence of Options 4, Section 4(a), which provides, “If put or call options contracts with respect to an underlying security are approved for listing and trading on the Exchange, such approval shall continue in effect until such approval is affirmatively withdrawn by the Exchange.” This sentence is unnecessary as the second sentence within Options 4, Section 4(a) makes clear that approval continues until it does not meet the requirements. Also, the Exchange proposes to add the following text to the end of this paragraph: “When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.” This text makes clear that options contracts that are no longer approved will not be listed. The remainder of the changes to Options 4, Section 4(a) are non-substantive. This proposal is intended to conform BX’s Options 4, Section 4(a) with ISE Options 4, Section 4(a).

The Exchange proposes to amend Options 4, Section 4(b) to add “Absent exceptional circumstances...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes as well as capitalization are non-substantive and intended to conform BX’s Options 4, Section 4(b) with ISE Options 4, Section 4(b). The Exchange also proposes to remove reserved sections.

Options 4, Section 4(c), which is currently reserved, is proposed to be deleted and current Options 4, Section 4(d) is proposed to be re-lettered as “c”. Minor non-substantive conforming changes are proposed to current Options 4, Section 4(d) – (f).<sup>9</sup>

The Exchange proposes to amend current Options 4, Section 4(h) to re-letter it “g” and replace “security” with “Exchange-Traded Fund Shares” similar to ISE Options 4, Section 4(g). The Exchange proposes to add halt or suspension as other circumstances in which the Exchange shall not open for trading any additional series of option contracts of the class to clarify that this scenario may also exist. The other proposed changes to current Options 4, Section 4(h) are non-substantive.<sup>10</sup>

The Exchange proposes to amend current Options 4, Section 4(i) to re-letter it “h” and add “Absent exceptional circumstances, securities...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes are non-substantive<sup>11</sup> and conform current BX’s Options 4, Section 4(i) with ISE Options 4, Section 4(h).

The Exchange proposes to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i). The proposed new section would provide,

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<sup>9</sup> The Exchange proposes to remove “Section 4”, lowercase the term “Customer,” add “options 4” and remove “thereof” within Options 4, Section 4(d) – (f).

<sup>10</sup> The Exchange proposes to amend Options 4, Section 4(h) to add “Options 4” and replace “Section 4” with “Rule;” and replace an “or” with an “and.”

<sup>11</sup> The term Options 4 is being relocated within the proposed new paragraph (h). Also, the term “Rule” is being used within proposed new paragraph (h)(1) instead of “Section 4,” and “Section 3.” “Upon annual review” is being removed from proposed new paragraph (h)(2).

For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

- (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or
- (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

Current Options 4, Section 4 does not describe the withdrawal of HOLDRs. This new text, similar to ISE, would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs.

The Exchange proposes to delete current Options 4, Section 4(j), which is reserved, as well as the lettering for Options 4, Section 4(k) which states, "Index Linked Securities." The next existing paragraph is proposed to be Options 4, Section 4(j). The remainder of the numbering changes to this section are non-substantive and conform proposed Options 4, Section 4(j) with ISE Options 4, Section 4(j).

The Exchange proposes to remove Options 4, Section 4(l) related to inadequate volume delisting. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.<sup>12</sup> Also, pursuant to

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<sup>12</sup> Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE. See proposed Phlx Options 3, Section 4(b) which provides, "Absent exceptional circumstances, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur: (1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act. (2) There are fewer than 1,600 holders of the underlying security. (3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months. (4) The underlying security ceases to be an "NMS

proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe Exchange, Inc. (“Cboe”).<sup>13</sup> This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that BX’s requirements are different than other options markets. To remain competitive the Exchange proposes to adopt the same standards as ISE and Cboe to remain competitive in order that it may list options similar to other markets.

While the Exchange may in the future determine to delist an option that is singly listed, the Exchange proposes to remove the rule text which provides that “If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest.” This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all Participants so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The rule text within Options 4, Section

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stock" as defined in Rule 600 of Regulation NMS under the Exchange Act. (5) If an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied.”

<sup>13</sup> See ISE Options 4, Section 4 and Cboe Rule 4.4.



4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The reference to Options 4, Section 4(m) is proposed to be deleted. The provision that is currently Options 4, Section 4(m) is proposed to become proposed Supplementary Material .01 to Options 4, Section 6 with a minor non-substantive change to the current rule text to capitalize “rules.”

*Section 5. Series of Options Contracts Open for Trading*

The Exchange proposes to update citations within Options 4, Section 5 to reflect the replacement of current rule text. These changes are non-substantive.

*Section 7. Adjustments*

The Exchange proposes non-substantive amendments to Options 4, Section 7. The current text states,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. The Exchange will announce adjustments, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The Exchange proposes to instead provide,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. When adjustments have been made, the Exchange will announce that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The proposal conforms BX Options 4, Section 7 with ISE Options 4, Section 7.

*Section 8. Long-Term Options Contracts*

The Exchange proposes to conform the BX Options 4, Section 8 to ISE Options 4, Section 8. The proposed changes are non-substantive. BX’s current rule text provides

that with respect to long-term options series, bid/ask differential rules do not apply. The Exchange proposes to add this rule text to Options 4, Section 5(d)(2) within new “A” as the bid/ask differential requirements can be found within this rule. The Exchange also proposes to add a new sentence to Options 4, Section 8(a) to refer to Options 4, Section 5(d)(2)(A), which states, “Bid/ask differentials for long-term options contracts are specified within Options 3, Section 5(d)(2)(A)” for ease of reference.

*Section 9. Limitation on the Liability of Index Licensors for Options on Fund Shares*

The Exchange proposes to remove current Options 4, Section 9, U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value as BX does not list U.S. Dollar-Settled Foreign Currency Options.

The Exchange proposes to adopt a new Section 9, titled “Limitation on the Liability of Index Licensors for Options on Fund Shares” identical to ISE Options 4, Section 9. ISE and Cboe have similar provisions.<sup>14</sup> The new rule would provide,

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening,

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<sup>14</sup> See Securities Exchange Act Release No. 45817 (April 24, 2002), 67 FR 21785 (May 1, 2002) (SR-CBOE-2002-19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Amend Its Rules Relating to the Limitation of Liability for Index Licensors) and 14729 (March 19, 2003), 68 FR 14729 (March 26, 2003) (SR-ISE-2003-09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Limiting the Liability of Index Licensors for Options on Fund Shares).

intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

Proposed Section 9(a) defines the term “index licensor” as any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

Proposed Options 4, Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor will obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but

the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor will have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

*Section 10. Back-up Trading Arrangements*

The Exchange proposes to add a new rule to Options 4, Section 10, titled “Back-Up Trading Arrangements.” Section 10 is currently reserved. This proposed rule is identical to ISE Options 4, Section 10.<sup>15</sup> This rule would permit BX to enter into arrangements with one or more other exchanges (each a “Back-up Exchange”) to permit BX and its Participants to use a portion of a Back-up Exchange’s facilities to conduct the trading of BX exclusively listed options in the event of a Disabling Event, and permits

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<sup>15</sup> See Securities Exchange Act Release No. 71092 (December 17, 2013), 78 FR 77510 (December 23, 2013) (SR-ISE-2013-61) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Back-Up Trading Arrangements).

BX to provide trading facilities at BX for another exchange's exclusively listed options if that exchange (a "Disabled Exchange") is prevented from trading due to a Disabling Event. Also, the proposed rule would permit BX to enter into arrangements with a Back-up Exchange to provide for the listing and trading of BX singly listed options by the Back-up Exchange if BX's facility becomes disabled, and conversely provide for the listing and trading by BX of the singly listed options of a Disabled Exchange.

The back-up trading arrangements contemplated by Options 4, Section 10 represent BX's immediate plan to ensure that its exclusively listed and singly listed options will have a trading venue if a catastrophe renders its primary facility inaccessible or inoperable.

Section 10(a) describes the back-up trading arrangements that would apply if BX were the Disabled Exchange. An "exclusively listed option" is defined within Section 10(a)(1)(i) to mean an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option). Proposed paragraph(a)(1)(ii) provides that the facility of the Back-up Exchange used by BX to trade some or all of BX's exclusively listed options will be deemed to be a facility of BX, and such option classes shall trade as listings of BX. Since the trading of BX exclusively listed options will be conducted using the systems of the Back-up Exchange, proposed paragraph (a)(1)(iii) provides that the trading of BX listed options on BX's facility at the Back-up Exchange shall be conducted in accordance with the rules of the Back-up Exchange, and proposed paragraph (a)(1)(iv) provides that the Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading, in each case except as BX and the Back-up

Exchange may specifically agree otherwise. The Back-up Exchange rules that govern trading on BX's facility at the Back-up Exchange shall be deemed to be BX rules for purposes of such trading. Proposed paragraph (a)(1)(v) provides that BX shall have the right to designate its members that will be authorized to trade BX exclusively listed options on BX's facility at the Back-up Exchange and, if applicable, its member(s) that will be a BX Market Maker in those options.<sup>16</sup> If the Back-up Exchange is unable to accommodate all BX Participants that desire to trade on BX's facility at the Back-up Exchange, BX may determine which Participants shall be eligible to trade at that facility by considering factors such as whether the Participant is a BX Market Maker in the applicable product(s), the number of contracts traded by the member in the applicable product(s), market performance, and other factors relating to a member's contribution to the market in the applicable product(s). Under proposed paragraph (a)(1)(vi), Participants of the Back-up Exchange shall not be authorized to trade in any BX exclusively listed options, except that (i) BX may deputize willing brokers of the Back-up Exchange as temporary BX Participants to permit them to execute orders as brokers in BX exclusively listed options traded on BX's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of BX, select members of the Back-up Exchange that are willing to be deputized by BX as temporary BX Participants authorized to trade BX exclusively listed options on BX's facility at the Back-up Exchange for such period of time following a Disabling Event as BX determines to be appropriate, and BX may deputize such members of the Back-up Exchange as temporary BX Participants for that purpose.

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<sup>16</sup> Of note, unlike Phlx, BX does not have rules to appoint Lead Market Makers.

The foregoing exceptions would permit members of the Back-up Exchange to trade BX exclusively listed options on the BX facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in BX Participants being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading. Options 4, Section 10(a)(2) of the proposed rule provides for the continued trading of BX singly listed options at the Back-up Exchange in the event of a Disabling Event at BX. Proposed paragraph (a)(2)(ii) provides that BX may enter into arrangements with a Back-up Exchange under which the Back-up Exchange will agree, in the event of a Disabling Event, to list for trading option classes that are then singly listed only by BX. Such option classes would trade on the Back-up Exchange as listings of the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Under proposed paragraph (a)(2)(iii), any such options class listed by the Back-up Exchange that does not satisfy the standard listing and maintenance criteria of the Back-up Exchange will be subject, upon listing by the Back-up Exchange, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in the rules of the Back-up Exchange). BX singly listed option classes would be traded by members of the Back-up Exchange and by BX Participants selected by BX to the extent the Back-up Exchange can accommodate BX Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all BX Participants that desire to trade BX singly listed options at the Back-up Exchange, BX may determine which Participants shall be eligible to trade such options at the Back-up Exchange by considering the same factors used to determine

which BX Participants are eligible to trade BX exclusively listed options at the BX facility at the Back-up Exchange.

Proposed Section (a)(3) provides that BX may enter into arrangements with a Back-up Exchange to permit BX Participants to conduct trading on a Back-up Exchange of some or all of BX's multiply listed options in the event of a Disabling Event. While continued trading of multiply listed options upon the occurrence of a Disabling Event is not likely to be as great a concern as the continued trading of exclusively and singly listed options, BX nonetheless believes a provision for multiply listed options should be included in the rule so that the exchanges involved will have the option to permit members of the Disabled Exchange to trade multiply listed options on the Back-up Exchange. Such options shall trade as a listing of the Back-up Exchange in accordance with the rules of the Back-up Exchange.

Options 4, Section 10(b) describes the back-up trading arrangements that would apply if BX were the Back-up Exchange. In general, the provisions in Section (b) are the converse of the provisions in Section (a). With respect to the exclusively listed options of the Disabled Exchange, the facility of BX used by the Disabled Exchange to trade some or all of the Disabled Exchange's exclusively listed options will be deemed to be a facility of the Disabled Exchange, and such option classes shall trade as listings of the Disabled Exchange. Trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at BX shall be conducted in accordance with BX rules, and BX will perform the related regulatory functions with respect to such trading, in each case except as the Disabled Exchange and BX may specifically agree otherwise. BX rules that



govern trading on the Disabled Exchange's facility at BX shall be deemed to be rules of the Disabled Exchange for purposes of such trading.

Sections (b)(2) and (b)(3) describe the arrangements applicable to trading of the Disabled Exchange's singly and multiply listed options at BX, and are the converse of Sections (a)(2) and (a)(3). Paragraph (b)(2)(i) includes a provision that would permit BX to allocate singly listed option classes of the Disabled Exchange to a BX Market Maker in advance of a Disabling Event, without utilizing the allocation process under BX Rule Options 2, Section 1, to enable BX to quickly list such option classes upon the occurrence of a Disabling Event.

Options 4, Section 10(c) describes the obligations of Participants with respect to the trading by "temporary members" on the facilities of another exchange. Section (c)(1) sets forth the obligations applicable to Participants of a Back-up Exchange who act in the capacity of temporary Participants of the Disabled Exchange on the facility of the Disabled Exchange at the Back-up Exchange. Section (c)(1) provides that a temporary Participant of the Disabled Exchange shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of the Disabled Exchange at the Back-up Exchange. This would include the rules of the Disabled Exchange to the extent applicable during the period of such trading, including the rules of the Disabled Exchange limiting its liability for the use of its facilities that apply to members of the Disabled Exchange. Additionally, (i) such temporary Participant shall be deemed to have satisfied, and the Disabled Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Participant of the Disabled Exchange, including all dues, fees and charges imposed generally upon

members of the Disabled Exchange based on their status as such, (ii) such temporary Participant shall have none of the rights of a member of the Disabled Exchange except the right to conduct business on the facility of the Disabled Exchange at the Back-up Exchange to the extent described in the Rule, (iii) the Participant associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to the Disabled Exchange, and (iv) the clearing member of such temporary Participant shall guarantee and clear the transactions of such temporary Participant on the Disabled Exchange.

Section (c)(2) sets forth the obligations applicable to members of a Disabled Exchange who act in the capacity of temporary Participants of the Back-up Exchange for the purpose of trading singly listed and multiply listed options of the Disabled Exchange. Such temporary Participants shall be subject to, and obligated to comply with, the rules of the Back-up Exchange that are applicable to the Back-up Exchange's own members, including the rules of the Back-up Exchange limiting its liability for the use of its facilities that apply to members of the Back-up Exchange. Temporary Participants of the Back-up Exchange have the same obligations as those set forth in Section (c)(1) that apply to temporary Participants of the Disabled Exchange, except that, in addition, temporary Participants of the Back-up Exchange shall only be permitted (i) to act in those capacities on the Back-up Exchange that are authorized by the Back-up Exchange and that are comparable to capacities in which the temporary Participant has been authorized to act on the Disabled Exchange, and (ii) to trade in those option classes in which the temporary Participant is authorized to trade on the Disabled Exchange.

Options 4, Section 10 provides that the rules of the Back-up Exchange shall apply to the trading of the singly and multiply listed options of the Disabled Exchange traded on the Back-up Exchange's facilities, and (with certain limited exceptions) the trading of exclusively listed options of the Disabled Exchange traded on the facility of the Disabled Exchange at the Back-up Exchange. The Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading (except as the Back-up Exchange and the Disabled Exchange may specifically agree otherwise). Section (d) provides that if a Back-up Exchange initiates an enforcement proceeding with respect to the trading during a back-up period of singly or multiply listed options of the Disabled Exchange by a temporary Participant of the Back-up Exchange, or exclusively listed options of the Disabled Exchange by a member of the Disabled Exchange (other than a member of the Back-up Exchange who is a temporary member of the Disabled Exchange), and such proceeding is in process upon the conclusion of the back-up period, the Back-up Exchange may transfer responsibility for such proceeding to the Disabled Exchange following the conclusion of the back-up period. This approach to the exercise of enforcement jurisdiction is also consistent with past precedent.

With respect to arbitration jurisdiction, proposed Section (d) provides that arbitration of any disputes with respect to any trading during a back-up period of singly or multiply listed options of the Disabled Exchange or of exclusively listed options of the Disabled Exchange on the Disabled Exchange's facility at the Back-up Exchange will be conducted in accordance with the rules of the Back-up Exchange, unless the parties to an arbitration agree that it shall be conducted in accordance with the rules of the Disabled Exchange.

Proposed Supplementary Material .01 to Options 4, Section 10 clarifies that to the extent Options 4, Section 10 provides that another exchange will take certain action, the Rule is reflecting what that exchange has agreed to do by contractual agreement with BX, but Options 4, Section 10 is not binding on the other exchange.

#### Options 4C

The Exchange proposes to reserve 4C as BX does not list U.S. Dollar-Settled Foreign Currency Options.

#### Bid/Ask Differentials

The Exchange proposes to amend Options 4, Section 8(a), and Options 4A, Section 12(b)(1)(i) to relocate text concerning bid/ask differentials for long-term option series. Currently, Options 4, Section 8(a) describes the bid/ask differentials for long-term options series for equity options and exchange-traded products and Options 4A, Section 12(b)(1)(i) describes the bid/ask differentials for long-term options series for indexes. Currently, the bid/ask differentials shall not apply to such options series until the time to expiration is less than nine (9) months for equity options and exchange-traded funds as provided for within Options 4, Section 8(a). Currently, bid/ask differentials shall not apply to such options series until the time to expiration is less than nine (9) months for index options as provided for within Options 4A, Section 12(b)(1)(i).

The Exchange proposes to centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 4, Section 8(a) and Options 4A, Section 12(b)(1)(i) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange also proposes to capitalize “ask” in the title of Options 2, Section 5(d)(2). The Exchange believes that this relocation will

provide Market Makers with centralized information regarding their bid/ask differential requirements. The Exchange is not amending the bid/ask differentials; the rule text is simply being relocated.

#### Technical Amendment

The Exchange proposes to amend General 9, Section 51, Research Analysts, to update an improper citation to “General 9, Section 50” to “this Rule.” The citation is to General 9, Section 51. The Exchange also proposes to remove stray periods throughout Options 4 in the section headings.

#### b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>18</sup> 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. Conforming BX’s Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange’s continued effort to promote efficiency in the manner in which it administers its rules.

The Exchange’s proposal to amend Options 4, Sections 1, 2, 5, and 7 reflect non-substantive amendments to conform those rules to similar ISE rules. These proposed changes removes 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 since the changes are intended to ease the Participants’, market participants’, and the

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<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permit the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines, is consistent with the Act. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing BX with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit BX to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) is consistent with the Act. The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as "Financial Instruments" with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading.

The Exchange's proposal to remove the following products from Options 4, Section 3(h): the ETFs Silver Trust, the ETFs Palladium Trust, the ETFs Platinum Trust or the Sprott Physical Gold Trust is consistent with the Act because the Exchange no

longer lists these products and proposes to remove them the products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future.

The Exchange's proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, "all of the following conditions are met," and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) is consistent with the Act. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange's proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global indexes or portfolios that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. ISE Options 4, Section 3(h) currently has similar rule text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes or portfolios that include non-U.S. securities. This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," is consistent with the Act. Today, Options 4, Section

3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1).

The Exchange’s proposal to amend the term “comprehensive surveillance agreement” within Options 4, Section 3(h)(2) (A) – (D) to instead provide “comprehensive surveillance sharing agreement” is consistent with the Act as the amendment will bring greater clarity to the term.

The Exchange’s proposal to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” to Options 4, Section 3(h)(2)(B), (C), and (D) is consistent with the Act as it will clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. This rule text currently exists within ISE Options 4, Section 3(h).

The Exchange’s proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding “or portfolio” to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).



The proposed amendments to Options 4, Section 3(h) will conform BX's rule text to ISE Options 4, Section 3(h).

The remainder of the change to Options 3, Section 3 are non-substantive and intended to conform to ISE Options 3, Section 3. These proposed changes 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 since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i), are consistent with the Act. Today, the Exchange would not open additional series of HOLDRs without filing a rule change with the Commission and adopting a corresponding rule. This rule text, similar to ISE, explicitly provides that the Exchange would not open additional series of options overlying HOLDRs (without prior Commission approval) if: (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options. This rule text bring greater clarity to BX's rules in that HOLDRs would not be in certain circumstances.

The Exchange's proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, is consistent with the Act. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.<sup>19</sup> Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.<sup>20</sup> This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that BX's requirements are different than other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE and Cboe to remain competitive and list similar options as the other markets. While the Exchange may in the future determine to delist an option that is singly listed, the Exchange's proposal to remove the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" is consistent with the Act. This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all members so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The

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<sup>19</sup> Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

<sup>20</sup> See ISE Options 4, Section 4 and Cboe Rule 4.4.

rule text within Options 4, Section 4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The remainder of the changes to Options 3, Section 3 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest. Overall, these changes are of a non-substantive nature and either modify, clarify or relocate the existing Rulebook language to reflect the language of the ISE version of the rule and are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange believes that the changes to proposed Options 4, Section 8 removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest because the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments and is intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(i) to relocate text concerning bid/ask differentials for long-term option series is consistent with the Act. The Exchange's proposal will centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 3, Section 8 and Options 4A, Section 12(b)(1)(i) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange is not

amending the bid/ask differentials; the rule text is simply being relocated. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

The remainder of the changes to Options 3, Section 8 are non-substantive.

The Exchange believes that adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Share, similar to ISE, is consistent with the Act. Specifically, this proposal seeks to limit the liability of index licensors who grant the BX a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.<sup>21</sup> Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The disclaimers within proposed Section 9 are consistent with the Act in that these disclaimers provide market participants with relevant information as to the liabilities on option contracts on Exchange-Traded Fund Shares.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide BX with similar abilities as ISE to permit BX to enter into arrangements with one or more other exchanges (each a “Back-up Exchange”) to permit BX and its Participants to use a portion of a Back-up Exchange's facilities to

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<sup>21</sup> See ISE Options Listing Rule Section 9.

conduct the trading of BX exclusively listed<sup>22</sup> options in the event of a Disabling Event, and similarly to permit BX to provide trading facilities for another exchange's exclusively listed options if that exchange (a “Disabled Exchange”) is prevented from trading due to a Disabling Event. With this proposal, BX is proposing to adopt listing rules similar to Phlx to list and trade U.S. Dollar-Settled Foreign Currency Options. BX believes that it is important that it develop back-up trading arrangements to minimize the potential disruption and market impact that a Disabling Event could cause. The proposed rule changes are designed to address the key elements necessary to mitigate the effects of a Disabling Event affecting the Exchange, minimize the impact of such an event on market participants, and provide for a liquid and orderly marketplace for securities listed and traded on the Exchange if a Disabling Event occurs. In particular, the proposed rule change is intended to ensure that BX’s exclusively listed and singly listed products will have a trading venue in the event that trading at BX is prevented due to a Disabling Event. The Exchange believes that having these back-up trading arrangements in place will minimize potential disruptions to the markets and investors if a catastrophe occurs that requires the Exchange's primary facility to be closed for an extended period. Phlx and ISE has a similar rule,<sup>23</sup> and the Exchange believes that it is important to the protection of investors and the public interest that it also adopt rules that allow BX exclusively and singly listed options to continue to trade in the event of a Disabling

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<sup>22</sup> As defined within the proposed rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

<sup>23</sup> See Phlx and ISE Rules Options 3, Section 10.

Event. The proposed rule change also provides authority for the BX to provide a back-up trading venue should another exchange be affected by a Disabling Event, which will benefit the markets and investors if a Disabling Event were to happen on another exchange that has entered into a back-up trading arrangement with the BX. Finally, the proposed rule change grants authority to Exchange officials to take action under emergency conditions, which should enable key actions to be taken by BX representatives in the event of a Disabling Event, and clarifies the fees that will apply if these back-up trading arrangements are invoked, which will reduce investor confusion and minimize the disruption to investors associated with a Disabling Event. Under proposed paragraph (a)(1)(vi), members of the Back-up Exchange shall not be authorized to trade in any BX exclusively listed options, except that (i) BX may deputize willing brokers of the Back-up Exchange as temporary BX Participants to permit them to execute orders as Participants in BX exclusively listed options traded on BX's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of BX, select members of the Back-up Exchange that are willing to be deputized by BX as temporary BX members authorized to trade BX exclusively listed options on BX's facility at the Back-up Exchange for such period of time following a Disabling Event as BX determines to be appropriate, and BX may deputize such members of the Back-up Exchange as temporary BX members for that purpose. The foregoing exceptions would permit members of the Back-up Exchange to trade BX exclusively listed options on the BX facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in BX members being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading.

The Exchange's proposal to reserve Options 4C will make clear that BX does not list U.S. Dollar-Settled Foreign Currency Options. Other Nasdaq Affiliated exchanges, such as Nasdaq Phlx LLC, list U.S. Dollar-Settled Foreign Currency Options and would therefore have rules in that section. By marking Options 4C reserved, market participants will be given additional insight into the types of products available on BX.

#### Technical Amendment

The Exchange's proposal to amend General 9, Section 51, Research Analysts, to update an improper citation to "General 9, Section 50" to "this Rule" and remove stray periods throughout Options 4 in the section headings are consistent with the Act. This non-substantive amendment will bring greater clarity to the rule.

#### 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 relocation of the Options Listing Rules will facilitate the use of the Rulebook by Participants of the Exchange, who are members of other Affiliated Exchanges; other market participants; and the public in general. The changes are consistent with the ISE Rulebook.

The Exchange's proposal to amend Options 4, Sections 1, 2, 5, and 7 reflects non-substantive amendments to conform those rules to similar ISE rules at Options 4, Sections 1, 2, 5, and 7. These proposed changes do not impose an undue burden on competition since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permits the

Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines do not impose an undue burden on competition.

Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing BX with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit BX to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) do not impose an undue burden on competition. The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities.

The Exchange's proposal to remove the following products from Options 4, Section 3(h): the ETFs Silver Trust, the ETFs Palladium Trust, the ETFs Platinum Trust or the Sprott Physical Gold Trust do not impose an undue burden on competition. The Exchange no longer lists these products and proposes to remove them the products from its listing rules.

The Exchange's proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, "all of the following conditions are met," and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) does not impose an undue burden on competition. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-



Traded Fund Shares. The Exchange's proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. Specifically, this language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index. This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on BX.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," does not impose an undue burden on competition. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on BX.

The Exchange's proposal to amend the term "comprehensive surveillance agreement" within Options 4, Section 3(h)(2) (A) – (D) to instead provide

“comprehensive surveillance sharing agreement” does not impose an undue burden on competition as the amendment will bring greater clarity to the term.

The Exchange’s proposal to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” to Options 4, Section 3(h)(2)(B), (C), and (D) does not impose an undue burden on competition as it will clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead.

The Exchange’s proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding “or portfolio” to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i), does not impose an undue burden on competition. The amendments would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs similar to ISE, which provisions do not currently exist.

The Exchange’s proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, does not impose an undue burden on competition. To remain competitive with other options markets, the Exchange proposes to adopt the

same obligations for continuance of trading.<sup>24</sup> Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.<sup>25</sup> This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that BX's requirements are different than other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE and Cboe to remain competitive and list similar options as the other markets. The Exchange's proposal removes the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" does not impose an undue burden on competition. This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all members so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn.

The Exchange believes that the changes to proposed Options 4, Section 8 do not impose an undue burden on competition as the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4,

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<sup>24</sup> Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

<sup>25</sup> See ISE Options 4, Section 4 and Cboe Rule 4.4.

Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(i) to relocate text concerning bid/ask differentials for long-term option series does not impose an undue burden on competition. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

Adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Share, similar to ISE does not impose an undue burden on competition. The proposal seeks to limit the liability of index licensors who grant the BX a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.<sup>26</sup> Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide BX with similar abilities as ISE to permit BX to enter into arrangements with one or more other exchanges (each a "Back-up Exchange") to permit BX and its Participants to use a portion of a Back-up Exchange's facilities to

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<sup>26</sup> See ISE Options Listing Rule Section 9.

conduct the trading of BX exclusively listed<sup>27</sup> options in the event of a Disabling Event, and similarly to permit BX to provide trading facilities for another exchange's exclusively listed options if that exchange (a “Disabled Exchange”) is prevented from trading due to a Disabling Event. Permitting BX to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options.

#### Technical Amendment

The Exchange’s proposal to amend General 9, Section 51, Research Analysts, to update an improper citation to “General 9, Section 50” to “this Rule” and remove stray periods throughout Options 4 in the section headings do not impose an undue burden on competition. This non-substantive amendment will bring greater clarity to the rule.

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)<sup>28</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>29</sup> in that it effects a change

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<sup>27</sup> As defined within the proposed rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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 does not believe that the relocation and amending of the Options Listing Rules will significantly affect the protection of investors or the public interest because the proposed change is only intended to relocate and copy language from ISE rules to conform the aforementioned amended rules.<sup>30</sup> Moreover, the Exchange does not believe that this proposal will impose any significant burden on competition because, as explained, the change is non-substantive, is intended to align the structure of the Exchange's Rulebook to the Affiliated Exchanges' and generally seeks to improve the organization and readability of the Exchange's rules. The Exchange does not believe that the proposed changes implicate competition at all. The Exchange's proposal to reserve Options 4C does not significantly affect the protection of investors or the public interest as it will make clear that BX does not list U.S. Dollar-Settled Foreign Currency Options.

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<sup>29</sup> 17 CFR 240.19b-4(f)(6).

<sup>30</sup> See e.g. Securities Exchange Act Release Nos. 73999 (January 6, 2015), 80 FR 1559 (January 6, 2015) (SR-ISE-2014-52) (Order Granting Approval of Proposed Rule Change Regarding the Short Term Option Series Program); 72452 (June 24, 2014), 79 FR 36848 (June 30, 2014)(SR-ISE-2014-23) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 2, Regarding the Short-Term Option Series Program); 67554 (August 29, 2012), 77 FR 54629 (September 5, 2012) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, Regarding Strike Price Intervals for Certain Option Classes); 65771 (November 17, 2011), and 76 FR 72472 (November 23, 2011) (SR-ISE-2011-60) (Order Granting Approval of Proposed Rule to Expand the Short Term Options Series Program).

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 operative delay to permit the Exchange to immediately conform its Options 4 listing rules with those of ISE and also permit BX to list and trade U.S. Dollar-Settled Foreign Currency Options similar to Phlx.<sup>31</sup> The Exchange notes that it is important that it be permitted to reorganize its Rulebook without delay to ensure that it would be able to incorporate by reference to file to incorporate by reference the BX Options 4 Rules to the ISE Options 4 Rules to permit Nasdaq to have the same listing rules across its various Nasdaq Affiliated Markets.<sup>32</sup>

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<sup>31</sup> See ISE Options 4 and Phlx Options \$C.

<sup>32</sup> Phlx and BX will also file to incorporate the Phlx and BX Options 4 Rules to the ISE Options 4 rules respectively.

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

The proposed changes to the Options 4 listing rules are based on the ISE Options 4 rules.<sup>33</sup>

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.

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<sup>33</sup> See ISE Options 4.



**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-BX-2021-032)

July \_\_, 2021

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Options 4 Listing Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 20, 2021, 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 BX’s Rules at Options 2, Section 5, Market Maker Quotations; Options 4, Options Listing Rules; and Options 4A, Section 12, Terms of Index Options Contracts. This proposal also reserves Options 4C. Finally, the Exchange proposes to reserve some sections with the Equity Rules.

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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

The Exchange proposes to amend the Options 4, Options Listing Rules, to conform BX’s Options 4 Listing Rules to Nasdaq ISE, LLC’s (“ISE”) Options 4 Listing Rules. The Exchange also proposes to amend BX Options 4A, Section 12, Terms of Index Options Contracts and reserve BX Options 4C. Finally, the Exchange also proposes to amend Options 2, Section 5, Market Maker Quotations to relocate rule text concerning bid/ask differentials for long-term options contracts from BX Options 4 and Options 4A, similar to ISE.

The Exchange also proposes a technical amendment to General 9, Section 51, Research Analysts and remove stray periods through Options 4. Each rule change is described below.

Options 4, Options Listing Rules

Conforming BX’s Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange’s continued effort to promote efficiency in the manner in which it administers its rules. The Exchange proposes to amend these rules to conform to ISE Options 4 Rules.

*Section 1. Designation of Securities*

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Securities traded on the Exchange are options contracts, each of which is designated by reference to the issuer of the underlying security or name of underlying foreign currency, expiration month or expiration date, exercise price and type (put or call).

with the following rule text,

The Exchange trades options contracts, each of which is designated by reference to the issuer of the underlying security, expiration month or expiration date, exercise price and type (put or call).

The Exchange proposes to amend this sentence within Options 4, Section 1 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

*Section 2. Rights And Obligations Of Holders And Writers*

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Subject to the provisions of this Chapter, the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation.

with the following rule text,

The rights and obligations of holders and writers shall be as set forth in the Rules of the Clearing Corporation.

The Exchange proposes to amend this sentence within Options 4, Section 2 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

*Section 3. Criteria for Underlying Securities*

Options 4, Section 3 of the Options Listing Rules is being updated to conform to ISE Options 4, Section 3.

The Exchange proposes to amend Options 4, Section 3(a)(i) and (ii) to conform to ISE Options 4, Section 3(a)(1) and (2) by changing the “i. and ii.” to “(1) and (2),” respectively. Also, the Exchange proposes to remove the phrase “with the SEC” within current BX Options 4, Section 3(a)(i). These amendments are non-substantive.

The Exchange proposes to amend Options 4, Section 3(b) to reword the rule text to ISE Options 4, Section 3(b). The Exchange proposes to replace the current rule text of Options 4, Section 3(b) which states,

In addition, the Exchange shall from time to time establish standards to be considered in evaluating potential underlying securities for the Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the standards established by the Exchange does not necessarily mean that it will be selected as an underlying security. The Exchange may give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, an underlying security will not be selected unless:

with the following rule text,

In addition, the Exchange shall from time to time establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, however absent exceptional circumstances, an underlying security will not be selected unless:

The new rule text permits the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing BX with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit BX to list similar options as ISE for competitive purposes. The proposal to replace the term “standards” with “guidelines” within paragraph 3(b) is non-substantive.

The Exchange is amending numbering within Options 4, Section 3(b) as well as removing extraneous rule text within current Options 4, Section 3(b)(iii), namely “or Rules thereunder.” The Exchange proposes to relocate Options 4, Section 3(k) into new

Options 4, Section 3(b)(6) without change. This would align BX Options 4, Section 3(b)(6) with ISE Options 4, Section 3(b)(6). This provision states,

Notwithstanding the requirements set forth in Paragraphs 1, 2, 4 and 5 above, the Exchange may list and trade an options contract if (i) the underlying security meets the guidelines for continued approval in Options 4, Section 4; and (ii) options on such underlying security are traded on at least one other registered national securities exchange.

The Exchange proposes to renumber BX Options 4, Section 3(c) and make minor amendments to rule text within current Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g) to conform the rule text to ISE Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g). The proposed changes are non-substantive.<sup>3</sup>

The Exchange proposes to amend an “up” to “on” within BX Options 4, Section 3(d). This proposed change is non-substantive.

The Exchange proposes non-substantive amendments to amend BX Options 4, Section 3(f) and (g)<sup>4</sup> in addition to conforming the numbering to ISE Options 4, Section 3(f) and (g).

The Exchange proposes to relocate current BX Options 4, Section 3(h) describing a market information sharing agreement to proposed BX Options 4, Section 3(i). This

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<sup>3</sup> The proposed changes replace the word “standards” with “guidelines,” insert “Options 4” before “Section 3,” and remove 2 extraneous uses of “this.” Similar replacements are made throughout current Options 4, Section 3(c), including amending a capitalized “Paragraph.”

<sup>4</sup> The proposed changes replace the word “standards” with “guidelines,” insert “Rule” instead of “Section 3,” and remove an unnecessary “or.”

text is currently located within ISE rules at Options 4, Section 3(i).

Current BX Options 4, Section 3(i) is being re-lettered as proposed Options 4, Section 3(h). The Exchange proposes to add the defined term “Financial Instruments” within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term “Money Market Instruments” similar to ISE Options 4, Section 3(h). The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as “Financial Instruments” with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading. The remainder of the changes are non-substantive in nature and simply conform the location of words similar to ISE.<sup>5</sup> The Exchange also proposes to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust. The Exchange no longer lists these products and proposes to remove them the products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future.

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<sup>5</sup> The amendment to current Options 4, Section 3(i)(B)(4) to add, “...which the Exchange-Traded Fund shares are based...” makes clear that this text applies to Exchange-Traded Fund shares. Also the word “indexes” is being changes to “indices” within this paragraph and “similar entity” is being relocated within the paragraph.

The Exchange will file a proposal with the Commission if it determines to list these products in the future. Finally, the Exchange proposes to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, “all of the following conditions are met.” Paragraph (h) would simply end with “provided that:” and direct market participants to subparagraphs (1) and (2).

The Exchange proposes to capitalize “the” at the beginning of Options 4, Section 3(h)(1) and remove “; and” at the end of the paragraph and instead at a period so that subparagraphs (1) and (2) are not linked, but rather read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. Similar to ISE Options 4, Section 3(h)(2), the Exchange proposes to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares. Specifically, the Exchange proposes to amend Options 4, Section 3(h)(2) to provide, “Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the following criteria.” ISE Options 4, Section 3(h) has the identical text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes, or portfolios that include non-U.S. securities. This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.



The Exchange proposes to amend Options 4, Section 3(h)(2)(A) to remove the phrase “for series of portfolio depositary receipts and index fund shares based on international or global indexes,”. Today, Options 4, Section 3(h), subparagraphs (h)(1)<sup>6</sup> and (h)(v)<sup>7</sup> permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic

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<sup>6</sup> Subsection (h)(i) concerns passive Exchange-Traded Fund Shares. Subsection (h)(1) provides, “represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments).”

<sup>7</sup> Subsection (h)(v) concerns active Exchange-Traded Fund Shares. Subsection (h)(v) Provides, “represents an interest in a registered investment company (“Investment Company”) organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (“NAV”), and when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (“Managed Fund Share”).”

listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). The identical rule text exists within ISE Options 4, Section 3(h)(2)(A).

The Exchange also proposes to amend the term “comprehensive surveillance agreement” within Options 4, Section 3(h)(2) (A) – (D) to instead provide “comprehensive surveillance sharing agreement.” This amendment will bring greater clarity to the term. Further, the Exchange proposes to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” within Options 4, Section 3(h)(2)(B), (C), and (D) to clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. The Exchange notes that “not available” is intended for cases where the Exchange does not have access to the index components, in those cases the Exchange would look to the portfolio components. The term “not applicable” is intended if the fund is active and does not track an index and only the portfolio is available. These amendments will conform the rule text to ISE Options 4, Section 3(h)(2)(A) – (D).

The Exchange also proposes to wordsmith Options 4, Section 3(h)(2)(B) to amend the phrase to provide, “any non-U.S. component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund’s portfolio of securities that are not subject to comprehensive surveillance sharing agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;”. Finally, the Exchange proposes to wordsmith Options 4, Section 3(h)(2)(C) and (D) to relocate the phrase “on which the Exchange-Traded Fund Shares are based” and add “or portfolio” to bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B). The Exchange believes that the

revised wording will bring greater clarity to the rule text and conform the rule text to ISE Options 4, Section 3(h)(2)(B) – (D). The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(C)(2)(A)(ii) to correct a typographical error by changing a “than” to a “that.” The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(h)(1) to change “In” to “in.”

As noted above BX Options 4, Section 3(h), which describes a market information sharing agreement, was relocated to proposed Options 4, Section 3(i), similar to ISE Options 4, Section 3(i).

The Exchange proposes to amend Options 4, Section 3(j) to conform the rule text to ISE Options 4, Section 3(j). The proposed changes are non-substantive.<sup>8</sup>

As noted, above, Options 4, Section 3(k) was relocated to new Options 4, Section 3(b)(6).

The Exchange proposes to remove the header “Index-Linked Securities” within Options 4, Section 3(l), and re-letter Options 4, Section 3(l)(i) as Section 3(k). Proposed Options 4, Section 3(k) has non-substantive numbering and citation amendments.

Options 4, Section 3(m) is being removed as BX does not list U.S. Dollar-Settled Foreign Currency Options.

#### *Section 4. Withdrawal of Approval of Underlying Securities*

The Exchange proposes to remove the first sentence of Options 4, Section 4(a), which provides, “If put or call options contracts with respect to an underlying security are approved for listing and trading on the Exchange, such approval shall continue in effect until such approval is affirmatively withdrawn by the Exchange.” This sentence is

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<sup>8</sup> The amendment to current Options 4, Section 3(j) replace the word “standards” with “guidelines.”

unnecessary as the second sentence within Options 4, Section 4(a) makes clear that approval continues until it does not meet the requirements. Also, the Exchange proposes to add the following text to the end of this paragraph: “When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.” This text makes clear that options contracts that are no longer approved will not be listed. The remainder of the changes to Options 4, Section 4(a) are non-substantive. This proposal is intended to conform BX’s Options 4, Section 4(a) with ISE Options 4, Section 4(a).

The Exchange proposes to amend Options 4, Section 4(b) to add “Absent exceptional circumstances...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes as well as capitalization are non-substantive and intended to conform BX’s Options 4, Section 4(b) with ISE Options 4, Section 4(b). The Exchange also proposes to remove reserved sections.

Options 4, Section 4(c), which is currently reserved, is proposed to be deleted and current Options 4, Section 4(d) is proposed to be re-lettered as “c”. Minor non-substantive conforming changes are proposed to current Options 4, Section 4(d) – (f).<sup>9</sup>

The Exchange proposes to amend current Options 4, Section 4(h) to re-letter it “g” and replace “security” with “Exchange-Traded Fund Shares” similar to ISE Options 4, Section 4(g). The Exchange proposes to add halt or suspension as other circumstances in which the Exchange shall not open for trading any additional series of option contracts

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<sup>9</sup> The Exchange proposes to remove “Section 4”, lowercase the term “Customer,” add “options 4” and remove “thereof” within Options 4, Section 4(d) – (f).

of the class to clarify that this scenario may also exist. The other proposed changes to current Options 4, Section 4(h) are non-substantive.<sup>10</sup>

The Exchange proposes to amend current Options 4, Section 4(i) to re-letter it “h” and add “Absent exceptional circumstances, securities...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes are non-substantive<sup>11</sup> and conform current BX’s Options 4, Section 4(i) with ISE Options 4, Section 4(h).

The Exchange proposes to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i). The proposed new section would provide,

For Holding Company Depository Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

(1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or

(2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

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<sup>10</sup> The Exchange proposes to amend Options 4, Section 4(h) to add “Options 4” and replace “Section 4” with “Rule;” and replace an “or” with an “and.”

<sup>11</sup> The term Options 4 is being relocated within the proposed new paragraph (h). Also, the term “Rule” is being used within proposed new paragraph (h)(1) instead of “Section 4,” and “Section 3.” “Upon annual review” is being removed from proposed new paragraph (h)(2).

Current Options 4, Section 4 does not describe the withdrawal of HOLDRs. This new text, similar to ISE, would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs.

The Exchange proposes to delete current Options 4, Section 4(j), which is reserved, as well as the lettering for Options 4, Section 4(k) which states, "Index Linked Securities." The next existing paragraph is proposed to be Options 4, Section 4(j). The remainder of the numbering changes to this section are non-substantive and conform proposed Options 4, Section 4(j) with ISE Options 4, Section 4(j).

The Exchange proposes to remove Options 4, Section 4(l) related to inadequate volume delisting. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.<sup>12</sup> Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this

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<sup>12</sup> Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE. See proposed Phlx Options 3, Section 4(b) which provides, "Absent exceptional circumstances, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur: (1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act. (2) There are fewer than 1,600 holders of the underlying security. (3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months. (4) The underlying security ceases to be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act. (5) If an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied."

condition is not present on other options markets such as ISE and Cboe Exchange, Inc. (“Cboe”).<sup>13</sup> This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that BX’s requirements are different than other options markets. To remain competitive the Exchange proposes to adopt the same standards as ISE and Cboe to remain competitive in order that it may list options similar to other markets.

While the Exchange may in the future determine to delist an option that is singly listed, the Exchange proposes to remove the rule text which provides that “If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest.” This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all Participants so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The rule text within Options 4, Section 4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The reference to Options 4, Section 4(m) is proposed to be deleted. The provision that is currently Options 4, Section 4(m) is proposed to become proposed Supplementary Material .01 to Options 4, Section 6 with a minor non-substantive change to the current rule text to capitalize “rules.”

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<sup>13</sup> See ISE Options 4, Section 4 and Cboe Rule 4.4.

*Section 5. Series of Options Contracts Open for Trading*

The Exchange proposes to update citations within Options 4, Section 5 to reflect the replacement of current rule text. These changes are non-substantive.

*Section 7. Adjustments*

The Exchange proposes non-substantive amendments to Options 4, Section 7.

The current text states,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. The Exchange will announce adjustments, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The Exchange proposes to instead provide,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. When adjustments have been made, the Exchange will announce that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The proposal conforms BX Options 4, Section 7 with ISE Options 4, Section 7.

*Section 8. Long-Term Options Contracts*

The Exchange proposes to conform the BX Options 4, Section 8 to ISE Options 4, Section 8. The proposed changes are non-substantive. BX's current rule text provides that with respect to long-term options series, bid/ask differential rules do not apply. The Exchange proposes to add this rule text to Options 4, Section 5(d)(2) within new "A" as the bid/ask differential requirements can be found within this rule. The Exchange also



proposes to add a new sentence to Options 4, Section 8(a) to refer to Options 4, Section 5(d)(2)(A), which states, “Bid/ask differentials for long-term options contracts are specified within Options 3, Section 5(d)(2)(A)” for ease of reference.

*Section 9. Limitation on the Liability of Index Licensors for Options on Fund Shares*

The Exchange proposes to remove current Options 4, Section 9, U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value as BX does not list U.S. Dollar-Settled Foreign Currency Options.

The Exchange proposes to adopt a new Section 9, titled “Limitation on the Liability of Index Licensors for Options on Fund Shares” identical to ISE Options 4, Section 9. ISE and Cboe have similar provisions.<sup>14</sup> The new rule would provide,

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any

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<sup>14</sup> See Securities Exchange Act Release No. 45817 (April 24, 2002), 67 FR 21785 (May 1, 2002) (SR-CBOE-2002-19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Amend Its Rules Relating to the Limitation of Liability for Index Licensors) and 14729 (March 19, 2003), 68 FR 14729 (March 26, 2003) (SR-ISE-2003-09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Limiting the Liability of Index Licensors for Options on Fund Shares).

person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose.

The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

Proposed Section 9(a) defines the term “index licensor” as any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

Proposed Options 4, Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor will obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor will have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund

Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

*Section 10. Back-up Trading Arrangements*

The Exchange proposes to add a new rule to Options 4, Section 10, titled “Back-Up Trading Arrangements.” Section 10 is currently reserved. This proposed rule is identical to ISE Options 4, Section 10.<sup>15</sup> This rule would permit BX to enter into arrangements with one or more other exchanges (each a “Back-up Exchange”) to permit BX and its Participants to use a portion of a Back-up Exchange’s facilities to conduct the trading of BX exclusively listed options in the event of a Disabling Event, and permits BX to provide trading facilities at BX for another exchange’s exclusively listed options if that exchange (a “Disabled Exchange”) is prevented from trading due to a Disabling Event. Also, the proposed rule would permit BX to enter into arrangements with a Back-up Exchange to provide for the listing and trading of BX singly listed options by the Back-up Exchange if BX’s facility becomes disabled, and conversely provide for the listing and trading by BX of the singly listed options of a Disabled Exchange.

The back-up trading arrangements contemplated by Options 4, Section 10 represent BX’s immediate plan to ensure that its exclusively listed and singly listed options will have a trading venue if a catastrophe renders its primary facility inaccessible or inoperable.

Section 10(a) describes the back-up trading arrangements that would apply if BX were the Disabled Exchange. An “exclusively listed option” is defined within Section

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<sup>15</sup> See Securities Exchange Act Release No. 71092 (December 17, 2013), 78 FR 77510 (December 23, 2013) (SR-ISE-2013-61) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Back-Up Trading Arrangements).

10(a)(1)(i) to mean an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option). Proposed paragraph(a)(1)(ii) provides that the facility of the Back-up Exchange used by BX to trade some or all of BX's exclusively listed options will be deemed to be a facility of BX, and such option classes shall trade as listings of BX. Since the trading of BX exclusively listed options will be conducted using the systems of the Back-up Exchange, proposed paragraph (a)(1)(iii) provides that the trading of BX listed options on BX's facility at the Back-up Exchange shall be conducted in accordance with the rules of the Back-up Exchange, and proposed paragraph (a)(1)(iv) provides that the Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading, in each case except as BX and the Back-up Exchange may specifically agree otherwise. The Back-up Exchange rules that govern trading on BX's facility at the Back-up Exchange shall be deemed to be BX rules for purposes of such trading. Proposed paragraph (a)(1)(v) provides that BX shall have the right to designate its members that will be authorized to trade BX exclusively listed options on BX's facility at the Back-up Exchange and, if applicable, its member(s) that will be a BX Market Maker in those options.<sup>16</sup> If the Back-up Exchange is unable to accommodate all BX Participants that desire to trade on BX's facility at the Back-up Exchange, BX may determine which Participants shall be eligible to trade at that facility by considering factors such as whether the Participant is a BX Market Maker in the applicable product(s), the number of contracts traded by the member in the applicable product(s), market performance, and other factors relating to a member's contribution to

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<sup>16</sup> Of note, unlike Phlx, BX does not have rules to appoint Lead Market Makers.

the market in the applicable product(s). Under proposed paragraph (a)(1)(vi), Participants of the Back-up Exchange shall not be authorized to trade in any BX exclusively listed options, except that (i) BX may deputize willing brokers of the Back-up Exchange as temporary BX Participants to permit them to execute orders as brokers in BX exclusively listed options traded on BX's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of BX, select members of the Back-up Exchange that are willing to be deputized by BX as temporary BX Participants authorized to trade BX exclusively listed options on BX's facility at the Back-up Exchange for such period of time following a Disabling Event as BX determines to be appropriate, and BX may deputize such members of the Back-up Exchange as temporary BX Participants for that purpose.

The foregoing exceptions would permit members of the Back-up Exchange to trade BX exclusively listed options on the BX facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in BX Participants being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading. Options 4, Section 10(a)(2) of the proposed rule provides for the continued trading of BX singly listed options at the Back-up Exchange in the event of a Disabling Event at BX. Proposed paragraph (a)(2)(ii) provides that BX may enter into arrangements with a Back-up Exchange under which the Back-up Exchange will agree, in the event of a Disabling Event, to list for trading option classes that are then singly listed only by BX. Such option classes would trade on the Back-up Exchange as listings of the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Under proposed paragraph (a)(2)(iii), any such options class listed by the Back-up Exchange that does not satisfy the

standard listing and maintenance criteria of the Back-up Exchange will be subject, upon listing by the Back-up Exchange, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in the rules of the Back-up Exchange). BX singly listed option classes would be traded by members of the Back-up Exchange and by BX Participants selected by BX to the extent the Back-up Exchange can accommodate BX Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all BX Participants that desire to trade BX singly listed options at the Back-up Exchange, BX may determine which Participants shall be eligible to trade such options at the Back-up Exchange by considering the same factors used to determine which BX Participants are eligible to trade BX exclusively listed options at the BX facility at the Back-up Exchange.

Proposed Section (a)(3) provides that BX may enter into arrangements with a Back-up Exchange to permit BX Participants to conduct trading on a Back-up Exchange of some or all of BX's multiply listed options in the event of a Disabling Event. While continued trading of multiply listed options upon the occurrence of a Disabling Event is not likely to be as great a concern as the continued trading of exclusively and singly listed options, BX nonetheless believes a provision for multiply listed options should be included in the rule so that the exchanges involved will have the option to permit members of the Disabled Exchange to trade multiply listed options on the Back-up Exchange. Such options shall trade as a listing of the Back-up Exchange in accordance with the rules of the Back-up Exchange.

Options 4, Section 10(b) describes the back-up trading arrangements that would apply if BX were the Back-up Exchange. In general, the provisions in Section (b) are the converse of the provisions in Section (a). With respect to the exclusively listed options of the Disabled Exchange, the facility of BX used by the Disabled Exchange to trade some or all of the Disabled Exchange's exclusively listed options will be deemed to be a facility of the Disabled Exchange, and such option classes shall trade as listings of the Disabled Exchange. Trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at BX shall be conducted in accordance with BX rules, and BX will perform the related regulatory functions with respect to such trading, in each case except as the Disabled Exchange and BX may specifically agree otherwise. BX rules that govern trading on the Disabled Exchange's facility at BX shall be deemed to be rules of the Disabled Exchange for purposes of such trading.

Sections (b)(2) and (b)(3) describe the arrangements applicable to trading of the Disabled Exchange's singly and multiply listed options at BX, and are the converse of Sections (a)(2) and (a)(3). Paragraph (b)(2)(i) includes a provision that would permit BX to allocate singly listed option classes of the Disabled Exchange to a BX Market Maker in advance of a Disabling Event, without utilizing the allocation process under BX Rule Options 2, Section 1, to enable BX to quickly list such option classes upon the occurrence of a Disabling Event.

Options 4, Section 10(c) describes the obligations of Participants with respect to the trading by "temporary members" on the facilities of another exchange. Section (c)(1) sets forth the obligations applicable to Participants of a Back-up Exchange who act in the capacity of temporary Participants of the Disabled Exchange on the facility of the



Disabled Exchange at the Back-up Exchange. Section (c)(1) provides that a temporary Participant of the Disabled Exchange shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of the Disabled Exchange at the Back-up Exchange. This would include the rules of the Disabled Exchange to the extent applicable during the period of such trading, including the rules of the Disabled Exchange limiting its liability for the use of its facilities that apply to members of the Disabled Exchange. Additionally, (i) such temporary Participant shall be deemed to have satisfied, and the Disabled Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Participant of the Disabled Exchange, including all dues, fees and charges imposed generally upon members of the Disabled Exchange based on their status as such, (ii) such temporary Participant shall have none of the rights of a member of the Disabled Exchange except the right to conduct business on the facility of the Disabled Exchange at the Back-up Exchange to the extent described in the Rule, (iii) the Participant associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to the Disabled Exchange, and (iv) the clearing member of such temporary Participant shall guarantee and clear the transactions of such temporary Participant on the Disabled Exchange.

Section (c)(2) sets forth the obligations applicable to members of a Disabled Exchange who act in the capacity of temporary Participants of the Back-up Exchange for the purpose of trading singly listed and multiply listed options of the Disabled Exchange. Such temporary Participants shall be subject to, and obligated to comply with, the rules of the Back-up Exchange that are applicable to the Back-up Exchange's own members,

including the rules of the Back-up Exchange limiting its liability for the use of its facilities that apply to members of the Back-up Exchange. Temporary Participants of the Back-up Exchange have the same obligations as those set forth in Section (c)(1) that apply to temporary Participants of the Disabled Exchange, except that, in addition, temporary Participants of the Back-up Exchange shall only be permitted (i) to act in those capacities on the Back-up Exchange that are authorized by the Back-up Exchange and that are comparable to capacities in which the temporary Participant has been authorized to act on the Disabled Exchange, and (ii) to trade in those option classes in which the temporary Participant is authorized to trade on the Disabled Exchange.

Options 4, Section 10 provides that the rules of the Back-up Exchange shall apply to the trading of the singly and multiply listed options of the Disabled Exchange traded on the Back-up Exchange's facilities, and (with certain limited exceptions) the trading of exclusively listed options of the Disabled Exchange traded on the facility of the Disabled Exchange at the Back-up Exchange. The Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading (except as the Back-up Exchange and the Disabled Exchange may specifically agree otherwise). Section (d) provides that if a Back-up Exchange initiates an enforcement proceeding with respect to the trading during a back-up period of singly or multiply listed options of the Disabled Exchange by a temporary Participant of the Back-up Exchange, or exclusively listed options of the Disabled Exchange by a member of the Disabled Exchange (other than a member of the Back-up Exchange who is a temporary member of the Disabled Exchange), and such proceeding is in process upon the conclusion of the back-up period, the Back-up Exchange may transfer responsibility for such proceeding to the Disabled Exchange

following the conclusion of the back-up period. This approach to the exercise of enforcement jurisdiction is also consistent with past precedent.

With respect to arbitration jurisdiction, proposed Section (d) provides that arbitration of any disputes with respect to any trading during a back-up period of singly or multiply listed options of the Disabled Exchange or of exclusively listed options of the Disabled Exchange on the Disabled Exchange's facility at the Back-up Exchange will be conducted in accordance with the rules of the Back-up Exchange, unless the parties to an arbitration agree that it shall be conducted in accordance with the rules of the Disabled Exchange.

Proposed Supplementary Material .01 to Options 4, Section 10 clarifies that to the extent Options 4, Section 10 provides that another exchange will take certain action, the Rule is reflecting what that exchange has agreed to do by contractual agreement with BX, but Options 4, Section 10 is not binding on the other exchange.

#### Options 4C

The Exchange proposes to reserve 4C as BX does not list U.S. Dollar-Settled Foreign Currency Options.

#### Bid/Ask Differentials

The Exchange proposes to amend Options 4, Section 8(a), and Options 4A, Section 12(b)(1)(i) to relocate text concerning bid/ask differentials for long-term option series. Currently, Options 4, Section 8(a) describes the bid/ask differentials for long-term options series for equity options and exchange-traded products and Options 4A, Section 12(b)(1)(i) describes the bid/ask differentials for long-term options series for indexes. Currently, the bid/ask differentials shall not apply to such options series until the time to

expiration is less than nine (9) months for equity options and exchange-traded funds as provided for within Options 4, Section 8(a). Currently, bid/ask differentials shall not apply to such options series until the time to expiration is less than nine (9) months for index options as provided for within Options 4A, Section 12(b)(1)(i).

The Exchange proposes to centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 4, Section 8(a) and Options 4A, Section 12(b)(1)(i) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange also proposes to capitalize “ask” in the title of Options 2, Section 5(d)(2). The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements. The Exchange is not amending the bid/ask differentials; the rule text is simply being relocated.

#### Technical Amendment

The Exchange proposes to amend General 9, Section 51, Research Analysts, to update an improper citation to “General 9, Section 50” to “this Rule.” The citation is to General 9, Section 51. The Exchange also proposes to remove stray periods throughout Options 4 in the section headings.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>18</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove

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<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

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. Conforming BX's Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange's continued effort to promote efficiency in the manner in which it administers its rules.

The Exchange's proposal to amend Options 4, Sections 1, 2, 5, and 7 reflect non-substantive amendments to conform those rules to similar ISE rules. These proposed changes removes 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 since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permit the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines, is consistent with the Act. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing BX with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit BX to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) is consistent with the Act. The addition of money market instruments, U.S. government securities and repurchase agreements as securities

deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as “Financial Instruments” with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading.

The Exchange’s proposal to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust is consistent with the Act because the Exchange no longer lists these products and proposes to remove them the products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future.

The Exchange’s proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, “all of the following conditions are met,” and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) is consistent with the Act. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange’s proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global indexes or portfolios that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. ISE Options 4, Section 3(h) currently has similar rule text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of

Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes or portfolios that include non-U.S. securities. This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," is consistent with the Act. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1).

The Exchange's proposal to amend the term "comprehensive surveillance agreement" within Options 4, Section 3(h)(2) (A) – (D) to instead provide "comprehensive surveillance sharing agreement" is consistent with the Act as the amendment will bring greater clarity to the term.

The Exchange's proposal to add the phrase "if not available or applicable, the Exchange-Traded Fund's" to Options 4, Section 3(h)(2)(B), (C), and (D) is consistent

with the Act as it will clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. This rule text currently exists within ISE Options 4, Section 3(h).

The Exchange's proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding "or portfolio" to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 3(h) will conform BX's rule text to ISE Options 4, Section 3(h).

The remainder of the change to Options 3, Section 3 are non-substantive and intended to conform to ISE Options 3, Section 3. These proposed changes 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 since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i), are consistent with the Act. Today, the Exchange would not open additional series of HOLDRs without filing a rule change with the Commission and adopting a



corresponding rule. This rule text, similar to ISE, explicitly provides that the Exchange would not open additional series of options overlying HOLDERS (without prior Commission approval) if: (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDERS trust is less than 80% (as measured by their relative weightings in the HOLDERS trust); or (2) less than 80% of the total number of securities held in a HOLDERS trust underlie standardized equity options. This rule text bring greater clarity to BX's rules in that HOLDERS would not be in certain circumstances.

The Exchange's proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, is consistent with the Act. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.<sup>19</sup> Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.<sup>20</sup> This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that BX's requirements are different than other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE and Cboe to remain competitive and list similar options as the other markets. While the Exchange may in the future determine to delist an option that is

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<sup>19</sup> Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

<sup>20</sup> See ISE Options 4, Section 4 and Cboe Rule 4.4.

singly listed, the Exchange's proposal to remove the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" is consistent with the Act. This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all members so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The rule text within Options 4, Section 4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The remainder of the changes to Options 3, Section 3 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest. Overall, these changes are of a non-substantive nature and either modify, clarify or relocate the existing Rulebook language to reflect the language of the ISE version of the rule and are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange believes that the changes to proposed Options 4, Section 8 removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest because the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments and is intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen

potential confusion and add clarity for market participants.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(i) to relocate text concerning bid/ask differentials for long-term option series is consistent with the Act. The Exchange's proposal will centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 3, Section 8 and Options 4A, Section 12(b)(1)(i) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange is not amending the bid/ask differentials; the rule text is simply being relocated. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

The remainder of the changes to Options 3, Section 8 are non-substantive.

The Exchange believes that adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Share, similar to ISE, is consistent with the Act. Specifically, this proposal seeks to limit the liability of index licensors who grant the BX a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.<sup>21</sup> Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The

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<sup>21</sup> See ISE Options Listing Rule Section 9.

disclaimers within proposed Section 9 are consistent with the Act in that these disclaimers provide market participants with relevant information as to the liabilities on option contracts on Exchange-Traded Fund Shares.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide BX with similar abilities as ISE to permit BX to enter into arrangements with one or more other exchanges (each a “Back-up Exchange”) to permit BX and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of BX exclusively listed<sup>22</sup> options in the event of a Disabling Event, and similarly to permit BX to provide trading facilities for another exchange's exclusively listed options if that exchange (a “Disabled Exchange”) is prevented from trading due to a Disabling Event. With this proposal, BX is proposing to adopt listing rules similar to Phlx to list and trade U.S. Dollar-Settled Foreign Currency Options. BX believes that it is important that it develop back-up trading arrangements to minimize the potential disruption and market impact that a Disabling Event could cause. The proposed rule changes are designed to address the key elements necessary to mitigate the effects of a Disabling Event affecting the Exchange, minimize the impact of such an event on market participants, and provide for a liquid and orderly marketplace for securities listed and traded on the Exchange if a Disabling Event occurs. In particular, the proposed rule change is intended to ensure that BX’s exclusively listed and singly listed products will have a trading venue in the event that trading at BX is prevented due to a Disabling Event. The Exchange believes that having these back-up trading arrangements in place

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<sup>22</sup> As defined within the proposed rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

will minimize potential disruptions to the markets and investors if a catastrophe occurs that requires the Exchange's primary facility to be closed for an extended period. Phlx and ISE has a similar rule,<sup>23</sup> and the Exchange believes that it is important to the protection of investors and the public interest that it also adopt rules that allow BX exclusively and singly listed options to continue to trade in the event of a Disabling Event. The proposed rule change also provides authority for the BX to provide a back-up trading venue should another exchange be affected by a Disabling Event, which will benefit the markets and investors if a Disabling Event were to happen on another exchange that has entered into a back-up trading arrangement with the BX. Finally, the proposed rule change grants authority to Exchange officials to take action under emergency conditions, which should enable key actions to be taken by BX representatives in the event of a Disabling Event, and clarifies the fees that will apply if these back-up trading arrangements are invoked, which will reduce investor confusion and minimize the disruption to investors associated with a Disabling Event. Under proposed paragraph (a)(1)(vi), members of the Back-up Exchange shall not be authorized to trade in any BX exclusively listed options, except that (i) BX may deputize willing brokers of the Back-up Exchange as temporary BX Participants to permit them to execute orders as Participants in BX exclusively listed options traded on BX's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of BX, select members of the Back-up Exchange that are willing to be deputized by BX as temporary BX members authorized to trade BX exclusively listed options on BX's facility at the Back-up Exchange for such period of time following a

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<sup>23</sup> See Phlx and ISE Rules Options 3, Section 10.

Disabling Event as BX determines to be appropriate, and BX may deputize such members of the Back-up Exchange as temporary BX members for that purpose. The foregoing exceptions would permit members of the Back-up Exchange to trade BX exclusively listed options on the BX facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in BX members being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading.

The Exchange's proposal to reserve Options 4C will make clear that BX does not list U.S. Dollar-Settled Foreign Currency Options. Other Nasdaq Affiliated exchanges, such as Nasdaq Phlx LLC, list U.S. Dollar-Settled Foreign Currency Options and would therefore have rules in that section. By marking Options 4C reserved, market participants will be given additional insight into the types of products available on BX.

#### Technical Amendment

The Exchange's proposal to amend General 9, Section 51, Research Analysts, to update an improper citation to "General 9, Section 50" to "this Rule" and remove stray periods throughout Options 4 in the section headings are consistent with the Act. This non-substantive amendment will bring greater clarity to the rule.

#### 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 relocation of the Options Listing Rules will facilitate the use of the Rulebook by Participants of the Exchange, who are members of other Affiliated Exchanges; other market participants; and the public in general. The changes are consistent with the ISE Rulebook.

The Exchange's proposal to amend Options 4, Sections 1, 2, 5, and 7 reflects non-

substantive amendments to conform those rules to similar ISE rules at Options 4, Sections 1, 2, 5, and 7. These proposed changes do not impose an undue burden on competition since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permits the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines do not impose an undue burden on competition. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing BX with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit BX to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) do not impose an undue burden on competition. The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities.

The Exchange's proposal to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust do not impose an undue burden on competition. The

Exchange no longer lists these products and proposes to remove them the products from its listing rules.

The Exchange's proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, "all of the following conditions are met," and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) does not impose an undue burden on competition. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange's proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. Specifically, this language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index. This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on BX.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," does not impose an undue burden on competition. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the



Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on BX.

The Exchange's proposal to amend the term "comprehensive surveillance agreement" within Options 4, Section 3(h)(2) (A) – (D) to instead provide "comprehensive surveillance sharing agreement" does not impose an undue burden on competition as the amendment will bring greater clarity to the term.

The Exchange's proposal to add the phrase "if not available or applicable, the Exchange-Traded Fund's" to Options 4, Section 3(h)(2)(B), (C), and (D) does not impose an undue burden on competition as it will clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead.

The Exchange's proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding "or portfolio" to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i) similar to ISE, Options 4,

Section 4(i), does not impose an undue burden on competition. The amendments would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs similar to ISE, which provisions do not currently exist.

The Exchange's proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, does not impose an undue burden on competition. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.<sup>24</sup> Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.<sup>25</sup> This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that BX's requirements are different than other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE and Cboe to remain competitive and list similar options as the other markets. The Exchange's proposal removes the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" does not impose an undue burden on competition. This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all members so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new

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<sup>24</sup> Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

<sup>25</sup> See ISE Options 4, Section 4 and Cboe Rule 4.4.

Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn.

The Exchange believes that the changes to proposed Options 4, Section 8 do not impose an undue burden on competition as the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(i) to relocate text concerning bid/ask differentials for long-term option series does not impose an undue burden on competition. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

Adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Share, similar to ISE does not impose an undue burden on competition. The proposal seeks to limit the liability of index licensors who grant the BX a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.<sup>26</sup> Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose.

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<sup>26</sup> See ISE Options Listing Rule Section 9.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide BX with similar abilities as ISE to permit BX to enter into arrangements with one or more other exchanges (each a “Back-up Exchange”) to permit BX and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of BX exclusively listed<sup>27</sup> options in the event of a Disabling Event, and similarly to permit BX to provide trading facilities for another exchange's exclusively listed options if that exchange (a “Disabled Exchange”) is prevented from trading due to a Disabling Event. Permitting BX to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options.

#### Technical Amendment

The Exchange’s proposal to amend General 9, Section 51, Research Analysts, to update an improper citation to “General 9, Section 50” to “this Rule” and remove stray periods throughout Options 4 in the section headings do not impose an undue burden on competition. This non-substantive amendment will bring greater clarity to the rule.

#### 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

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<sup>27</sup> As defined within the proposed rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

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 Act<sup>28</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>29</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2021-032 on the subject line.

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<sup>28</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>29</sup> 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 proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-BX-2021-032. 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 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-2021-032 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.<sup>30</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>30</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**Nasdaq BX, Inc. Rules**

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**General Equity and Options Rules**

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**General 9 Regulation**

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**Section 51. Research Analysts**

An Exchange member that employs a research analyst or publishes or otherwise distributes a research report shall also be a member of FINRA or the New York Stock Exchange and shall comply with FINRA Rules 1120, 1250 and 2241 (and any other FINRA rules that apply to research analysts or research reports), as amended. For purposes of this [General 9, Section 50]Rule, (i) "research analyst" shall mean an associated person who is primarily responsible for, and any associated person who reports directly or indirectly to such research analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of "research analyst," and (ii) "research report" shall mean a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.

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**Options Rules**

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**Options 2 Options Market Participants**

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**Section 5. Market Maker Quotations**

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(d) *Intra-day Quotes*. A Market Maker must enter bids and offers for the options to which it is registered, as follows:

(1) No change.

(2) **Intra-Day Bid/[a]Ask Differentials (Quote Spread Parameters)**. Options on equities (including Exchange-Traded Fund Shares), and on index options must be quoted with a difference not to exceed \$5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than \$5, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. The



Exchange may establish differences other than the above for one or more series or classes of options.

(A) Bid/ask differentials shall not apply to any options series until the time to expiration is less than nine (9) months for equity options, exchange-traded products, and foreign currencies. Bid/ask differentials shall not apply to any options series until the time to expiration is less than nine (9) months for index options.

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## **Options 4 Options Listing Rules**

### **Section[.] 1. Designation of Securities**

[Securities traded on t]The Exchange trades [are] options contracts, each of which is designated by reference to the issuer of the underlying security, [or name of underlying foreign currency, ]expiration month or expiration date, exercise price and type (put or call).

### **Section[.] 2. Rights and Obligations of Holders and Writers**

[Subject to the provisions of this Chapter, t]The rights and obligations of holders and writers [of option contracts of any class of options dealt in on the Exchange ]shall be as set forth in the Rules of the Clearing Corporation.

### **Section[.] 3. Criteria for Underlying Securities**

(a) Underlying securities with respect to which put or call options contracts are approved for listing and trading on the Exchange must meet the following criteria:

[i.](1) The security must be registered [with the SEC] and be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act; and

[ii.](2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

(b) In addition, the Exchange shall from time to time establish [standards]guidelines to be considered in evaluating potential underlying securities for [the] Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the [standards]guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. [The Exchange may]Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying

securities. Notwithstanding the foregoing, however absent exceptional circumstances, an underlying security will not be selected unless:

[i.](1) There are a minimum of seven (7) million shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange Act.

[ii.](2) There are a minimum of 2,000 holders of the underlying security.

[iii.](3) The issuer is in compliance with any applicable requirements of the Exchange Act [ or Rules thereunder ].

[iv.](4) Trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.

[v.](5) Either:

[1])(i) If the underlying security is a "covered security" as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least \$3.00 for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Clearing Corporation for listing and trading, as measured by the closing price reported in the primary market in which the underlying security is traded; or

[2])(ii) If the underlying security is not a "covered security," the market price per share of the underlying security has been at least \$7.50 for the majority of business days during the three [(3)] calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

(6) Notwithstanding the requirements set forth in Paragraphs 1, 2, 4 and 5 above, the Exchange may list and trade an options contract if (i) the underlying security meets the guidelines for continued approval in Options 4, Section 4; and (ii) options on such underlying security are traded on at least one other registered national securities exchange.

(c) *Securities of Restructured Companies*

[i.](1) *Definitions.* The following definitions shall apply to the provisions of this paragraph (c):

[1])(A) "Restructuring Transaction" refers to a spin-off, reorganization, recapitalization, restructuring or similar corporate transaction.

[2])(B) "Restructure Security" refers to an equity security that a company issues, or anticipates issuing, as the result of a Restructuring Transaction of the company.

[3)](C) "Original Equity Security" refers to a company's equity security that is issued and outstanding prior to the effective date of a Restructuring Transaction of the company.

[4)](D) "Relevant Percentage" refers to either:

- (i) twenty-five percent (25%), when the applicable measure determined with respect to the Original Equity Security or the business it represents includes the business represented by the Restructure Security; or
- (ii) thirty-three and one-third percent (33-1/3%), when the applicable measure determined with respect to the Original Equity Security or the business it represents excludes the business represented by the Restructure Security.

[ii.](2) "*Share*" and "*Number of Shareholder*" [*Standards*]Guidelines. In determining whether a Restructure Security satisfies the share [standard]guideline set forth in [this]Options 4, Section 3(b)([i]1) (the "Share [Standard]Guideline") or the number of holders [standard]guideline set forth in [this]Options 4, Section 3(b)([ii]2) (the "Number of Shareholders [Standard]Guideline"), the Exchange may rely upon the facts and circumstances that it expects to exist on the option's intended listing date, rather than on the date on which the Exchange selects for options trading the underlying Restructure Security.

[1)](A) The Exchange may assume that:

- (i) both the "Share" and "Number of Shareholders" [*Standards*]Guidelines are satisfied if, on the option's intended listing date, the Exchange expects no fewer than forty (40) million shares of the Restructure Security to be issued and outstanding; and
- (ii) either such [*Standard*]Guideline is satisfied if, on the option's intended listing day, the Exchange expects the Restructure Security to be listed on an exchange or automatic quotation system that has, and is subject to, an initial listing requirement that is no less stringent than the [*Standard*]Guideline in question.

[2)](B) The Exchange may not rely on any such assumption, however, if a reasonable [the] Exchange investigation or that of another exchange demonstrates that either the Share [*Standard*]Guideline or Number of Shareholders [*Standard*]Guideline will not in fact be satisfied on an option's intended listing date.

[3)](C) In addition, in the case of a Restructuring Transaction in which the shares of a Restructure Security are issued or distributed to the holders of shares of an Original Equity Security, the Exchange may determine that either the Share [*Standard*]Guideline or the Number of Shareholders [*Standard*]Guideline is

satisfied based upon the Exchange's knowledge of the outstanding shares or number of shareholders of the Original Equity Security.

[iii.](3) "*Trading Volume*" [Standard]Guideline. In determining whether a Restructure Security that is issued or distributed to the holders of shares of an Original Equity Security (but not a Restructure Security that is issued pursuant to a public offering or rights distribution) satisfies the trading volume [standard]guideline set forth in Options 4, Section 3(b)(iv)4 (the "*Trading Volume* [Standard]Guideline"), the Exchange may consider the trading volume history of the Original Equity Security prior to the "ex-date" of the Restructuring Transaction if the Restructure Security satisfies the "Substantiality Test" set forth in subparagraph ([v]c)(5) below.

[iv.](4) "*Market Price*" [Standard]Guideline. In determining whether a Restructure Security satisfies the market price history [standard]guideline set forth in Options 4, Section 3(b)(v)5 (the "*Market Price* [Standard]Guideline"), the Exchange may consider the market price history of the Original Equity Security prior to the "ex-date" of the Restructuring Transaction if:

[1])(A) the Restructure Security satisfies the "Substantiality Test" set forth in subparagraph ([v]c)(5) below; and

[2])(B) in the case of the application of the Market Price [Standard]Guideline to a Restructure Security that is distributed pursuant to a public offering or a rights distribution:

(i) the Restructure Security trades "regular way" on an exchange or automatic quotation system for at least the five trading days immediately preceding the date of selection; and

(ii) at the close of trading on each trading day on which the Restructure Security trades "regular way" prior to the date of selection, and the opening of trading on the date of selection, the market price of the Restructure Security was at least \$7.50, or, if the Restructure Security is a "covered security," as defined in Options 4, Section 3(b)(5)(I)(v)(1), the market price of the Restructure Security was at least \$3.00.

[v.](5) *The "Substantiality Test."* A Restructure Security satisfies the "Substantiality Test" if:

[1])(A) the Restructure Security has an aggregate market value of at least \$500 million; or

[2])(B) at least one of the following conditions is met:

- ([a]i) the aggregate market value of the Restructure Security equals or exceeds the Relevant Percentage of the aggregate market value of the Original Equity Security;
- ([b]ii) the aggregate book value of the assets attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the aggregate book value of the assets attributed to the business represented by the Original Equity Security; or
- ([c]iii) the revenues attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the revenues attributed to the business represented by the Original Equity Security.
- [vi](6). A Restructure Security's aggregate market value may be determined from "when issued" prices, if available.
- [vii](7). In calculating comparative aggregate market values for the purpose of assessing whether a Restructure Security qualifies to underlie an option, the Exchange shall use the Restructure Security's closing price on its primary market on the last business day prior to the selection date or the Restructure Security's opening price on its primary market on the selection date and shall use the corresponding closing or opening price of the related Original Equity Security.
- [viii](8). In calculating comparative asset values and revenues, the Exchange shall use [either: (a)](i) the issuer's latest annual financial statements or ([b]ii) the issuer's most recently available interim financial statements (so long as such interim financial statements cover a period of not less than three months), whichever are more recent. Those financial statements may be audited or unaudited and may be pro forma.
- [ix.](9) Except in the case of a Restructure Security that is distributed pursuant to a public offering or rights distribution, the Exchange may not rely upon the trading volume or market price history of an Original Equity Security as [Paragraph (c) of] this paragraph (c)[Section 3] permits for any trading day unless it relies upon both of those measures for that trading day.
- [x.](10) Once the Exchange commences to rely upon a Restructure Security's trading volume and market price history for any trading day, the Exchange may not rely upon the trading volume and market price history of the security's related Original Equity Security for any trading day thereafter.
- [xi.](11) "*When Issued*" Trading Prohibited. The Exchange shall not list for trading options contracts that overlie a Restructure Security that is not yet issued and outstanding, regardless of whether the Restructure Security is trading on a "when issued" basis or on another basis that is contingent upon the issuance or distribution of shares.

(d) In considering underlying securities, the Exchange shall ordinarily rely [up]on information made publicly available by the issuer and/or the markets in which the security is traded.

(e) The word "security" shall be broadly interpreted to mean any equity security, as defined in Rule 3a11-1 under the Exchange Act, which is appropriate for options trading, and the word "shares" shall mean the unit of trading of such security.

(f) Securities deemed appropriate for options trading shall include nonconvertible preferred stock issues and American Depositary Receipts ("ADRs") if they meet the criteria and [standards] guidelines set forth in this [Section 3] Rule and if, in the case of ADRs:

[i.] (1) the Exchange has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded; [or]

[ii.] (2) the combined trading volume of the ADR and other related ADRs and securities (as defined below) occurring in the U.S. ADR market or in markets with which the Exchange has in place an effective surveillance sharing agreement represents (on a share equivalent basis) at least fifty percent (50%) of the combined worldwide trading volume in the ADR, the security underlying the ADR, other classes of common stock related to the underlying security, and ADRs overlying such other stock (together "other related ADRs and securities") over the three month period preceding the date of selection of the ADR for options trading; [or]

[iii.] (3) [1] (i) the combined trading volume of the ADR and other related ADRs and securities occurring in the U.S. ADR market and in markets where the Exchange has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least twenty percent (20%) of the combined worldwide trading volume in the ADR and in other related ADRs and securities over the three month period preceding the date of selection of the ADR for options trading,

[2] (ii) the average daily trading volume for the security in the U.S. markets over the three (3) months preceding the selection of the ADR for options trading is 100,000 or more shares, and

[3] (iii) the trading volume is at least 60,000 shares per day in U.S. markets on a majority of the trading days for the three (3) months preceding the date of selection of the ADR for options trading ("Daily Trading Volume Standard"); or

[iv.] (4) the SEC otherwise authorizes the listing.

(g) Securities deemed appropriate for options trading shall include shares issued by registered closed-end management investment companies that invest in the securities of

issuers based in one or more foreign countries ("International Funds") if they meet the criteria and [standards] guidelines set forth in this [Section 3] Rule and either:

- [i.] (1) the Exchange has a market information sharing agreement with the primary home exchange for each of the securities held by the fund, or
- [ii.] (2) the International Fund is classified as a diversified fund as that term is defined by Section 5(b) of the Investment Company Act of 1940, as amended, and the securities held by the fund are issued by issuers based in five [(5)] or more countries.

[(h) A "market information sharing agreement" for purposes of this Section is an agreement that would permit the Exchange to obtain trading information relating to the securities held by the fund including the identity of the Participant of the foreign exchange executing a trade. International Fund shares not meeting the criteria of paragraph (i) shall be deemed appropriate for options trading if the SEC specifically authorizes the listing thereof.]

[(i) h] Securities deemed appropriate for options trading shall include shares or other securities ("Exchange-Traded Fund Shares"), that are traded on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities, that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and [indexes] indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") [and reverse repurchase agreements ] comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments [(the "Money Market Instruments") ] (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments), or (ii) represent interests in a trust or similar entity that holds a specified non- U.S. currency or currencies deposited with the trust or [similar entity] when aggregated in some specified minimum number may be surrendered to the trust or similar entity by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust ("Currency Trust Shares"), or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and /or non-U.S. currency ("Commodity Pool ETFs"), or (iv) represent interests in the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, or the ETFS Gold Trust[, the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust] or (v) represents an interest in a registered investment company ("Investment

Company") organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share"); provided that [all of the following conditions are met]:

([A]1) [t]The Exchange-Traded Fund Shares either (i) meet the criteria and guidelines set forth in paragraphs (a) and (b) above; or (ii) the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus[; and].

([B]2) [the ]Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the following criteria:

([1]A) are listed pursuant to generic listing standards [for series of portfolio depositary receipts and index fund shares based on international or global indexes, in] under which [case ]a comprehensive surveillance sharing agreement is not required; or

([2]B) any non-U.S. component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio of securities that are not subject to comprehensive surveillance sharing agreements [on which the Exchange-Traded Fund Shares are based that are not subject to comprehensive surveillance agreements] do not in the aggregate represent more than 50% of the weight of the index or portfolio;

([3]C) component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio of securities [on which the Exchange-Traded Fund Shares are based] for which the primary market is in any one country that is not subject to a comprehensive surveillance sharing agreement do not represent 20% or more of the weight of the index or portfolio; and



([4]D) component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio of securities [on] for which the primary market is in any two countries that are not subject to comprehensive surveillance sharing agreements do not represent 33% or more of the weight of the index or portfolio.

([5]E) For Currency Trust Shares, the Exchange has entered into an appropriate comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the specified non- U.S. currency or currencies, which are utilized by the national securities exchange where the underlying Currency Trust Shares are listed and traded; and

([6]E) For Commodity Pool ETFs that engage in holding and/or managing portfolios or baskets commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities, options on non-U.S. currency and/or securities, the Exchange has entered into a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool ETFs are listed and traded.

(i) A "market information sharing agreement" for purposes of this Rule is an agreement that would permit the Exchange to obtain trading information relating to the securities held by the fund including the identity of the Participant of the foreign exchange executing a trade. International Fund shares not meeting criteria of paragraph (h) shall be deemed appropriate for options trading if the SEC specifically authorizes the listing.

(j) Securities deemed appropriate for options trading shall include shares or other securities ("Trust Issued Receipts") that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a national market security, and that represent ownership of the specific deposited securities held by a trust, provided:

[i.](A) the Trust Issued Receipts ([1]i) meet the criteria and [standards]guidelines for underlying securities set forth in paragraph (b) to this Rule; or ([2]ii) must be available for issuance or cancellation each business day from the Trust in exchange for the underlying deposited securities; and

[ii.](B) not more than 20% of the weight of the Trust Issued Receipt is represented by ADRs on securities for which the primary market is not subject to a comprehensive surveillance agreement.

[(k) Notwithstanding the requirements set forth in Paragraphs (b)(i), (b)(ii), (b)(iv), and (b)(v) above, options may be listed for trading on the Exchange if:

- (i) the underlying security meets the guidelines for continued listing in Options 4, Section 4; and
- (ii) options on such underlying security are listed and traded on at least one other national securities exchange.]

[(1) Index-Linked Securities]

[i.](k) Securities deemed appropriate for options trading shall include shares or other securities ("Equity Index-Linked Securities," "Commodity-Linked Securities," "Currency-Linked Securities," "Fixed Income Index-Linked Securities," "Futures-Linked Securities," and "Multifactor Index-Linked Securities," collectively known as "Index-Linked Securities" or "ETNs") that are principally traded on a national securities exchange and an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934), and represent ownership of a security that provides for the payment at maturity, as described below:

- (1) Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of an underlying index or indexes of equity securities ("Equity Reference Asset");

[(2)A] Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of one or more physical commodities or commodity futures, options on commodities, or other commodity derivatives or Commodity-Based Trust Shares or a basket or index of any of the foregoing ("Commodity Reference Asset");

[(3)B] Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of one or more currencies, or options on currencies or currency futures or other currency derivatives or Currency Trust Shares (as defined in this Options 4, Section 3([i]h)), or a basket or index of any of the foregoing ("Currency Reference Asset");

[(4)C] Fixed Income Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of one or more notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing ("Fixed Income Reference Asset");

([5]D) Futures-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of an index or indexes of futures contracts or options or derivatives on futures contracts ("Futures Reference Asset"); and

([6]E) Multifactor Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of any combination of two or more Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, or Futures Reference Assets ("Multifactor Reference Asset");

[ii.](2) For purposes of [paragraph (l) of] this Options 4, Section 3(k), Equity Reference Assets, Commodity Reference Asset, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets together with Multifactor Reference Assets, collectively will be referred to as "Reference Assets."

[iii.]

([1]3) (A) The Index-Linked Securities must meet the criteria and guidelines for underlying securities set forth in [subsection (b) of this]Options 4, Section 3(b); or

([2]B) the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset. In addition, the issuing company is obligated to issue or repurchase the securities in aggregation units for cash, or cash equivalents, satisfactory to the issuer of Index- Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

[iv.](4) The Exchange will implement surveillance procedures for options on Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable.

[(m) U.S. Dollar-Settled Foreign Currency Options. The British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the U.S. dollar, the Mexican peso, the Euro, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona may be approved as underlying foreign currencies for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. In the event that any of the sovereign governments or the European Economic Community's European Monetary System issuing any of the abovementioned currencies should issue a new currency intended to replace one of the abovementioned currencies as the standard unit of the official medium of exchange of such government, such new currency also may be approved as an underlying foreign currency for options transactions by the Exchange, subject to any approval criteria the

Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. Options trading in such new currency may occur simultaneously with options trading in any of the above-mentioned currencies; provided, however, that the Exchange shall withdraw its approval of options transactions in the currency which is intended to be replaced by such new currency as expeditiously as it deems consistent with the maintenance of a fair and orderly market or the protection of investors. The Exchange may determine to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event that the Exchange effects such a withdrawal, the Exchange shall not open for trading any additional series of options of the class covering that underlying foreign currency.]

#### **Section[.] 4. Withdrawal of Approval of Underlying Securities**

(a) [If put or call options contracts with respect to an underlying security are approved for listing and trading on the Exchange, such approval shall continue in effect until such approval is affirmatively withdrawn by the Exchange.] Whenever the Exchange determines that an underlying security previously approved for Exchange options transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and may prohibit any opening purchase transactions in series of options of that class previously opened (except that opening transactions by Market Makers executed to accommodate closing transactions of other market participants may be permitted) to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares [of publicly held principal amount], number of shareholders, trading volume or market price the Exchange may, in the interest of maintaining a fair and orderly market or for the protection of investors, determine to continue to open additional series of options contracts of the class covering that underlying security. When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.

(b) Absent exceptional circumstances, [A]n underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

- [i.](1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act.
- [ii.](2) There are fewer than 1,600 holders of the underlying security.

[iii.](3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months.

[iv. Reserved.]

[v.](4) The underlying security ceases to be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act.

[vi.](5) If an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3 [of this Options 4(c) (Criteria for Underlying Securities)], the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume requirement of ([iii]3) of this paragraph (b) is satisfied.

[(c) Reserved.]

[(d)c] In considering whether any of the events specified in paragraph (b) of this Rule[Section 4] have occurred with respect to an underlying security, the Exchange shall ordinarily rely on information made publicly available by the issuer and/or the markets in which such security is traded.

[(e)d] If prior to the delisting of a class of options contracts covering an underlying security that has been found not to meet the Exchange's requirements for continued approval, the Exchange determines that the underlying security again meets the Exchange's requirements, the Exchange may open for trading additional series of options of that class and may lift any restriction on opening purchase transactions imposed by this Rule[Section 4].

[(f)e] Whenever the Exchange announces that approval of an underlying security has been withdrawn for any reason or that the Exchange has been informed that the issuer of an underlying security has ceased to be in compliance with SEC reporting requirements, each Participant shall, prior to effecting any transaction in options contracts with respect to such underlying security for a [C]customer, inform such [C]customer of such fact and of the fact that the Exchange may prohibit further transactions in such options contracts to the extent it shall deem such action necessary and appropriate.

[(g)f] If an ADR was initially deemed appropriate for options trading on the grounds that fifty percent (50%) or more of the worldwide trading volume (on a share-equivalent basis) in the ADR and other related ADRs and securities takes place in U.S. markets or in markets with which the Exchange has in place an effective surveillance sharing agreement, or if an ADR was initially deemed appropriate for options trading based on the daily trading volume standard in Options 4, Section 3(f)(3) [of this Options 4 (Criteria for Underlying Securities)], the Exchange may not open for trading additional series of options on the ADR unless:

- [i.](1) The percentage of worldwide trading volume in the ADR and other related securities that takes place in the U.S. and in markets with which the Exchange has in place effective surveillance sharing agreements for any consecutive three (3) month period is either: ([1]i) at least thirty percent (30%) without regard to the average daily trading volume in the ADR, or ([2]ii) at least fifteen percent (15%) when the average U.S. daily trading volume in the ADR for the previous three (3) months is at least 70,000 shares; or
- [ii.](2) the Exchange then has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded; or
- [iii.](3) the SEC has otherwise authorized the listing[ thereof].

[(h)g] Exchange-Traded Fund Shares approved for options trading pursuant to Options 4, Section 3(h) [of this Options 4] will not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Exchange-Traded Fund Shares if the [security is] Exchange-Traded Fund Shares are delisted from trading as provided in subparagraph (b)([v]5) of this Rule or the Exchange-Traded Fund Shares are halted or suspended from trading on their primary market[Section]. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Exchange-Traded Fund Shares in any of the following circumstances:

- [i.](1) In the case of options covering Exchange-Traded Fund Shares approved pursuant to Options 4, Section 3([i]h)(A)(i[v])(1), in accordance with the terms of subparagraphs (b)([i]1), ([ii]2), [and] ([iii]3), and (4) of this [Section 4] Rule;
- [ii.](2) In the case of options covering [Exchange-Traded ]Fund Shares approved pursuant to Options 4, Section 3([i]h)([iv]A)([2]ii) of this Options 4, following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there were fewer than 50 record and/or beneficial holders of such Exchange- Traded Fund Shares for 30 or more consecutive trading days;
- [iii.](3) the value of the index or portfolio of securities or non-U.S. currency, portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities and/or Financial Instruments [or] and Money Market Instruments, on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or
- [iv.](4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

(i) h [Securities] Absent exceptional circumstances, securities initially approved for options trading pursuant to paragraph (j) of Options 4, Section 3 [ of this Options 4] (such securities are defined and referred to in that paragraph as "Trust Issued Receipts") shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

[i.] (1) in accordance with the terms of paragraph (b) [of ]this [Section 4]Rule in the case of options covering Trust Issued Receipts when such options were approved pursuant to subparagraph (j)(i)(1)(i) under [Section 3 of ]this [Options 4]Rule;

[ii. upon annual review,](2) the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

[iii.](3) the Trust has fewer than 50,000 receipts issued and outstanding;

[iv.](4) the market value of all receipts issued and outstanding is less than \$1,000,000;  
or

[v.](5) [s]Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

(i) For Holding Company Depository Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

(1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or

(2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

(j) [Reserved.

(k) Index Linked Securities]

Absent exceptional circumstances, Index-Linked Securities ("Securities") initially approved for options trading pursuant to [paragraph (l) of ]Options 4, Section 3(k) shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series or option contracts of the class

covering such Securities whenever the underlying Securities are delisted and trading in the Securities is suspended on a national securities exchange, or the Securities are no longer an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934). In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Index-Linked Securities in any of the following circumstances:

- [i.](1) The underlying Index-Linked Security fails to comply with the terms of [paragraph (1) of] Options 4, Section 3(k);
- [ii.](2) In accordance with the terms of paragraph (b)[ of this Section 4], in the case of options covering Index-Linked Securities when such options were approved pursuant to [paragraph (1) of] Options 4, Section 3(k), except that, in the case of options covering Index-Linked Securities approved pursuant to [paragraph (1)(iii)(2) of] Options 4, Section 3(k)(3)(ii) that are redeemable at the option of the holder at least on a weekly basis, then option contracts of the class covering such Securities may only continue to be open for trading as long as the Securities are listed on a national securities exchange and are "NMS" stock as defined in Rule 600 of Regulation NMS;
- [iii.](3) In the case of any Index-Linked Security trading pursuant to [paragraph (1) of] Options 4, Section 3(k), the value of the Reference Asset is no longer calculated; or
- [iv.](4) Such other event shall occur or condition exist that in the opinion of the Exchange make further dealing in such options on the Exchange inadvisable.

[(1) Inadequate Volume Delisting.

Absent exceptional circumstances, a security initially approved for options trading may be deemed by the Exchange not to meet the requirements for continued approval, in which case the Exchange will not open for trading any additional series of equity option contracts of the class of options and may determine to delist the class of options if it meets the following criteria:

- i. The option has been trading on the Exchange not less than six (6) months; and
- ii. The Exchange average daily volume ("ADV") of the entire class of options over the last six (6) month period was less than twenty (20) contracts.

If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest;

Should the Exchange determine to delist an equity option pursuant to this subsection (1), it will provide notification of the determination to delist such option not less than three (3) days prior to the scheduled delisting date.



(m)]

*Supplementary Material to Options 4, Section 4*

.01 If an option series is listed but restricted to closing transactions on another national securities exchange, the Exchange may list such series (even if such series would not otherwise be eligible for listing under the Exchange's [r]Rules), which shall also be restricted to closing transactions on the Exchange.

**Section 5. Series of Options Contracts Open for Trading**

\* \* \* \* \*

(h) The interval between strike prices of series of options on Index-Linked Securities, as defined in Options 4, Section 3([l]k), will be \$1 or greater when the strike price is \$200 or less and \$5 or greater when the strike price is greater than \$200.

\* \* \* \* \*

**.04 Quarterly Options Series Program:** The Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds ("ETFs"). In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar program under their respective rules.

\* \* \* \* \*

(d) Additional Series. Additional Quarterly Options Series of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing price of the underlying ETF (or "Exchange-Traded Fund Shares") as defined in Options 4, Section 3([i]h) on the preceding day. The Exchange may also open additional strike prices of Quarterly Options Series in ETF options that are more than 30% above or below the current price of the underlying ETF provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of new Quarterly Options Series shall not affect the series of options of the same class previously opened.

\* \* \* \* \*

## **Section[.] 7. Adjustments**

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. [The]When adjustments have been made, the Exchange will announce [adjustments]that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

## **Section[.] 8. Long-Term Options Contracts**

(a) Notwithstanding conflicting language in Options 3, Section 5[6 of this Options 4 (Series of Options Contracts Open for Trading)], the Exchange may list long-term options contracts that expire from twelve (12) to thirty-nine (39) months from the time they are listed. There may be up to ten expiration months for options on the SPDR® S&P 500® exchange-traded fund (the "SPY ETF") and up to six (6) expiration months for options on all other securities. Strike price interval [and bid/ask differential] rules shall not apply to such options series until the time to expiration is less than nine (9) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 5(d)(2)(A).

(b) After a new long-term options contract series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

## **Section 9. Limitation on the Liability of Index Licensors for Options on Fund Shares**

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages,

claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

#### **[Section. 9 U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value**

U.S. Dollar-Settled Foreign Currency options are settled in U.S. dollars.

The closing settlement value for the U.S. Dollar-Settled Foreign Currency options on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to the expiration date unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.

Neither the Exchange, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying currencies or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange.

The Exchange shall post the closing settlement value on its website or disseminate it through one or more major market data vendors.]

#### **Section[.] 10. [Reserved]Back-up Trading Arrangements**

(a) Nasdaq BX is Disabled Exchange.

(1) Nasdaq BX Exclusively Listed Options.

(i) For purposes of this Rule, the term "exclusively listed option" means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

(ii) The Exchange ("Nasdaq BX") may enter into arrangements with one or more other exchanges (each a "Back-up Exchange") to permit Nasdaq BX and its

Participants to use a portion of the Back-up Exchange's facilities to conduct the trading of some or all of Nasdaq BX's exclusively listed options in the event that the functions of Nasdaq BX are severely and adversely affected by an emergency or extraordinary circumstances (a "Disabling Event"). Such option classes shall trade as listings of Nasdaq BX. The facility of the Back-up Exchange used by Nasdaq BX for this purpose will be deemed to be a facility of Nasdaq BX.

(iii) Trading of Nasdaq BX exclusively listed options on Nasdaq BX's facility at the Back-up Exchange shall be conducted in accordance with the rules of the Back-up Exchange, except that (A) such trading shall be subject to Nasdaq BX rules with respect to doing business with the public, margin requirements, net capital requirements, listing requirements and position limits and (B) Nasdaq BX Participants that are trading on Nasdaq BX's facility at the Back-up Exchange (not including members of the Back-up Exchange who become temporary Participants of Nasdaq BX pursuant to paragraph (a)(1)(vi)) will be subject to Nasdaq BX rules governing or applying to the maintenance of a person's or a firm's status as a Participant of Nasdaq BX. In addition, Nasdaq BX and the Back-up Exchange may agree that other Nasdaq BX rules will apply to such trading. Nasdaq BX and the Back-up Exchange have agreed to communicate to their members which rules apply in advance of trading. The Back-up Exchange rules that govern trading on Nasdaq BX's facility at the Back-up Exchange shall be deemed to be Nasdaq BX rules for purposes of such trading.

(iv) The Back-up Exchange has agreed to perform the related regulatory functions with respect to trading of Nasdaq BX exclusively listed options on Nasdaq BX's facility at the Back-up Exchange, in each case except as Nasdaq BX and the Back-up Exchange may specifically agree otherwise. The Back-up Exchange and Nasdaq BX have agreed to coordinate with each other regarding surveillance and enforcement respecting trading of Nasdaq BX exclusively listed options on Nasdaq BX's facility at the Back-up Exchange. Nasdaq BX shall retain the ultimate legal responsibility for the performance of its self-regulatory obligations with respect to Nasdaq BX's facility at the Back-up Exchange.

(v) Nasdaq BX shall have the right to designate its Participants that will be authorized to trade Nasdaq BX exclusively listed options on Nasdaq BX's facility at the Back-up Exchange and, if applicable, its Participant (s) that will be a Lead Market Maker or BX Market Maker in those options. If the Back-up Exchange is unable to accommodate all Nasdaq BX Participants that desire to trade on Nasdaq BX's facility at the Back-up Exchange, Nasdaq BX may determine which Participants shall be eligible to trade at that facility. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: whether the Participant is a Lead Market Maker or BX Market Maker in the applicable product(s), the number of contracts traded by the Participant in the applicable product(s), market performance, and other factors relating to a Participant's contribution to the market in the applicable product(s).

(vi) Participants of the Back-up Exchange shall not be authorized to trade in any Nasdaq BX exclusively listed options, except that (i) Nasdaq BX may deputize willing brokers of the Back-up Exchange as temporary Nasdaq BX Participants to permit them to execute orders as brokers in Nasdaq BX exclusively listed options traded on Nasdaq BX's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of Nasdaq BX, select members of the Back-up Exchange that are willing to be deputized by Nasdaq BX as temporary Nasdaq BX Participants authorized to trade Nasdaq BX exclusively listed options on Nasdaq BX's facility at the Back-up Exchange for such period of time following a Disabling Event as Nasdaq BX determines to be appropriate, and Nasdaq BX may deputize such members of the Back-up Exchange as temporary Nasdaq BX Participants for that purpose.

(2) Nasdaq BX Singly Listed Options.

(i) For purposes of this Rule, the term "singly listed option" means an option that is not an "exclusively listed option" but that is listed by an exchange and not by any other national securities exchange.

(ii) Nasdaq BX may enter into arrangements with a Back-up Exchange under which the Back-up Exchange will agree, in the event of a Disabling Event, to list for trading singly listed option classes that are then singly listed only by Nasdaq BX and not by the Back-up Exchange. Any such option classes listed by the Back-up Exchange shall trade on the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Such option classes shall be traded by members of the Back-up Exchange and by Nasdaq BX Participants selected by Nasdaq BX to the extent the Back-up Exchange can accommodate Nasdaq BX Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all Nasdaq BX Participants that desire to trade singly listed options at the Back-up Exchange, Nasdaq BX may determine which Participants shall be eligible to trade such options at the Back-up Exchange. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: whether the Participant is a Lead Market Maker or BX Market Maker in the applicable product(s), the number of contracts traded by the Participant in the applicable product(s), market performance, and other factors relating to a Participant's contribution to the market in the applicable product(s).

(iii) Any options class listed by the Back-up Exchange pursuant to paragraph (a)(2)(ii) that does not satisfy the standard listing and maintenance criteria of the Back-up Exchange will be subject, upon listing by the Back-up Exchange, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in the rules of the Back-up Exchange).

(3) Multiply Listed Options. Nasdaq BX may enter into arrangements with a Back-up Exchange to permit Nasdaq BX Participants to conduct trading on a Back-up Exchange of some or all of Nasdaq BX's multiply listed options in the event of a Disabling Event. Such options shall trade as a listing of the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Such options shall be traded by members of the Back-up Exchange and by Nasdaq BX Participants selected by Nasdaq BX to the extent the Back-up Exchange can accommodate Nasdaq BX Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all Nasdaq BX Participants that desire to trade multiply listed options at the Back-up Exchange, Nasdaq BX may determine which Participants shall be eligible to trade such options at the Back-up Exchange. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: whether the Participant is a Lead Market Maker or BX Market Maker in the applicable product(s), the number of contracts traded by the Participant in the applicable product(s), market performance, and other factors relating to a Participant's contribution to the market in the applicable product(s).

(b) Nasdaq BX is Back-up Exchange.

(1) Disabled Exchange Exclusively Listed Options.

(i) Nasdaq BX may enter into arrangements with one or more other exchanges (each a "Disabled Exchange") to permit the Disabled Exchange and its members to use a portion of Nasdaq BX's facilities to conduct the trading of some or all of the Disabled Exchange's exclusively listed options in the event of a Disabling Event. Such option classes shall trade as listings of the Disabled Exchange. The facility of Nasdaq BX used by the Disabled Exchange for this purpose will be deemed to be a facility of the Disabled Exchange.

(ii) Trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at Nasdaq BX shall be conducted in accordance with Nasdaq BX rules, except that (A) such trading shall be subject to the Disabled Exchange's rules with respect to doing business with the public, margin requirements, net capital requirements, listing requirements and position limits, and (B) members of the Disabled Exchange that are trading on the Disabled Exchange's facility at Nasdaq BX (not including Nasdaq BX Participants who become temporary members of the Disabled Exchange pursuant to paragraph (b)(1)(iv)) will be subject to the rules of the Disabled Exchange governing or applying to the maintenance of a person's or a firm's status as a member of the Disabled Exchange. In addition, the Disabled Exchange and Nasdaq BX may agree that other Disabled Exchange rules will apply to such trading. The Disabled Exchange and Nasdaq BX have agreed to communicate to their members which rules apply in advance of trading.

(iii) Nasdaq BX will perform the related regulatory functions with respect to trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at Nasdaq BX, in each case except as the Disabled Exchange and Nasdaq BX may specifically agree otherwise. Nasdaq BX and the Disabled Exchange have agreed to coordinate with each other regarding surveillance and enforcement respecting trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at Nasdaq BX. The Disabled Exchange has agreed that it shall retain the ultimate legal responsibility for the performance of its self-regulatory obligations with respect to the Disabled Exchange's facility at Nasdaq BX.

(iv) Nasdaq BX Participants shall not be authorized to trade in any exclusively listed options of the Disabled Exchange, except (A) that the Disabled Exchange may deputize willing Nasdaq BX Participants as temporary members of the Disabled Exchange to permit them to execute orders as Participants in exclusively listed options of the Disabled Exchange traded on the facility of the Disabled Exchange at Nasdaq BX, and (B) at the instruction of the Disabled Exchange, Nasdaq BX shall select Nasdaq BX Participants that are willing to be deputized by the Disabled Exchange as temporary members of the Disabled Exchange authorized to trade the Disabled Exchange's exclusively listed options on the facility of the Disabled Exchange at Nasdaq BX for such period of time following a Disabling Event as the Disabled Exchange determines to be appropriate, and the Disabled Exchange may deputize such Nasdaq BX Participants as temporary members of the Disabled Exchange for that purpose.

(2) Disabled Exchange Singly Listed Options.

(i) Nasdaq BX may enter into arrangements with a Disabled Exchange under which Nasdaq BX will agree, in the event of a Disabling Event, to list for trading singly listed option classes that are then singly listed only by the Disabled Exchange and not by Nasdaq BX. Any such option classes listed by Nasdaq BX shall trade on Nasdaq BX and in accordance with Nasdaq BX rules. Such option classes shall be traded by Nasdaq BX Participants and by members of the Disabled Exchange selected by the Disabled Exchange to the extent Nasdaq BX can accommodate members of the Disabled Exchange in the capacity of temporary Participants of Nasdaq BX. Nasdaq BX may allocate such option classes to a Nasdaq BX Lead Market Maker in advance of a Disabling Event, without utilizing the allocation process under Nasdaq BX Options 2, Section 3, to enable Nasdaq BX to quickly list such option classes upon the occurrence of a Disabling Event.

(ii) Any options class listed by Nasdaq BX pursuant to paragraph (b)(2)(i) that does not satisfy the listing and maintenance criteria under Nasdaq BX rules will be subject, upon listing by Nasdaq BX, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in Nasdaq BX rules).

(3) Multiply Listed Options. Nasdaq BX may enter into arrangements with a Disabled Exchange to permit the Disabled Exchange's members to conduct trading on Nasdaq BX of some or all of the Disabled Exchange's multiply listed options in the event of a Disabling Event. Such options shall trade as a listing of Nasdaq BX and in accordance with Nasdaq BX rules. Such options shall be traded by Nasdaq BX Participants and by members of the Disabled Exchange to the extent Nasdaq BX can accommodate members of the Disabled Exchange in the capacity of temporary Participants of Nasdaq BX.

(c) Participant Obligations.

(1) Temporary Participants of the Disabled Exchange

(i) A Nasdaq BX Participant acting in the capacity of a temporary member of the Disabled Exchange pursuant to paragraph (b)(1)(iv) shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of the Disabled Exchange at Nasdaq BX, including the rules of the Disabled Exchange to the extent applicable during the period of such trading. Additionally, (A) such Nasdaq BX Participant shall be deemed to have satisfied, and the Disabled Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a member of the Disabled Exchange, including all dues, fees and charges imposed generally upon members of the Disabled Exchange based on their status as such, (B) such Nasdaq BX Participant shall have none of the rights of a member of the Disabled Exchange except the right to conduct business on the facility of the Disabled Exchange at Nasdaq BX to the extent described in this Rule, (C) the Nasdaq BX Participant shall be responsible for all obligations arising out its activities on or relating to the Disabled Exchange, and (D) the Clearing Participant of such Nasdaq BX Participant shall guarantee and clear the transactions of such Nasdaq BX Participant on the Disabled Exchange.

(ii) A member of a Back-up Exchange acting in the capacity of a temporary Participant of Nasdaq BX pursuant to paragraph (a)(1)(vi) shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of Nasdaq BX at the Back-up Exchange, including Nasdaq BX rules to the extent applicable during the period of such trading. Additionally, (A) such temporary Participant shall be deemed to have satisfied, and Nasdaq BX will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Participant of Nasdaq BX, including all dues, fees and charges imposed generally upon Nasdaq BX Participants based on their status as such, (B) such temporary Participant shall have none of the rights of a Nasdaq BX Participant except the right to conduct business on the facility of Nasdaq BX at the Back-up Exchange to the extent described in this Rule, (C) the member organization associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to Nasdaq BX, and (D) the Clearing Participant of such temporary



Participant shall guarantee and clear the transactions on Nasdaq BX of such temporary Participant.

(2) Temporary Participants of the Back-up Exchange

(i) A Nasdaq BX Participant acting in the capacity of a temporary member of the Back-up Exchange pursuant to paragraphs (a)(2)(ii) or (a)(3) shall be subject to, and obligated to comply with, the rules of the Back-up Exchange that are applicable to the Back-up Exchange's own members. Additionally, (A) such Nasdaq BX Participant shall be deemed to have satisfied, and the Back-up Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a member of the Back-up Exchange, including all dues, fees and charges imposed generally upon members of the Back-up Exchange based on their status as such, (B) such Nasdaq BX Participant shall have none of the rights of a member of the Back-up Exchange except the right to conduct business on the Back-up Exchange to the extent described in this Rule, (C) the Nasdaq BX Participant shall be responsible for all obligations arising out of its activities on or relating to the Back-up Exchange, (D) the Clearing Participant of such Nasdaq BX Participant shall guarantee and clear the transactions of such Nasdaq BX Participant on the Back-up Exchange, and (E) such Nasdaq BX Participant shall only be permitted (x) to act in those capacities on the Back-up Exchange that are authorized by the Back-up Exchange and that are comparable to capacities in which the Nasdaq BX Participant has been authorized to act on Nasdaq BX, and (y) to trade in those option classes in which the Nasdaq BX Participant is authorized to trade on Nasdaq BX.

(ii) A member of a Disabled Exchange acting in the capacity of a temporary Participant of Nasdaq BX pursuant to paragraphs (b)(2)(i) or (b)(3) shall be subject to, and obligated to comply with, Nasdaq BX rules that are applicable to Nasdaq BX's own Participants. Additionally, (A) such temporary Participant shall be deemed to have satisfied, and Nasdaq BX will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Participant of Nasdaq BX, including all dues, fees and charges imposed generally upon Nasdaq BX Participants based on their status as such, (B) such temporary Participant shall have none of the rights of a Nasdaq BX Participant except the right to conduct business on Nasdaq BX to the extent described in this Rule, (C) the member organization associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to Nasdaq BX, (D) the Clearing Participant of such temporary Participant shall guarantee and clear the transactions of such temporary Participant on the Nasdaq BX, and (E) such temporary Participant shall only be permitted (x) to act in those Nasdaq BX capacities that are authorized by Nasdaq BX and that are comparable to capacities in which the temporary Participant has been authorized to act on the Disabled Exchange, and (y) to trade in those option

classes in which the temporary Participant is authorized to trade on the Disabled Exchange.

(d) Participant Proceedings.

(1) If Nasdaq BX initiates an enforcement proceeding with respect to the trading during a back-up period of the singly or multiply listed options of the Disabled Exchange by a temporary Participant of Nasdaq BX or the exclusively listed options of the Disabled Exchange by a member of the Disabled Exchange (other than a Nasdaq BX Participant who is a temporary member of the Disabled Exchange), and such proceeding is in process upon the conclusion of the back-up period, Nasdaq BX may transfer responsibility for such proceeding to the Disabled Exchange following the conclusion of the back-up period. Arbitration of any disputes with respect to any trading during a back-up period of singly or multiply listed options of the Disabled Exchange or of exclusively listed options of the Disabled Exchange on the Disabled Exchange's facility at Nasdaq BX will be conducted in accordance with Nasdaq BX rules, unless the parties to an arbitration agree that it shall be conducted in accordance with the rules of the Disabled Exchange.

(2) If the Back-up Exchange initiates an enforcement proceeding with respect to the trading during a back-up period of Nasdaq BX singly or multiply listed options by a temporary member of the Back-up Exchange or Nasdaq BX exclusively listed options by a Nasdaq BX Participant (other than a member of the Back-up Exchange who is a temporary Participant of Nasdaq BX), and such proceeding is in process upon the conclusion of the back-up period, the Back-up Exchange may transfer responsibility for such proceeding to Nasdaq BX following the conclusion of the back-up period. Arbitration of any disputes with respect to any trading during a back-up period of Nasdaq BX singly or multiply listed options on the Back-up Exchange or of Nasdaq BX exclusively listed options on the facility of Nasdaq BX at the Back-up Exchange will be conducted in accordance with the rules of the Back-up Exchange, unless the parties to an arbitration agree that it shall be conducted in accordance with Nasdaq BX rules.

(e) Participant Preparations. Nasdaq BX Participants are required to take appropriate actions as instructed by Nasdaq BX to accommodate Nasdaq BX's back-up trading arrangements with other exchanges and Nasdaq BX's own back-up trading arrangements.

Supplementary Material to Options 4, Section 10

.01 This Rule reflects back-up trading arrangements that Nasdaq BX has entered into or may enter into with one or more other exchanges. To the extent that this Rule provides that another exchange will take certain action, the Rule is reflecting what that exchange has agreed to do by contractual agreement with Nasdaq BX, but the Rule itself is not binding upon the other exchange.

**Options 4A Options Index Rules****Section 12. Terms of Index Options Contracts**

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**(b) Long-Term Index Options Series.**

(1) Notwithstanding the provisions of paragraph (a)(3), above, BX Options may list long-term index options series that expire from nine (9) to sixty (60) months from the date of issuance.

(i) Index long term options series may be based on either the full or reduced value of the underlying index. There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price interval[, bid/ask differential] and continuity Rules shall not apply to such options series until the time to expiration is less than nine (9) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 5(d)(2)(A).

(ii) When a new Index long term options series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

\* \* \* \* \*

**Options 4C Reserved**

\* \* \* \* \*