

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

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022–15121 Filed 7–14–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No.34645; File No. 812–15283]

Cypress Creek Private Strategies Master Fund, L.P., et al.

July 11, 2022.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order (“Order”) under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies and closed-end management investment companies to co-invest in portfolio companies with certain affiliated investment entities.

APPLICANTS: Cypress Creek Private Strategies Master Fund, L.P., Endowment Advisers, L.P., d/b/a Cypress Creek Partners, CCP Coastal Redwood Fund, LP, CCP Sierra Redwood Fund, LP, and Marinas I SPV, LLC.

FILING DATES: The application was filed on November 16, 2021 and amended on December 8, 2021, May 13, 2022 and June 27, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on August 5, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of

service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Benjamin Murray, *Benjamin.murray@cypresscreekpartners.com* and George J. Zornada, *George.Zornada@klgates.com*.

FOR FURTHER INFORMATION CONTACT: Christopher D. Carlson, Senior Counsel, or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For applicants’ representations, legal analysis, and conditions, please refer to applicants’ third amended and restated application, dated June 27, 2022, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an applicant using the Company name search field, on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at <http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC’s Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022–15133 Filed 7–14–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95240; File No. SR–BX–2022–010]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange’s Transaction Credits in Equity 7, Section 118(e)

July 11, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 1, 2022, 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 the Exchange’s transaction credits, at Equity 7, Section 118(e), as described further below.

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.

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 operates on the “taker-maker” model, whereby it generally pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange has a schedule, at Equity 7, Section 118(e), which consists of several different credits and fees for Retail Orders³ and Retail Price Improvement Orders⁴ under Rule 4780 (Retail Price Improvement Program).

³ Retail Orders shall mean an order type with a Non-Display Order Attribute submitted to the Exchange by a Retail Member Organization (as defined in Rule 4780). A Retail Order must be an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology. See Rule 4702(b)(6).

⁴ Retail Price Improving (“RPI”) Orders shall mean an Order Type with a Non-Display Order

¹⁵ 17 CFR 200.30–3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Currently, the Exchange provides certain credits for Retail Orders that provide liquidity. The Exchange proposes to adopt a new credit of \$0.0010 per share executed for Retail Orders with an accepted price greater than or equal to \$10,000 that accesses liquidity provided by a Retail Price Improvement Order. The Exchange is also proposing to adjust the existing credit of \$0.0021 per share executed to require the Retail Order to have an accepted price of less than \$10,000. The Exchange hopes that the proposed new credit will encourage member organizations to increase liquidity providing activity on RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and retail orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposal Is Reasonable and Is an Equitable Allocation of Credits

The Exchange's proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market

system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."⁷

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."⁸

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several taker-maker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.⁹

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.¹⁰ Within the foregoing context, the proposal represents a

reasonable attempt by the Exchange to increase its market share relative to its competitors.

The Exchange believes it is reasonable and equitable to adopt a new \$0.0010 per share executed credit for Retail Orders with an accepted price greater than or equal to \$10,000 that access liquidity provided by a Retail Price Improvement Order. Similarly, the Exchange believes that it is reasonable to adjust its existing \$0.0021 credit to conform with its new proposed credit by requiring the Retail order to have an accepted price less of less than \$10,000. As discussed above, the Exchange's goal is to increase liquidity adding activity in RPI Orders on its platform. It is reasonable and equitable to address this need by providing an additional credit to member organizations that meet the proposed thresholds as an incentive for them to increase their liquidity activity in RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and Retail orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

The Proposed Credit Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the equity markets.

The Exchange intends for its proposal to improve market quality for all members that submit RPI and Retail Orders on the Exchange and by extension attract more liquidity to the market, improving market wide quality and price discovery. Although net adds of liquidity for RPI Orders will benefit most from the proposal, this result is fair insofar as increased liquidity adding activity in RPI Orders will help to improve market quality and

⁷ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

⁸ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

⁹ See CBOE BYX Fee Schedule, at http://markets.cboe.com/us/equities/membership/fee_schedule/byx/; NYSE National Fee Schedule, at https://www.nyse.com/publicdocs/nyse/regulation/nyse/NYSE_National_Schedule_of_Fees.pdf.

¹⁰ The Exchange perceives no regulatory, structural, or cost impediments to market participants shifting order flow away from it. In particular, the Exchange notes that these examples of shifts in liquidity and market share, along with many others, have occurred within the context of market participants' existing duties of Best Execution and obligations under the Order Protection Rule under Regulation NMS.

Attribute that is held on the Exchange Book in order to provide liquidity at a price at least \$0.001 better than the NBBO through a special execution process described in Rule 4780. A Retail Price Improving Order may be entered in price increments of \$0.001. RPI Orders collectively may be referred to as "RPI Interest." See Rule 4702(b)(5).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

the attractiveness of the Nasdaq BX market to all existing and prospective retail participants.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage. As noted above, all member organizations of the Exchange will benefit from any increase in market activity that the proposal effectuates. Member organizations may modify their businesses so that they can meet the required thresholds and receive the credits. Moreover, members are free to trade on other venues to the extent they believe that the credits provided are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. The Exchange notes that the tier structure is consistent with broker-dealer fee practices as well as the other industries, as described above.

Intermarket Competition

The Exchange believes that its proposed modifications to its schedule of credits will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credits change in this market may impose any

burden on competition is extremely limited.

The proposed credit for adding liquidity is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume has less than 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprised more than 40% of industry volume in recent months.

In sum, the Exchange intends for the proposed change to its credits for RPI Orders, in the aggregate, to increase member incentives to engage in the addition of liquidity on the Exchange. If the additional credit proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and paragraph (f) of Rule 19b-4¹² thereunder.

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.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BX-2022-010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2022-010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2022-010 and should be submitted on or before August 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-15116 Filed 7-14-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95226; File No. SR-NASDAQ-2022-039]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Credits, at Equity 7, Section 118

July 11, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 1, 2022, The Nasdaq Stock Market LLC (“Nasdaq” 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 the Exchange’s schedule of credits, at Equity 7, Section 118(a)(1), as described further below. The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to eliminate a credit that the Exchange provides to members for displayed liquidity under Equity 7, Section 118(a)(1).

Currently, the Exchange provides a \$0.0018 per share executed credit for securities in Tape C³ to a member with shares of liquidity provided in all securities representing less than 0.10% of Consolidated Volume,⁴ through one or more of its Nasdaq Market Center MPIDs; provided that (i) the member also provides a daily average of at least 250,000 shares of liquidity provided in securities listed on an exchange other than Nasdaq, or (ii) the member routes a daily average volume of at least 10,000 shares during the month via the QDRK⁵ routing strategy. The Exchange proposes to eliminate this credit.

The Exchange offers this credit as a means of improving market quality by providing its members with an incentive to increase liquidity on the Exchange. However, the Exchange has observed over time that this credit has not been successful in accomplishing its objective. That is, it has not induced members to add liquidity to the Exchange and members are not targeting this credit for growth or general use of

³ There are three Tapes, which are based on the listing venue of the security: Tape C securities are Nasdaq-listed; Tape A securities are New York Stock Exchange-listed; and Tape B securities are listed on exchanges other than Nasdaq and NYSE.

⁴ Pursuant to Equity 7, Section 118(a), the term “Consolidated Volume” means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member’s trading activity the date of the annual reconstitution of the Russell Investments Indexes is excluded from both total Consolidated Volume and the member’s trading activity. For the purposes of calculating the extent of a member’s trading activity during the month on Nasdaq and determining the charges and credits applicable to such member’s activity, all M-ELO Orders that a member executes on Nasdaq during the month count as liquidity-adding activity on Nasdaq.

⁵ QDRK is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

the QDRK strategy. The Exchange has limited resources available to it to offer its members market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective. Accordingly, the Exchange proposes to eliminate the credit noted above.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange’s proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”⁸

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

⁸ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.