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Page 1 of * 34

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

File No. * SR 2023 - * 005

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"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
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Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Amend Options 7, Section 2

Contact Information

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

First Name * Angela Last Name * Dunn

Title * Principal Associate General Counsel

E-mail * angela.dunn@nasdaq.com

Telephone * (215) 496-5692 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, NASDAQ BX, Inc. has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 02/10/2023


(Title *)

By John Zecca

EVP and Chief Legal Officer

(Name *)

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

 Date: 2023.02.10 16:23:32 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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SR-BX-2023-005 19b4.doc

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 *

Add Remove View

SR-BX-2023-005 Exhibit 1.doc

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

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

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

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

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

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

Add Remove View

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

Exhibit 5 - Proposed Rule Text

Add Remove View

SR-BX-2023-005 Exhibit 5.doc

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

Add Remove View

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

1. Text of the Proposed Rule Change

(a) Nasdaq BX, Inc. (“BX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend its Pricing Schedule at Options 7, Section 2.³

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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

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

Angela Saccomandi Dunn
Principal Associate General Counsel
Nasdaq, Inc.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange originally filed SR-BX-2023-001 on January 3, 2023. On January 12, 2023, the Exchange withdrew SR-BX-2023-001 and replaced that filing with SR-BX-2023-002. On January 24, 2023, the Exchange withdrew SR-BX-2023-002 and replaced that filing with SR-BX-2023-003.

On January 30, 2023, the Exchange withdrew SR-BX-2023-003 and replaced that filing with SR-BX-2023-004. On February 10, 2023, the Exchange is withdrawing SR-BX-2023-004 and replacing it with the instant filing.

215-496-5692

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 BX’s Pricing Schedule at Options 7, Section 2, BX Options Market-Fees and Rebates. BX proposes to adopt pricing for BX Participants that utilize the Request for PRISM feature.

Today, a BX Participant may elect to utilize FIX⁴ to send a message and PRISM Order⁵, as defined within Options 3, Section 13, to all BX Participants that opt in to receive Requests for PRISM requesting that it submit the sender’s PRISM Order with responder’s Initiating Order⁶, as defined within Options 3, Section 13, into the BX Price Improvement Auction (“PRISM”)⁷, pursuant to Options 3, Section 13 (“Request for

⁴ “Financial Information eXchange” or “FIX” is an interface that allows members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. See Options 3, Section 7(a)(i)(A).

⁵ A PRISM Order is a one-sided order entered into the PRISM Auction that represents an agency order on behalf a Public Customer, broker-dealer of other entity.

⁶ An Initiating Order is one-sided order entered into the PRISM Auction that represents principal interest or other agency order.

⁷ A Participant may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker dealer, or any other entity (“PRISM Order”) against principal interest or against any other order (except as provided in sub-paragraph (i)(F) to Options 3, Section 13) it represents as agent (an “Initiating Order”) provided it submits the PRISM Order for electronic execution into the PRISM Auction (“Auction”) pursuant to Options 3, Section 13.

PRISM”).⁸ A Request for PRISM permits a BX Participant to solicit the Initiating Order side of a PRISM Auction Order.⁹

Defined Terms

The Exchange proposes to define a “Request for PRISM” as a mechanism to submit orders into a PRISM Auction as described within Options 3, Section 7(e)(1)(A)(1)(b). The Exchange also proposes to define certain terms related to the PRISM Auction within Options 7, Section 2(5) pricing. The Exchange proposes to define a “PRISM Order” as one-side of a PRISM Auction Order that represents an agency order on behalf a Public Customer, broker-dealer or other entity which is paired with an Initiating Order. The Exchange proposes to define an “Initiating Order” as one-side of a PRISM Auction Order that represents principal or other interest which is paired with a PRISM Order. The Exchange proposes to define a “PRISM Auction Order” as a two-sided, paired order comprised of a PRISM Order and an Initiating Order. Finally, the Exchange proposes to define a “PRISM Response” as interest that executed against the PRISM Order pursuant to Options 3, Section 13. The Exchange proposes to amend

⁸ See Options 3, Section 7(e)(1)(A)(1)(b). The Exchange will set a certain time period up to one second within which a recipient of a Request for PRISM may utilize FIX to submit the sender’s PRISM Order, along with an Initiating Order (a “response”) into the System for execution into PRISM pursuant to Options 3, Section 13. The System will permit the first responder to start a PRISM Auction and will send a reject message to subsequent responders. A response must match the PRISM Order and may not improve the price, or the response will be rejected. A response may be configured to improve the PRISM Order stop price pursuant to Options 3, Section 13(ii)(A)(1)(c); the configuration would apply if this response initiated a PRISM auction. If no BX Participant responds to the Request for PRISM, the PRISM Order would be placed on the Order Book as a Limit Order or cancelled, consistent with the sending Participant’s instruction.

⁹ A PRISM Auction Order is a two-sided order comprised of a PRISM Order and Initiating Order.

Options 7, Section 2(5) to utilize these terms instead of the terms “Agency Order” or “Contra-Side.” Also the Exchange proposes to utilize the new term “PRISM Auction Order” instead of “PRISM Order” where the Exchange refers to the paired order entered into PRISM. Finally, the Exchange proposes to amend the title “Responded to PRISM Auction” to “Response to PRISM Auction” within Options 7, Section 2(5) for clarity. The Exchange believes these defined terms will make the pricing within Options 7, Section 2(5) more transparent.

Request for PRISM Pricing

At this time, the Exchange proposes to adopt pricing, in lieu of Options 7, Section 2(5) pricing, for PRISM Auction Orders which commenced as a Request for PRISM pursuant to Options 3, Section 7(e)(1)(A)(1)(b) and executed in the PRISM Auction. The pricing described below applies regardless of capacity.

With respect to a PRISM Order, the Exchange proposes to pay a rebate to a PRISM Order that was submitted as a Request for PRISM seeking another BX Participant who would respond to the Request for PRISM Order by submitting the Initiating Order to initiate a PRISM Auction.¹⁰ The Exchange would pay a rebate of \$0.35 per contract for a Penny Class and \$0.70 per contract for a Non-Penny Class to the PRISM Order when a BX Participant responds to a Request for PRISM with an Initiating Order, provided the PRISM Order trades with an Initiating Order or the PRISM Order trades with a PRISM Response.

¹⁰ A recipient of a Request for PRISM may utilize FIX to submit the sender’s PRISM Order, along with an Initiating Order (a “response”) into the System for execution into PRISM pursuant to Options 3, Section 13. Requests for PRISM are sent to BX Participants that “opt in” to receive Requests for PRISM. See Options 3, Section 7(e)(A)(1)(a).

With respect to an Initiating Order, the Exchange proposes to assess a fee to the Initiating Order that was submitted in response to the Request for PRISM along with the PRISM Order. The Exchange would assess a fee of \$0.49 per contract fee for a Penny Class and \$0.94 per contract fee for a Non-Penny Class to the Initiating Order when a BX Participant responds to a Request for PRISM with an Initiating Order, provided the PRISM Order traded with an Initiating Order.¹¹

The Exchange proposes to assess responses to a PRISM Auction a fee of \$0.49 per contract for Penny Classes and \$0.94 per contract for Non-Penny Classes.

Today, the Exchange does not assess a fee or pay a rebate to a BX Participant who submitted a PRISM Order into a Request for PRISM or the BX Participant who responded with an Initiating Order within the Request for PRISM mechanism. Today, the fees and rebates for two-sided orders entered into PRISM are codified within Options 7, Section 2(5). Pursuant to Options 7, Section 2(5), a BX Participant who entered a paired PRISM Auction pays no fee if a Customer were on either or both sides of the PRISM Auction Order, and pays a \$0.30 per contract for the PRISM Order and \$0.05 per contract for the Initiating Order for Non-Customer orders. Responders to a PRISM Auction pay a \$0.49 per contract fee for a Penny Class and a \$0.94 per contract fee for a Non-Penny Class. A Customer PRISM Order that traded with a PRISM Response receives a rebate of \$0.35 per contract for a Penny Class and a \$0.70 per contract for a

¹¹ If the PRISM Order trades entirely with a PRISM Response, the Initiating Order would not be assessed a fee because the Initiating Order did not execute as part of the PRISM Order. If the PRISM Order trades partially with a PRISM Response, the Initiating Order would be subject to fees only for contracts traded with the PRISM Order.

Non-Penny Class. Non-Customer PRISM Orders that traded with a PRISM Response do not receive a rebate.

The Exchange proposes to incentivize BX Participants to submit PRISM Orders through the Request for PRISM mechanism. With this proposal, a PRISM Order that was submitted as a Request for PRISM and trades with an Initiating Order or a PRISM Response would receive a rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes, regardless of capacity, instead of paying a fee of \$0.30 per contract pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.¹² If the PRISM Order was for a Customer, the rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes remains unchanged pursuant to Options 7, Section 2(5). The BX Participant submitting an Initiating Order through the Request for PRISM mechanism would be assessed a fee of \$0.49 per contract for Penny Class and \$0.94 per contract for Non-Penny Classes if the PRISM Order trades with the Initiating Order instead of a \$0.05 per contract fee pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.¹³

Responders to a PRISM Auction would pay the same fee of \$0.49 per contract fee for Penny Classes and \$0.94 per contract fee for Non-Penny Classes regardless of whether the Request for PRISM mechanism was utilized to initiate a PRISM Auction or the PRISM Auction Order was entered directly into the PRISM Auction as a paired order.

The proposed pricing is intended to incentivize BX Participants to utilize the Request for PRISM feature to obtain liquidity, potential price improvement for the

¹² Today, Customers pays no PRISM Order fee.

¹³ Today, Customers pays no Initiating Order fee.

PRISM Order, as well as a rebate. Any BX Participant may respond to a PRISM Auction and all BX Participants benefit from the ability to interact with the PRISM Auction Order. The proposed fee to Initiating Orders, who respond to a Request for PRISM and where the PRISM Order traded with an Initiating Order, would enable the Exchange to offer rebates to attract BX Participants to enter PRISM Orders as a Request for PRISM. This proposal does not amend pricing for PRISM Auctions.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options 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 Commission¹⁶ (“NetCoalition”), the D.C. Circuit stated, “[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

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4) and (5).

¹⁶ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

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’....”¹⁷

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. 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. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

The Exchange’s proposal to define a “PRISM Order”, an “Initiating Order”, a “PRISM Auction Order”, a “PRISM Response”, and a “Request for PRISM” for the purpose of Options 7, Section 2(5) pricing and utilize these terms within Options 7, Section 2(5) is reasonable, equitable and not unfairly discriminatory. The Exchange believes that these terms, which align more closely to the terms utilized in Options 3, Section 13 related to PRISM, will make the Options 7, Section 2(5) PRISM pricing more transparent.

The Exchange’s proposal to amend Options 7, Section 2(5) to adopt specific pricing for BX Participants that utilize the Request for PRISM mechanism is reasonable because the Exchange believes the proposed pricing will incentivize BX Participants to

¹⁷ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

utilize the Request for PRISM feature to obtain liquidity, potential price improvement, as well as a rebate for the PRISM Order. The proposed pricing for PRISM Auction Orders which commenced as a Request for PRISM and executed in the PRISM Auction would apply in lieu of Options 7, Section 2(5) pricing and regardless of capacity. With respect to a PRISM Order, the Exchange proposes to pay a rebate to a PRISM Order that was submitted as a Request for PRISM seeking another BX Participant who would respond to the Request for PRISM Order by submitting the Initiating Order to initiate a PRISM Auction.¹⁸ With this proposal, a PRISM Order that was submitted as a Request for PRISM and trades with an Initiating Order or a PRISM Response, would receive a rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes, regardless of capacity, instead of paying a fee of \$0.30 per contract pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.¹⁹ If the PRISM Order was for a Customer, the rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes remains unchanged pursuant to Options 7, Section 2(5). The Exchange believes the proposed PRISM Order rebate is reasonable because it is intended to attract BX Participants to utilize the Request for PRISM mechanism. The BX Participant submitting an Initiating Order through the Request for PRISM mechanism would be assessed a fee of \$0.49 per contract for Penny Class and \$0.94 per contract for Non-Penny Classes if the PRISM Order trades with the Initiating Order, instead of a

¹⁸ A recipient of a Request for PRISM may utilize FIX to submit the sender's PRISM Order, along with an Initiating Order (a "response") into the System for execution into PRISM pursuant to Options 3, Section 13. Requests for PRISM are sent to BX Participants that "opt in" to receive Requests for PRISM. See Options 3, Section 7(e)(A)(1)(a).

¹⁹ Today, Customers pays no PRISM Order fee.

\$0.05 per contract fee pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.²⁰ The Exchange believes it is reasonable to assess a higher fee for the Initiating Order that was submitted with the Request for PRISM mechanism, where fees are the same as those assessed to responders in the PRISM Auction, because BX Participants are able to obtain immediate liquidity. The Request for PRISM mechanism is utilized by Participants as a liquidity seeking tool that if not available would require a BX Participant to source liquidity from third parties, expending time and potential additional cost. The Request for PRISM mechanism offers Participants the opportunity to immediately commence a PRISM Auction without the need to source liquidity. Liquidity providers that enter orders directly into PRISM and do not utilize the Request for PRISM mechanism have expended time sourcing liquidity with third parties outside of the Exchange. The Exchange believes that BX Participants benefit from the liquidity seeking mechanism that is being offered by the Exchange to allow certain market participants to compete with other market participants whose business model is designed to source liquidity. The proposed fee for Initiating Orders who respond to a Request for PRISM, when the PRISM Order trades with an Initiating Order, would enable the Exchange to offer rebates to BX Participants submitting PRISM Orders into the Request for PRISM mechanism. The Exchange believes the fees for responders are reasonable because responders to a PRISM Auction would pay the same fee of \$0.49 per contract fee for Penny Classes and \$0.94 per contract fee for Non-Penny Classes regardless of whether the Request for PRISM mechanism was utilized to initiate a PRISM Auction or the PRISM Auction Order was entered directly into PRISM as a paired order.

²⁰ Today, Customers pays no Initiating Order fee.

The Exchange's proposal to amend Options 7, Section 2(5) to adopt specific pricing for BX Participants that utilize the Request for PRISM mechanism is equitable and not unfairly discriminatory because any BX Participant may utilize the Request for PRISM feature. Also, any BX Participant may respond to a PRISM Auction and all BX Participants benefit from the ability to interact with additional order flow.²¹ The Request for PRISM mechanism provides greater flexibility for Participants submitting orders into PRISM, specifically providing an avenue for BX Participants desiring to send orders to the PRISM mechanism to locate an Initiating Order to pair their PRISM Order with and participate in a PRISM Auction. All Participants that enter a PRISM Order into the Request for PRISM mechanism are uniformly entitled to a rebate if the PRISM Order trades with the Initiating Order or if the PRISM Order trades with a PRISM Response. Also, all Participants that enter Initiating Orders into the Request for PRISM mechanism are uniformly assessed a fee provided the PRISM Order trades with the Initiating Order. The proposed fees for an Initiating Order entered into the Request for PRISM mechanism that trade with a PRISM Response are equivalent to the pricing for responders pursuant to Options 7, Section 2(5) because BX Participants benefit from the liquidity seeking mechanism that is being offered. The mechanism allows certain market participants to compete with other market participants whose business model is designed to source liquidity.

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

²¹ The identity of the sender and the recipients are not known to any party.

Act.

Intermarket Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice to initiate a price improvement auction. 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 fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange's Request for PRISM pricing would allow the Exchange to compete for order flow by incentivizing BX Participants to utilize the Request for PRISM to seek liquidity.

Intramarket Competition

The Exchange's proposal to define a "PRISM Order", an "Initiating Order", a "PRISM Auction Order", a "PRISM Response", and a "Request for PRISM" for the purpose of Options 7, Section 2(5) pricing and utilize these terms within Options 7, Section 2(5) does not impose an undue burden on competition because the defined terms will more closely align the pricing within Options 7, Section 2(5) to the terms utilized in Options 3, Section 13 related to PRISM.

The Exchange's proposal to amend Options 7, Section 2(5) to adopt specific

pricing for BX Participants that utilize the Request for PRISM mechanism does not impose an undue burden on competition because any BX Participant may utilize the Request for PRISM feature. Also, any BX Participant may respond to a PRISM Auction and all BX Participants benefit from the ability to interact with additional order flow.²² The Request for PRISM mechanism provides greater flexibility for Participants submitting orders into PRISM, specifically providing an avenue for BX Participants desiring to send orders to the PRISM mechanism to locate an Initiating Order to pair their PRISM Order with and participate in a PRISM Auction. All Participants that enter a PRISM Order into the Request for PRISM mechanism are uniformly entitled to a rebate if the PRISM Order trades with the Initiating Order or if the PRISM Order trades with a PRISM Response. Also, all Participants that enter Initiating Orders into the Request for PRISM mechanism are uniformly assessed a fee provided the PRISM Order trades with the Initiating Order. The proposed fees for an Initiating Order entered into the Request for PRISM mechanism that trade with a PRISM Response are equivalent to the pricing for responders pursuant to Options 7, Section 2(5) because BX Participants benefit from the liquidity seeking mechanism that is being offered. The mechanism allows certain market participants to compete with other market participants whose business model is designed to source liquidity.

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.

²² The identity of the sender and the recipients are not known to any party.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²³ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

5. Text of the proposed rule change.

²³ 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____; File No. SR-BX-2023-005)

February __, 2023

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 7, Section 2

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 February 10, 2023, 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 its Pricing Schedule at Options 7, Section 2.³

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange originally filed SR-BX-2023-001 on January 3, 2023. On January 12, 2023, the Exchange withdrew SR-BX-2023-001 and replaced that filing with SR-BX-2023-002. On January 24, 2023, the Exchange withdrew SR-BX-2023-002 and replaced that filing with SR-BX-2023-003.

On January 30, 2023, the Exchange withdrew SR-BX-2023-003 and replaced that filing with SR-BX-2023-004. On February 10, 2023, the Exchange is withdrawing SR-BX-2023-004 and replacing it with the instant filing.

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

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

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

1. Purpose

The Exchange proposes to amend BX’s Pricing Schedule at Options 7, Section 2, BX Options Market-Fees and Rebates. BX proposes to adopt pricing for BX Participants that utilize the Request for PRISM feature.

Today, a BX Participant may elect to utilize FIX⁴ to send a message and PRISM Order⁵, as defined within Options 3, Section 13, to all BX Participants that opt in to receive Requests for PRISM requesting that it submit the sender’s PRISM Order with responder’s Initiating Order⁶, as defined within Options 3, Section 13, into the BX Price

⁴ “Financial Information eXchange” or “FIX” is an interface that allows members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. See Options 3, Section 7(a)(i)(A).

⁵ A PRISM Order is a one-sided order entered into the PRISM Auction that represents an agency order on behalf a Public Customer, broker-dealer of other entity.

⁶ An Initiating Order is one-sided order entered into the PRISM Auction that represents principal interest or other agency order.

Improvement Auction (“PRISM”)⁷, pursuant to Options 3, Section 13 (“Request for PRISM”).⁸ A Request for PRISM permits a BX Participant to solicit the Initiating Order side of a PRISM Auction Order.⁹

Defined Terms

The Exchange proposes to define a “Request for PRISM” as a mechanism to submit orders into a PRISM Auction as described within Options 3, Section 7(e)(1)(A)(1)(b). The Exchange also proposes to define certain terms related to the PRISM Auction within Options 7, Section 2(5) pricing. The Exchange proposes to define a “PRISM Order” as one-side of a PRISM Auction Order that represents an agency order on behalf a Public Customer, broker-dealer or other entity which is paired with an Initiating Order. The Exchange proposes to define an “Initiating Order” as one-side of a PRISM Auction Order that represents principal or other interest which is paired

⁷ A Participant may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker dealer, or any other entity (“PRISM Order”) against principal interest or against any other order (except as provided in sub-paragraph (i)(F) to Options 3, Section 13) it represents as agent (an “Initiating Order”) provided it submits the PRISM Order for electronic execution into the PRISM Auction (“Auction”) pursuant to Options 3, Section 13.

⁸ See Options 3, Section 7(e)(1)(A)(1)(b). The Exchange will set a certain time period up to one second within which a recipient of a Request for PRISM may utilize FIX to submit the sender’s PRISM Order, along with an Initiating Order (a “response”) into the System for execution into PRISM pursuant to Options 3, Section 13. The System will permit the first responder to start a PRISM Auction and will send a reject message to subsequent responders. A response must match the PRISM Order and may not improve the price, or the response will be rejected. A response may be configured to improve the PRISM Order stop price pursuant to Options 3, Section 13(ii)(A)(1)(c); the configuration would apply if this response initiated a PRISM auction. If no BX Participant responds to the Request for PRISM, the PRISM Order would be placed on the Order Book as a Limit Order or cancelled, consistent with the sending Participant’s instruction.

⁹ A PRISM Auction Order is a two-sided order comprised of a PRISM Order and Initiating Order.

with a PRISM Order. The Exchange proposes to define a “PRISM Auction Order” as a two-sided, paired order comprised of a PRISM Order and an Initiating Order. Finally, the Exchange proposes to define a “PRISM Response” as interest that executed against the PRISM Order pursuant to Options 3, Section 13. The Exchange proposes to amend Options 7, Section 2(5) to utilize these terms instead of the terms “Agency Order” or “Contra-Side.” Also the Exchange proposes to utilize the new term “PRISM Auction Order” instead of “PRISM Order” where the Exchange refers to the paired order entered into PRISM. Finally, the Exchange proposes to amend the title “Responded to PRISM Auction” to “Response to PRISM Auction” within Options 7, Section 2(5) for clarity. The Exchange believes these defined terms will make the pricing within Options 7, Section 2(5) more transparent.

Request for PRISM Pricing

At this time, the Exchange proposes to adopt pricing, in lieu of Options 7, Section 2(5) pricing, for PRISM Auction Orders which commenced as a Request for PRISM pursuant to Options 3, Section 7(e)(1)(A)(1)(b) and executed in the PRISM Auction. The pricing described below applies regardless of capacity.

With respect to a PRISM Order, the Exchange proposes to pay a rebate to a PRISM Order that was submitted as a Request for PRISM seeking another BX Participant who would respond to the Request for PRISM Order by submitting the Initiating Order to initiate a PRISM Auction.¹⁰ The Exchange would pay a rebate of

¹⁰ A recipient of a Request for PRISM may utilize FIX to submit the sender’s PRISM Order, along with an Initiating Order (a “response”) into the System for execution into PRISM pursuant to Options 3, Section 13. Requests for PRISM are sent to BX Participants that “opt in” to receive Requests for PRISM. See Options 3, Section 7(e)(A)(1)(a).

\$0.35 per contract for a Penny Class and \$0.70 per contract for a Non-Penny Class to the PRISM Order when a BX Participant responds to a Request for PRISM with an Initiating Order, provided the PRISM Order trades with an Initiating Order or the PRISM Order trades with a PRISM Response.

With respect to an Initiating Order, the Exchange proposes to assess a fee to the Initiating Order that was submitted in response to the Request for PRISM along with the PRISM Order. The Exchange would assess a fee of \$0.49 per contract fee for a Penny Class and \$0.94 per contract fee for a Non-Penny Class to the Initiating Order when a BX Participant responds to a Request for PRISM with an Initiating Order, provided the PRISM Order traded with an Initiating Order.¹¹

The Exchange proposes to assess responses to a PRISM Auction a fee of \$0.49 per contract for Penny Classes and \$0.94 per contract for Non-Penny Classes.

Today, the Exchange does not assess a fee or pay a rebate to a BX Participant who submitted a PRISM Order into a Request for PRISM or the BX Participant who responded with an Initiating Order within the Request for PRISM mechanism. Today, the fees and rebates for two-sided orders entered into PRISM are codified within Options 7, Section 2(5). Pursuant to Options 7, Section 2(5), a BX Participant who entered a paired PRISM Auction pays no fee if a Customer were on either or both sides of the PRISM Auction Order, and pays a \$0.30 per contract for the PRISM Order and \$0.05 per contract for the Initiating Order for Non-Customer orders. Responders to a PRISM

¹¹ If the PRISM Order trades entirely with a PRISM Response, the Initiating Order would not be assessed a fee because the Initiating Order did not execute as part of the PRISM Order. If the PRISM Order trades partially with a PRISM Response, the Initiating Order would be subject to fees only for contracts traded with the PRISM Order.

Auction pay a \$0.49 per contract fee for a Penny Class and a \$0.94 per contract fee for a Non-Penny Class. A Customer PRISM Order that traded with a PRISM Response receives a rebate of \$0.35 per contract for a Penny Class and a \$0.70 per contract for a Non-Penny Class. Non-Customer PRISM Orders that traded with a PRISM Response do not receive a rebate.

The Exchange proposes to incentivize BX Participants to submit PRISM Orders through the Request for PRISM mechanism. With this proposal, a PRISM Order that was submitted as a Request for PRISM and trades with an Initiating Order or a PRISM Response would receive a rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes, regardless of capacity, instead of paying a fee of \$0.30 per contract pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.¹² If the PRISM Order was for a Customer, the rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes remains unchanged pursuant to Options 7, Section 2(5). The BX Participant submitting an Initiating Order through the Request for PRISM mechanism would be assessed a fee of \$0.49 per contract for Penny Class and \$0.94 per contract for Non-Penny Classes if the PRISM Order trades with the Initiating Order instead of a \$0.05 per contract fee pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.¹³

Responders to a PRISM Auction would pay the same fee of \$0.49 per contract fee for Penny Classes and \$0.94 per contract fee for Non-Penny Classes regardless of

¹² Today, Customers pays no PRISM Order fee.

¹³ Today, Customers pays no Initiating Order fee.

whether the Request for PRISM mechanism was utilized to initiate a PRISM Auction or the PRISM Auction Order was entered directly into the PRISM Auction as a paired order.

The proposed pricing is intended to incentivize BX Participants to utilize the Request for PRISM feature to obtain liquidity, potential price improvement for the PRISM Order, as well as a rebate. Any BX Participant may respond to a PRISM Auction and all BX Participants benefit from the ability to interact with the PRISM Auction Order. The proposed fee to Initiating Orders, who respond to a Request for PRISM and where the PRISM Order traded with an Initiating Order, would enable the Exchange to offer rebates to attract BX Participants to enter PRISM Orders as a Request for PRISM. This proposal does not amend pricing for PRISM Auctions.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4) and (5).

In NetCoalition v. Securities and Exchange Commission¹⁶ (“NetCoalition”), the D.C. Circuit stated, “[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’”¹⁷

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. 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. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

The Exchange’s proposal to define a “PRISM Order”, an “Initiating Order”, a “PRISM Auction Order”, a “PRISM Response”, and a “Request for PRISM” for the purpose of Options 7, Section 2(5) pricing and utilize these terms within Options 7, Section 2(5) is reasonable, equitable and not unfairly discriminatory. The Exchange believes that these terms, which align more closely to the terms utilized in Options 3,

¹⁶ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

¹⁷ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

Section 13 related to PRISM, will make the Options 7, Section 2(5) PRISM pricing more transparent.

The Exchange's proposal to amend Options 7, Section 2(5) to adopt specific pricing for BX Participants that utilize the Request for PRISM mechanism is reasonable because the Exchange believes the proposed pricing will incentivize BX Participants to utilize the Request for PRISM feature to obtain liquidity, potential price improvement, as well as a rebate for the PRISM Order. The proposed pricing for PRISM Auction Orders which commenced as a Request for PRISM and executed in the PRISM Auction would apply in lieu of Options 7, Section 2(5) pricing and regardless of capacity. With respect to a PRISM Order, the Exchange proposes to pay a rebate to a PRISM Order that was submitted as a Request for PRISM seeking another BX Participant who would respond to the Request for PRISM Order by submitting the Initiating Order to initiate a PRISM Auction.¹⁸ With this proposal, a PRISM Order that was submitted as a Request for PRISM and trades with an Initiating Order or a PRISM Response, would receive a rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes, regardless of capacity, instead of paying a fee of \$0.30 per contract pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.¹⁹ If the PRISM Order was for a Customer, the rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes remains unchanged pursuant to Options 7, Section 2(5). The

¹⁸ A recipient of a Request for PRISM may utilize FIX to submit the sender's PRISM Order, along with an Initiating Order (a "response") into the System for execution into PRISM pursuant to Options 3, Section 13. Requests for PRISM are sent to BX Participants that "opt in" to receive Requests for PRISM. See Options 3, Section 7(e)(A)(1)(a).

¹⁹ Today, Customers pays no PRISM Order fee.

Exchange believes the proposed PRISM Order rebate is reasonable because it is intended to attract BX Participants to utilize the Request for PRISM mechanism. The BX Participant submitting an Initiating Order through the Request for PRISM mechanism would be assessed a fee of \$0.49 per contract for Penny Class and \$0.94 per contract for Non-Penny Classes if the PRISM Order trades with the Initiating Order, instead of a \$0.05 per contract fee pursuant to Options 7, Section 2(5), provided the order was for a Non-Customer.²⁰ The Exchange believes it is reasonable to assess a higher fee for the Initiating Order that was submitted with the Request for PRISM mechanism, where fees are the same as those assessed to responders in the PRISM Auction, because BX Participants are able to obtain immediate liquidity. The Request for PRISM mechanism is utilized by Participants as a liquidity seeking tool that if not available would require a BX Participant to source liquidity from third parties, expending time and potential additional cost. The Request for PRISM mechanism offers Participants the opportunity to immediately commence a PRISM Auction without the need to source liquidity. Liquidity providers that enter orders directly into PRISM and do not utilize the Request for PRISM mechanism have expended time sourcing liquidity with third parties outside of the Exchange. The Exchange believes that BX Participants benefit from the liquidity seeking mechanism that is being offered by the Exchange to allow certain market participants to compete with other market participants whose business model is designed to source liquidity. The proposed fee for Initiating Orders who respond to a Request for PRISM, when the PRISM Order trades with an Initiating Order, would enable the Exchange to offer rebates to BX Participants submitting PRISM Orders into the Request

²⁰ Today, Customers pays no Initiating Order fee.

for PRISM mechanism. The Exchange believes the fees for responders are reasonable because responders to a PRISM Auction would pay the same fee of \$0.49 per contract fee for Penny Classes and \$0.94 per contract fee for Non-Penny Classes regardless of whether the Request for PRISM mechanism was utilized to initiate a PRISM Auction or the PRISM Auction Order was entered directly into PRISM as a paired order.

The Exchange's proposal to amend Options 7, Section 2(5) to adopt specific pricing for BX Participants that utilize the Request for PRISM mechanism is equitable and not unfairly discriminatory because any BX Participant may utilize the Request for PRISM feature. Also, any BX Participant may respond to a PRISM Auction and all BX Participants benefit from the ability to interact with additional order flow.²¹ The Request for PRISM mechanism provides greater flexibility for Participants submitting orders into PRISM, specifically providing an avenue for BX Participants desiring to send orders to the PRISM mechanism to locate an Initiating Order to pair their PRISM Order with and participate in a PRISM Auction. All Participants that enter a PRISM Order into the Request for PRISM mechanism are uniformly entitled to a rebate if the PRISM Order trades with the Initiating Order or if the PRISM Order trades with a PRISM Response. Also, all Participants that enter Initiating Orders into the Request for PRISM mechanism are uniformly assessed a fee provided the PRISM Order trades with the Initiating Order. The proposed fees for an Initiating Order entered into the Request for PRISM mechanism that trade with a PRISM Response are equivalent to the pricing for responders pursuant to Options 7, Section 2(5) because BX Participants benefit from the liquidity seeking mechanism that is being offered. The mechanism allows certain market participants to

²¹ The identity of the sender and the recipients are not known to any party.

compete with other market participants whose business model is designed to source liquidity.

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

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

Intermarket Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice to initiate a price improvement auction. 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 fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange’s Request for PRISM pricing would allow the Exchange to compete for order flow by incentivizing BX Participants to utilize the Request for PRISM to seek liquidity.

Intramarket Competition

The Exchange’s proposal to define a “PRISM Order”, an “Initiating Order”, a “PRISM Auction Order”, a “PRISM Response”, and a “Request for PRISM” for the

purpose of Options 7, Section 2(5) pricing and utilize these terms within Options 7, Section 2(5) does not impose an undue burden on competition because the defined terms will more closely align the pricing within Options 7, Section 2(5) to the terms utilized in Options 3, Section 13 related to PRISM.

The Exchange's proposal to amend Options 7, Section 2(5) to adopt specific pricing for BX Participants that utilize the Request for PRISM mechanism does not impose an undue burden on competition because any BX Participant may utilize the Request for PRISM feature. Also, any BX Participant may respond to a PRISM Auction and all BX Participants benefit from the ability to interact with additional order flow.²² The Request for PRISM mechanism provides greater flexibility for Participants submitting orders into PRISM, specifically providing an avenue for BX Participants desiring to send orders to the PRISM mechanism to locate an Initiating Order to pair their PRISM Order with and participate in a PRISM Auction. All Participants that enter a PRISM Order into the Request for PRISM mechanism are uniformly entitled to a rebate if the PRISM Order trades with the Initiating Order or if the PRISM Order trades with a PRISM Response. Also, all Participants that enter Initiating Orders into the Request for PRISM mechanism are uniformly assessed a fee provided the PRISM Order trades with the Initiating Order. The proposed fees for an Initiating Order entered into the Request for PRISM mechanism that trade with a PRISM Response are equivalent to the pricing for responders pursuant to Options 7, Section 2(5) because BX Participants benefit from the liquidity seeking mechanism that is being offered. The mechanism allows certain market participants to compete with other market participants whose business model is

²² The identity of the sender and the recipients are not known to any party.

designed to source liquidity.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²³

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2023-005 on the subject line.

²³ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2023-005. 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-2023-005 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.²⁴

J. Matthew DeLesDernier
Assistant Secretary

²⁴ 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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Options Rules

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Options 7 Pricing Schedule

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Section 2 BX Options Market-Fees and Rebates

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(5) Fees and rebates for BX Price Improvement Auction (“PRISM”) per Options 3, Section 13.

Fees and rebates (per contact)

Type of Market Participants	Submitted PRISM <u>Auction Order</u>		Response ded to PRISM Auction		PRISM Order Traded With PRISM Response rebate	
	fee [Agency] <u>PRISM Order</u>	[Contra-Side] <u>Initiating Order</u>	Penny Classes	Non-Penny Classes	Penny Classes	Non-Penny Classes
Customer	\$0.00	\$0.00	\$0.49	\$0.94	\$0.35	\$0.70
Lead Market Maker	\$0.30	\$0.05	\$0.49	\$0.94	\$0.00	\$0.00
BX Options Market Maker	\$0.30	\$0.05	\$0.49	\$0.94	\$0.00	\$0.00
Non-Customer	\$0.30	\$0.05	\$0.49	\$0.94	\$0.00	\$0.00

For purposes of Options 7, Section 2(5) PRISM pricing, the following terms shall apply:

▪ PRISM Order is one-side of a PRISM Auction Order that represents an agency order on behalf a Public Customer, broker-dealer or other entity which is paired with an Initiating Order.

▪ Initiating Order is one-side of a PRISM Auction Order that represents principal or other interest which is paired with a PRISM Order.

▪ **PRISM Auction Order** is a two-sided, paired order comprised of a PRISM Order and an Initiating Order.

▪ **PRISM Response** is interest that executed against the PRISM Order pursuant to Options 3, Section 13.

BX will apply the rebate to market participants that submitted a PRISM Order pursuant to a PRISM Auction and the PRISM Order traded with PRISM Response. The [Agency]PRISM Order fee for Submitted PRISM Order will be applicable to any contract(s) for which a rebate is provided for PRISM Order Traded with PRISM Response.

▪ **Request for PRISM Pricing:**

▪ **A Request for PRISM** is a mechanism to submit orders into a PRISM Auction as described within Options 3, Section 7(e)(1)(A)(1)(b).

The below pricing shall apply, in lieu of Options 7, Section 2(5) pricing, to PRISM Auction Orders which commenced as a Request for PRISM pursuant to Options 3, Section 7(e)(1)(A)(1)(b) and executed in the PRISM Auction. The below pricing applies regardless of capacity.

PRISM Order

▪ **A rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes will be paid to a PRISM Order when a BX Participant responds to a Request for PRISM with an Initiating Order, provided the PRISM Order trades with an Initiating Order.**

▪ **A rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes will be paid to the PRISM Order when the PRISM Order trades with a PRISM Response.**

Initiating Order

▪ **A fee of \$0.49 per contract for Penny Classes and \$0.94 per contract fee for Non-Penny Classes will be assessed to the Initiating Order when a BX Participant responds to a Request for PRISM with an Initiating Order, provided the PRISM Order trades with an Initiating Order.**

Responses to a PRISM Auction

▪ **Responses to a PRISM Auction will be assessed \$0.49 per contract fee for Penny Classes and a \$0.94 per contract fee for Non-Penny Classes.**

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