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Page 1 of \* 29

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

File No. \* SR 2024 - \* 031

Amendment No. (req. for Amendments \*)

Filing by NASDAQ BX, Inc.

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

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|--|---|--|--|--|---|
| Initial *<br><input checked="" type="checkbox"/> | Amendment *<br><input type="checkbox"/> | Withdrawal<br><input type="checkbox"/> | Section 19(b)(2) *<br><input type="checkbox"/> | Section 19(b)(3)(A) *<br><input checked="" type="checkbox"/> | Section 19(b)(3)(B) *<br><input type="checkbox"/> |
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| Pilot<br><input type="checkbox"/> | Extension of Time Period for Commission Action *<br><input type="checkbox"/> | Date Expires *<br><input type="text"/> | Rule<br><input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4)<br><input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5)<br><input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6) |  |  |
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010  
Section 806(e)(1) \*

Section 806(e)(2) \*

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 3, Sections 15 and 25

**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 \*  Last Name \*

Title \*

E-mail \*

Telephone \*  Fax

**Signature**

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


Date

(Title \*)

By

(Name \*)

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

 Date: 2024.08.20  
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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-2024-031 19b-4.docx

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

**Exhibit 1 - Notice of Proposed Rule Change \***

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SR-BX-2024-031 Exhibit 1.docx

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

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

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

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

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

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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SR-BX-2024-031 Exhibit 5.docx

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) Nasdaq BX, Inc. (“BX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend its Rules at Options 3, Sections 15 and 25.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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

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

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

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

a. Purpose

BX proposes to amend Options 3, Section 25, Anonymity, to permit trade reports to reveal certain additional information concerning contra parties. The Exchange also

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

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

proposes an amendment to Options 3, Section 15, Risk Protections. Each change will be described below.

### Anonymity

Today, transaction reports produced by the System indicate the details of the transactions, but do not reveal “contra party identities” pursuant to Options 3, Section 25(a). In limited circumstances, BX will reveal a Participant’s identity as described in Options 3, Section 25(b).<sup>3</sup>

### Background

Today, BX does not display any market participant capacity information<sup>4</sup> prior to execution, nor does BX provide transaction reports that include contra party identities.<sup>5</sup> For example, BX does not reveal the market capacity in its BX Top of Market (BX Top) feed.<sup>6</sup> Additionally, BX provides a Clearing Trade Interface<sup>7</sup> message for post-trade

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<sup>3</sup> Pursuant to Options 3, Section 25(b), BX will reveal a Participant’s identity: (1) when a registered clearing agency ceases to act for a participant, or the Participant’s clearing firm, and the registered clearing agency determines not to guarantee the settlement of the Participant’s trades; (2) for regulatory purposes or to comply with an order of an arbitrator or court; (3) if both Participants to the transaction consent; and (4) Unless otherwise instructed by a Member, BX will reveal to a member, no later than the end of the day on the date an anonymous trade was executed, when the member’s Order has been decremented by another Order submitted by that same member.

<sup>4</sup> A market participant capacity is a code that correlates to the capacity of an order at The Options Clearing Corporation (“OCC”).

<sup>5</sup> The contra party identity is the mnemonic or house account for the contra side of the trade. The term “mnemonic” means an acronym comprised of letters and/or numbers assigned to Participants pursuant to Options 1, Section 1(a)(32). A Participant account may be associated with multiple mnemonics. A house account is a number provided by the Exchange to identify members.

<sup>6</sup> Pursuant to Options 3, Section 23(a)(2), BX Top of Market (BX Top) calculates and disseminates BX’s best bid and offer and last sale information for trades executed on BX Options. The feed also provides last trade information and for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on BX and identifies if the series is available for closing transactions only.

<sup>7</sup> Pursuant to BX Options 3, Section 23(b)(1), the Clearing Trade Interface (“CTI”) is a real-time clearing trade update message that is sent to a member after an execution has occurred and contains trade details specific to that member. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or “CMTA” or “OCC” number; (ii)

reporting and a Trade Details report<sup>8</sup> that do not display contra party identities.

Unlike BX, other options exchanges are not anonymous and display market participant capacity prior to execution and provide transaction reports with contra party identities.<sup>9</sup> For example, Phlx displays market participants capacity information in its PHLX Orders feed,<sup>10</sup> and MIAX provides a Clearing Trade Drop report<sup>11</sup> with the contra party MPID displayed.

With this amendment, BX's CTI would provide the house account of the contra party and BX's Trade Detail report would provide the mnemonic, firm name, and other relevant clearing information of the contra party. These changes would be identical to the CTI and Trade Detail Report contra party information provided by Phlx, ISE, GEMX and MRX and analogous to the contra party information that MIAX provides its

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Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity.

<sup>8</sup> The Trade Details report is a report containing all of a member's executed trades along with all relevant trade information, and clearing information.

<sup>9</sup> See e.g. Nasdaq Phlx, LLC ("Phlx"), Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX") and Nasdaq MRX, LLC ("MRX") and MIAX.

<sup>10</sup> Pursuant to Options 3, Section 23(a)(2), PHLX Orders is a real-time full Limit Order book data feed that provides pricing information for orders on the PHLX Order book for displayed order types as well as market participant capacity. PHLX Orders is currently provided as part of the TOPO Plus Orders data product. PHLX Orders provides real-time information to enable users to keep track of the single and complex order book(s). The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, leg information on complex strategies and whether the option series is available for trading on Phlx and identifies if the series is available for closing transactions only. The feed also provides auction and exposure notifications and order imbalances on opening/reopening (size of matched contracts and size of the imbalance).

<sup>11</sup> For example, see Miami International Securities Exchange LLC ("MIAX") Clearing Trade Drop specifications at: [https://www.miaxglobal.com/sites/default/files/page-files/Clearing\\_Trade\\_Drop\\_CTD\\_v2.6c.pdf](https://www.miaxglobal.com/sites/default/files/page-files/Clearing_Trade_Drop_CTD_v2.6c.pdf).

members.

### Ovation

In terms of workflow, today, BX's System executes an order, the trade information for that order is sent to OCC and includes contra party identities. OCC then disseminates trade messages that contain a matched trade per record with both buy and sell sides of an order, also revealing contra party identities.

OCC announced that it will amend its platform, with project Ovation, in 2025.<sup>12</sup> Among other changes, OCC will amend trade reporting and will split the trade into two trade messages; one for the buyer and one for the seller. As a result of this change, OCC Clearing Members will only receive the clearing message relevant to their side(s) of the trade and exchanges will receive both messages and will need to link each trade by clearing sequence numbers, exchange and business date.<sup>13</sup> Therefore, BX Participants will no longer receive trade message information from OCC that reveals contra party identities. BX Participants have requested that the Exchange offer contra party identities, similar to other exchanges, on its post-trade reporting because this information is essential information for reconciliations when there are errors or clearing breaks especially on an expiring option or option with a pending corporate action. Additionally, contra party identities are important in the event of an obvious or catastrophic error. Without this information, a representing broker dealer would be less able to input trade detail to the Exchange in a timely manner.

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<sup>12</sup> See <https://www.theocc.com/company-information/occ-transformation>.

<sup>13</sup> See [https://www.theocc.com/getmedia/0db1ac5e-ca85-43b6-a109-4354a572d912/Ovation-Platform-Changes-and-Enhancements\\_Trade-Sources\\_Jan2024.pdf](https://www.theocc.com/getmedia/0db1ac5e-ca85-43b6-a109-4354a572d912/Ovation-Platform-Changes-and-Enhancements_Trade-Sources_Jan2024.pdf).

### Proposal

At this time, at the request of several BX Participants, BX proposes to amend Options 3, Section 25, Anonymity, to permit the Exchange to reveal contra party identities, post-trade, to provide BX Participants with information that OCC provides today and that other options exchanges also provide today.<sup>14</sup> Specifically, the Exchange proposes to amend Options 3, Section 25(a) which currently states, “The transaction reports produced by the System will indicate the details of the transactions and shall not reveal contra party identities.” As amended, Options 3, Section 25(a) would provide, “Orders and quotes entered into the System will be displayed anonymously and, as such, will trade anonymously. Transaction reports produced by the System (i.e., the Clearing Trade Interface and the Trade Details report) will indicate the details of the transactions, and will include contra party identities.”

Today, options trades on BX are not completely anonymous through settlement as they are submitted by the Exchange to OCC with contra-side OCC member information. The Exchange believes that this amendment will continue to provide Participants with anonymity when transacting options orders on BX, while also providing Participants with post-trade contra party identities as a replacement for the data that OCC is providing today and will no longer be provided with OCC’s technology migration. BX’s post trade reporting (i.e., the Clearing Trade Interface and the Trade Details report) would provide information identical to or analogous to other options exchanges that display contra party identities.<sup>15</sup>

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<sup>14</sup> See supra note 9.

<sup>15</sup> See supra note 9.

Acceptable Trade Range

The Exchange proposes to amend Options 3, Section 15(b)(1), which describes the Acceptable Trade Range. Today, BX's System calculates an Acceptable Trade Range to limit the range of prices at which an order and/or quote (except an All-or-None Order) will be allowed to execute. The Acceptable Trade Range is calculated by taking the Reference Price, plus or minus a value to be determined by the Exchange. (i.e., the Reference Price - (x) for sell orders/quotes and the Reference Price + (x) for buy orders/quotes). Upon receipt of a new order/quote, the Reference Price is the better of the National Best Bid ("NBB") or internal best bid for sell orders/quotes and the National Best Offer ("NBO") or internal best offer for buy orders/quotes or the last price at which the order/quote is posted whichever is higher for a buy order/quote or lower for a sell order/quote.

If an order/quote reaches the outer limit of the Acceptable Trade Range (the "Threshold Price") without being fully executed, it will be posted at the Threshold Price for a brief period, not to exceed one second ("Posting Period"), to allow more liquidity to be collected, unless a Quote Exhaust has occurred, in which case the Quote Exhaust process in Options 3, Section 6(a)(ii)(B)(3) will ensue, triggering a new Reference Price. Upon posting, either the current Threshold Price of the order or an updated NBB for buy orders or the NBO for sell orders (whichever is higher for a buy order/lower for a sell order) then becomes the Reference Price for calculating a new Acceptable Trade Range. If the order/quote remains unexecuted after the Posting Period, a New Acceptable Trade Range will be calculated and the order/quote will execute, route, or post up to the new Acceptable Trade Range Threshold Price, unless a member organization has requested



that their orders be returned if posted at the outer limit of the Acceptable Trade Range (in which case, the order will be returned).

Today, the System permits a BX Participant to request that their order be returned to them if posted at the outer limit of the Acceptable Trade Range instead of executing, routing or posting to the order book. This functionality, which is not specified in the current rule, provides a BX Participant with additional choice as to the price at which their order could execute. The Exchange proposes to reflect this existing functionality in Options 3, Section 15(b)(1)(A) to make clear that the choice exists to have an order returned. Today, Phlx offers this functionality.<sup>16</sup>

#### Implementation

The Exchange proposes to implement the amendments to Options 3, Section 25 on or before March 31, 2025. The Exchange would announce the date of implementation in an Options Trader Alert ahead of the implementation date. No implementation is necessary for the change to the Acceptable Trade Range rule.

#### b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>18</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

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<sup>16</sup> See Phlx Options 3, Section 15(b)(1)(B).

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

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

### Anonymity

BX's proposal to amend Options 3, Section 25 to reveal contra party identities post-trade promotes just and equitable principles of trade, and removes impediments to and perfect the mechanism of a free and open market and a national market system because it would provide BX Participants with identical or analogous post trade information (i.e. the Clearing Trade Interface and the Trade Details report) that OCC and other options exchanges<sup>19</sup> provide these market participants today. BX Participants have requested that the Exchange offer contra party identities, similar to other exchanges, on its post-trade reporting because this information is essential information for reconciliations when there are errors or clearing breaks especially on an expiring option or option with a pending corporate action. Additionally, contra party identities are important in the event of an obvious or catastrophic error. Without this information, a representing broker dealer would be less able to input trade detail to the Exchange in a timely manner.

Today, options trades are not completely anonymous through settlement as they are submitted by the Exchange to OCC with contra-side identities. This amendment will continue to provide BX Participants with anonymity when transacting options orders on BX pre-trade, while also providing Participants with post-trade contra party identities as a replacement for the data that OCC is providing today and will no longer provide with OCC's technology migration.

### Acceptable Trade Range

The Exchange's proposal to amend Options 3, Section 15(b)(1), which describes

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<sup>19</sup> See supra note 9.

the Acceptable Trade Range, to note that, “...unless a Participants has requested that their orders be returned if posted at the outer limit of the Acceptable Trade Range (in which case, the order will be returned)...” protects investors and the public interest because it permits BX Participants to elect to have their orders returned to them if posted at the outer limit of the Acceptable Trade Range instead of executing, routing or posting to the order book. This functionality provides Participants with additional choice as to the price at which their order could execute. The Acceptable Trade Range functionality is intended to reduce the negative impacts of sudden, unanticipated volatility in individual options, and serve to preserve an orderly market in a transparent and uniform manner, enhance the price-discovery process, increase overall market confidence, and promote fair and orderly markets and the protection of investors. The Exchange proposes to reflect this existing functionality in Options 3, Section 15(b)(1)(A) to make clear that the option exists to have an order returned. Today, Phlx offers this functionality.<sup>20</sup>

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

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

Anonymity

The Exchange’s proposal does not impose an undue burden on intramarket competition because all BX Participants currently have the ability to view contra party identities at OCC once the trade executes. With this amendment, all Participants will be able to continue to have the ability to view contra party identities through BX’s post trade

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<sup>20</sup> See Phlx Options 3, Section 15(b)(1)(B).

reporting. Further, to the extent that BX fails to provide equivalent post trade information to its Participants as other options exchanges provide today, it would be at a competitive disadvantage as market participants have expressed the importance to receiving this information.

The Exchange's proposal does not impose an undue burden on intermarket competition because other options exchanges<sup>21</sup> provide contra party identities today post-trade. Other options markets could also adopt an anonymity rule similar to BX.

#### Acceptable Trade Range

The Exchange's proposal to amend Options 3, Section 15(b)(1) does not impose an undue burden on intramarket competition because all Participants would have the ability to have their orders returned to them.

The Exchange's proposal to amend Options 3, Section 15(b)(1) does not impose an undue burden on intermarket competition because other options exchanges could adopt similar functionality.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not Applicable.

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

The foregoing rule change has become effective pursuant to Section

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<sup>21</sup> See supra note 9.

19(b)(3)(A)(iii)<sup>22</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>23</sup> in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The proposed rule change with respect to Anonymity is consistent with the protection of investors and the public interest because BX Participants would continue to have access to contra party identities with respect to certain transaction reports (i.e. the Clearing Trade Interface and the Trade Details report) that is identical or analogous to the information that is being provided today by other options exchanges.<sup>24</sup> Today, options trades are not completely anonymous through settlement as they are submitted by the Exchange to OCC with contra-side identities. This amendment will continue to protect investors and the general public by providing Participants with anonymity when transacting options order on BX while also providing Participants with post-trade contra party identities as a replacement for the data that OCC is providing today and will no longer provide with OCC's technology migration. The Exchange's proposal to amend the Acceptable Trade Range rule text at Options 3, Section 15(b)(1) does not impose any significant burden on competition because it permits BX Participants to elect to have their orders returned to them if posted at the outer limit of the Acceptable Trade Range instead of executing, routing or posting to the order book. Today, Phlx offers this

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<sup>22</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

<sup>24</sup> See supra note 9.

functionality.<sup>25</sup>

The proposed rule change does not impose any significant burden on competition because all Participants currently have the ability to view contra party identities at OCC once the trade executes. With this amendment, all Participants will be able to continue to have the ability to view contra party identities utilizing BX's post trade reporting. Further, to the extent that BX fails to provide equivalent post trade information to its Participants as other options exchanges it would be at a significant competitive disadvantage as market participants have expressed the importance to receiving this information. The Exchange's proposal to amend the Acceptable Trade Range rule text at Options 3, Section 15(b)(1) does not impose any significant burden on competition because all Participants would have the ability to have their orders returned to them.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>26</sup> requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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

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<sup>25</sup> See Options 3, Section 15(b)(1)(B).

<sup>26</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

Today, other options exchanges<sup>27</sup> display contra party identities post-trade.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

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<sup>27</sup> See supra note 9.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-BX-2024-031)

August \_\_, 2024

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 3, Sections 15 and 25

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 20, 2024, 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 Rules at Options 3, Sections 15 and 25.

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

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

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



the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

BX proposes to amend Options 3, Section 25, Anonymity, to permit trade reports to reveal certain additional information concerning contra parties. The Exchange also proposes an amendment to Options 3, Section 15, Risk Protections. Each change will be described below.

Anonymity

Today, transaction reports produced by the System indicate the details of the transactions, but do not reveal “contra party identities” pursuant to Options 3, Section 25(a). In limited circumstances, BX will reveal a Participant’s identity as described in Options 3, Section 25(b).<sup>3</sup>

Background

Today, BX does not display any market participant capacity information<sup>4</sup> prior to execution, nor does BX provide transaction reports that include contra party identities.<sup>5</sup>

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<sup>3</sup> Pursuant to Options 3, Section 25(b), BX will reveal a Participant’s identity: (1) when a registered clearing agency ceases to act for a participant, or the Participant’s clearing firm, and the registered clearing agency determines not to guarantee the settlement of the Participant’s trades; (2) for regulatory purposes or to comply with an order of an arbitrator or court; (3) if both Participants to the transaction consent; and (4) Unless otherwise instructed by a Member, BX will reveal to a member, no later than the end of the day on the date an anonymous trade was executed, when the member’s Order has been decremented by another Order submitted by that same member.

<sup>4</sup> A market participant capacity is a code that correlates to the capacity of an order at The Options Clearing Corporation (“OCC”).

<sup>5</sup> The contra party identity is the mnemonic or house account for the contra side of the trade. The term “mnemonic” means an acronym comprised of letters and/or numbers assigned to Participants pursuant to Options 1, Section 1(a)(32). A Participant account may be associated with multiple mnemonics. A house account is a number provided by the Exchange to identify members.

For example, BX does not reveal the market capacity in its BX Top of Market (BX Top) feed.<sup>6</sup> Additionally, BX provides a Clearing Trade Interface<sup>7</sup> message for post-trade reporting and a Trade Details report<sup>8</sup> that do not display contra party identities.

Unlike BX, other options exchanges are not anonymous and display market participant capacity prior to execution and provide transaction reports with contra party identities.<sup>9</sup> For example, Phlx displays market participants capacity information in its PHLX Orders feed,<sup>10</sup> and MIAX provides a Clearing Trade Drop report<sup>11</sup> with the contra party MPID displayed.

With this amendment, BX's CTI would provide the house account of the contra

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<sup>6</sup> Pursuant to Options 3, Section 23(a)(2), BX Top of Market (BX Top) calculates and disseminates BX's best bid and offer and last sale information for trades executed on BX Options. The feed also provides last trade information and for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on BX and identifies if the series is available for closing transactions only.

<sup>7</sup> Pursuant to BX Options 3, Section 23(b)(1), the Clearing Trade Interface ("CTI") is a real-time clearing trade update message that is sent to a member after an execution has occurred and contains trade details specific to that member. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or "CMTA" or "OCC" number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity.

<sup>8</sup> The Trade Details report is a report containing all of a member's executed trades along with all relevant trade information, and clearing information.

<sup>9</sup> See e.g. Nasdaq Phlx, LLC ("Phlx"), Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX") and Nasdaq MRX, LLC ("MRX") and MIAX.

<sup>10</sup> Pursuant to Options 3, Section 23(a)(2), PHLX Orders is a real-time full Limit Order book data feed that provides pricing information for orders on the PHLX Order book for displayed order types as well as market participant capacity. PHLX Orders is currently provided as part of the TOPO Plus Orders data product. PHLX Orders provides real-time information to enable users to keep track of the single and complex order book(s). The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, leg information on complex strategies and whether the option series is available for trading on Phlx and identifies if the series is available for closing transactions only. The feed also provides auction and exposure notifications and order imbalances on opening/reopening (size of matched contracts and size of the imbalance).

<sup>11</sup> For example, see Miami International Securities Exchange LLC ("MIAX") Clearing Trade Drop specifications at: [https://www.miaxglobal.com/sites/default/files/page-files/Clearing\\_Trade\\_Drop\\_CTD\\_v2.6c.pdf](https://www.miaxglobal.com/sites/default/files/page-files/Clearing_Trade_Drop_CTD_v2.6c.pdf).

party and BX's Trade Detail report would provide the mnemonic, firm name, and other relevant clearing information of the contra party. These changes would be identical to the CTI and Trade Detail Report contra party information provided by Phlx, ISE, GEMX and MRX and analogous to the contra party information that MIAX provides its members.

### Ovation

In terms of workflow, today, BX's System executes an order, the trade information for that order is sent to OCC and includes contra party identities. OCC then disseminates trade messages that contain a matched trade per record with both buy and sell sides of an order, also revealing contra party identities.

OCC announced that it will amend its platform, with project Ovation, in 2025.<sup>12</sup> Among other changes, OCC will amend trade reporting and will split the trade into two trade messages; one for the buyer and one for the seller. As a result of this change, OCC Clearing Members will only receive the clearing message relevant to their side(s) of the trade and exchanges will receive both messages and will need to link each trade by clearing sequence numbers, exchange and business date.<sup>13</sup> Therefore, BX Participants will no longer receive trade message information from OCC that reveals contra party identities. BX Participants have requested that the Exchange offer contra party identities, similar to other exchanges, on its post-trade reporting because this information is essential information for reconciliations when there are errors or clearing breaks especially on an expiring option or option with a pending corporate action. Additionally,

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<sup>12</sup> See <https://www.theocc.com/company-information/occ-transformation>.

<sup>13</sup> See [https://www.theocc.com/getmedia/0db1ac5e-ca85-43b6-a109-4354a572d912/Ovation-Platform-Changes-and-Enhancements\\_Trade-Sources\\_Jan2024.pdf](https://www.theocc.com/getmedia/0db1ac5e-ca85-43b6-a109-4354a572d912/Ovation-Platform-Changes-and-Enhancements_Trade-Sources_Jan2024.pdf).

contra party identities are important in the event of an obvious or catastrophic error. Without this information, a representing broker dealer would be less able to input trade detail to the Exchange in a timely manner.

### Proposal

At this time, at the request of several BX Participants, BX proposes to amend Options 3, Section 25, Anonymity, to permit the Exchange to reveal contra party identities, post-trade, to provide BX Participants with information that OCC provides today and that other options exchanges also provide today.<sup>14</sup> Specifically, the Exchange proposes to amend Options 3, Section 25(a) which currently states, “The transaction reports produced by the System will indicate the details of the transactions and shall not reveal contra party identities.” As amended, Options 3, Section 25(a) would provide, “Orders and quotes entered into the System will be displayed anonymously and, as such, will trade anonymously. Transaction reports produced by the System (i.e. the Clearing Trade Interface and the Trade Details report) will indicate the details of the transactions, and will include contra party identities.”

Today, options trades on BX are not completely anonymous through settlement as they are submitted by the Exchange to OCC with contra-side OCC member information. The Exchange believes that this amendment will continue to provide Participants with anonymity when transacting options orders on BX, while also providing Participants with post-trade contra party identities as a replacement for the data that OCC is providing today and will no longer be provided with OCC’s technology migration. BX’s post trade reporting (i.e. the Clearing Trade Interface and the Trade Details report) would provide

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<sup>14</sup> See supra note 9.

information identical to or analogous to other options exchanges that display contra party identities.<sup>15</sup>

#### Acceptable Trade Range

The Exchange proposes to amend Options 3, Section 15(b)(1), which describes the Acceptable Trade Range. Today, BX's System calculates an Acceptable Trade Range to limit the range of prices at which an order and/or quote (except an All-or-None Order) will be allowed to execute. The Acceptable Trade Range is calculated by taking the Reference Price, plus or minus a value to be determined by the Exchange. (i.e., the Reference Price - (x) for sell orders/quotes and the Reference Price + (x) for buy orders/quotes). Upon receipt of a new order/quote, the Reference Price is the better of the National Best Bid ("NBB") or internal best bid for sell orders/quotes and the National Best Offer ("NBO") or internal best offer for buy orders/quotes or the last price at which the order/quote is posted whichever is higher for a buy order/quote or lower for a sell order/quote.

If an order/quote reaches the outer limit of the Acceptable Trade Range (the "Threshold Price") without being fully executed, it will be posted at the Threshold Price for a brief period, not to exceed one second ("Posting Period"), to allow more liquidity to be collected, unless a Quote Exhaust has occurred, in which case the Quote Exhaust process in Options 3, Section 6(a)(ii)(B)(3) will ensue, triggering a new Reference Price. Upon posting, either the current Threshold Price of the order or an updated NBB for buy orders or the NBO for sell orders (whichever is higher for a buy order/lower for a sell order) then becomes the Reference Price for calculating a new Acceptable Trade Range.

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<sup>15</sup> See supra note 9.

If the order/quote remains unexecuted after the Posting Period, a New Acceptable Trade Range will be calculated and the order/quote will execute, route, or post up to the new Acceptable Trade Range Threshold Price, unless a member organization has requested that their orders be returned if posted at the outer limit of the Acceptable Trade Range (in which case, the order will be returned).

Today, the System permits a BX Participant to request that their order be returned to them if posted at the outer limit of the Acceptable Trade Range instead of executing, routing or posting to the order book. This functionality, which is not specified in the current rule, provides a BX Participant with additional choice as to the price at which their order could execute. The Exchange proposes to reflect this existing functionality in Options 3, Section 15(b)(1)(A) to make clear that the choice exists to have an order returned. Today, Phlx offers this functionality.<sup>16</sup>

### Implementation

The Exchange proposes to implement the amendments to Options 3, Section 25 on or before March 31, 2025. The Exchange would announce the date of implementation in an Options Trader Alert ahead of the implementation date. No implementation is necessary for the change to the Acceptable Trade Range rule.

### 2. Statutory Basis

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

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<sup>16</sup> See Phlx Options 3, Section 15(b)(1)(B).

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

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

impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

#### Anonymity

BX's proposal to amend Options 3, Section 25 to reveal contra party identities post-trade promotes just and equitable principles of trade, and removes impediments to and perfect the mechanism of a free and open market and a national market system because it would provide BX Participants with identical or analogous post trade information (i.e. the Clearing Trade Interface and the Trade Details report) that OCC and other options exchanges<sup>19</sup> provide these market participants today. BX Participants have requested that the Exchange offer contra party identities, similar to other exchanges, on its post-trade reporting because this information is essential information for reconciliations when there are errors or clearing breaks especially on an expiring option or option with a pending corporate action. Additionally, contra party identities are important in the event of an obvious or catastrophic error. Without this information, a representing broker dealer would be less able to input trade detail to the Exchange in a timely manner.

Today, options trades are not completely anonymous through settlement as they are submitted by the Exchange to OCC with contra-side identities. This amendment will continue to provide BX Participants with anonymity when transacting options orders on BX pre-trade, while also providing Participants with post-trade contra party identities as a replacement for the data that OCC is providing today and will no longer provide with OCC's technology migration.

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<sup>19</sup> See supra note 9.

### Acceptable Trade Range

The Exchange's proposal to amend Options 3, Section 15(b)(1), which describes the Acceptable Trade Range, to note that, "...unless a Participant has requested that their orders be returned if posted at the outer limit of the Acceptable Trade Range (in which case, the order will be returned)..." protects investors and the public interest because it permits BX Participants to elect to have their orders returned to them if posted at the outer limit of the Acceptable Trade Range instead of executing, routing or posting to the order book. This functionality provides Participants with additional choice as to the price at which their order could execute. The Acceptable Trade Range functionality is intended to reduce the negative impacts of sudden, unanticipated volatility in individual options, and serve to preserve an orderly market in a transparent and uniform manner, enhance the price-discovery process, increase overall market confidence, and promote fair and orderly markets and the protection of investors. The Exchange proposes to reflect this existing functionality in Options 3, Section 15(b)(1)(A) to make clear that the option exists to have an order returned. Today, Phlx offers this functionality.<sup>20</sup>

### 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.

### Anonymity

The Exchange's proposal does not impose an undue burden on intramarket competition because all BX Participants currently have the ability to view contra party

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<sup>20</sup> See Phlx Options 3, Section 15(b)(1)(B).



identities at OCC once the trade executes. With this amendment, all Participants will be able to continue to have the ability to view contra party identities through BX's post trade reporting. Further, to the extent that BX fails to provide equivalent post trade information to its Participants as other options exchanges provide today, it would be at a competitive disadvantage as market participants have expressed the importance to receiving this information.

The Exchange's proposal does not impose an undue burden on intermarket competition because other options exchanges<sup>21</sup> provide contra party identities today post-trade. Other options markets could also adopt an anonymity rule similar to BX.

#### Acceptable Trade Range

The Exchange's proposal to amend Options 3, Section 15(b)(1) does not impose an undue burden on intramarket competition because all Participants would have the ability to have their orders returned to them.

The Exchange's proposal to amend Options 3, Section 15(b)(1) does not impose an undue burden on intermarket competition because other options exchanges could adopt similar functionality.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant

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<sup>21</sup> See supra note 9.

to Section 19(b)(3)(A)(iii) of the Act<sup>22</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>23</sup>

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

#### IV. Solicitation of Comments

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

##### Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-BX-2024-031 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.

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<sup>22</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>23</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to file number SR-BX-2024-031. 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-BX-2024-031 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>24</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

**Nasdaq BX, Inc. Rules**

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**Options Rules**

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**Options 3 Options Trading Rules**

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**Section 15. Risk Protections**

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(b) The following are order and quote risk protections on BX:

(1) **Acceptable Trade Range.** After the Opening Process, the system will calculate an Acceptable Trade Range to limit the range of prices at which an order or quote will be allowed to execute. The Acceptable Trade Range is calculated by taking the reference price, plus or minus a value to be determined by the Exchange. (i.e., the reference price - (x) for sell orders/quotes and the reference price + (x) for buy orders/quotes). Upon receipt of a new order/quotes, the reference price is the better of the NBB or internal best bid for sell orders/quotes and the better of the NBO or internal best offer for buy orders/quotes or the last price at which the order/quote is posted whichever is higher for a buy order/quote or lower for a sell order/quote. The Acceptable Trade Range will not be available for All-or-None Orders or Minimum Quantity Orders.

(A) If an order/quote reaches the outer limit of the Acceptable Trade Range (the "Threshold Price") without being fully executed, it will be posted at the Threshold Price for a brief period, not to exceed one second ("Posting Period"), to allow more liquidity to be collected. Upon posting, either the current Threshold Price of the order/quote or an updated NBB for buy orders/quotes or the NBO for sell orders/quotes (whichever is higher for a buy order/quote or lower for a sell order/quotes) then becomes the reference price for calculating a new Acceptable Trade Range. If the order/quote remains unexecuted after the Posting Period, a new Acceptable Trade Range will be calculated and the order/quote will execute, route, or post up to the new Threshold Price, unless a Participant has requested that their orders be returned if posted at the outer limit of the Acceptable Trade Range (in which case, the order will be returned). This process will repeat until either (i) the order/quote is executed, cancelled, or posted at its limit price or (ii) the order/quote has been subject to a configurable number of instances of the Acceptable Trade Range as determined by the Exchange (in which case it will be returned).

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**Section 25. Anonymity**

(a) Orders and quotes entered into the System will be displayed anonymously and, as such, will trade anonymously. [The]T[t]ransaction reports produced by the System (i.e. the Clearing Trade Interface and the Trade Details report) will indicate the details of the transactions, and [shall not reveal]will include contra party identities.

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