

Required fields are shown with yellow backgrounds and asterisks.

Filing by Nasdaq GEMX, LLC  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
 Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).  
 Proposal to amend the Opening Process for foreign currency options and also amend a reference to All-or-None Orders.

**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 Act of 1934,  
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  
 (Title \*)  
 Date 05/10/2017      Executive Vice President and General Counsel  
 By Edward S. Knight      edward.knight@nasdaq.com  
 (Name \*)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

Add Remove View

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

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

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

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

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

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

Add Remove View

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 GEMX, LLC (“GEMX” 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 the Opening Process for foreign currency options and also amend a reference to All-or-None Orders.

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1 and the text of the amended Exchange Rule is at 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”) on August 15, 2016. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

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

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

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

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

a. Purpose

The purpose of this rule change is to amend GEMX Rule 701, entitled "Opening," to: (i) conform certain rule text to that of Nasdaq ISE, LLC; (ii) amend the Opening Process for foreign currency options; and (iii) remove a specific rule text reference in Rule 701 related to All-or-None Orders.

Conform Rule Text

ISE recently filed to adopt a new Opening Process.<sup>3</sup> In adopting this rule, certain non-substantive modifications were made to the rule text to further clarify the manner in which the Opening Process occurs. At this time, the Exchange proposes to amend GEMX Rule 701 to conform the text of the rule to ISE Rule 701. Specifically, the Exchange proposes to amend Rule 701(j)(5) to amend the last sentence to make clear that any unexecuted contracts from the imbalance process which are not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book. The additional language adds more detail about the interaction with the Order Book to the rule.

Foreign Currency Options

GEMX Rule 701 provides that Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time, or 7:25 AM Eastern Time for U.S. dollar-settled foreign currency options, will be included in the Opening Process. Orders

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<sup>3</sup> See Securities Exchange Act Release No. 80225 (March 13, 2017), 82 FR 14243 (March 17, 2017)(SR-ISE-2017-02).

entered at any time before an option series opens are included in the Opening Process. The current Opening Process rule states that the submission of Valid Width Quotes and Opening Sweeps for U.S. dollar-settled foreign currency options may begin at 7:25 AM Eastern Time to tie the option Opening Process to quoting in the underlying security<sup>4</sup>; it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange proposes to amend GEMX Rule 701 so that the Opening Process for foreign currency options would initiate on or after 9:30 AM Eastern Time and the Market Maker Valid Width Quotes and Opening Sweeps would be considered for the Opening Process starting at 9:25 AM Eastern Time for foreign currency options.

#### All-Or-None Orders

The Exchange also proposes to amend Rule 701 to remove a specific reference to the manner in which All-or-None Orders are treated in the Opening Process. The Exchange filed a proposed rule change to amend All-or-None Orders.<sup>5</sup> The Exchange amended Rule 715(c) to provide that an All-Or-None Order may only be entered into the System with a time-in-force designation of Immediate-Or-Cancel<sup>6</sup> Order in connection with the Exchange's technology migration to INET. Previously, All-or-None Orders could trade as a limit or market order to be executed in its entirety or not at all. With the

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<sup>4</sup> The underlying security can also be an index.

<sup>5</sup> See Securities Exchange Act Release No. 80102 (February 24, 2017, 82 FR 12381 (March 2, 2017) (SR-ISEGemini-2017-08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to All-or-None Orders).

<sup>6</sup> An Immediate-Or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

amendment, an All-Or-None Order does not persist in the Order Book. The carve out specified in Rule 701(j)(6)(i) is unnecessary since an All-or-None Order will execute immediately or cancel. The Exchange believes removing this reference will eliminate confusion.

(b) Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</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 for the reasons stated below.

Conform Rule Text

The Exchange believes that conforming the GEMX rule to the ISE rule will avoid confusion for market participants. The Opening Process is the same on these two markets. By conforming the rule text of these two rules will make clear that there is no difference in the operation of these two Opening Processes.

Foreign Currency Options

The Exchange believes that the proposed rule change is consistent with the Act in that it will remove impediments to and perfect the mechanism of a free and open market and a national market system, to initiate the Opening Process for foreign currency options at 9:30 AM Eastern Time and accept for the Opening Process the Market Maker Valid

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Width Quotes and Opening Sweeps starting at 9:25 AM Eastern Time for foreign currency options, similar to the manner in which other options trade today. Today, on NASDAQ PHLX, LLC (“Phlx”), foreign currency options trade similar to other options.<sup>9</sup> The Exchange believes that conforming the Opening Process for foreign currency options to that of other options will conform the trading rules so all products would initiate the Opening Process at the same time. The Exchange believes trading all options on the same Opening Process schedule promotes just and equitable principles of trade because all options will continue to be available to participants for trading on GEMX.

#### All-or-None Orders

The Exchange believes that it is consistent with the Act to remove an unnecessary and confusing reference to Rule 701 in connection with All-or-None Orders, since these orders immediately trade or cancel. The Exchange originally distinguished the manner in which All-or-None Orders would trade in the Opening Process because this order type traded differently at that time as compared to other order types. That distinction has become unnecessary because All-or-None Orders trade the same as other Immediate or Cancel Orders. By updating the rule to remove an unnecessary distinction will protect investors and the public interest by clarifying the rule.

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

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

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<sup>9</sup> See Phlx Rules 1014 and 1017. On Phlx, the Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote not later than 30 seconds after the announced market opening. Also, on Phlx, the Opening Process for an option series will be conducted within two minutes of market opening in the case of U.S. dollar-settled FCO or such shorter time as determined by the Exchange and disseminated to membership on the Exchange’s web site.

Act. The Exchange believes that adding additional detail to Rule 701 will provide market participants with more information concerning the Opening Process. The proposal does not change the intense competition that exists among the options markets for options business including with respect to transacting foreign currency options. In addition, all market participants submitting All-or-None Orders in the Opening Process will be receive similar treatment with respect to those orders.

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

The Exchange does not consent to an extension of the time period for Commission action.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>10</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>11</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.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

The Exchange does not believe this proposal significantly affects the protection of investors or the public interest because the Exchange will conform certain rule text to ISE to make clear the Opening Process functions in the same manner. Also, the Exchange proposes to conform the Opening Process timeline for all options and remove an unnecessary reference to All-or-None Orders in the Opening Process, thereby clarifying the Rulebook. The Exchange does not believe that this proposal imposes any significant burden on competition because Phlx similarly initiates the Opening Process for foreign currency options starting at 9:30 AM Eastern Time and the Market Maker Valid Width Quotes and Opening Sweeps would be received for the Opening Process starting at 9:25 AM Eastern Time for foreign currency options. Also, the All-or-None Orders removal from Rule 701 will bring clarity to the Rulebook, as well as conforming other language to match ISE language. The proposal is non-controversial because the reference to All-Or-None is unnecessary and today other exchanges initiate the Opening Process for foreign currency options at 9:30 AM.<sup>12</sup>

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

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

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<sup>12</sup> See note 9 above.

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 for publication in the Federal Register.

5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-GEMX-2017-10)

May \_\_, 2017

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Opening Process

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 May 10, 2017, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Opening Process for foreign currency options and also amend a reference to All-or-None Orders.

The text of the proposed rule change is available on the Exchange’s Website at [www.ise.com](http://www.ise.com), 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

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

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

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of this rule change is to amend GEMX Rule 701, entitled "Opening," to: (i) conform certain rule text to that of Nasdaq ISE, LLC; (ii) amend the Opening Process for foreign currency options; and (iii) remove a specific rule text reference in Rule 701 related to All-or-None Orders.

Conform Rule Text

ISE recently filed to adopt a new Opening Process.<sup>3</sup> In adopting this rule, certain non-substantive modifications were made to the rule text to further clarify the manner in which the Opening Process occurs. At this time, the Exchange proposes to amend GEMX Rule 701 to conform the text of the rule to ISE Rule 701. Specifically, the Exchange proposes to amend Rule 701(j)(5) to amend the last sentence to make clear that any unexecuted contracts from the imbalance process which are not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book. The additional language adds more detail about the interaction with the Order Book to the rule.

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<sup>3</sup> See Securities Exchange Act Release No. 80225 (March 13, 2017), 82 FR 14243 (March 17, 2017)(SR-ISE-2017-02).

### Foreign Currency Options

GEMX Rule 701 provides that Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time, or 7:25 AM Eastern Time for U.S. dollar-settled foreign currency options, will be included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process. The current Opening Process rule states that the submission of Valid Width Quotes and Opening Sweeps for U.S. dollar-settled foreign currency options may begin at 7:25 AM Eastern Time to tie the option Opening Process to quoting in the underlying security<sup>4</sup>; it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange proposes to amend GEMX Rule 701 so that the Opening Process for foreign currency options would initiate on or after 9:30 AM Eastern Time and the Market Maker Valid Width Quotes and Opening Sweeps would be considered for the Opening Process starting at 9:25 AM Eastern Time for foreign currency options.

### All-Or-None Orders

The Exchange also proposes to amend Rule 701 to remove a specific reference to the manner in which All-or-None Orders are treated in the Opening Process. The Exchange filed a proposed rule change to amend All-or-None Orders.<sup>5</sup> The Exchange amended Rule 715(c) to provide that an All-Or-None Order may only be entered into the

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<sup>4</sup> The underlying security can also be an index.

<sup>5</sup> See Securities Exchange Act Release No. 80102 (February 24, 2017, 82 FR 12381 (March 2, 2017) (SR-ISEGemini-2017-08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to All-or-None Orders).

System with a time-in-force designation of Immediate-Or-Cancel<sup>6</sup> Order in connection with the Exchange's technology migration to INET. Previously, All-or-None Orders could trade as a limit or market order to be executed in its entirety or not at all. With the amendment, an All-Or-None Order does not persist in the Order Book. The carve out specified in Rule 701(j)(6)(i) is unnecessary since an All-or-None Order will execute immediately or cancel. The Exchange believes removing this reference will eliminate confusion.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</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 for the reasons stated below.

### Conform Rule Text

The Exchange believes that conforming the GEMX rule to the ISE rule will avoid confusion for market participants. The Opening Process is the same on these two markets. By conforming the rule text of these two rules will make clear that there is no difference in the operation of these two Opening Processes.

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<sup>6</sup> An Immediate-Or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

### Foreign Currency Options

The Exchange believes that the proposed rule change is consistent with the Act in that it will remove impediments to and perfect the mechanism of a free and open market and a national market system, to initiate the Opening Process for foreign currency options at 9:30 AM Eastern Time and accept for the Opening Process the Market Maker Valid Width Quotes and Opening Sweeps starting at 9:25 AM Eastern Time for foreign currency options, similar to the manner in which other options trade today. Today, on NASDAQ PHLX, LLC (“Phlx”), foreign currency options trade similar to other options.<sup>9</sup> The Exchange believes that conforming the Opening Process for foreign currency options to that of other options will conform the trading rules so all products would initiate the Opening Process at the same time. The Exchange believes trading all options on the same Opening Process schedule promotes just and equitable principles of trade because all options will continue to be available to participants for trading on GEMX.

### All-or-None Orders

The Exchange believes that it is consistent with the Act to remove an unnecessary and confusing reference to Rule 701 in connection with All-or-None Orders, since these orders immediately trade or cancel. The Exchange originally distinguished the manner in which All-or-None Orders would trade in the Opening Process because this order type traded differently at that time as compared to other order types. That distinction has become unnecessary because All-or-None Orders trade the same as other Immediate or

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<sup>9</sup> See Phlx Rules 1014 and 1017. On Phlx, the Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote not later than 30 seconds after the announced market opening. Also, on Phlx, the Opening Process for an option series will be conducted within two minutes of market opening in the case of U.S. dollar-settled FCO or such shorter time as determined by the Exchange and disseminated to membership on the Exchange’s web site.

Cancel Orders. By updating the rule to remove an unnecessary distinction will protect investors and the public interest by clarifying the rule.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that adding additional detail to Rule 701 will provide market participants with more information concerning the Opening Process. The proposal does not change the intense competition that exists among the options markets for options business including with respect to transacting foreign currency options. In addition, all market participants submitting All-or-None Orders in the Opening Process will be receive similar treatment with respect to those orders.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup>

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</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

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](mailto:rule-comments@sec.gov). Please include File Number SR-GEMX-2017-10 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-GEMX-2017-10. 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

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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.

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-GEMX-2017-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Robert W. Errett  
Deputy Secretary

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

**EXHIBIT 5****Nasdaq GEMX, LLC  
RULES**

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

\* \* \* \* \*

**CHAPTER 7  
Doing Business on the Exchange**

\* \* \* \* \*

**Rule 701. Opening**

(a) and (b) No change

(c) Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time[, or 7:25 AM Eastern Time for U.S. dollar-settled foreign currency options,] are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.

(1) The Opening Process for an option series will be conducted pursuant to paragraphs (f) – (j) below on or after 9:30 AM Eastern Time[, or on or after 7:30 AM Eastern Time for U.S. dollar-settled foreign currency options,] if: the ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) any of the following:

(i) – (iii) No change.

(2) -(5) No change.

(d)- (i) No change.

(j) Price Discovery Mechanism. If the Exchange has not opened pursuant to paragraphs (e) or (h) above, after the OQR calculation in paragraph (i), the Exchange will conduct the following Price Discovery Mechanism.

(1) – (4) No change.

(5) Forced Opening. After all additional Imbalance Messages have occurred pursuant to paragraph (4) above, the system will open the series by executing as many contracts as possible by routing to away markets at prices better than the Exchange Opening Price for their disseminated size, trading available contracts on the Exchange at the Exchange Opening Price bounded by OQR (without trading through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price), and routing contracts to away markets at prices equal to the Exchange Opening Price at their disseminated size. In this situation, the system will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book.

(6) The system will execute orders at the Opening Price that have contingencies (such as, without limitation, All-or-None and Reserve Orders) and non-routable orders, such as a "Do-Not-Route" or "DNR" Orders, to the extent possible. The system will only route non-contingency Public Customer orders, except that only the full volume of Public Customer Reserve Orders may route.

(i) The system will cancel (1) any portion of a Do-Not-Route order that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur, [(2) an All-or-None Order that is not executed during the opening and is priced through the Opening Price] or ([3]2) any order that is priced through the Opening Price will be cancelled. All other interest will be eligible for trading after opening.

(k) and (l) No change.

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