

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 3C(b)(2) * <input type="checkbox"/>
Section 806(e)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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Description

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

A proposal to amend Supplementary Material to Rule 706 to harmonize its sponsored access rules with those of its affiliates.

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 * Sun Last Name * Kim
 Title * Associate General Counsel
 E-mail * Sun.Kim@nasdaq.com
 Telephone * (212) 231-5106 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 05/09/2018 Executive Vice President and General Counsel
 By Edward S. Knight

edward.knight@nasdaq.com

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 *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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

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

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

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Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) Nasdaq GEMX, LLC (“GEMX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Supplementary Material to Rule 706 to harmonize its sponsored access rules with those of its affiliates, The Nasdaq Stock Market LLC (“NQX”), Nasdaq BX, Inc. (“BX”) and Nasdaq PHLX LLC (“PHLX,” and together with NQX and BX, “Nasdaq Exchanges”).

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).³

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”) on September 19, 2017. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

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

Sun Kim
Associate General Counsel
Nasdaq, Inc.
212-231-5106

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

a. Purpose

The purpose of the proposed rule change is to amend Supplementary Material to Rule 706, which contains the Exchange's sponsored access rules, to harmonize these rules with those of the Nasdaq Exchanges.⁴ On March 9, 2016, the Exchange and its affiliates, International Securities Exchange, LLC (now, Nasdaq ISE, LLC) ("ISE") and ISE Mercury, LLC (now, Nasdaq MRX, LLC) ("MRX" and together with ISE and GEMX, "ISE Exchanges"), were acquired by Nasdaq, Inc. ("Acquisition").⁵ In the context of the Acquisition, the ISE Exchanges have been working to align certain of its rules and processes with those of the Nasdaq Exchanges in order to provide consistent standards across the six exchanges owned and operated by Nasdaq, Inc. (collectively, "Affiliated Exchanges"). As part of this effort, the proposal set forth below harmonizes the Exchange's sponsored access rules with the Nasdaq Sponsored Access Rules in order to provide uniform standards and requirements for users of the Affiliated Exchanges.⁶

⁴ See NQX Rule 4615, BX Rule 4615 and PHLX Rule 1094 (collectively, "Nasdaq Sponsored Access Rules").

⁵ See Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR-ISE-2016-11; SR-ISEGemini-2016-05; SR-ISEMercury-2016-10).

⁶ ISE and MRX will each file similar rule change proposals with the Commission to harmonize their sponsored access rules with the Nasdaq Sponsored Access Rules.

In particular, the Exchange proposes to (1) define the term “Sponsored Access” and “Customer Agreement;” (2) specify the requirement to comply with Rule 15c3-5 under the Act (“Market Access Rule”); (3) remove the requirements that each Sponsored Customer and each Sponsoring Member enter into certain agreements with the Exchange; and (4) make a number of related, non-substantive changes. Each change is discussed in detail as follows.

Defining Sponsored Access

A Sponsored Customer is a non-member of the Exchange, such as an institutional investor, that gains access to the Exchange⁷ and trades under a Sponsoring Member’s execution and clearing identity pursuant to a sponsorship arrangement between such non-member and Sponsoring Member, as set forth in Supplementary Material to Rule 706. The Exchange is proposing to define the term “Sponsored Access” to clarify the type of market access arrangement that is subject to this rule. Accordingly, the Exchange proposes to amend Supplementary Material .01(a) to Rule 706 to add the following definition: “Sponsored Access shall mean an arrangement whereby a Member permits its customers to enter orders into the System that bypass the Member’s trading system and are routed directly to the Exchange, including routing through a service bureau or other third party technology provider.” This definition mirrors the language set forth in the Nasdaq Sponsored Access Rules,⁸ and is derived from the Commission’s description of

⁷ For example, a broker-dealer may allow its customer – whether an institution such as a hedge fund, mutual fund, bank or insurance company, an individual, or another broker-dealer – to use the broker-dealer’s MPID, account or other mechanism or mnemonic used to identify a market participant for the purposes of electronically accessing the Exchange.

⁸ See NQX Rule 4615(a), BX Rule 4615(a) and PHLX Rule 1094(a).

Sponsored Access used in the release approving the Market Access Rule.⁹ The Exchange believes that defining Sponsored Access in Supplementary Material .01(a) to Rule 706 will provide market participants with greater clarity regarding Sponsored Access and their obligations with respect to this type of access arrangement.

Defining Customer Agreement

The Exchange proposes to amend Supplementary Material .01(b)(1) to Rule 706 to define the agreement that Sponsored Customers must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Customer may trade on the Exchange, as a “Customer Agreement.”¹⁰

Market Access Rule

Pursuant to Supplementary Material .01(b)(2) to Rule 706, the Sponsoring Member is responsible for the activities of the Sponsored Customer. Sponsored Customers are required to have procedures in place to comply with the Exchange’s rules, and the Sponsoring Member takes responsibility for the Sponsored Customer’s activity on the Exchange. Members may have multiple Sponsored Access relationships in place at a given time. The Exchange’s examination program assesses compliance with the sponsored access rules set forth in Supplementary Material to Rule 706, among other

⁹ The Market Access Rule, among other things, requires broker-dealers providing others with access to an exchange or alternative trading system to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of providing such access. See Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010).

¹⁰ The Nasdaq Sponsored Access Rules also similarly define “Customer Agreement.” See NQX Rule 4615(b)(i), BX Rule 4615(b)(i) and PHLX Rule 1094(b)(i).

rules.¹¹ The Exchange now proposes to specifically enumerate in Supplementary Material .01(b)(2) to Rule 706 the member's obligation to comply with the Market Access Rule, with which Members are currently required to comply in connection with market access.¹² The Exchange believes that specifying the obligation to comply with the Market Access Rule within the rule itself will reinforce that Supplementary Material to Rule 706 presupposes member compliance with the Market Access Rule.

Elimination of Certain Contract Requirements

The Exchange currently requires a Sponsored Customer Agreement between the Sponsored Customer and the Exchange,¹³ and a Sponsored Customer Addendum to the member access agreement (hereinafter, "Addendum") that is provided to the Exchange by the Sponsoring Member.¹⁴ At this time, the Exchange proposes to remove the existing requirements to submit the Sponsored Customer Agreement and Addendum to the Exchange in order to align its sponsored access rules with the Nasdaq Sponsored Access Rules. The Exchange will continue to require a Customer Agreement between the Sponsored Customer and Sponsoring Member pursuant to Supplementary Material .01(b)(2) to Rule 706.¹⁵

¹¹ The Exchange has a Regulatory Services Agreement ("RSA") with the Financial Industry Regulatory Authority ("FINRA") to conduct regulatory examinations, among other obligations.

¹² See NQX Rule 4615(b)(ii)(A), BX Rule 4615(b)(ii)(A) and PHLX Rule 1094(b)(ii)(A) for consistent provisions.

¹³ See Supplementary Material .01(a) to Rule 706.

¹⁴ See Supplementary Material .01(b)(2)(i) and (b)(3) to Rule 706.

¹⁵ The Nasdaq Sponsored Access Rules likewise only require a Customer Agreement between the sponsored participant and sponsoring member. See NQX Rule 4615(b)(i), BX Rule 4615(b)(i) and PHLX Rule 1094(b)(i).

Today, only members may request connectivity to the Exchange by contacting Nasdaq Subscriber Services. A member may obtain separate ports for the purpose of providing Sponsored Access. If separate ports are requested by a member for the purpose of providing Sponsored Access, the member must request those ports from the Exchange and is responsible for the Sponsored Customer's activity on the Exchange.¹⁶ In all circumstances, the Exchange only permits members to request connectivity to the market and the member is responsible for all customer orders submitted through the member's port. In addition, such connection by the member requires approval by the Exchange for the purpose of testing as well as other relevant information sharing with the Exchange by the member to obtain a port. The Exchange is therefore aware of the member responsible for each of its ports. The Exchange may also request further information about a member's particular customer relationship, including the list of all Authorized Traders who may have access to the Exchange on behalf of the Sponsored Customer, as it deems necessary.¹⁷

The Exchange believes that completing and submitting the Sponsored Customer Agreement and Addendum is unnecessarily burdensome in light of the current structure in place at the Exchange. The Sponsored Customer Agreement requirement was intended to ensure that the Sponsored Customer was informed of its obligation to comply with the Exchange's Certificate of Formation, By-Laws, Rules and procedures, including the

¹⁶ In such cases, the Nasdaq Exchanges also require members to disclose the sponsored access arrangement as a condition to approving the member's port request. GEMX will similarly require members requesting connectivity to GEMX for the purpose of providing Sponsored Access to disclose sponsored access arrangements as a condition to approval.

¹⁷ See Rule 1601.

requirements in Supplementary Material .01(b)(2)(iii) - (ix).¹⁸ The agreement also provided the Exchange with contractual privity, which would no longer exist with the removal of the Sponsored Customer Agreement. The Exchange does not believe the loss of privity with the Sponsored Customer creates a concern as the Exchange has the ability to remove access to the port at any time if it determines that the activity of the Sponsored Customer warrants such removal. In addition, as discussed below, the Sponsored Customer will be informed of its obligations through the Customer Agreement that it executed with the Sponsoring Member. As noted above, the Exchange only permits its members to request connectivity to the Exchange's trading system, and members remain responsible for all trades submitted through such ports. Pursuant to Supplementary Material .01(b)(2)(vii) to Rule 706, the trading activity of a Sponsored Customer must be monitored by the Sponsoring Member for compliance with the terms of the Customer Agreement with the Sponsored Customer. Finally, Sponsoring Members continue to be obligated to comply with Supplementary Material .01(b) to Rule 706 and the Market Access Rule. As such, the Sponsoring Member is responsible for any and all actions taken by its Sponsored Customer and any person acting on behalf of or in the name of such Sponsored Customer.

The Addendum requirement was intended to notify the Exchange of the relationship between the Sponsoring Member and the Sponsored Customer, and to

¹⁸ These requirements include, among others, the Sponsored Customer's obligation to maintain, keep current and provide to the Sponsoring Member a list of Authorized Traders who may obtain access to the Exchange on behalf of the Sponsored Customer. In addition, the Sponsored Customer must take reasonable security precautions to prevent unauthorized use or access to the Exchange, and is responsible for having adequate procedures and controls in place to comply with GEMX's rules.

provide the Sponsoring Member's express acknowledgment of the Sponsoring Member's responsibility for the orders, executions and actions of its Sponsored Customer.

However, as noted above, the Exchange may request additional information about a particular customer relationship as it deems necessary.¹⁹ The Exchange will also require that its members disclose the Sponsored Customer relationship as a condition for approving any ports requested for the purpose of providing Sponsored Access.²⁰

Accordingly, the Exchange will continue to be notified of Sponsored Customer arrangements even with the removal of the Addendum. Furthermore, as discussed above, Sponsoring Members continue to be obligated to comply with Supplementary Material .01(b) to Rule 706 and the Market Access Rule, and are therefore responsible for any and all actions taken by its Sponsored Customer and any person acting on behalf of or in the name of such Sponsored Customer. The Exchange, through its RSA with FINRA, reviews member compliance with Supplementary Material to Rule 706, including compliance with the Market Access Rule.

Supplementary Material .01(b)(1) to Rule 706 requires that the Sponsored Customer and the Sponsoring Member maintain a Customer Agreement with the sponsorship provisions set forth in paragraph (2) to ensure compliance with Exchange's rules and obligations related to security, among other things. Additionally, Supplementary Material .01(b)(2)(iv) and (v) require that the Customer Agreement include the Sponsored Customer's obligation to maintain, keep current and provide to the Sponsoring Member a list of Authorized Traders who have been granted access to the Exchange on behalf of the Sponsored Customer, and provide such Authorized Traders

¹⁹ See Rule 1601.

²⁰ See note 16 above.

with appropriate training prior to any use or access to the Exchange. In addition, pursuant to the Customer Agreement provisions required by Rule 706, Supplementary Material .01(b)(vii), the Sponsored Customer is obligated to take reasonable security precautions to prevent unauthorized use or access to the Exchange, including unauthorized entry of information into the Exchange's System, or the information and data made available therein. Finally, the Customer Agreement must provide that the Sponsored Customer is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of Authorized Traders, and for the trading and other consequences thereof, including granting unauthorized access to the Exchange.²¹ The contents and the requirement for a Customer Agreement are unchanged.

Clean-Up Changes

The Exchange proposes to correct two typographical errors in subsections (vii) and (ix) of Supplementary Material .01(b)(2) to Rule 706. First in subsection (vii), the Exchange proposes to correct a typo by replacing "of" with "or" in the first sentence. The proposed sentence would therefore state "Sponsored Customer shall take reasonable security precautions to prevent unauthorized use **or** access to the Exchange..."

Second, subsection (ix) would be amended to correct a typo in the last portion of the first sentence. In particular, the phrase "...Sponsored Customers access to and use of the Exchange" should be "...Sponsored **Customer's** access to and use of the Exchange." Both of these proposed changes are non-substantive clean-ups, and are intended to ensure that the rule text is as accurate and clear as possible.

²¹ See Rule 706, Supplementary Material .01(b)(vii).

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(5) of the Act,²³ 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. Overall, the proposed rule change is intended to align the Exchange's sponsored access rules in Supplementary Material to Rule 706 with the Nasdaq Sponsored Access Rules, and is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of the Nasdaq Exchanges. Consistent rules and processes across the Affiliated Exchanges would in turn simplify the regulatory requirements for members of the Exchange that are also participants on the Nasdaq Exchanges. The Exchange believes that its proposal would provide greater harmonization among similar rules and procedures of the Affiliated Exchanges, resulting in greater uniformity and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and national market system.

Defining Sponsored Access

Adding a definition of Sponsored Access will assist market participants to understand the type of arrangements that are subject to Supplementary Material to Rule

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).

706, and such clarity will serve to promote just and equitable principles of trade. The Exchange believes that adding the Sponsored Access definition will provide its members with additional guidance with respect to this Rule.

Defining Customer Agreement

Defining the agreement that Sponsored Customers must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Customer may trade on the Exchange, as a “Customer Agreement” will also serve to provide members with clarity on the agreement that the Exchange will continue to require and the obligations that are contained within the Customer Agreement. This amendment is non-substantive.

Market Access Rule

As discussed above, Exchange members will continue to be required to comply with Supplementary Material to Rule 706 and the Market Access Rule. The Exchange believes that specifically enumerating the member’s responsibility to comply with the Market Access Rule within the Rule itself will provide members with additional guidance concerning the application of the Rule. This change is non-substantive as members are currently responsible for complying with the Market Access Rule.

Elimination of Certain Contract Requirements

Removing the requirements to submit and complete a Sponsored Customer Agreement and Addendum will remove impediments to and perfect the mechanism of a free and open market by aligning the Exchange’s sponsored access rules with the Nasdaq Sponsored Access Rules, which currently do not require additional agreements for their

sponsored participants other than a Customer Agreement.²⁴ The Exchange believes that its proposal would create equivalent sponsored access standards and requirements among the Affiliated Exchanges and also provide clarity to its members, which is beneficial to both investors and the public interest. While elimination of the Sponsored Customer Agreement requirement will also eliminate the Exchange's contractual privity with the Sponsored Customer, the Exchange notes that any potential concerns to the loss of privity are mitigated by the Exchange's ability to restrict the Sponsored Customer's access to a port at any time it is warranted by the Sponsored Customer's trading activity. As discussed above, connectivity to the Exchange must be requested by a member of the Exchange. Such connection requires approval by the Exchange, testing and other security features as well as information sharing with the Exchange by the member. In addition, Supplementary Material .01(b)(2) to Rule 706 delineates the terms of the required contractual relationship between the Sponsoring Member and the Sponsored Customer in the Customer Agreement, which remains in effect. The Exchange also believes that the Addendum is unnecessary in light of the fact that Sponsoring Members must request connectivity to the Exchange as well as enter into a Customer Agreement with the Sponsored Customer. Furthermore, as discussed above, the Exchange will require members to disclose the Sponsored Customer relationship as a condition to approving the member's port request to provide Sponsored Access. Finally, as is the case with other Exchange rules, the Exchange examines for compliance with Supplementary Material to Rule 706 and may request information about any customer relationship which concerns the Exchange pursuant to Rule 1601.

²⁴ See NQX Rule 4615, BX Rule 4615 and PHLX Rule 1094.

Clean-Up Changes

The Exchange believes that the proposed changes to correct the two typos in subsections (vii) and (ix) of Supplementary Material .01(b)(2) to Rule 706 will add further clarification to the Exchange's Rulebook and alleviate potential confusion as to the applicability of the Exchange's rules, which will protect investors and the public interest.

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 because all members would be subject to the same sponsored access requirements, as discussed above. The proposed rule change is designed to provide greater harmonization among the sponsored access rules across the Affiliated Exchanges, resulting in more efficient regulatory compliance for common members, and is not intended to have any competitive effect.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not Applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)²⁵ of the Act and Rule 19b-4(f)(6) thereunder²⁶ in that it effects a change

²⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Adding definitions of Sponsored Access and Customer Agreement does not significantly affect the protection of investors or the public interest. Rather, the Exchange believes that defining Sponsored Access and Customer Agreement in Supplementary Material to Rule 706 will provide market participants with more clarity regarding Sponsored Access and the Customer Agreement that the Exchange will continue to require. The new definitions will assist members to understand the types of arrangements covered by Supplementary Material to Rule 706 as well as the obligations contained within the Customer Agreement, and therefore do not significantly burden competition. Furthermore, requiring compliance with the Market Access Rule within Supplementary Material to Rule 706 itself reinforces that the Rule presupposes member compliance with the Market Access Rule. This change is non-substantive as members are currently responsible to comply with the Market Access Rule, and therefore does not significantly affect the protection of investors or the public interest or impose a significant burden on competition. In addition, the Exchange believes that eliminating the contract requirements to complete a Sponsored Customer Agreement and an Addendum will provide greater uniformity and consistent standards regarding sponsored access to market participants that are Exchange members as well as members on other

²⁶ 17 CFR 240.19b-4(f)(6).

Affiliated Exchanges while also continuing to ensure that the Exchange's systems are appropriately safeguarded. As discussed above, connectivity to the Exchange is authorized by the Exchange and must be requested by a member of the Exchange. In order to obtain connectivity to the Exchange, members are required to contact Nasdaq Subscriber Services and request a connection to the market, which the Exchange believes is consistent with the protection of investors and the public interest. Only members are permitted to request connectivity the Exchange. Also, the Exchange has the ability to remove access to the port at any time if the activity of the Sponsored Customer would warrant such removal. In addition, the Exchange will require members to disclose the Sponsored Customer relationship as a condition to approving the member's request to obtain a port for the purposes of providing Sponsored Access. The Exchange, through its RSA with FINRA, conducts reviews of members for compliance with Supplementary Material to Rule 706 and the Market Access Rule. Finally, all members would be subject to the same sponsored access requirements, as noted above. For these reasons, the Exchange does not believe that removing the requirements to complete a Sponsored Customer Agreement and an Addendum significantly affect the protection of investors or the public interest or significantly burdens competition.

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. 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the Exchange may amend its sponsored access rules in Supplementary Material to Rule 706 to conform to the Nasdaq Sponsored Access Rules as soon as possible. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to harmonize its rules across the Affiliated Exchanges in a timely manner, thereby streamlining the regulatory requirements by members of the Exchange that are also participants on the Nasdaq Exchanges.

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

The proposed rule change is based on BX Rule 4615, PHLX Rule 1094 and NQX Rule 4615.

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-GEMX-2018-15)

May __, 2018

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend Supplementary Material to Rule 706 to harmonize its sponsored access rules with those of its affiliates

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 9, 2018, 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 Supplementary Material to Rule 706 to harmonize its sponsored access rules with those of its affiliates, The Nasdaq Stock Market LLC (“NQX”), Nasdaq BX, Inc. (“BX”) and Nasdaq PHLX LLC (“PHLX,” and together with NQX and BX, “Nasdaq Exchanges”).

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqgemx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend Supplementary Material to Rule 706, which contains the Exchange's sponsored access rules, to harmonize these rules with those of the Nasdaq Exchanges.³ On March 9, 2016, the Exchange and its affiliates, International Securities Exchange, LLC (now, Nasdaq ISE, LLC) ("ISE") and ISE Mercury, LLC (now, Nasdaq MRX, LLC) ("MRX" and together with ISE and GEMX, "ISE Exchanges"), were acquired by Nasdaq, Inc. ("Acquisition").⁴ In the context of the Acquisition, the ISE Exchanges have been working to align certain of its rules and processes with those of the Nasdaq Exchanges in order to provide consistent standards across the six exchanges owned and operated by Nasdaq, Inc. (collectively, "Affiliated Exchanges"). As part of this effort, the proposal set forth below harmonizes

³ See NQX Rule 4615, BX Rule 4615 and PHLX Rule 1094 (collectively, "Nasdaq Sponsored Access Rules").

⁴ See Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR-ISE-2016-11; SR-ISEGemini-2016-05; SR-ISEMercury-2016-10).

the Exchange's sponsored access rules with the Nasdaq Sponsored Access Rules in order to provide uniform standards and requirements for users of the Affiliated Exchanges.⁵

In particular, the Exchange proposes to (1) define the term "Sponsored Access" and "Customer Agreement;" (2) specify the requirement to comply with Rule 15c3-5 under the Act ("Market Access Rule"); (3) remove the requirements that each Sponsored Customer and each Sponsoring Member enter into certain agreements with the Exchange; and (4) make a number of related, non-substantive changes. Each change is discussed in detail as follows.

Defining Sponsored Access

A Sponsored Customer is a non-member of the Exchange, such as an institutional investor, that gains access to the Exchange⁶ and trades under a Sponsoring Member's execution and clearing identity pursuant to a sponsorship arrangement between such non-member and Sponsoring Member, as set forth in Supplementary Material to Rule 706. The Exchange is proposing to define the term "Sponsored Access" to clarify the type of market access arrangement that is subject to this rule. Accordingly, the Exchange proposes to amend Supplementary Material .01(a) to Rule 706 to add the following definition: "Sponsored Access shall mean an arrangement whereby a Member permits its customers to enter orders into the System that bypass the Member's trading system and

⁵ ISE and MRX will each file similar rule change proposals with the Commission to harmonize their sponsored access rules with the Nasdaq Sponsored Access Rules.

⁶ For example, a broker-dealer may allow its customer – whether an institution such as a hedge fund, mutual fund, bank or insurance company, an individual, or another broker-dealer – to use the broker-dealer's MPID, account or other mechanism or mnemonic used to identify a market participant for the purposes of electronically accessing the Exchange.

are routed directly to the Exchange, including routing through a service bureau or other third party technology provider.” This definition mirrors the language set forth in the Nasdaq Sponsored Access Rules,⁷ and is derived from the Commission’s description of Sponsored Access used in the release approving the Market Access Rule.⁸ The Exchange believes that defining Sponsored Access in Supplementary Material .01(a) to Rule 706 will provide market participants with greater clarity regarding Sponsored Access and their obligations with respect to this type of access arrangement.

Defining Customer Agreement

The Exchange proposes to amend Supplementary Material .01(b)(1) to Rule 706 to define the agreement that Sponsored Customers must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Customer may trade on the Exchange, as a “Customer Agreement.”⁹

Market Access Rule

Pursuant to Supplementary Material .01(b)(2) to Rule 706, the Sponsoring Member is responsible for the activities of the Sponsored Customer. Sponsored Customers are required to have procedures in place to comply with the Exchange’s rules,

⁷ See NQX Rule 4615(a), BX Rule 4615(a) and PHLX Rule 1094(a).

⁸ The Market Access Rule, among other things, requires broker-dealers providing others with access to an exchange or alternative trading system to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of providing such access. See Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010).

⁹ The Nasdaq Sponsored Access Rules also similarly define “Customer Agreement.” See NQX Rule 4615(b)(i), BX Rule 4615(b)(i) and PHLX Rule 1094(b)(i).

and the Sponsoring Member takes responsibility for the Sponsored Customer's activity on the Exchange. Members may have multiple Sponsored Access relationships in place at a given time. The Exchange's examination program assesses compliance with the sponsored access rules set forth in Supplementary Material to Rule 706, among other rules.¹⁰ The Exchange now proposes to specifically enumerate in Supplementary Material .01(b)(2) to Rule 706 the member's obligation to comply with the Market Access Rule, with which Members are currently required to comply in connection with market access.¹¹ The Exchange believes that specifying the obligation to comply with the Market Access Rule within the rule itself will reinforce that Supplementary Material to Rule 706 presupposes member compliance with the Market Access Rule.

Elimination of Certain Contract Requirements

The Exchange currently requires a Sponsored Customer Agreement between the Sponsored Customer and the Exchange,¹² and a Sponsored Customer Addendum to the member access agreement (hereinafter, "Addendum") that is provided to the Exchange by the Sponsoring Member.¹³ At this time, the Exchange proposes to remove the existing requirements to submit the Sponsored Customer Agreement and Addendum to the Exchange in order to align its sponsored access rules with the Nasdaq Sponsored Access Rules. The Exchange will continue to require a Customer Agreement between the

¹⁰ The Exchange has a Regulatory Services Agreement ("RSA") with the Financial Industry Regulatory Authority ("FINRA") to conduct regulatory examinations, among other obligations.

¹¹ See NQX Rule 4615(b)(ii)(A), BX Rule 4615(b)(ii)(A) and PHLX Rule 1094(b)(ii)(A) for consistent provisions.

¹² See Supplementary Material .01(a) to Rule 706.

¹³ See Supplementary Material .01(b)(2)(i) and (b)(3) to Rule 706.

Sponsored Customer and Sponsoring Member pursuant to Supplementary Material .01(b)(2) to Rule 706.¹⁴

Today, only members may request connectivity to the Exchange by contacting Nasdaq Subscriber Services. A member may obtain separate ports for the purpose of providing Sponsored Access. If separate ports are requested by a member for the purpose of providing Sponsored Access, the member must request those ports from the Exchange and is responsible for the Sponsored Customer's activity on the Exchange.¹⁵ In all circumstances, the Exchange only permits members to request connectivity to the market and the member is responsible for all customer orders submitted through the member's port. In addition, such connection by the member requires approval by the Exchange for the purpose of testing as well as other relevant information sharing with the Exchange by the member to obtain a port. The Exchange is therefore aware of the member responsible for each of its ports. The Exchange may also request further information about a member's particular customer relationship, including the list of all Authorized Traders who may have access to the Exchange on behalf of the Sponsored Customer, as it deems necessary.¹⁶

¹⁴ The Nasdaq Sponsored Access Rules likewise only require a Customer Agreement between the sponsored participant and sponsoring member. See NQX Rule 4615(b)(i), BX Rule 4615(b)(i) and PHLX Rule 1094(b)(i).

¹⁵ In such cases, the Nasdaq Exchanges also require members to disclose the sponsored access arrangement as a condition to approving the member's port request. GEMX will similarly require members requesting connectivity to GEMX for the purpose of providing Sponsored Access to disclose sponsored access arrangements as a condition to approval.

¹⁶ See Rule 1601.

The Exchange believes that completing and submitting the Sponsored Customer Agreement and Addendum is unnecessarily burdensome in light of the current structure in place at the Exchange. The Sponsored Customer Agreement requirement was intended to ensure that the Sponsored Customer was informed of its obligation to comply with the Exchange's Certificate of Formation, By-Laws, Rules and procedures, including the requirements in Supplementary Material .01(b)(2)(iii) - (ix).¹⁷ The agreement also provided the Exchange with contractual privity, which would no longer exist with the removal of the Sponsored Customer Agreement. The Exchange does not believe the loss of privity with the Sponsored Customer creates a concern as the Exchange has the ability to remove access to the port at any time if it determines that the activity of the Sponsored Customer warrants such removal. In addition, as discussed below, the Sponsored Customer will be informed of its obligations through the Customer Agreement that it executed with the Sponsoring Member. As noted above, the Exchange only permits its members to request connectivity to the Exchange's trading system, and members remain responsible for all trades submitted through such ports. Pursuant to Supplementary Material .01(b)(2)(vii) to Rule 706, the trading activity of a Sponsored Customer must be monitored by the Sponsoring Member for compliance with the terms of the Customer Agreement with the Sponsored Customer. Finally, Sponsoring Members continue to be obligated to comply with Supplementary Material .01(b) to Rule 706 and the Market

¹⁷ These requirements include, among others, the Sponsored Customer's obligation to maintain, keep current and provide to the Sponsoring Member a list of Authorized Traders who may obtain access to the Exchange on behalf of the Sponsored Customer. In addition, the Sponsored Customer must take reasonable security precautions to prevent unauthorized use or access to the Exchange, and is responsible for having adequate procedures and controls in place to comply with GEMX's rules.

Access Rule. As such, the Sponsoring Member is responsible for any and all actions taken by its Sponsored Customer and any person acting on behalf of or in the name of such Sponsored Customer.

The Addendum requirement was intended to notify the Exchange of the relationship between the Sponsoring Member and the Sponsored Customer, and to provide the Sponsoring Member's express acknowledgment of the Sponsoring Member's responsibility for the orders, executions and actions of its Sponsored Customer.

However, as noted above, the Exchange may request additional information about a particular customer relationship as it deems necessary.¹⁸ The Exchange will also require that its members disclose the Sponsored Customer relationship as a condition for approving any ports requested for the purpose of providing Sponsored Access.¹⁹

Accordingly, the Exchange will continue to be notified of Sponsored Customer arrangements even with the removal of the Addendum. Furthermore, as discussed above, Sponsoring Members continue to be obligated to comply with Supplementary Material .01(b) to Rule 706 and the Market Access Rule, and are therefore responsible for any and all actions taken by its Sponsored Customer and any person acting on behalf of or in the name of such Sponsored Customer. The Exchange, through its RSA with FINRA, reviews member compliance with Supplementary Material to Rule 706, including compliance with the Market Access Rule.

Supplementary Material .01(b)(1) to Rule 706 requires that the Sponsored Customer and the Sponsoring Member maintain a Customer Agreement with the sponsorship provisions set forth in paragraph (2) to ensure compliance with Exchange's

¹⁸ See Rule 1601.

¹⁹ See note 15 above.

rules and obligations related to security, among other things. Additionally, Supplementary Material .01(b)(2)(iv) and (v) require that the Customer Agreement include the Sponsored Customer's obligation to maintain, keep current and provide to the Sponsoring Member a list of Authorized Traders who have been granted access to the Exchange on behalf of the Sponsored Customer, and provide such Authorized Traders with appropriate training prior to any use or access to the Exchange. In addition, pursuant to the Customer Agreement provisions required by Rule 706, Supplementary Material .01(b)(vii), the Sponsored Customer is obligated to take reasonable security precautions to prevent unauthorized use or access to the Exchange, including unauthorized entry of information into the Exchange's System, or the information and data made available therein. Finally, the Customer Agreement must provide that the Sponsored Customer is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of Authorized Traders, and for the trading and other consequences thereof, including granting unauthorized access to the Exchange.²⁰ The contents and the requirement for a Customer Agreement are unchanged.

Clean-Up Changes

The Exchange proposes to correct two typographical errors in subsections (vii) and (ix) of Supplementary Material .01(b)(2) to Rule 706. First in subsection (vii), the Exchange proposes to correct a typo by replacing "of" with "or" in the first sentence. The proposed sentence would therefore state "Sponsored Customer shall take reasonable security precautions to prevent unauthorized use **or** access to the Exchange..."

²⁰ See Rule 706, Supplementary Material .01(b)(vii).

Second, subsection (ix) would be amended to correct a typo in the last portion of the first sentence. In particular, the phrase "...Sponsored Customers access to and use of the Exchange" should be "...Sponsored **Customer's** access to and use of the Exchange." Both of these proposed changes are non-substantive clean-ups, and are intended to ensure that the rule text is as accurate and clear as possible.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²² 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. Overall, the proposed rule change is intended to align the Exchange's sponsored access rules in Supplementary Material to Rule 706 with the Nasdaq Sponsored Access Rules, and is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of the Nasdaq Exchanges. Consistent rules and processes across the Affiliated Exchanges would in turn simplify the regulatory requirements for members of the Exchange that are also participants on the Nasdaq Exchanges. The Exchange believes that its proposal would provide greater harmonization among similar rules and procedures of the Affiliated Exchanges, resulting in greater uniformity and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

remove impediments to and perfect the mechanism of a free and open market and national market system.

Defining Sponsored Access

Adding a definition of Sponsored Access will assist market participants to understand the type of arrangements that are subject to Supplementary Material to Rule 706, and such clarity will serve to promote just and equitable principles of trade. The Exchange believes that adding the Sponsored Access definition will provide its members with additional guidance with respect to this Rule.

Defining Customer Agreement

Defining the agreement that Sponsored Customers must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Customer may trade on the Exchange, as a “Customer Agreement” will also serve to provide members with clarity on the agreement that the Exchange will continue to require and the obligations that are contained within the Customer Agreement. This amendment is non-substantive.

Market Access Rule

As discussed above, Exchange members will continue to be required to comply with Supplementary Material to Rule 706 and the Market Access Rule. The Exchange believes that specifically enumerating the member’s responsibility to comply with the Market Access Rule within the Rule itself will provide members with additional guidance concerning the application of the Rule. This change is non-substantive as members are currently responsible for complying with the Market Access Rule.

Elimination of Certain Contract Requirements

Removing the requirements to submit and complete a Sponsored Customer Agreement and Addendum will remove impediments to and perfect the mechanism of a free and open market by aligning the Exchange's sponsored access rules with the Nasdaq Sponsored Access Rules, which currently do not require additional agreements for their sponsored participants other than a Customer Agreement.²³ The Exchange believes that its proposal would create equivalent sponsored access standards and requirements among the Affiliated Exchanges and also provide clarity to its members, which is beneficial to both investors and the public interest. While elimination of the Sponsored Customer Agreement requirement will also eliminate the Exchange's contractual privity with the Sponsored Customer, the Exchange notes that any potential concerns to the loss of privity are mitigated by the Exchange's ability to restrict the Sponsored Customer's access to a port at any time it is warranted by the Sponsored Customer's trading activity. As discussed above, connectivity to the Exchange must be requested by a member of the Exchange. Such connection requires approval by the Exchange, testing and other security features as well as information sharing with the Exchange by the member. In addition, Supplementary Material .01(b)(2) to Rule 706 delineates the terms of the required contractual relationship between the Sponsoring Member and the Sponsored Customer in the Customer Agreement, which remains in effect. The Exchange also believes that the Addendum is unnecessary in light of the fact that Sponsoring Members must request connectivity to the Exchange as well as enter into a Customer Agreement with the Sponsored Customer. Furthermore, as discussed above, the Exchange will require members to disclose the Sponsored Customer relationship as a condition to

²³ See NQX Rule 4615, BX Rule 4615 and PHLX Rule 1094.

approving the member's port request to provide Sponsored Access. Finally, as is the case with other Exchange rules, the Exchange examines for compliance with Supplementary Material to Rule 706 and may request information about any customer relationship which concerns the Exchange pursuant to Rule 1601.

Clean-Up Changes

The Exchange believes that the proposed changes to correct the two typos in subsections (vii) and (ix) of Supplementary Material .01(b)(2) to Rule 706 will add further clarification to the Exchange's Rulebook and alleviate potential confusion as to the applicability of the Exchange's rules, which will protect investors and the public interest.

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 because all members would be subject to the same sponsored access requirements, as discussed above. The proposed rule change is designed to provide greater harmonization among the sponsored access rules across the Affiliated Exchanges, resulting in more efficient regulatory compliance for common members, and is not intended to have any competitive effect.

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 Act²⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁵

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-GEMX-2018-15 on the subject line.

²⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

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

Paper comments:

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

All submissions should refer to File Number SR-GEMX-2018-15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-GEMX-2018-15 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.²⁶

Eduardo A. Aleman
Assistant Secretary

²⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

Nasdaq GEMX Rules

* * * * *

Supplementary Material to Rule 706

.01 (a) General. The Exchange shall be available for entry and execution of orders by Sponsored Customers with authorized access. [To obtain authorized access to the Exchange, each Sponsored Customer must enter into a Sponsored Customer Agreement with the Exchange in such form as the Exchange may provide.]Sponsored Access shall mean an arrangement whereby a Member permits its customers to enter orders into the System that bypass the Member's trading system and are routed directly to the Exchange, including routing through a service bureau or other third party technology provider.

.01 (b) Sponsored Customers. A Sponsored Customer may obtain authorized access to the Exchange only if such access is authorized in advance by one or more Sponsoring Members as follows:

(1) Sponsored Customers must enter into and maintain customer agreements with one or more Sponsoring Members establishing proper relationship(s) and account(s) through which the Sponsored Customers may trade on the Exchange ("Customer Agreement"). Such [c]Customer [a]Agreement(s) must incorporate the sponsorship provisions set forth in paragraph (2) below.

(2) For a Sponsored Customer to obtain and maintain authorized access to the Exchange, a Sponsored Customer and its Sponsoring Member must agree in writing to the following sponsorship provisions:

(i) [Sponsoring Member must have entered into and maintained an Access Agreement with the Exchange. The Sponsoring Member must designate the Sponsored Customer by name in a Sponsored Customer Addendum to the Access Agreement as such.]The authorized access must comply with Rule 15c3-5 under the Securities Exchange Act of 1934.

(ii) Sponsoring Member acknowledges and agrees that

(A) All orders entered by the Sponsored Customer and any person acting on behalf of or in the name of such Sponsored Customer and any executions occurring as a result of such orders are binding in all respects on the Sponsoring Member, and

(B) Sponsoring Member is responsible for any and all actions taken by such Sponsored Customer and any person acting on behalf of or in the name of such Sponsored Customer.

(iii) Sponsoring Member shall comply with the Exchange's Certificate of Formation, By-Laws, Rules and procedures with regard to the Exchange and Sponsored Customer shall comply with Exchange's Certificate of Formation, By-Laws, Rules and procedures with regard to the Exchange, as if Sponsored Customer were an Exchange Member.

(iv) Sponsored Customer shall maintain, keep current and provide to the Sponsoring Member a list of persons who have been granted access to the Exchange on behalf of the Sponsored Customer ("Authorized Traders").

(v) Sponsored Customer shall familiarize its Authorized Traders with all of the Sponsored Customer's obligations under this Rule and will assure that they receive appropriate training prior to any use or access to the Exchange.

(vi) Sponsored Customer may not permit anyone other than Authorized Traders to use or obtain access to the Exchange.

(vii) Sponsored Customer shall take reasonable security precautions to prevent unauthorized use [of]or access to the Exchange, including unauthorized entry of information into the Exchange's System, or the information and data made available therein. Sponsored Customer understands and agrees that Sponsored Customer is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of Authorized Traders, and for the trading and other consequences thereof.

(viii) Sponsored Customer acknowledges its responsibility to establish adequate procedures and controls that permit it to effectively monitor its employees, agents and customers' use and access to the Exchange for compliance with this rule.

(ix) Sponsored Customer shall pay when due all amounts, if any, payable to Sponsoring Member, the Exchange or any other third parties that arise from the Sponsored Customer's access to and use of the Exchange. Such amounts include, but are not limited to applicable exchange and regulatory fees.

[(3) The Sponsoring Member must provide the Exchange with a Sponsored Customer Addendum to its Access Agreement acknowledging its responsibility for the orders, executions and actions of its Sponsored Customer.]

* * * * *