

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2018 - * 25 Amendment No. (req. for Amendments *)
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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 GEMX Rule 723, to expand the types of Improvement Orders that may be entered into the Price Improvement Mechanism.

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 *)
 Executive Vice President and General Counsel

Date 07/05/2018
 By Edward S. Knight
 (Name *)

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

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”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend GEMX Rule 723, entitled “Price Improvement Mechanism for Crossing Transactions.”

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.

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

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

¹ 15 U.S.C. 78s(b)(1).

² 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

GEMX proposes to amend Rule 723, entitled “Price Improvement Mechanism for Crossing Transactions.” Specifically, the Exchange proposes to amend Rule 723(c)(2) to expand the types of Improvement Orders³ that may be entered into the Price Improvement Mechanism or “PIM.” The Exchange also proposes to amend Rule 723(d)(1)-(3) to more specifically clarify terms such as “orders” and “responses” in that section.

Background

The Exchange adopted PIM as part of its application to be registered as a national securities exchange under its previous name of Topaz Exchange, LLC.⁴ In approving PIM, the Commission noted that it was largely based on a similar functionality offered by the International Securities Exchange, LLC (now Nasdaq ISE, LLC) (“ISE”).⁵ ISE received approval to establish its PIM in 2004 that would allow an ISE Electronic Access Member (“EAM”) to enter matched trades (“Crossing Transactions”).⁶ As noted in the

³ Rule 723(c)(1) defines an Improvement Order. The Exchange will designate via circular a time of no less than 100 milliseconds and no more than 1 second for Members to indicate the size and price at which they want to participate in the execution of the Agency Order (“Improvement Orders”).

⁴ See Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10-209) (“Exchange Approval Order”). The Exchange subsequently changed its name to ISE Gemini and then later Nasdaq GEMX.

⁵ Id.

⁶ See Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (SR-ISE-2003-06) (Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 2 and 3 Thereto by the

Adopting Filing, a Crossing Transaction would be comprised of an order that the EAM represents as agent (“Agency Order”) and an order that is executable against the Agency Order for the full size of the Agency Order (the “Counter-Side Order”).⁷ In the Adopting Filing, ISE specified in Rule 723(c)(2) that Improvement Orders may be for the account of a Public Customer or for the Member’s own account.⁸ The Adopting Filing noted that ISE would broadcast Crossing Orders to all Members.⁹ Further, it was noted in the Adopting Filing that during a three second auction, all ISE Members could enter “Improvement Orders,” in penny increments, to improve the price of the Agency Order.¹⁰ The Adopting Filing stated that Improvement Orders may be for the account of a Public Customer or for the Member’s own account.¹¹ Finally, the Adopting Filing noted that during the exposure period, the aggregate size of the best prices, including the Counter-Side Order, Improvement Orders, and any change to either, would continually be updated and broadcast to all Members.¹²

International Securities Exchange, Inc. To Establish Rules Implementing a Price Improvement Mechanism) (“Adopting Filing”).

⁷ The Counter-Side Order may represent interest for the EAM’s own account, or interest the EAM has solicited from one or more other parties, or a combination of both.

⁸ Id.

⁹ The broadcast message would include the series, price, and size of the Agency Order and whether it is to buy or sell.

¹⁰ The ISE would broadcast Improvement Orders to all Members. Crossing Transactions and Improvement Orders would not be displayed in the ISE BBO and would not be disseminated to the Options Price Reporting Authority.

¹¹ GEMX Rule 723(c)(2).

¹² GEMX Rule 723(c)(4).

Rule 723(c)(2)

With respect to the current limitation of Improvement Orders for the account of a Public Customer or for the Member's own account, ISE noted in its Adopting Filing that "all ISE Members would be permitted to participate in a PIM...unrelated orders could compete in standard increments to trade with the Agency Order in the PIM. Such unrelated orders could include agency orders on behalf of Public Customers, market makers on other exchanges, and non-ISE member broker-dealers, as well as non-Improvement orders submitted by ISE members."

At this time, the Exchange proposes to permit any GEMX Member to enter an Improvement Order marked as a response to a PIM auction similar to Nasdaq PHLX LLC ("Phlx")¹³ and Nasdaq BX, Inc. ("BX")¹⁴ rules. The Exchange no longer desires to limit Members who may enter Improvement Orders into PIM to simply those orders for the account of a Public Customer or for the Member's own account. The Exchange desires to expand the types of orders that may be entered as Improvement Orders similar to Phlx and BX. The Exchange is therefore removing this limitation in Rule 723(c)(2) so that the proposed rule text would read: "Improvement Orders may be entered by all Members in one-cent increments at the same price as the Crossing Transaction or at an improved price for the Agency Order, and for any size up to the size of the Agency Order."

¹³ Phlx Rule 1087 permits any member to submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity ("PIXL Order").

¹⁴ BX Rules at Chapter VI, Section 9 provides that "A Participant may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker dealer, or any other entity ("PRISM Order").

Rule 723(d)(1) - (3)

The Exchange proposes to amend GEMX Rule 723(d)(1) –(3), which explains the manner in which a PIM Order shall be allocated to conform this text to the change which is proposed in Rule 723(c)(2). Rule 723(d)(1) currently provides, “At a given price, Priority Customer interest is executed in full before Professional Orders¹⁵ and any other interest of Members (i.e., proprietary interest from Electronic Access Members and Exchange market makers).” The Exchange proposes to expand upon the term interest by adopting the defined terms “Priority Customer Interest” for Priority Customer Orders and Improvement Orders from Priority Customers, and “Professional Interest” for Professional Orders, Improvement Orders from non-Priority Customers, and Market Maker quotes. The Exchange believes that adding these defined terms would clarify what is meant by interest. As proposed, Professional Interest identifies all orders (including Improvement Orders) that are not for the account of a Priority Customer as well as Market Maker quotes, thereby incorporating the current reference to “Professional Orders” within its terms and eliminating the necessity to include the current rule text which provides, “any other interest of Members (i.e., proprietary interest from Electronic Access Members and Exchange market makers).”

The Exchange proposes to amend Rule 723(d)(2) which currently provides, “After Priority Customer interest at a given price, Professional Orders and Members’ interest will participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the price that is represented by the size of the Members’ interest.” The Exchange proposes to replace the reference to “Priority

¹⁵ GEMX Rule 100(a)(52) provides the term “Professional Order” means an order that is for the account of a person or entity that is not a Priority Customer.

Customer interest” with the defined term “Priority Customer Interest” proposed to be added in Rule 723(d)(1), as described above. The Exchange also proposes to change “Professional Orders” to “Professional Interest” which will be defined in Rule 723(d)(1) to include Professional Orders as well as Improvement Orders from non-Priority Customers and Market Maker quotes. Since Professional Interest is defined in this manner, the Exchange also proposes to remove the language referring to “Members’ interest” from the sentence because Professional Interest would include all orders from non-Priority Customers and Market Maker quotes.

The Exchange proposes to amend Rule 723(d)(3) to again remove the rule text relating to “Members’ interest” and instead utilize the defined “Professional Interest” term consistent with proposed changes to Rule 723(d)(1) and (2). The Exchange also proposes to make similar changes to add the term “Professional Interest” to the sentence in Rule 723(d)(3) that currently reads: “Thereafter, all other orders, Responses, and quotes at the price point will participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the price that is represented by the size of the order, Response or quote.” In particular, the language related to “other orders, Responses, and quotes” in this sentence will be replaced with “Professional Interest” since this term includes all orders from non-Priority Customers and Market Maker quotes, as described above. The Exchange notes that the references in this sentence to “Responses,” currently an undefined term, should instead refer to the defined term “Improvement Orders,” and the proposed changes should therefore clarify how Rule 723(d)(3) will apply. Finally, the Exchange proposes to replace the word “Priority Customer Orders” with “Priority Customer Interest” as defined in proposed Rule

723(d)(1) to clarify that those orders as well as responses (i.e., Improvement Orders from Priority Customers) are applicable. The proposed amendments add more specificity to the exact order/quotes and responses which apply in this section.

The amendments to Rule 723(d)(1) - (3) conform to the proposed amendment to Rule 723(c)(2) and other proposed amendments as described above which do not change the manner in which PIM operates today, rather the other word changes seek to bring specificity to the manner in which order, quotes and responses are treated.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ 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.

The Exchange's proposal to amend Rule 723(c)(2) seeks to broaden the types of orders that may be submitted as Improvement Orders into PIM. As ISE previously noted, in its Adopting Filing, all Members are able to participate in a PIM today as an unrelated order that rests on the Order Book. Unrelated orders that rest on the Order Book can participate in PIM and trade with the Agency Order in the PIM. The Exchange proposes to allow all Members to submit Improvement Orders directly into PIM to provide an even greater number of GEMX Members to more directly participate in PIM and provide price improvement. The Exchange's proposal is consistent with the Act because allowing a

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

greater number of Members to directly respond with an Improvement Order in a PIM will increase the likelihood of price improvement in that auction thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. This approach will enable greater participation in PIM auctions.

The Exchange's proposal to amend Rule 723(d) conforms the text with changes made with respect to the proposal to amend Rule 723(c)(2) for consistency. The proposed changes to remove the more generic "Members' interest" and instead substitute very specific terms to define interest and add quotes provide more specificity as to the manner in which interest entered into PIM will be allocated. The Exchange's proposed amendments to Rule 723(d)(1)-(3) are consistent with the Act because the amendments seek to conform the rule text to the proposed Rule 723(c)(2) amendment and describe in greater detail how interest will be allocated by defining terms and eligible interest and this transparency benefits 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. The Exchange's proposal to amend Rule 723(c)(2) to broaden the types of orders that may be submitted as Improvement Orders into PIM does not unduly burden competition because all Members will be permitted to submit Improvement Orders directly into PIM to provide an even greater number of GEMX Members to more directly participate in PIM. The amendments to Rule 723(d) will conform the rule text and bring clarity to the allocation method for PIM.

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)¹⁸ of the Act and Rule 19b-4(f)(6) thereunder¹⁹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The proposal does not significantly affect the protection of investors or the public interest because allowing a greater number of Members to directly respond with an Improvement Order in a PIM will increase the likelihood of price improvement. Similar functionality is in place on other options exchanges.²⁰ The Exchange notes that the proposed amendments to Rule 723(d) will not change the current allocation model. As described above, Priority Customer Interest will continue to be executed in full before Professional Interest, and the proposed changes to Rule 723(d) will merely bring

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ See note 21 below.

specificity to how interest is allocated. The Exchange's proposal does not impose any significant burden on competition because all Members would be permitted to submit Improvement Orders directly into PIM to provide an even greater number of GEMX Members to more directly participate in PIM. The amendments to Rule 723(d) will conform the rule text and bring clarity to the allocation method for PIM.

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 it may allow all Members to submit Improvement Orders directly into PIM to provide an even greater number of GEMX Members to more directly participate in PIM and provide price improvement. The Exchange believes that granting the waiver will provide all market

participants with another venue to participate in a price improvement auction because PIM is removing a limitation on the type of responses which are permissible today. The Exchange will issue an Options Trader Alert to notify Members of the date within which this functionality will be implemented.

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

The proposal is similar to Phlx Rule 1087 and BX Rules at Chapter VI, Section 9.²¹

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.

²¹ All members/options participants may submit a response into PIM and PRISM.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-GEMX-2018-25)

July __, 2018

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Improvement Orders Entered into the Price Improvement Mechanism

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 5, 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 GEMX Rule 723, entitled “Price Improvement Mechanism for Crossing Transactions.”

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.

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

¹ 15 U.S.C. 78s(b)(1).

² 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

GEMX proposes to amend Rule 723, entitled “Price Improvement Mechanism for Crossing Transactions.” Specifically, the Exchange proposes to amend Rule 723(c)(2) to expand the types of Improvement Orders³ that may be entered into the Price Improvement Mechanism or “PIM.” The Exchange also proposes to amend Rule 723(d)(1)-(3) to more specifically clarify terms such as “orders” and “responses” in that section.

Background

The Exchange adopted PIM as part of its application to be registered as a national securities exchange under its previous name of Topaz Exchange, LLC.⁴ In approving PIM, the Commission noted that it was largely based on a similar functionality offered by the International Securities Exchange, LLC (now Nasdaq ISE, LLC) (“ISE”).⁵ ISE received approval to establish its PIM in 2004 that would allow an ISE Electronic Access

³ Rule 723(c)(1) defines an Improvement Order. The Exchange will designate via circular a time of no less than 100 milliseconds and no more than 1 second for Members to indicate the size and price at which they want to participate in the execution of the Agency Order (“Improvement Orders”).

⁴ See Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10-209) (“Exchange Approval Order”). The Exchange subsequently changed its name to ISE Gemini and then later Nasdaq GEMX.

⁵ Id.

Member (“EAM”) to enter matched trades (“Crossing Transactions”).⁶ As noted in the Adopting Filing, a Crossing Transaction would be comprised of an order that the EAM represents as agent (“Agency Order”) and an order that is executable against the Agency Order for the full size of the Agency Order (the “Counter-Side Order”).⁷ In the Adopting Filing, ISE specified in Rule 723(c)(2) that Improvement Orders may be for the account of a Public Customer or for the Member’s own account.⁸ The Adopting Filing noted that ISE would broadcast Crossing Orders to all Members.⁹ Further, it was noted in the Adopting Filing that during a three second auction, all ISE Members could enter “Improvement Orders,” in penny increments, to improve the price of the Agency Order.¹⁰ The Adopting Filing stated that Improvement Orders may be for the account of a Public Customer or for the Member’s own account.¹¹ Finally, the Adopting Filing noted that during the exposure period, the aggregate size of the best prices, including the Counter-

⁶ See Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (SR-ISE-2003-06) (Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 2 and 3 Thereto by the International Securities Exchange, Inc. To Establish Rules Implementing a Price Improvement Mechanism) (“Adopting Filing”).

⁷ The Counter-Side Order may represent interest for the EAM’s own account, or interest the EAM has solicited from one or more other parties, or a combination of both.

⁸ Id.

⁹ The broadcast message would include the series, price, and size of the Agency Order and whether it is to buy or sell.

¹⁰ The ISE would broadcast Improvement Orders to all Members. Crossing Transactions and Improvement Orders would not be displayed in the ISE BBO and would not be disseminated to the Options Price Reporting Authority.

¹¹ GEMX Rule 723(c)(2).

Side Order, Improvement Orders, and any change to either, would continually be updated and broadcast to all Members.¹²

Rule 723(c)(2)

With respect to the current limitation of Improvement Orders for the account of a Public Customer or for the Member's own account, ISE noted in its Adopting Filing that "all ISE Members would be permitted to participate in a PIM...unrelated orders could compete in standard increments to trade with the Agency Order in the PIM. Such unrelated orders could include agency orders on behalf of Public Customers, market makers on other exchanges, and non-ISE member broker-dealers, as well as non-Improvement orders submitted by ISE members."

At this time, the Exchange proposes to permit any GEMX Member to enter an Improvement Order marked as a response to a PIM auction similar to Nasdaq PHLX LLC ("Phlx")¹³ and Nasdaq BX, Inc. ("BX")¹⁴ rules. The Exchange no longer desires to limit Members who may enter Improvement Orders into PIM to simply those orders for the account of a Public Customer or for the Member's own account. The Exchange desires to expand the types of orders that may be entered as Improvement Orders similar to Phlx and BX. The Exchange is therefore removing this limitation in Rule 723(c)(2) so that the proposed rule text would read: "Improvement Orders may be entered by all Members in

¹² GEMX Rule 723(c)(4).

¹³ Phlx Rule 1087 permits any member to submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity ("PIXL Order").

¹⁴ BX Rules at Chapter VI, Section 9 provides that "A Participant may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker dealer, or any other entity ("PRISM Order").

one-cent increments at the same price as the Crossing Transaction or at an improved price for the Agency Order, and for any size up to the size of the Agency Order.”

Rule 723(d)(1) - (3)

The Exchange proposes to amend GEMX Rule 723(d)(1) –(3), which explains the manner in which a PIM Order shall be allocated to conform this text to the change which is proposed in Rule 723(c)(2). Rule 723(d)(1) currently provides, “At a given price, Priority Customer interest is executed in full before Professional Orders¹⁵ and any other interest of Members (i.e., proprietary interest from Electronic Access Members and Exchange market makers).” The Exchange proposes to expand upon the term interest by adopting the defined terms “Priority Customer Interest” for Priority Customer Orders and Improvement Orders from Priority Customers, and “Professional Interest” for Professional Orders, Improvement Orders from non-Priority Customers, and Market Maker quotes. The Exchange believes that adding these defined terms would clarify what is meant by interest. As proposed, Professional Interest identifies all orders (including Improvement Orders) that are not for the account of a Priority Customer as well as Market Maker quotes, thereby incorporating the current reference to “Professional Orders” within its terms and eliminating the necessity to include the current rule text which provides, “any other interest of Members (i.e., proprietary interest from Electronic Access Members and Exchange market makers).”

The Exchange proposes to amend Rule 723(d)(2) which currently provides, “After Priority Customer interest at a given price, Professional Orders and Members’ interest will participate in the execution of the Agency Order based upon the percentage

¹⁵ GEMX Rule 100(a)(52) provides the term “Professional Order” means an order that is for the account of a person or entity that is not a Priority Customer.

of the total number of contracts available at the price that is represented by the size of the Members' interest." The Exchange proposes to replace the reference to "Priority Customer interest" with the defined term "Priority Customer Interest" proposed to be added in Rule 723(d)(1), as described above. The Exchange also proposes to change "Professional Orders" to "Professional Interest" which will be defined in Rule 723(d)(1) to include Professional Orders as well as Improvement Orders from non-Priority Customers and Market Maker quotes. Since Professional Interest is defined in this manner, the Exchange also proposes to remove the language referring to "Members' interest" from the sentence because Professional Interest would include all orders from non-Priority Customers and Market Maker quotes.

The Exchange proposes to amend Rule 723(d)(3) to again remove the rule text relating to "Members' interest" and instead utilize the defined "Professional Interest" term consistent with proposed changes to Rule 723(d)(1) and (2). The Exchange also proposes to make similar changes to add the term "Professional Interest" to the sentence in Rule 723(d)(3) that currently reads: "Thereafter, all other orders, Responses, and quotes at the price point will participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the price that is represented by the size of the order, Response or quote." In particular, the language related to "other orders, Responses, and quotes" in this sentence will be replaced with "Professional Interest" since this term includes all orders from non-Priority Customers and Market Maker quotes, as described above. The Exchange notes that the references in this sentence to "Responses," currently an undefined term, should instead refer to the defined term "Improvement Orders," and the proposed changes should therefore clarify how Rule

723(d)(3) will apply. Finally, the Exchange proposes to replace the word “Priority Customer Orders” with “Priority Customer Interest” as defined in proposed Rule 723(d)(1) to clarify that those orders as well as responses (i.e., Improvement Orders from Priority Customers) are applicable. The proposed amendments add more specificity to the exact order/quotes and responses which apply in this section.

The amendments to Rule 723(d)(1) - (3) conform to the proposed amendment to Rule 723(c)(2) and other proposed amendments as described above which do not change the manner in which PIM operates today, rather the other word changes seek to bring specificity to the manner in which order, quotes and responses are treated.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ 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.

The Exchange’s proposal to amend Rule 723(c)(2) seeks to broaden the types of orders that may be submitted as Improvement Orders into PIM. As ISE previously noted, in its Adopting Filing, all Members are able to participate in a PIM today as an unrelated order that rests on the Order Book. Unrelated orders that rest on the Order Book can participate in PIM and trade with the Agency Order in the PIM. The Exchange proposes to allow all Members to submit Improvement Orders directly into PIM to provide an even

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

greater number of GEMX Members to more directly participate in PIM and provide price improvement. The Exchange's proposal is consistent with the Act because allowing a greater number of Members to directly respond with an Improvement Order in a PIM will increase the likelihood of price improvement in that auction thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. This approach will enable greater participation in PIM auctions.

The Exchange's proposal to amend Rule 723(d) conforms the text with changes made with respect to the proposal to amend Rule 723(c)(2) for consistency. The proposed changes to remove the more generic "Members' interest" and instead substitute very specific terms to define interest and add quotes provide more specificity as to the manner in which interest entered into PIM will be allocated. The Exchange's proposed amendments to Rule 723(d)(1)-(3) are consistent with the Act because the amendments seek to conform the rule text to the proposed Rule 723(c)(2) amendment and describe in greater detail how interest will be allocated by defining terms and eligible interest and this transparency benefits 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. The Exchange's proposal to amend Rule 723(c)(2) to broaden the types of orders that may be submitted as Improvement Orders into PIM does not unduly burden competition because all Members will be permitted to submit Improvement Orders directly into PIM to provide an even greater number of GEMX Members to more directly participate in PIM. The amendments to Rule 723(d) will conform the rule text and bring clarity to the allocation method for PIM.

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 Act¹⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁹

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.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 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.

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-2018-25 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-GEMX-2018-25. 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-2018-25 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.²⁰

Eduardo A. Aleman
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq GEMX Rulebook

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7. Doing Business On The Exchange

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Rule 723. Price Improvement Mechanism for Crossing Transactions

(a) and (b) No change

(c) Exposure Period. Upon entry of a Crossing Transaction into the Price Improvement Mechanism, a broadcast message that includes the series, price and size of the Agency Order, and whether it is to buy or sell, will be sent to all Members. This broadcast message will not be included in the Exchange's disseminated best bid or offer and will not be disseminated through OPRA.

(1) No change

(2) Improvement Orders may be entered by all Members [for their own account or for the account of a Public Customer]in one-cent increments at the same price as the Crossing Transaction or at an improved price for the Agency Order, and for any size up to the size of the Agency Order.

(3) - (5) No change

(d) Execution. At the end of the exposure period the Agency Order will be executed in full at the best prices available, taking into consideration orders and quotes in the Exchange market, Improvement Orders, and the Counter-Side Order. The Agency Order will receive executions at multiple price levels if there is insufficient size to execute the entire order at the best price.

(1) At a given price, "Priority Customer [i]Interest" (Priority Customer Orders and Improvement Orders from Priority Customers) is executed in full before "Professional[Orders] Interest" (Professional Orders, Improvement Orders from non-Priority Customers and Market Maker quotes)[any other interest of Members (i.e., proprietary interest from Electronic Access Members and Exchange market makers)].

(2) After Priority Customer [i]Interest at a given price, Professional[Orders] Interest[and Members' interest] will participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the price that is represented by the size of [the Members']such interest.

(3) In the case where the Counter-Side Order is at the same price as [Members']Professional [i]Interest in (d)(2), the Counter-Side order will be allocated the greater of one (1) contract or forty percent (40%) of the initial size of the Agency Order before [other Member]Professional [i]Interest is executed. Upon entry of Counter-Side orders, Members can elect to automatically match the price and size of orders, quotes and responses received during the exposure period up to a specified limit price or without specifying a limit price. In this case, the Counter-Side order will be allocated its full size at each price point, or at each price point within its limit price if a limit is specified, until a price point is reached where the balance of the order can be fully executed. At such price point, the Counter-Side order shall be allocated the greater of one contract or forty percent (40%) of the original size of the Agency Order, but only after Priority Customer [Orders]Interest at such price point are executed in full. Thereafter, all [other orders, Responses, and quotes]Professional Interest at the price point will participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the price that is represented by the size of the [order, Response or quote]Professional Interest. An election to automatically match better prices cannot be cancelled or altered during the exposure period.

(4) and (5) No change

Supplementary Material to Rule 723

.01 - .09 No change

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