

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 66	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2019 - * 13	Amendment No. (req. for Amendments *)
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"/>	
			Rule	
Pilot <input type="checkbox"/>	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"/>			
<b>Description</b>				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="Proposed rule change to amend the GEMX submission of Quotes and Orders"/>				
<b>Contact Information</b>				
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 *	<input type="text" value="Angela"/>	Last Name *	<input type="text" value="Dunn"/>	
Title *	<input type="text" value="Principal Associate General Counsel"/>			
E-mail *	<input type="text" value="Angela.Dunn@nasdaq.com"/>			
Telephone *	<input type="text" value="(215) 496-5692"/>	Fax	<input type="text"/>	
<b>Signature</b>				
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	<input type="text" value="09/17/2019"/>	<input type="text" value="Global Chief Legal and Policy Officer"/>		
By	<input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(Name *)				
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.				
<input type="button" value="edward.knight@nasdaq.com"/>				

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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Options 3 at Section 4, “Acceptance of Quotes and Orders,” adopt a new Section 5, “Entry and Display of Orders,” Section 7, “Types of Order,” at Supplementary Material .03 and Section 22 titled “Limitations on Orders.” The Exchange proposes to amend Options 3, Section 15, “Simple Order Risk Protections.”

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 26, 2018. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

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

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

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

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

a. Purpose

The Exchange proposes to amend Options 3 at Section 4, "Acceptance of Quotes and Orders," adopt a new Section 5, "Entry and Display of Orders," Section 7, "Types of Order," at Supplementary Material .03 and Section 22 titled "Limitations on Orders."

The Exchange proposes to amend Options 3, Section 15, "Simple Order Risk Protections." Each rule change will be discussed in greater detail below.

Options 3, Section 4, Acceptance of Orders and Quotes

Currently, Options 3, Section 4 is titled "Acceptance of Quotes or Orders." The Exchange proposes to retitle Options 3, Section 4 as "Entry and Display of Quotes." The Exchange proposes to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Options 3, Section 4(b), "Quotes are subject to the following requirements and conditions:". The Exchange proposes to add at Options 3, Section 4(b)(1) that "Market Makers may generate and submit option quotations."

Current Options 2, Section 5 makes clear that Market Makers may submit quotes.<sup>3</sup> The Exchange proposes to create a list of rules related to quote submission within this rule for ease of reference. The Exchange proposes to provide at proposed new Options 3, Section

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<sup>3</sup> Options 2, Section 5(a) provides, "Options Classes. A quotation only may be entered by a Market Maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3." Options 2, Section 5(d) provides for Firm Quotes.

4(b)(2) that “The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.” The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Options 3, Section 4(b)(3) states that “Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.” The Exchange believes that this information will provide Market Makers with information on submitting a quote. The Exchange notes that bid or offer may be a “0,” however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Options 3, Section 4(b)(4) to provide clarity for entering quotes and proposes to specify, “The System accepts quotes for the Opening Process as specified in Options 3, Section 8.”<sup>4</sup> The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Options 3, Section 4(b)(5):

**Firm Quote.** Where quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the Rule 602 of Regulation NMS under the Exchange Act orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The

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<sup>4</sup> Options 3, Section 8(c) provides, “Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.”

Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

GEMX's Options 2, Section 5(d) describes Firm Quote for purposes of Market Maker quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.<sup>5</sup> The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Options 3, Section 4(b)(6):

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<sup>5</sup> 17 CFR 242.602.

**Trade-Through Compliance and Locked or Crossed Markets.** A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price or immediately cancelled, as configured by the Member.

Today, quotations may not be executed against at prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is described within Options 5. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Market Makers will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (“MPV”) above (for offers) or below (for bids) the national best price or the quote would be immediately cancelled if requested by the Member. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market’s quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on the Exchange.

Finally, the Exchange proposes at Options 3, Section 4(b)(7) to provide, “Quotes submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15.” If the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System. The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Exchange Rules. Specifically, if the Market Maker

does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System because market participants are required to abide by Options 3, Section 3 which describes the increments with which options series are to be quoted. Options 3, Section 15 provides a list of all protections applicable to quotes that may be rejected. The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Options 3, Section 4(c), “Quotes will be displayed in the System as described in Options 3, Section 23.” Options 3, Section 23, titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by the Exchange.

As discussed in more detail below, the Exchange proposes to relocate current Options 3, Section 4(b)<sup>6</sup> to new Options 3, Section 5(a)(5) as described below in greater detail.

The amendment to Options 3, Section 4 to create a list of all the requirements and conditions for submitting quotes on the Exchange within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules,

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<sup>6</sup> Current Options 3, Section 4(b) provides, “A trade may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA.”



for ease of reference the requirements are located within a single rule with this proposal.

The proposal reflects the Exchange's current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.<sup>7</sup> The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Options 3, Section 4(b)(5) and regarding trade-through and locked and crossed markets Options 3, Section 4(b)(6).

The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The

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<sup>7</sup> See Phlx Rule 1019. Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules. Phlx Rule 1019 is similar to GEMX Options 3, Section 4 except that Phlx displays and reprices quotes differently than GEMX for purposes of trade-through. Phlx re-prices to the current national best offer (for bids) or the current national best bid (for offers) but displays at one minimum price variance above (for offers) or below (for bids) the national best price. GEMX re-prices and displays quotes at one minimum price variance above (for offers) or below (for bids) the national best price, or, in the alternative if elected by the Member, the quote is otherwise immediately cancelled if it would cause a locked or crossed market. Further, while Phlx has a Quote Exhaust feature as described in Phlx Rule 1082, GEMX has no similar feature.

Exchange is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Options 3, Section 5, Entry and Display of Orders

Similar to Options 3, Section 4, which describes requirements for quotes, the Exchange proposes to adopt a new Options 3, Section 5, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Options 3, Section 5 is to memorialize this information within a single rule.

The Exchange proposes to state within new Options 3, Section 5(a), “Members can enter orders into the System, subject to the following requirements and conditions:”. The Exchange proposes within new Options 3, Section 5(a)(1), “Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.” The Exchange’s new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes at new Options 3, Section 5(a)(2), “The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.” The System accepts orders beginning at a time specified by the Exchange and communicated

on the Exchange's web site.<sup>8</sup>

The Exchange proposes at new Options 3, Section 5(a)(3), "The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order." Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add at new Options 3, Section 5(a)(4), "Orders submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3, risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. Orders may execute at multiple prices." All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Options 3, Section 3 and also the risk protections for orders which are listed within current Options 3, Section 15. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add to new Options 3, Section 5(a)(5) the following, "Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the

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<sup>8</sup> The Exchange's website makes the timeframes in which orders may be submitted to the System:  
[https://business.nasdaq.com/media/GEMXSystemSetting\\_tcm5044-41351.pdf](https://business.nasdaq.com/media/GEMXSystemSetting_tcm5044-41351.pdf)

mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.” The rule text of new Options 3, Section 5(a)(5) is relocated from Options 3, Section 4(b) because it related to orders. The Exchange proposes to caption proposed Options 3, Section 5(a)(5) as “Nullification by Mutual Agreement” and add the following sentence to this provision, “It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.” The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

The rule text at proposed Options 3, Section 5(b) is relocated from Options 3, Section 15(a). The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Options 3, Section 5, which applies to all market participants. In contrast, Options 3, Section 4, which applies to quotes entered by Market Makers, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Options 3, Sections 4 and 5. The Exchange proposes to change the word “rejected” to “cancelled” within new Options 3, Section 5(b) because an order may be accepted by the System and then immediately cancelled. New Options 3, Section 5(c) seeks to define the Exchange’s best bid and offer as the “BBO.” The Exchange provides, “The System automatically executes eligible

orders using the Exchange's displayed best bid and offer ("BBO")."

Similar to Options 3, Section 4(b)(6), the Exchange proposes to note at new Options 3, Section 5(d),

Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. Finally, the Exchange proposes to cross-reference Supplementary Material .02 to Options 5, Section 2 to describe the manner in which orders that are not automatically executed are handled. Today, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt. By including this information within this rule, the Exchange proposes to provide Members with information related to trade-through in one location with cross-references to provide transparency. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Noting these limitations within the rule is consistent with the Act because Members will have greater clarity as to limitations.

Finally, the Exchange proposes to add rule text at new Options 3, Section 5(e), similar to Options 3, Section 4(c) which states, "Orders will be displayed in the System as described in Options 3, Section 23."

The Exchange's proposal to adopt a new Options 3, Section 5, "Entry and Display

of Orders” and describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 4 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange’s new rule reflects the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.<sup>9</sup>

#### Options 3, Section 7, Types of Orders

The Exchange proposes to amend Supplementary Material .03(c) to Options 3, Section 7 to add the following sentence to Specialized Quote Feed (“SQF”), “Market Makers may only enter interest into SQF in their assigned options series.” The Exchange notes that today Market Makers may utilize SQF to quote only in their assigned options series as provided for in Options 2, Section 3, Appointment of Market Makers. Adding this information to the SQF protocol is consistent with the Act because the Exchange desires to make clear the manner in which Market Makers may submit quotes through the protocol. Market Makers are obligated to provide liquidity on GEMX in the options

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<sup>9</sup> Phlx Rule 1096 is similar to GEMX Options 3, Section 5. With respect to NBBO Protection, unlike Phlx, GEMX Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Phlx does not have a similar exposure mechanism. Also, with respect to trade-through, Phlx re-prices an order that would cause a locked or crossed market violation or would cause a trade-through violation to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price. While GEMX will not execute an order at a price that trades through another market or display an order at a price that would lock or cross another market, GEMX does not re-price orders. GEMX Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

series to which they are assigned, which liquidity benefits all market participants. This amendment is similar to language currently within Phlx Rule 1080(a)(i)(B).

Options 3, Section 15 Simple Order Risk Protections

The Exchange proposes to delete the first sentence introductory sentence of Options 3, Section 15 which provides, “Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System subject to the following:” and relocate the rule text to Options 3, Section 5 as described herein as well as Section 15(a)(1) and (a)(2), into proposed new Options 3, Section 5(b) and renumber Options 3, Section 15(b) as new “a.” The Exchange proposes to relocate current Options 3, Section 15(b)(1)(C) to Options 3, Section 15(b)(2)(B). Current Options 3, Section 15(b)(1)(D) will be re-lettered as “C”. Options 3, Section 15(b)(1) provides for order risk protections. The Exchange proposes to relocate the Size Limitation protection to Options 3, Section 15(b)(2) because this section applies to order and quote risk protections. Size Limitation protection applies to both orders and quotes and is therefore properly placed within this section. The Exchange proposes to add the words “or quote” to the description to make clear that this protection applies to both orders and quotes. The Exchange believes that relocating this rule and adding “or quotes” is consistent with the Act because the Exchange will make clear that the Size Limitation risk protection would apply to all interest on the Exchange.

Options 3, Section 22, Limitation on Orders

The Exchange proposes to amend Options 3, Section 22 to retitle the Section from “Limitations on Orders” to “Limitations on Order Entry.” The Exchange believes that this title is more appropriate for these rules.

The Exchange proposes to amend Options 3, Section 22(b) to amend the title of

the section from “Principal Transactions” to “Limitations on Principal Transactions.”

This rule provides for the exposure of orders entered on the Exchange. Specifically, with respect to orders entered when a Member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Facilitation Mechanism,<sup>10</sup> Price Improvement Mechanism,<sup>11</sup> Qualified Contingent Cross Orders,<sup>12</sup> and Customer Cross Orders.<sup>13</sup> The Exchange proposes to separately note that with respect to the Solicitation Mechanism,<sup>14</sup> that an Options Member may electronically submit for execution an order it represents as agent against solicited order(s). Options 3, Section 11(d) and (e) provide that an Agency Order must be for at least the minimum size designated by the Exchange, which may not be less than 500 standard option contracts, and the order be entered into the Solicited Order Mechanism shall be designated as all-or-none. Because a Member may not execute as principal on the order, there must be an Agency Order which executes against the solicited order; therefore, the Solicitation Mechanism is explicitly carved out from proposed Options 3, Section 22(b), whereas the other auctions noted are exceptions to the general one second rule. The Exchange

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<sup>10</sup> See Options 3, Section 11(b) and (c).

<sup>11</sup> See Options 3, Section 13.

<sup>12</sup> See Options 3, Section 12(c) and (d).

<sup>13</sup> See Options 3, Section 12(a) and (b).

<sup>14</sup> See Options 3, Section 11(d) and (e).



believes it is consistent with the Act and the protection of investors and the general public to describe the functionalities available on the Exchange into which a Member may enter principal orders they represent as agent. Options 3, Section 22 is intended to encourage price discovery and price improvement of all orders entered on the Exchange.

The Exchange proposes to relocate Supplementary Material .01 to Options 3, Section 22 to new Section 22(b)(i) and state “This Rule” instead of “Options 3, Section 22(d).” The Exchange notes that the references to “d” should refer to “b” and those cross-references are being updated.

The Exchange proposes to amend the title of Options 3, Section 22(c), from “Solicitation Orders” to “Limitation on Solicitation Orders.” The Exchange proposes to add exceptions for Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d) and Customer Cross Order pursuant to Options 3, Sections 12(a) or (b) similar to proposed Options 3, Section 22(b).

The Exchange proposes to re-letter current “d” as “e” as the Exchange proposes new rule text at proposed Options 3, Section 22(d) which provides, “Prior to or after submitting an order to GEMX, a Member cannot inform another Member or any other third party of any of the terms of the order for purposes of violating this Rule.” Similar rule text is contained in The Nasdaq Options Market LLC (“NOM”) Rules.<sup>15</sup> The Exchange believes that adding this language will better inform participants that Options 3, Section 22 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. The Exchange notes that similar language is currently contained within Supplementary Material .02 to Options 3,

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<sup>15</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.

Section 22 which provides,

It will be a violation of Options 3, Section 22(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-Member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Options 3, Section 22(e).

This rule text is repetitive of the provisions within current Options 3, Section 22(c). The Exchange is clearly providing within Options 3, Section 22(c) that a Member must expose an order for one second. Further, the Member cannot inform another Member or third party of the terms of the order, which would be a violation of the rule pursuant to proposed Options 3, Section 22(c). The Exchange does not believe that the rule text within Supplementary Material .02 to Options 3, Section 22 provides additional information, but rather is repetitive of the prohibitions within the rule, as proposed.

The Exchange proposes to update the rule citations in Supplementary Material .01 to Options 3, Section 22 to refer to paragraph “b” instead of “d”. The Exchange proposes to update the rule numbers for the remainder of the Rule and also update the cross-reference in Supplementary Material .04 to Options 3, Section 22.

The Exchange proposes to make clear with this Rule that Members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent Members from seeking price discovery and potentially preventing price improvement, which may result from exposing an order. The Exchange’s proposal to amend Options 3, Section 22 will conform this Rule to other

Nasdaq affiliated markets filing similar rules.<sup>16</sup> The Exchange's proposal to add rule text to describe potential violations of this Rule will bring greater clarity to current limitations that exist when entering orders. The amendments to Options 3, Section 22 are consistent with the Act because the Rule provides a list of limitations when entering order on the Exchange. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Exchange Rules. Providing Members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

b. Statutory Basis

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

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<sup>16</sup> Nasdaq BX, Inc. and Nasdaq Stock Market LLC are also adopting similar rules to Phlx Rule 1097.

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

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

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes are consistent with the Act. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. Making clear the manner in which Market Makers may generate and submit option quotations will provide these market participants with clear guidance within the rules. The Exchange notes that other rules already limit the use of quotations on the Exchange. Options 2, Section 5 makes clear that Market Makers may submit quotes.<sup>19</sup> Supplementary Material .03(c) to Options 3, Section 7 describes the SQF interface.<sup>20</sup> Options 2, Section 4(b)(4) provides the allowable spread for entering bids and offers on the Exchange. Further, the Exchange is making clear that only one quote may be submitted at a time for a series. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. Also, the Exchange believes that making clear that quotes may be entered as specified by the Exchange makes clear that all Market Makers are subject to uniform requirements for quoting.

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<sup>19</sup> Options 2, Section 5(a) provides, "Options Classes. A quotation only may be entered by a market maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3." Options 2, Section 5(d) provides for Firm Quote.

<sup>20</sup> Supplementary Material .03(c) to Options 3, Section 7 provides "Specialized Quote Feed" or "SQF" is an interface that allows market makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Market Makers on GEMX can only submit quotes and orders through SQF in their assigned options series.

The Exchange's proposal to add a provision regarding Firm Quote within new Options 3, Section 4(b)(5) will bring greater transparency to the limitations that Market Makers have today with respect to firm quote. GEMX's Options 2, Section 5(d) describes firm quote for purposes of Market Maker quote submission. The Exchange is proposing to add rule text to provide context as to this restriction for submitting quotes. The proposed rule text makes clear the manner in which Firm Quote relief is applied. The Exchange believes it is consistent with the Act to provide greater detail as to the current obligations for Market Makers with respect to firm quote. The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 4(b)(6) regarding trade-through and locked and crossed markets is consistent with the Act. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange's proposal to note that quotes are subject to minimum

increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15 is consistent with the Act because this rule brings greater transparency to these requirements which are already noted in the aforementioned rules. Options 2, Section 5(b)(1) similarly requires a Market Maker to quote in the minimum increments specified in Options 3, Section 3. Options 3, Section 15, titled “Simple Order Risk Protections” provides a list of all protections applicable to quotes that may cause an order to be rejected. The Exchange believes that this rule will provide Market Makers with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange’s proposal to make clear that quotes will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23, titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange.

#### Options 3, Section 5, Entry and Display of Orders

The Exchange proposes to retitle Options 3, Section 5 as “Entry and Display of Orders” to describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 5 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange’s new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange’s new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels to add greater transparency to the Exchange’s rules. The Exchange proposes to

memorialize the manner in which orders may be submitted to the System to add more detail to its rules. For example, the time the System begins accepting orders, information concerning the time-stamp, which determines the time ranking of the order, as well as restrictions to order entry. Orders submitted to the System are subject to minimum increments specified in Options 3, Section 3 risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. The Exchange believes that listing the requirements and limitations is consistent with the Act because it will provide Members with the information necessary to process orders on GEMX. In addition, noting that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated is consistent with the Act because it provides transparency to Members that certain behavior would cause a rule violation. The Exchange believes that this provision protects investors and the public interest because it specifically prohibits market manipulation within propose new rule. The Exchange's proposal to define both the Exchange's best bid and offer as the "BBO" is consistent with the Act because it provides context to the usage of these terms in the Rulebook. The Exchange notes, within Options 3, Section 7, the orders are displayed and non-displayed.

Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 5(d) regarding trade-through and locked and crossed markets is consistent with the Act. Today, orders may not be executed against at prices that trade-through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The rule

also seeks to aggregate information relating to trading –through so as to provide Members with clear guidelines for submitting orders.

The Exchange’s proposal to make clear that orders will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23 titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange.

#### Options 3, Section 7, Types of Orders

The Exchange’s proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series is consistent with the Act. Options 2, Section 3, Appointment of Market Makers, describes the manner in which Market Makers are appointed in options series. This sentence simply provides that SQF may only be utilized for quoting in assigned options series.

#### Options 3, Section 15, Simple Order Risk Protections

The Exchange’s proposal to relocate Options 3, Section 15(a)<sup>21</sup> into proposed new Options 3, Section 5(b) is consistent with the Act because this rule text relates to orders, which topic is described within new Options 3, Section 5. The proposal to relocate Size Limitation to make clear that this risk protection impacts orders and quotes will bring

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<sup>21</sup> Options 5, Section 15(a) provides, “NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)). (1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 3; provided that Members may specify that a Non-Customer order should instead be rejected automatically by the System at the time of receipt. (2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).”



greater transparency to this risk protection.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement is consistent with the Act because this rule change will bring greater clarity to the Rulebook. The Exchange is adding rule text currently contained in a NOM rule to describe the required period that orders are to be exposed.<sup>22</sup> The Exchange believes the additional language provided context and further explains the exceptions. The Exchange believes that this rule is consistent with the Act because with the addition of this language the rule more specifically describes the limitations to behavior on the Exchange with respect to order exposure and the necessity to conduct price discovery. The rule also describes behavior that would violate Options 3, Section 22 depending on the relationship of the parties and exchange of information. Listing all of the relevant mechanisms available on the Exchange will make clear the manner in which a Member may execute as principal orders they represent as agent. Further, explicitly excluding the Solicitation Mechanism will make clear that the particular auction is not an exception to the one second rule. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section 22(c) will make clear that a Member cannot inform another Member or any other third party of any of the terms of the order in violation of this rule. Options 9, Section 9, titled "Prevention of the Misuse of Material Nonpublic Information," prohibits such activity today. This rule text is

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<sup>22</sup> See Chapter VII, Section 12.

contained in NOM Rules.<sup>23</sup> The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. Finally, updating the cross-references will make clear the manner in which a Member may enter orders on the Exchange.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition because the Exchange is memorializing its current practice by reflecting the various requirements and limitations in one rule for ease of reference and clarity and all Market Makers are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 5, Entry and Display of Orders

The Exchange's proposed new Options 3, Section 5 describes the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange's proposal does not impose an undue burden on competition because it applies uniformly to all Members. This rule memorializes the manner in which orders may be

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<sup>23</sup> See Chapter VII, Section 12 at Commentary .04.

submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 7, Types of Order

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) into proposed new Options 3, Section 5(b) does not impose an undue burden on competition because this rule text relates to orders, which topic is described within new Options 3, Section 5. Relocating the Size Limitation protection to another section of the rule to make clear it applies to quotes and orders will bring greater transparency to this rule.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement does not impose an undue burden on competition because this rule change will bring greater clarity to the Rulebook. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section (c) will make clear the type of behavior that would cause a Member to violate Options 3, Section 22 when disclosing information to another Member or any other third party with respect to the terms of the order.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Members, 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)<sup>24</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>25</sup> in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange's proposal does not significantly affect the protection of investors or the public interest because the amendments to Options 3, Section 4 memorialize the current requirements and conditions for submitting quotes. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. New Options 3, Section 5 will describe the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange believes that listing the requirements and limitations is consistent will provide Members with the information necessary to process orders on GEMX. Options 5, Section 7 makes clear that Market

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<sup>24</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>25</sup> 17 CFR 240.19b-4(f)(6).

Makers can quote only in their assigned option series through SQF. The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement will bring greater clarity to the Rulebook.

The Exchange's proposal to amend Options 3, Section 4 to describe the current requirements and conditions for submitting quotes does not impose any significant burden on competition because the Exchange is memorializing its current practice by reflecting the various requirements and limitations in one rule for ease of reference and clarity. Also, all Market Makers are subject to uniform requirements for quoting. The Exchange's proposed new Options 3, Section 5 describes the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange's proposal does not impose any significant burden on competition, rather it memorializes the manner in which orders may be submitted to the System. All Market Makers may only utilize SQF to quote in their assigned options series. The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement does not impose any significant burden on competition because this rule change will bring greater clarity to the Rulebook. The Exchange's prohibition proposed within Options 3, Section 22(c) will apply to all Members.

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

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

Phlx Rule 1019 is similar to GEMX Options 3, Section 4 except that Phlx displays and reprices quotes differently than GEMX for purposes of trade-through and locked and crossed markets. Phlx re-prices to the current national best offer (for bids) or the current national best bid (for offers) but displays at one minimum price variance above (for offers) or below (for bids) the national best price. GEMX re-prices and displays quotes at one minimum price variance above (for offers) or below (for bids) the national best price, or, in the alternative if elected by the Member, the quote is otherwise immediately cancelled if it would cause a locked or crossed market. Further, while Phlx has a Quote Exhaust feature as described in Phlx Rule 1082, GEMX has no similar feature. Further, Phlx Rule 1096 is similar to GEMX Options 3, Section 5. With respect to NBBO Protection, unlike Phlx, GEMX Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Phlx does not have a similar exposure mechanism. Also, with respect to trade-through, Phlx re-prices an order that would cause a locked or crossed market violation or would cause a trade-through violation to the current national best offer (for bids) or the current national best bid (for offers) and displays it at one minimum price variance above (for offers) or below

(for bids) the national best price. While GEMX will not execute an order at a price that trades through another market or display an order at a price that would lock or cross another market, GEMX does not re-price orders. GEMX Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

The amendment to Supplementary Material .03(c) to GEMX Options 3, Section 7 is similar to language currently within Phlx Rule 1080(a)(i)(B).

GEMX Options 3, Section 22 contains language similar to NOM Rules at Chapter VII, Section 12 at Commentary .04. and also Phlx Rule 1097.

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-2019-13)

September \_\_, 2019

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Submission of Quotes and Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 17, 2019, 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 Options 3 at Section 4, “Acceptance of Quotes and Orders,” adopt a new Section 5, “Entry and Display of Orders,” Section 7, “Types of Order,” at Supplementary Material .03 and Section 22 titled “Limitations on Orders.”

The Exchange proposes to amend Options 3, Section 15, “Simple Order Risk Protections.”

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.

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

<sup>2</sup> 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 Exchange proposes to amend Options 3 at Section 4, "Acceptance of Quotes and Orders," adopt a new Section 5, "Entry and Display of Orders," Section 7, "Types of Order," at Supplementary Material .03 and Section 22 titled "Limitations on Orders." The Exchange proposes to amend Options 3, Section 15, "Simple Order Risk Protections." Each rule change will be discussed in greater detail below.

Options 3, Section 4, Acceptance of Orders and Quotes

Currently, Options 3, Section 4 is titled "Acceptance of Quotes or Orders." The Exchange proposes to retitle Options 3, Section 4 as "Entry and Display of Quotes." The Exchange proposes to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Options 3, Section 4(b), "Quotes are subject to the following requirements and conditions:". The Exchange proposes to add at Options 3, Section 4(b)(1) that "Market Makers may generate and submit option quotations."

Current Options 2, Section 5 makes clear that Market Makers may submit quotes.<sup>3</sup> The Exchange proposes to create a list of rules related to quote submission within this rule for ease of reference. The Exchange proposes to provide at proposed new Options 3, Section 4(b)(2) that “The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.” The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Options 3, Section 4(b)(3) states that “Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.” The Exchange believes that this information will provide Market Makers with information on submitting a quote. The Exchange notes that bid or offer may be a “0,” however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Options 3, Section 4(b)(4) to provide clarity for entering quotes and proposes to specify, “The System accepts quotes for the Opening Process as specified in Options 3, Section 8.”<sup>4</sup> The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Options 3, Section 4(b)(5):

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<sup>3</sup> Options 2, Section 5(a) provides, “Options Classes. A quotation only may be entered by a Market Maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.” Options 2, Section 5(d) provides for Firm Quotes.

<sup>4</sup> Options 3, Section 8(c) provides, “Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.”

**Firm Quote.** Where quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the Rule 602 of Regulation NMS under the Exchange Act orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

GEMX’s Options 2, Section 5(d) describes Firm Quote for purposes of Market Maker quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.<sup>5</sup> The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange’s quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is

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<sup>5</sup> 17 CFR 242.602.

made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Options 3, Section 4(b)(6):

**Trade-Through Compliance and Locked or Crossed Markets.** A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price or immediately cancelled, as configured by the Member.

Today, quotations may not be executed against at prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is described within Options 5. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Market Makers will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (“MPV”) above (for offers) or below (for bids) the national best price or the quote would be immediately cancelled if requested by the Member. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market’s quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on the Exchange.

Finally, the Exchange proposes at Options 3, Section 4(b)(7) to provide, “Quotes submitted to the System are subject to the following: minimum increments provided for

in Options 3, Section 3 and risk protections provided for in Options 3, Section 15.” If the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System. The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Exchange Rules. Specifically, if the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System because market participants are required to abide by Options 3, Section 3 which describes the increments with which options series are to be quoted. Options 3, Section 15 provides a list of all protections applicable to quotes that may be rejected. The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Options 3, Section 4(c), “Quotes will be displayed in the System as described in Options 3, Section 23.” Options 3, Section 23, titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by the Exchange.

As discussed in more detail below, the Exchange proposes to relocate current Options 3, Section 4(b)<sup>6</sup> to new Options 3, Section 5(a)(5) as described below in greater detail.

The amendment to Options 3, Section 4 to create a list of all the requirements

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<sup>6</sup> Current Options 3, Section 4(b) provides, “A trade may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA.”

and conditions for submitting quotes on the Exchange within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange's current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.<sup>7</sup> The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Options 3, Section 4(b)(5) and regarding trade-through and locked and crossed markets Options 3, Section 4(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and

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<sup>7</sup> See Phlx Rule 1019. Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules. Phlx Rule 1019 is similar to GEMX Options 3, Section 4 except that Phlx displays and reprices quotes differently than GEMX for purposes of trade-through. Phlx re-prices to the current national best offer (for bids) or the current national best bid (for offers) but displays at one minimum price variance above (for offers) or below (for bids) the national best price. GEMX re-prices and displays quotes at one minimum price variance above (for offers) or below (for bids) the national best price, or, in the alternative if elected by the Member, the quote is otherwise immediately cancelled if it would cause a locked or crossed market. Further, while Phlx has a Quote Exhaust feature as described in Phlx Rule 1082, GEMX has no similar feature.

equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

#### Options 3, Section 5, Entry and Display of Orders

Similar to Options 3, Section 4, which describes requirements for quotes, the Exchange proposes to adopt a new Options 3, Section 5, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Options 3, Section 5 is to memorialize this information within a single rule.

The Exchange proposes to state within new Options 3, Section 5(a), “Members can enter orders into the System, subject to the following requirements and conditions:”. The Exchange proposes within new Options 3, Section 5(a)(1), “Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.” The Exchange’s new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange

proposes at new Options 3, Section 5(a)(2), “The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.” The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.<sup>8</sup>

The Exchange proposes at new Options 3, Section 5(a)(3), “The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.” Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add at new Options 3, Section 5(a)(4), “Orders submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3, risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. Orders may execute at multiple prices.” All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Options 3, Section 3 and also the risk protections for orders which are listed within current Options 3, Section 15. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add to new Options 3, Section 5(a)(5) the following, “Nullification by Mutual Agreement. Trades may be nullified if all parties participating

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<sup>8</sup> The Exchange’s website makes the timeframes in which orders may be submitted to the System:  
[https://business.nasdaq.com/media/GEMXSystemSetting\\_tcm5044-41351.pdf](https://business.nasdaq.com/media/GEMXSystemSetting_tcm5044-41351.pdf)



in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.” The rule text of new Options 3, Section 5(a)(5) is relocated from Options 3, Section 4(b) because it related to orders. The Exchange proposes to caption proposed Options 3, Section 5(a)(5) as “Nullification by Mutual Agreement” and add the following sentence to this provision, “It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.” The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

The rule text at proposed Options 3, Section 5(b) is relocated from Options 3, Section 15(a). The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Options 3, Section 5, which applies to all market participants. In contrast, Options 3, Section 4, which applies to quotes entered by Market Makers, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Options 3, Sections 4 and 5. The Exchange proposes to change the word “rejected” to “cancelled” within new Options 3,

Section 5(b) because an order may be accepted by the System and then immediately cancelled. New Options 3, Section 5(c) seeks to define the Exchange's best bid and offer as the "BBO." The Exchange provides, "The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("BBO")."

Similar to Options 3, Section 4(b)(6), the Exchange proposes to note at new Options 3, Section 5(d),

Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. Finally, the Exchange proposes to cross-reference Supplementary Material .02 to Options 5, Section 2 to describe the manner in which orders that are not automatically executed are handled. Today, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt. By including this information within this rule, the Exchange proposes to provide Members with information related to trade-through in one location with cross-references to provide transparency. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Noting these limitations within the rule is consistent with the Act because Members will have greater clarity as to limitations.

Finally, the Exchange proposes to add rule text at new Options 3, Section 5(e),

similar to Options 3, Section 4(c) which states, “Orders will be displayed in the System as described in Options 3, Section 23.”

The Exchange’s proposal to adopt a new Options 3, Section 5, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 4 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange’s new rule reflects the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.<sup>9</sup>

#### Options 3, Section 7, Types of Orders

The Exchange proposes to amend Supplementary Material .03(c) to Options 3, Section 7 to add the following sentence to Specialized Quote Feed (“SQF”), “Market Makers may only enter interest into SQF in their assigned options series.” The Exchange notes that today Market Makers may utilize SQF to quote only in their assigned options series as provided for in Options 2, Section 3, Appointment of Market Makers. Adding

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<sup>9</sup> Phlx Rule 1096 is similar to GEMX Options 3, Section 5. With respect to NBBO Protection, unlike Phlx, GEMX Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Phlx does not have a similar exposure mechanism. Also, with respect to trade-through, Phlx re-prices an order that would cause a locked or crossed market violation or would cause a trade-through violation to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price. While GEMX will not execute an order at a price that trades through another market or display an order at a price that would lock or cross another market, GEMX does not re-price orders. GEMX Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

this information to the SQF protocol is consistent with the Act because the Exchange desires to make clear the manner in which Market Makers may submit quotes through the protocol. Market Makers are obligated to provide liquidity on GEMX in the options series to which they are assigned, which liquidity benefits all market participants. This amendment is similar to language currently within Phlx Rule 1080(a)(i)(B).

#### Options 3, Section 15 Simple Order Risk Protections

The Exchange proposes to delete the first sentence introductory sentence of Options 3, Section 15 which provides, “Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System subject to the following:” and relocate the rule text to Options 3, Section 5 as described herein as well as Section 15(a)(1) and (a)(2), into proposed new Options 3, Section 5(b) and renumber Options 3, Section 15(b) as new “a.” The Exchange proposes to relocate current Options 3, Section 15(b)(1)(C) to Options 3, Section 15(b)(2)(B). Current Options 3, Section 15(b)(1)(D) will be re-lettered as “C”. Options 3, Section 15(b)(1) provides for order risk protections. The Exchange proposes to relocate the Size Limitation protection to Options 3, Section 15(b)(2) because this section applies to order and quote risk protections. Size Limitation protection applies to both orders and quotes and is therefore properly placed within this section. The Exchange proposes to add the words “or quote” to the description to make clear that this protection applies to both orders and quotes. The Exchange believes that relocating this rule and adding “or quotes” is consistent with the Act because the Exchange will make clear that the Size Limitation risk protection would apply to all interest on the Exchange.

#### Options 3, Section 22, Limitation on Orders

The Exchange proposes to amend Options 3, Section 22 to retitle the Section from

“Limitations on Orders” to “Limitations on Order Entry.” The Exchange believes that this title is more appropriate for these rules.

The Exchange proposes to amend Options 3, Section 22(b) to amend the title of the section from “Principal Transactions” to “Limitations on Principal Transactions.” This rule provides for the exposure of orders entered on the Exchange. Specifically, with respect to orders entered when a Member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Facilitation Mechanism,<sup>10</sup> Price Improvement Mechanism,<sup>11</sup> Qualified Contingent Cross Orders,<sup>12</sup> and Customer Cross Orders.<sup>13</sup> The Exchange proposes to separately note that with respect to the Solicitation Mechanism,<sup>14</sup> that an Options Member may electronically submit for execution an order it represents as agent against solicited order(s). Options 3, Section 11(d) and (e) provide that an Agency Order must be for at least the minimum size designated by the Exchange, which may not be less than 500 standard option contracts, and the order be entered into the Solicited Order Mechanism shall be designated as all-or-none. Because a Member may not execute as principal on the order, there must be an

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<sup>10</sup> See Options 3, Section 11(b) and (c).

<sup>11</sup> See Options 3, Section 13.

<sup>12</sup> See Options 3, Section 12(c) and (d).

<sup>13</sup> See Options 3, Section 12(a) and (b).

<sup>14</sup> See Options 3, Section 11(d) and (e).

Agency Order which executes against the solicited order; therefore, the Solicitation Mechanism is explicitly carved out from proposed Options 3, Section 22(b), whereas the other auctions noted are exceptions to the general one second rule. The Exchange believes it is consistent with the Act and the protection of investors and the general public to describe the functionalities available on the Exchange into which a Member may enter principal orders they represent as agent. Options 3, Section 22 is intended to encourage price discovery and price improvement of all orders entered on the Exchange.

The Exchange proposes to relocate Supplementary Material .01 to Options 3, Section 22 to new Section 22(b)(i) and state “This Rule” instead of “Options 3, Section 22(d).” The Exchange notes that the references to “d” should refer to “b” and those cross-references are being updated.

The Exchange proposes to amend the title of Options 3, Section 22(c), from “Solicitation Orders” to “Limitation on Solicitation Orders.” The Exchange proposes to add exceptions for Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d) and Customer Cross Order pursuant to Options 3, Sections 12(a) or (b) similar to proposed Options 3, Section 22(b).

The Exchange proposes to re-letter current “d” as “e” as the Exchange proposes new rule text at proposed Options 3, Section 22(d) which provides, “Prior to or after submitting an order to GEMX, a Member cannot inform another Member or any other third party of any of the terms of the order for purposes of violating this Rule.” Similar rule text is contained in The Nasdaq Options Market LLC (“NOM”) Rules.<sup>15</sup> The Exchange believes that adding this language will better inform participants that

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<sup>15</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.

Options 3, Section 22 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. The Exchange notes that similar language is currently contained within Supplementary Material .02 to Options 3, Section 22 which provides,

It will be a violation of Options 3, Section 22(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-Member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Options 3, Section 22(e).

This rule text is repetitive of the provisions within current Options 3, Section 22(c). The Exchange is clearly providing within Options 3, Section 22(c) that a Member must expose an order for one second. Further, the Member cannot inform another Member or third party of the terms of the order, which would be a violation of the rule pursuant to proposed Options 3, Section 22(c). The Exchange does not believe that the rule text within Supplementary Material .02 to Options 3, Section 22 provides additional information, but rather is repetitive of the prohibitions within the rule, as proposed.

The Exchange proposes to update the rule citations in Supplementary Material .01 to Options 3, Section 22 to refer to paragraph “b” instead of “d”. The Exchange proposes to update the rule numbers for the remainder of the Rule and also update the cross-reference in Supplementary Material .04 to Options 3, Section 22.

The Exchange proposes to make clear with this Rule that Members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent Members from seeking price discovery and potentially preventing price improvement, which may result from exposing an order. The

Exchange's proposal to amend Options 3, Section 22 will conform this Rule to other Nasdaq affiliated markets filing similar rules.<sup>16</sup> The Exchange's proposal to add rule text to describe potential violations of this Rule will bring greater clarity to current limitations that exist when entering orders. The amendments to Options 3, Section 22 are consistent with the Act because the Rule provides a list of limitations when entering order on the Exchange. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Exchange Rules. Providing Members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

## 2. Statutory Basis

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

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<sup>16</sup> Nasdaq BX, Inc. and Nasdaq Stock Market LLC are also adopting similar rules to Phlx Rule 1097.

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

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



Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes are consistent with the Act. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. Making clear the manner in which Market Makers may generate and submit option quotations will provide these market participants with clear guidance within the rules. The Exchange notes that other rules already limit the use of quotations on the Exchange. Options 2, Section 5 makes clear that Market Makers may submit quotes.<sup>19</sup> Supplementary Material .03(c) to Options 3, Section 7 describes the SQF interface.<sup>20</sup> Options 2, Section 4(b)(4) provides the allowable spread for entering bids and offers on the Exchange. Further, the Exchange is making clear that only one quote may be submitted at a time for a series. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. Also, the Exchange believes that making clear that quotes may be entered as specified by the Exchange makes clear that all Market Makers are subject to uniform requirements for quoting.

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<sup>19</sup> Options 2, Section 5(a) provides, "Options Classes. A quotation only may be entered by a market maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3." Options 2, Section 5(d) provides for Firm Quote.

<sup>20</sup> Supplementary Material .03(c) to Options 3, Section 7 provides "Specialized Quote Feed" or "SQF" is an interface that allows market makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Market Makers on GEMX can only submit quotes and orders through SQF in their assigned options series.

The Exchange's proposal to add a provision regarding Firm Quote within new Options 3, Section 4(b)(5) will bring greater transparency to the limitations that Market Makers have today with respect to firm quote. GEMX's Options 2, Section 5(d) describes firm quote for purposes of Market Maker quote submission. The Exchange is proposing to add rule text to provide context as to this restriction for submitting quotes. The proposed rule text makes clear the manner in which Firm Quote relief is applied. The Exchange believes it is consistent with the Act to provide greater detail as to the current obligations for Market Makers with respect to firm quote. The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 4(b)(6) regarding trade-through and locked and crossed markets is consistent with the Act. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange's proposal to note that quotes are subject to minimum

increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15 is consistent with the Act because this rule brings greater transparency to these requirements which are already noted in the aforementioned rules. Options 2, Section 5(b)(1) similarly requires a Market Maker to quote in the minimum increments specified in Options 3, Section 3. Options 3, Section 15, titled “Simple Order Risk Protections” provides a list of all protections applicable to quotes that may cause an order to be rejected. The Exchange believes that this rule will provide Market Makers with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange’s proposal to make clear that quotes will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23, titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange.

#### Options 3, Section 5, Entry and Display of Orders

The Exchange proposes to retitle Options 3, Section 5 as “Entry and Display of Orders” to describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 5 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange’s new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange’s new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels to add greater transparency to the Exchange’s rules. The Exchange proposes to

memorialize the manner in which orders may be submitted to the System to add more detail to its rules. For example, the time the System begins accepting orders, information concerning the time-stamp, which determines the time ranking of the order, as well as restrictions to order entry. Orders submitted to the System are subject to minimum increments specified in Options 3, Section 3 risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. The Exchange believes that listing the requirements and limitations is consistent with the Act because it will provide Members with the information necessary to process orders on GEMX. In addition, noting that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated is consistent with the Act because it provides transparency to Members that certain behavior would cause a rule violation. The Exchange believes that this provision protects investors and the public interest because it specifically prohibits market manipulation within propose new rule. The Exchange's proposal to define both the Exchange's best bid and offer as the "BBO" is consistent with the Act because it provides context to the usage of these terms in the Rulebook. The Exchange notes, within Options 3, Section 7, the orders are displayed and non-displayed.

Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 5(d) regarding trade-through and locked and crossed markets is consistent with the Act. Today, orders may not be executed against at prices that trade-through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The rule

also seeks to aggregate information relating to trading –through so as to provide Members with clear guidelines for submitting orders.

The Exchange’s proposal to make clear that orders will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23 titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange.

#### Options 3, Section 7, Types of Orders

The Exchange’s proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series is consistent with the Act. Options 2, Section 3, Appointment of Market Makers, describes the manner in which Market Makers are appointed in options series. This sentence simply provides that SQF may only be utilized for quoting in assigned options series.

#### Options 3, Section 15, Simple Order Risk Protections

The Exchange’s proposal to relocate Options 3, Section 15(a)<sup>21</sup> into proposed new Options 3, Section 5(b) is consistent with the Act because this rule text relates to orders, which topic is described within new Options 3, Section 5. The proposal to relocate Size Limitation to make clear that this risk protection impacts orders and quotes will bring

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<sup>21</sup> Options 5, Section 15(a) provides, “NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)). (1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 3; provided that Members may specify that a Non-Customer order should instead be rejected automatically by the System at the time of receipt. (2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).”

greater transparency to this risk protection.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement is consistent with the Act because this rule change will bring greater clarity to the Rulebook. The Exchange is adding rule text currently contained in a NOM rule to describe the required period that orders are to be exposed.<sup>22</sup> The Exchange believes the additional language provided context and further explains the exceptions. The Exchange believes that this rule is consistent with the Act because with the addition of this language the rule more specifically describes the limitations to behavior on the Exchange with respect to order exposure and the necessity to conduct price discovery. The rule also describes behavior that would violate Options 3, Section 22 depending on the relationship of the parties and exchange of information. Listing all of the relevant mechanisms available on the Exchange will make clear the manner in which a Member may execute as principal orders they represent as agent. Further, explicitly excluding the Solicitation Mechanism will make clear that the particular auction is not an exception to the one second rule. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section 22(c) will make clear that a Member cannot inform another Member or any other third party of any of the terms of the order in violation of this rule. Options 9, Section 9, titled "Prevention of the Misuse of Material Nonpublic Information," prohibits such activity today. This rule text is

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<sup>22</sup> See Chapter VII, Section 12.

contained in NOM Rules.<sup>23</sup> The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. Finally, updating the cross-references will make clear the manner in which a Member may enter orders on the Exchange.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition because the Exchange is memorializing its current practice by reflecting the various requirements and limitations in one rule for ease of reference and clarity and all Market Makers are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 5, Entry and Display of Orders

The Exchange's proposed new Options 3, Section 5 describes the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange's proposal does not impose an undue burden on competition because it applies uniformly to all Members. This rule memorializes the manner in which orders may be

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<sup>23</sup> See Chapter VII, Section 12 at Commentary .04.

submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 7, Types of Order

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) into proposed new Options 3, Section 5(b) does not impose an undue burden on competition because this rule text relates to orders, which topic is described within new Options 3, Section 5. Relocating the Size Limitation protection to another section of the rule to make clear it applies to quotes and orders will bring greater transparency to this rule.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement does not impose an undue burden on competition because this rule change will bring greater clarity to the Rulebook. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section (c) will make clear the type of behavior that would cause a Member to violate Options 3, Section 22 when disclosing information to another Member or any other third party with respect to the terms of the order.



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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>24</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>25</sup>

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

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<sup>24</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

#### IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-GEMX-2019-13 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-2019-13. 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-2019-13 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>26</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

New text is underlined; deleted text is in brackets.

**Nasdaq GEMX Rulebook**

\* \* \* \* \*

**Options 3 Options Trading Rules**

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**Section 4. [Acceptance of Quotes and Orders]Entry and Display of Quotes**

(a) All bids or offers made and accepted on the Exchange in accordance with the Rules shall constitute binding contracts, subject to applicable requirements of the By-Laws and the Rules and the Rules of the Clearing Corporation.

(b) Quotes are subject to the following requirements and conditions:

(1) Market Makers may generate and submit option quotations.

(2) The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.

(3) Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.

(4) The System accepts quotes for the Opening Process as specified in Options 3, Section 8.

(5) **Firm Quote.** Where quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the Rule 602 of Regulation NMS under the Exchange Act, orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes

are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

**(6) Trade-Through Compliance and Locked or Crossed Markets.** A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either be re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price, or immediately cancelled, as configured by the Member.

(7) Quotes submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15.

(c) Quotes will be displayed in the System as described in Options 3, Section 23.

**[(b) A trade may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA.]**

### **Section 5. [Reserved]Entry and Display of Orders**

(a) Members can enter orders into the System, subject to the following requirements and conditions:

(1) Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.

(2) The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's web site.

(3) The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.

(4) Orders submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3, risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. Orders may execute at multiple prices.

(5) Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles

of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.

(b) **NBBO Price Protection.** Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)).

(1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt.

(2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).

(c) The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("BBO").

(d) **Trade-Through Compliance and Locked or Crossed Markets.** An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

(e) Orders will be displayed in the System as described in Options 3, Section 23.

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## **Section 7. Types of Orders**

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### **Supplementary Material to Options 3, Section 7.**

.01 and .02 No change.

.03 The Exchange offers Members the following protocols for entering orders and quotes respectively:

(a) and (b) No change.

(c) "**Specialized Quote Feed**" or "**SQF**" is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the

following: (1) options symbol directory messages (e.g., underlying instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series.

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### **Section 15. Simple Order Risk Protections**

[Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System subject to the following:

(a) NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)).

(1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be rejected automatically by the System at the time of receipt.

(2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).]

**([b]a)** [Other Risk Protections. Subject to the NBBO price protection in (a) above, t]The following [additional] risk protections are automatically enforced by the System. In the event of unusual market conditions and in the interest of a fair and orderly market, the Exchange may temporarily establish the levels at which the order protections contained in this paragraph are triggered as necessary and appropriate.

(1) No change.

(A) and (B) No change.

**[(C) Size Limitation.** There is a limit on the number of contracts an incoming order may specify. Orders that exceed the maximum number of contracts are rejected. The maximum number of contracts, which shall not be less than 10,000, is established by the Exchange from time-to-time.]

**([D]C) Market Wide Risk Protection.** All Members must provide parameters for the order entry and execution rate protections described in this Rule. The Exchange will also establish default values for each of these parameters that apply to Members that do not submit the required parameters, and will announce these default values in an Options Trader

Alert to be distributed to Members. The System will maintain one or more counting programs for each Member that count orders entered and contracts traded on Nasdaq GEMX or across both Nasdaq GEMX and Nasdaq ISE. Members can use multiple counting programs to separate risk protections for different groups established within the Member. The counting programs will maintain separate counts, over rolling time periods specified by the Member for each count, of: (1) the total number of orders entered; (2) the total number of contracts traded. The minimum and maximum duration of the applicable time period will be established by the Exchange and announced via an Options Trader Alert.

(i) – (iii) No change.

(2) The following are order and quote risk protections on GEMX:

(A) No change.

**(B) Size Limitation.** There is a limit on the number of contracts an incoming order or quote may specify. Orders or quotes that exceed the maximum number of contracts are rejected. The maximum number of contracts, which shall not be less than 10,000, is established by the Exchange from time-to-time.

(3) No change.

\* \* \* \* \*

## **Section 22. Limitations on Order[s] Entry**

(a) **Limit Orders.** Electronic Access Members shall not enter Priority Customer limit orders into the System in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the beneficial owner(s) effectively is operating as a Market Maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a Market Maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract and the entry of multiple limit orders at different prices in the same options series.

(b) **Limitations on Principal Transactions.** Electronic Access Members may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one (1) second, (ii) the Electronic Access Member has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such bid or offer, or (iii) the Member utilizes the Facilitation Mechanism pursuant to Options 3, Section 11([d]b) and (c); [or] (iv) the Member utilizes the Price Improvement Mechanism for Crossing Transactions



pursuant to Options 3, Section 13; (v) the Member utilizes Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d); or (vi) the Member utilizes a Customer Cross Order pursuant to Options 3, Sections 12(a) or (b). Electronic Access Members may not execute as principal orders they represent as agent within the Solicitation Mechanism pursuant to Options 3, Section 11(d) and (e).

(1) This Rule prevents an Electronic Access Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an Electronic Access Member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of this Rule for an Electronic Access Member to be a party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer or other person (including affiliates) to regularly execute against agency orders handled by the Electronic Access Member immediately upon their entry into the System.

(c) **Limitation on Solicitation Orders.** Electronic Access Members may not execute orders they represent as agent on the Exchange against orders solicited from Members and non-Member broker-dealers to transact with such orders unless (i) the unsolicited order is first exposed on the Exchange for at least one (1) second, (ii) the Member utilizes the Solicited Order Mechanism pursuant to Options 3, Section 11(e), (iii) the Member utilizes the Facilitation Mechanism pursuant to Options 3, Section 11(d); [or] (iv) the Member utilizes the Price Improvement Mechanism for Crossing Transactions pursuant to Options 3, Section 13; (v) the Member utilizes Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d); or (vi) the Member utilizes a Customer Cross Order pursuant to Options 3, Sections 12(a) or (b).

(d) Prior to or after submitting an order to GEMX, a Member cannot inform another Member or any other third party of any of the terms of the order for purposes of violating this Rule.

([d]e) Orders for the Account of Another Member. Electronic Access Members shall not cause the entry of orders for the account of a Nasdaq GEMX Market Maker that is exempt from the provisions of Regulation T of the Board of Governors of the Federal Reserve System pursuant to Section 7(c)(2) of the Exchange Act unless such orders are identified as orders for the account of a Nasdaq GEMX Market Maker in the manner prescribed by the Exchange.

## **Supplementary Material to Options 3, Section 22**

.01 Options 3, Section 22([d]b) prevents an Electronic Access Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an Electronic Access Member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of Options 3, Section 22([d]b) for an Electronic Access Member to be a party to any arrangement designed to circumvent Options 3, Section 22([d]b) by providing an opportunity for a customer or other person (including affiliates) to regularly execute against agency orders handled by the Electronic Access Member immediately upon their entry into the System.

[.02 It will be a violation of Options 3, Section 22(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-Member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Options 3, Section 22(e).]

.0[3]2 With respect to the non-displayed reserve portion of a reserve order, the exposure requirement of paragraphs (b) and (c) are satisfied if the displayable portion of the reserve order is displayed at its displayable price for one second.

.0[4]3 The exposure requirement of paragraph (b) [and (c) of Options 3, Section 22] applies to the entry of orders with knowledge that there is a pre-existing unexecuted agency, proprietary, or solicited order on the Exchange. Members may demonstrate that orders were entered without knowledge by providing evidence that effective information barriers between the persons, business units and/or systems entering the orders onto the Exchange were in existence at the time the orders were entered. Such information barriers must be fully documented and provided to the Exchange upon request.

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