necessary or appropriate in furtherance of the purposes of the Act, as the rule text to be removed has become obsolete with the migration of all symbols to the Nasdaq INET system and the corresponding adoption of the systems-based mechanism for enforcing the price improvement requirement where the Agency Order is for less than 50 option contracts, and if the differences between the NBBO is $0.01.

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 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) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay will allow the Exchange to remove the obsolete rule text immediately, minimizing potential investor confusion. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.

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

IV. Solicitation of Comments

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

Electronic Comments

• Use the Commission’s Internet comment form (http://www.sec.gov/rules/sro.shtml);

• Send an email to rule-comments@sec.gov. Please include File Number SR–GEMX–2017–49 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. All submissions should refer to File Number SR–GEMX–2017–49.

Because the proposed rule change is consistent with the protection of investors and the public interest, for 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.


date of effectiveness of the proposed rule change and timing for commission action

Because the 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) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay will allow the Exchange to remove the obsolete rule text immediately, minimizing potential investor confusion. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing. 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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Because the proposed rule change is consistent with the protection of investors and the public interest, for 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.

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

The Exchange proposes to amend Rule 4702 (Order Types) and Rule 4754 [sic] (Nasdaq Closing Cross) to enhance the Nasdaq Closing Cross by permitting members to submit LOC Orders until immediately prior to 3:55 p.m. ET subject to certain conditions, and to make other changes related to Closing Cross/Extended Hours Orders [sic]. The text of the proposed rule change is available on the Exchange’s Web site at http://nasdaq.cchwallstreet.com, at the principal office of the Exchange, and considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

11 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.
14 For purposes only of waiving the 30-day operative delay, the Commission has also

at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at 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

On July 13, 2017, the Exchange filed a proposed rule change to amend Rule 4702 (Order Types) and Rule 4754 (Nasdaq Closing Cross) to enhance the Nasdaq Closing Cross by permitting members to submit Limit On Close (“LOC”) Orders 3 until immediately prior to 3:55 p.m. ET subject to certain conditions. 4 This proposed rule change was approved by the Commission on September 8, 2017, 5 and the Exchange began to introduce this functionality pursuant to a symbol-by-symbol rollout beginning on October 2, 2017. 6 The purpose of the proposed rule change is to amend the Nasdaq Closing Cross rules to: (1) Reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross; and (2) account for the minimum increment for Tick Size Pilot securities when re-pricing LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET.

A “Market Maker Peg Order” is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2). 7 Pursuant to SR–NASDAQ–2017–061, a Market Maker Peg Order will not be permitted to operate as a Closing Cross/Extend Hours Order. 8 Instead, such orders will be rejected. Market Maker Peg Orders would, however, remain permitted to be flagged to participate solely in the Nasdaq Closing Cross if entered with a time-in-force (“TIF”) that does not continue after the time of the Nasdaq Closing Cross. After additional consideration, the Exchange believes that all Market Maker Peg Orders flagged with an on-close instruction should be rejected. The Exchange therefore proposes to amend its rules to state that a Market Maker Peg Order may not be flagged to solely participate in the Nasdaq Closing Cross. This will supplement current language stating that such Market maker Peg Orders may not operate as Closing Cross/Extended Hours Orders. With this change, all Market Maker Peg Orders entered with an on-close instruction will be rejected, regardless of whether the order is entered with a TIF that continues after the Nasdaq Closing Cross. The Exchange believes that this change will more closely align with member expectations and the design of this order type, which is to assist members with their quoting obligations. Market Maker Peg Orders that are not entered with an on-close instruction will remain eligible to participate in the Nasdaq Closing Cross if the order remains unexecuted at the time of the Nasdaq Closing Cross.

Furthermore, when the Nasdaq Closing Cross changes are introduced, the Exchange will re-price LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET to the nearest permitted minimum increment for Tick Size Pilot securities when re-pricing LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET.

A “Limit On Close Order” or “LOC Order” is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered.  9 See Rule 4702(b)(12).


6 See Equity Trader Alert #2017–184.

7 See Rule 4702(b)(7).

proposed changes applied to all symbols on October 19, 2017.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,\(^\text{13}\) in general, and furthers the objectives of Section 6(b)(5) of the Act,\(^\text{14}\) in particular, 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.

When the Exchange filed to restrict Market Maker Peg Orders from operating as Closing Cross/Extended Hours Orders, the Exchange explained that Market Maker Peg Orders were designed to assist members in meeting their quoting obligations and not as a means of submitting interest flagged with an on-close instruction. Furthermore, the Exchange explained that it did not believe that members want functionality that allows Market Maker Peg Orders to be entered with a flag designating an on-close instruction. The Exchange believes that this is true both for Market Maker Peg Orders entered with a TIF that continues after the time of the Nasdaq Closing Cross, and that therefore operate as Closing Cross/Extended Hours Orders, and Market Maker Peg Orders entered with a TIF that causes it to execute solely in the Nasdaq Closing Cross. The Exchange is therefore proposing to reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross, regardless of TIF. The Exchange believes that this change will perfect the mechanism of a free and open market by eliminating the possibility that members can inadvertently enter this order type combination, while preserving the design of Market Maker Peg Orders to aid members in meeting their quoting obligations.

In addition, the Exchange believes that the current language in Rule 4702 could be confusing to members and investors if applied to securities that are selected for inclusion in the Tick Size Pilot Program, as these securities are subject to a $0.05 minimum increment instead of the $0.01 or $0.0001 minimum increments cited in the rule today. The Exchange believes that removing the reference to these specific increments will reduce confusion because permissible minimum increments may be $0.01 or $0.0001 for most securities, and $0.05 for a handful of securities selected for inclusion in the Tick Size Pilot Program. The Exchange must round to a permissible minimum increment whenever the First Reference Price is not in such a minimum increment. The proposed rule change makes this clear and will therefore increase transparency to the benefit of members and investors, and help ensure compliance with the Tick Size Pilot Program.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. With respect to Market Maker Peg Orders flagged for the Nasdaq Closing Cross, the proposed change eliminates an order type combination that is not consistent with the purpose of aiding members meeting their quoting obligations. Furthermore, the proposed change related to minimum increments properly reflects the increments applicable to securities traded on the Exchange, including securities selected for inclusion in the Tick Size Pilot Program. Neither of these proposed changes is designed to have any significant competitive impact.

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) of the Act\(^\text{15}\) and Rule 19b–4(f)(6) thereunder.\(^\text{16}\) A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act\(^\text{17}\) normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)\(^\text{18}\) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission notes that waiver of the operative delay would allow the Exchange to implement the proposed change to Market Maker Peg Orders for all symbols without delay, including the three symbols to which the functionalities described in SR–NASDAQ–2017–061 currently apply. Moreover, the proposed change relating to minimum increments is designed to avoid confusion and help ensure compliance with the Tick Size Pilot Program. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.\(^\text{19}\)

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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 change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission’s Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2017–107 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.

\(^{13}\) 15 U.S.C. 78f(b).


\(^{17}\) 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of 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 Commission has waived this requirement.


\(^{19}\) For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).
SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81934; File No. SR--MRX--2017–22]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 723 To Remove Obsolete Rule Text

October 24, 2017.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),1 and Rule 19b–4 thereunder,2 notice is hereby given that on October 17, 2017, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II 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 Rule 723 (Price Improvement Mechanism for Crossing Transactions) to remove obsolete rule text. The text of the proposed rule change is available on the Exchange’s Web site at www.ise.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it 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 Rule 723 (Price Improvement Mechanism for Crossing Transactions) to remove obsolete rule text. Rule 723 sets forth the requirements for the PIM, which was adopted as part of the Exchange’s application to be registered as a national securities exchange.3 Certain aspects of PIM were removed from the Exchange’s application to remove obsolete rule text.4

2. Statutory Basis

This rule change is intended to achieve the purposes of, and is consistent with, the Securities Exchange Act of 1934, 15 U.S.C. 78, and, in particular, section 6(f) of that Act, 15 U.S.C. 78f (the “Act”), which gives the SEC primary enforcement authority. The SEC has determined that this rule change is consistent with the purposes and objectives of section 6(f) of the Act.

3. Effectiveness of Proposed Rule Change

This proposed rule change becomes effective immediately upon filing.

4. Comments Received

The Exchange submitted material to the Commission as part of its filing. No written comments were submitted on the proposal. It is the Commission’s policy, and a provision of the Act, to make all written comment letters available for inspection in the Commission’s Public Reference Room. All comments received will be posted without change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.5

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017–23478 Filed 10–27–17; 8:45 am]
BILLING CODE 8011–01–P

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Footnotes: