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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2018 - * 011
Amendment No. (req. for Amendments *)

Filing by NASDAQ BX, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
☑ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *	Section 806(e)(2) *
☐	☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

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

A proposal to amend the Exchange transaction fees at Rule 7018 to reduce the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Sean
Last Name * Bennett
Title * Principal Associate General Counsel
E-mail * Sean.Bennett@nasdaq.com
Telephone * (301) 978-8499
Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 04/02/2018
By Edward S.Knight
(Name *)

(Title *)
Executive Vice President and General Counsel

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.

edward.knight@nasdaq.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, 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 Add Remove View 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 Add Remove View 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 Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	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 BX, Inc. ("BX" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to amend the Exchange's transaction fees at Rule 7018 to reduce the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order, as described further below.

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 (the "Board") on September 19, 2017. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

Sean Bennett
Principal Associate General Counsel
Nasdaq, Inc.
301-978-8499

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018 to reduce the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order in connection with the Retail Price Improvement Program ("Program").

Under the RPI Program, a member (or a division thereof) approved by the Exchange to participate in the Program (a "Retail Member Organization" or "RMO") may submit designated "Retail Orders"[3] for the purpose of seeking price improvement. All BX members may enter retail price improving orders ("RPI Orders"),[4] a form of non-displayed orders that are priced more aggressively than the Protected National Best Bid or Offer ("NBBO") by at least $0.001 per share, for the purpose of offering such price improvement. RMOs may use two types of Retail Orders. A Type 1 Retail Order is eligible to execute only against RPI Orders and other orders on the Exchange Book (such as midpoint pegged orders) with a price that is (i) equal to or better than the price of the Type-1 Retail Order and (ii) at least $0.001 better than the NBBO. A Type-1 Retail

3 A Retail Order is defined, in part, as "an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology." See BX Rules 4702(b)(6); 4780(a)(2).

4 A Retail Price Improvement Order is defined, in part, as "an Order Type with a Non- Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780." See BX Rules 4702(b)(5); 4780(a)(3).

Order is not Routable and will thereafter be cancelled. Type 2 Retail Orders interact first with available RPI Orders and any other Orders on the Exchange Book with a price that is (i) equal to or better than the price of the Type-2 Retail Order and (ii) at least $0.001 better than the NBBO and will then attempt to execute against any other Order on the Exchange Book with a price that is equal to or better than the price of the Type-2 Retail Order, unless such executions would trade through a Protected Quotation. A Type-2 Retail Order may be designated as Routable.

Currently, the Exchange provides a credit of $0.0025 per share executed for a Retail Order that accesses liquidity provided by an RPI Order. This credit was adopted by the Exchange in 2014, contemporaneously with the implementation of the RPI Program.[5] In adopting the fees and credits for the Program, the Exchange stated that its fees and credits were reflective of BX's ongoing efforts to use pricing incentive programs to attract orders of retail customers to BX and to improve market quality. With respect to the credit to access RPI Order liquidity, the Exchange stated that the credit would result in a significant increase of rebates with respect to such orders, thereby reducing the costs of members that represent retail customers and that take advantage of the Program, and potentially also reducing costs to the customers themselves.[6]

Since the introduction of the Program in 2014 and the accompanying fees and credits, the Program has attained a stable level of participation with respect to the number of monthly participants and average monthly volume. Given the maturity of the Program and the fact that it maintains a stable level of participants and volume, the Exchange

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5 See Securities Exchange Act Release No. 73836 (December 15, 2014), 79 FR 75852 (December 19, 2014) (SR-BX-2014-059).

6 Id.

believes that a lower credit, in addition to the potential price improvement Retail Orders will receive, will continue to incentivize retail participants to use the Program. Accordingly, the Exchange is reducing the current credit of $0.0025 per share executed for a Retail Order that accesses liquidity provided by an RPI Order to $0.0021 per share executed. The remaining credits and fees associated with the Program remain unchanged.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[9]

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7 15 U.S.C. 78f(b).

8 15 U.S.C. 78f(b)(4) and (5).

9 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

Likewise, in NetCoalition v. Securities and Exchange Commission[10] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[11] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."[12]

Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[13]

The Exchange believes that reducing the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order from $0.0025 to $0.0021 per share executed is reasonable. Given the maturity of the Program and the fact that it maintains a stable level of participants and volume, the Exchange believes that a lower credit, in addition to the potential price improvement Retail Orders will receive, will continue to incentivize retail participants to use the Program. The Exchange also believes that the new credit is reasonable because it remains higher than other credits offered by

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[10] NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

[11] See NetCoalition, at 534 - 535.

[12] Id. at 537.

[13] Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

the Exchange, and will therefore continue to incentivize market participants to submit orders that qualify as Retail Orders to the Program.

In assessing the reasonableness of the new credit, the Exchange also notes that the new credit remains greater than similar credits paid by other exchanges for their respective Retail Liquidity Programs. For example, Cboe BYX Exchange, Inc. currently provides a rebate of $0.00150 per share executed for a Retail Order that removes liquidity against a Retail Price Improving Order or a non-displayed order that adds liquidity.[14] By way of further comparison, NYSE Arca, Inc. does not pay a credit (or assess a fee) for a Retail Order that executes against a Retail Price Improvement Order in Tape B and Tape C Securities.[15]

The Exchange believes that the new credit amount is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same credit to all similarly situated members. The Exchange believes that it is an equitable allocation and is not unfairly discriminatory to reduce the credit for a Retail Order that access liquidity provided by an RPI Order while leaving other credits that are paid in connection with the Program unchanged. The Exchange notes that the amount of those other credits ($0.0017 per share executed for a Retail Order that accesses other liquidity on the Exchange book

14 See Cboe BYX fee schedule at https://markets.cboe.com/us/equities/membership/fee_schedule/byx/.

The Exchange notes that this Cboe BYX credit was previously $0.00250 per share. See Securities Exchange Act Release No. 81654 (September 19, 2017), 82 FR 44674 (September 25, 2017) (SR-BatsBYX-2017-21).

15 See NYSE Arca, Inc. fee schedule at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

Tape C securities are those that are listed on the Exchange, Tape A securities are those that are listed on New York Stock Exchange LLC ("NYSE"), and Tape B securities are those that are listed on exchanges other than Nasdaq or NYSE.

and $0.0000 per share executed for a Retail Order that receives price improvement when the accepted price of an order is different than the executed price of an order and accesses non-Retail Price Improvement order with Midpoint pegging) are lower than both the current $0.0025 credit and the proposed $0.0021 credit for accessing liquidity provided by an RPI Order. The Exchange believes that the $0.0017 credit for a Retail Order that accesses other liquidity on the Exchange book is still necessary to incentivize participation in the Program, and the proposed change will more closely align the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order to the credit for a Retail Order that accesses other liquidity on the Exchange book. The Exchange believes that is an equitable allocation and not unfairly discriminatory to leave the $0.0000 credit unchanged, since that credit cannot be further reduced while remaining a credit.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed change to the credit available to member firms does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed credit will apply to all similarly situated members. While the Exchange believes that the current credit amount is no longer necessary to incentivize market participants to participate in the Program, the proposed credit will continue to incentivize market participants to submit orders that qualify as Retail Orders to the Program. The Exchange does not believe that it will impose any burden on competition not necessary or appropriate to leave the other credits that are available pursuant to the Program ($0.0017 and $0.0000 per share executed) unchanged. As discussed above, the Exchange believes that the $0.0017 credit for a Retail Order that accesses other liquidity on the Exchange book is still necessary to incentivize participation in the Program, while the $0.0000 credit cannot be further reduced while remaining a credit. The proposed change will more closely align the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order to those other credits.

Finally, the proposed credit continues to be higher than comparable credits paid by other exchanges in connection with their respective Retail Liquidity Programs.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[16] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

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[16] 15 U.S.C. 78s(b)(3)(A)(ii).

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-BX-2018-011)

April __, 2018

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's transaction fees at Rule 7018

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on April 2, 2018, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's transaction fees at Rule 7018 to reduce the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order.

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

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018 to reduce the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order in connection with the Retail Price Improvement Program ("Program").

Under the RPI Program, a member (or a division thereof) approved by the Exchange to participate in the Program (a "Retail Member Organization" or "RMO") may submit designated "Retail Orders"[3] for the purpose of seeking price improvement. All BX members may enter retail price improving orders ("RPI Orders"),[4] a form of non-

3 A Retail Order is defined, in part, as "an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology." See BX Rules 4702(b)(6); 4780(a)(2).

4 A Retail Price Improvement Order is defined, in part, as "an Order Type with a Non- Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special

displayed orders that are priced more aggressively than the Protected National Best Bid or Offer ("NBBO") by at least $0.001 per share, for the purpose of offering such price improvement. RMOs may use two types of Retail Orders. A Type 1 Retail Order is eligible to execute only against RPI Orders and other orders on the Exchange Book (such as midpoint pegged orders) with a price that is (i) equal to or better than the price of the Type-1 Retail Order and (ii) at least $0.001 better than the NBBO. A Type-1 Retail Order is not Routable and will thereafter be cancelled. Type 2 Retail Orders interact first with available RPI Orders and any other Orders on the Exchange Book with a price that is (i) equal to or better than the price of the Type-2 Retail Order and (ii) at least $0.001 better than the NBBO and will then attempt to execute against any other Order on the Exchange Book with a price that is equal to or better than the price of the Type-2 Retail Order, unless such executions would trade through a Protected Quotation. A Type-2 Retail Order may be designated as Routable.

Currently, the Exchange provides a credit of $0.0025 per share executed for a Retail Order that accesses liquidity provided by an RPI Order. This credit was adopted by the Exchange in 2014, contemporaneously with the implementation of the RPI Program.[5] In adopting the fees and credits for the Program, the Exchange stated that its fees and credits were reflective of BX's ongoing efforts to use pricing incentive programs to attract orders of retail customers to BX and to improve market quality. With respect to the credit to access RPI Order liquidity, the Exchange stated that the credit would result in a significant increase of rebates with respect to such orders, thereby reducing the costs

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execution process described in Rule 4780." See BX Rules 4702(b)(5); 4780(a)(3).

5 See Securities Exchange Act Release No. 73836 (December 15, 2014), 79 FR 75852 (December 19, 2014) (SR-BX-2014-059).

of members that represent retail customers and that take advantage of the Program, and potentially also reducing costs to the customers themselves.[6]

Since the introduction of the Program in 2014 and the accompanying fees and credits, the Program has attained a stable level of participation with respect to the number of monthly participants and average monthly volume. Given the maturity of the Program and the fact that it maintains a stable level of participants and volume, the Exchange believes that a lower credit, in addition to the potential price improvement Retail Orders will receive, will continue to incentivize retail participants to use the Program. Accordingly, the Exchange is reducing the current credit of $0.0025 per share executed for a Retail Order that accesses liquidity provided by an RPI Order to $0.0021 per share executed. The remaining credits and fees associated with the Program remain unchanged.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve

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6 Id.

7 15 U.S.C. 78f(b).

8 15 U.S.C. 78f(b)(4) and (5).

the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[9]

Likewise, in NetCoalition v. Securities and Exchange Commission[10] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[11] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."[12]

Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[13]

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9 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

10 NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

11 See NetCoalition, at 534 - 535.

12 Id. at 537.

13 Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

The Exchange believes that reducing the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order from $0.0025 to $0.0021 per share executed is reasonable. Given the maturity of the Program and the fact that it maintains a stable level of participants and volume, the Exchange believes that a lower credit, in addition to the potential price improvement Retail Orders will receive, will continue to incentivize retail participants to use the Program. The Exchange also believes that the new credit is reasonable because it remains higher than other credits offered by the Exchange, and will therefore continue to incentivize market participants to submit orders that qualify as Retail Orders to the Program.

In assessing the reasonableness of the new credit, the Exchange also notes that the new credit remains greater than similar credits paid by other exchanges for their respective Retail Liquidity Programs. For example, Cboe BYX Exchange, Inc. currently provides a rebate of $0.00150 per share executed for a Retail Order that removes liquidity against a Retail Price Improving Order or a non-displayed order that adds liquidity.[14] By way of further comparison, NYSE Arca, Inc. does not pay a credit (or assess a fee) for a Retail Order that executes against a Retail Price Improvement Order in Tape B and Tape C Securities.[15]

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14 See Cboe BYX fee schedule at https://markets.cboe.com/us/equities/membership/fee_schedule/byx/.

The Exchange notes that this Cboe BYX credit was previously $0.00250 per share. See Securities Exchange Act Release No. 81654 (September 19, 2017), 82 FR 44674 (September 25, 2017) (SR-BatsBYX-2017-21).

15 See NYSE Arca, Inc. fee schedule at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

The Exchange believes that the new credit amount is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same credit to all similarly situated members. The Exchange believes that it is an equitable allocation and is not unfairly discriminatory to reduce the credit for a Retail Order that access liquidity provided by an RPI Order while leaving other credits that are paid in connection with the Program unchanged. The Exchange notes that the amount of those other credits ($0.0017 per share executed for a Retail Order that accesses other liquidity on the Exchange book and $0.0000 per share executed for a Retail Order that receives price improvement when the accepted price of an order is different than the executed price of an order and accesses non-Retail Price Improvement order with Midpoint pegging) are lower than both the current $0.0025 credit and the proposed $0.0021 credit for accessing liquidity provided by an RPI Order. The Exchange believes that the $0.0017 credit for a Retail Order that accesses other liquidity on the Exchange book is still necessary to incentivize participation in the Program, and the proposed change will more closely align the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order to the credit for a Retail Order that accesses other liquidity on the Exchange book. The Exchange believes that is an equitable allocation and not unfairly discriminatory to leave the $0.0000 credit unchanged, since that credit cannot be further reduced while remaining a credit.

Tape C securities are those that are listed on the Exchange, Tape A securities are those that are listed on New York Stock Exchange LLC ("NYSE"), and Tape B securities are those that are listed on exchanges other than Nasdaq or NYSE.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed change to the credit available to member firms does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed credit will apply to all similarly situated members. While the Exchange believes that the current credit amount is no longer necessary to incentivize market participants to participate in the Program, the proposed credit will continue to incentivize market participants to submit orders that qualify as Retail Orders to the Program. The Exchange does not believe that it will impose any burden on competition not necessary or appropriate to leave the other credits that are available pursuant to the Program ($0.0017 and $0.0000 per share executed) unchanged. As discussed above, the Exchange believes that the $0.0017 credit for a Retail Order that accesses other liquidity on the Exchange book is still necessary to incentivize participation in the Program, while the $0.0000 credit cannot be further reduced while remaining a credit. The proposed change will more closely align the credit for a Retail Order that accesses liquidity provided by a Retail Price Improvement Order to those other credits.

Finally, the proposed credit continues to be higher than comparable credits paid by other exchanges in connection with their respective Retail Liquidity Programs.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

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

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2018-011 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-BX-2018-011. 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-BX-2018-011 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.[17]

Eduardo A. Aleman
Assistant Secretary

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[17] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is <u>underlined</u>.

Rules of Nasdaq BX

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7018. Nasdaq BX Equities System Order Execution and Routing

(a) – (d) No change.

(e) Retail Price Improvement Program Pricing for Retail Orders and Retail Price Improvement Orders

Notwithstanding the foregoing, the following fees and credits shall apply to execution of Retail Orders and Retail Price Improvement Orders under Rule 4780:

Charge for Retail Price Improvement Order that provides liquidity:	$0.0025 per share executed
Charge or Credit for Retail Orders that access liquidity:	
Retail Order that accesses liquidity provided by a Retail Price Improvement Order:	Credit of $0.002[5]<u>1</u> per share executed
Retail Order that receives price improvement (when the accepted price of an order is different than the executed price of an order) and accesses non-Retail Price Improvement order with Midpoint pegging:	Credit of $0.0000 per share executed
Retail Order that accesses other liquidity on the Exchange book:	Credit of $0.0017 per share executed
Type 2 Retail Order that is routed to another trading venue for execution:	The charge or credit otherwise applicable to routed orders under Rule 7018(a) or 7018(b)

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