

Required fields are shown with yellow backgrounds and asterisks.

Filing by Nasdaq GEMX, LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<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) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

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

Description

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

Proposal to amend Rule 805(b) relating to Market Makers trading in non-appointed options classes.

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 *	Last Name *
Sun	Kim
Title *	
Associate General Counsel	
E-mail *	
Sun.Kim@nasdaq.com	
Telephone *	Fax
(212) 231-5106	


Signature

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

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

(Title *)

Date	12/12/2018	Global Chief Legal and Policy Officer
By	Edward S. Knight	
	(Name *)	



edward.knight@nasdaq.com

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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

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

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

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Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) Nasdaq GEMX, LLC (“GEMX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Rule 805(b) relating to Market Makers³ trading in non-appointed options classes.

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:

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Rule 100(a)(33).

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

a. Purpose

The purpose of this rule change is to amend Rule 805(b) relating to Market Makers trading in non-appointed options classes.

Rule 805(b) presently governs the submission of orders by Market Makers in non-appointed options classes. Subparagraphs (b)(2) and (b)(3) place limitations on the overall percentage of executions that can occur in the non-appointed options classes. Specifically, subparagraph (b)(2) limits a Competitive Market Maker's ("CMM") total number of contracts executed in non-appointed options classes to 25% of the CMM's total number of contracts executed in its appointed options classes and with respect to which it was quoting pursuant to Rule 804(e)(1), and subparagraph (b)(3) limits a Primary Market Maker's ("PMM") total number of contracts executed in non-appointed options classes to 10% of the PMM's total number of contracts executed in its appointed classes.

The Exchange now proposes in subparagraph (b)(3) to increase the overall percentage of executions that can occur in a PMM's non-appointed options classes from 10% to 25% to align with the CMM allowance as well as other options exchanges, including its affiliated options market, BX Options.⁴ The Exchange adopted the 10%

⁴ BX Options Market Makers (including Lead Market Makers) can execute no more than 25% of their total volume outside of their registered options classes. See BX Options Rules, Chapter VII, Section 6(e). In addition, CBOE Rule 8.7, Interpretations and Policies .03 provides that 75% of a Market-Maker's total contract volume must be in classes to which the Market-Maker is appointed. Accordingly, only 25% of a CBOE Market-Maker's contract volume can be in non-appointed classes. CBOE Rule 8.7 applies equally to Lead Market-Makers and Designated Primary Market-Makers in the same manner as Market-Makers.

volume limitation for PMMs as part of its application to be registered as a national securities exchange, and initially restricted PMMs in this manner because as a nascent exchange, it sought to promote PMM activity in their appointed options classes in order to encourage liquidity on the Exchange. Since then, there has been a proliferation of options classes added to the Exchange for trading, and the Exchange therefore believes that the 10% limitation is restrictive in light of the current environment. The Exchange does not believe that its proposal will adversely impact the quality of the Exchange's market or lead to a material decrease in liquidity. As noted above, other options exchanges are operating today with similar or more generous allowances for its market makers without sacrificing market quality, and the Exchange believes that its proposed increase will likewise not result in a decrease of market quality.⁵ Furthermore, Market Makers and in particular, PMMs, will continue to be subject to the highest standard applicable on the Exchange to provide liquidity. For instance as set forth in Rule 804(e)(2), PMMs are held to the highest quoting standards on the Exchange. Specifically, PMMs are required to provide two-sided quotations in 90% of the cumulative number of seconds for which that PMM's appointed options class is open for trading.⁶ Furthermore, PMMs are required to quote in certain options series of their appointed classes that are excluded from the quoting requirements of CMMs (i.e., Quarterly Options Series, Adjusted Options Series, and long-term options). In addition,

The Exchange also notes that NYSE Arca Options does not impose a strict percentage limitation on its market makers for transacting in non-appointed classes. See NYSE Arca Options Rules 6.37-O(d) and 6.37B-O.

⁵ Id.

⁶ See Rule 804(e)(2).

the Exchange can announce a higher percentage than the current 90% quoting requirement if doing so would be in the interest of a fair and orderly market.⁷ PMMs are also required to enter quotes in their appointed options classes and participate in the Opening Process.⁸ Accordingly, the Exchange believes that the foregoing obligations will continue to ensure that PMMs will provide liquidity in their appointed options classes notwithstanding the proposed increase in the trading allowance in non-appointed classes.

In addition, the Exchange believes that the proposed increase in the overall percentage from 10% to 25% will bring GEMX in line with other options exchanges, and permit its Market Makers to effectively compete with market makers on other options exchanges. Moreover, applying requirements that are substantially similar to other options exchanges will remove a significant compliance burden on market makers who provide liquidity across multiple options exchanges.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ 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

⁷ See Rule 804(e)(2). See also Securities Exchange Act Release No. 84581 (November 14, 2018), 83 FR 58657 (November 20, 2018) (SR-GEMX-2018-37).

⁸ See Rule 701(c)(3).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that the proposed rule change promotes just and equitable principles of trade because it reduces an outdated restriction on PMMs, and simplifies the application of the rule by imposing the same 25% volume limitation on all Market Makers. The purpose of limiting the number of contracts executed in non-appointed classes to a small percentage of contracts executed in appointed classes was to encourage Market Makers to provide liquidity in their appointed classes. As discussed above, the Exchange initially adopted the 10% volume limitation for PMMs because as a nascent exchange, it sought to promote PMM activity in their appointed options classes in order to encourage liquidity on the Exchange. Since then, there has been a proliferation of options classes added to the Exchange for trading, and the Exchange therefore believes that the 10% limitation is restrictive in light of the current environment. Other options exchanges are operating today with similar or more generous allowances for its market makers without sacrificing market quality, and the Exchange therefore believes that the proposed increase will not result in a decrease of quality on its own market.¹¹ In addition, the Exchange believes that the heightened obligations for PMMs to participate in the Opening Process and provide intra-day quotes will continue to ensure that PMMs provide liquidity in their appointed options classes notwithstanding the proposed increase in the trading allowance in non-appointed classes.¹² As discussed above, the proposed rule change will also conform GEMX's Market Maker obligations to the requirements of

¹¹ See note 4 above.

¹² See notes 6 – 8 above, with accompanying text.

other options markets, which will promote the application of consistent compliance standards for market makers who provide liquidity across multiple options exchanges.

Furthermore, such volume limitations were traditionally put in place and especially important at “floor-based” exchanges, since market makers were limited in the number of classes in which they could physically make markets, and it was in the floor-based exchange’s interest that market makers focus their market making abilities on their appointed classes.¹³ Although limitations on trading in non-appointed classes may be less important on a fully electronic exchange since electronic quoting and trading systems allow market makers to make markets and provide liquidity in many more options classes than on a floor-based exchange, GEMX still believes focusing its Market Makers on trading in their appointed classes is important for providing liquidity in those classes. In this respect, the Exchange believes that its proposal would continue to meet that objective because the proposed limitation for PMMs would still require that a substantial percentage (i.e., 75%) of a PMM’s transactions be effected in their appointed classes.

Finally, in determining to revise requirements for its Market Makers, the Exchange is mindful of the balance between the obligations and benefits provided to Market Makers. While the proposal will change obligations currently in place for Market Makers, the Exchange does not believe that these changes reduce the overall obligations applicable to Market Makers. In this respect, the Exchange still imposes many obligations on Market Makers to maintain a fair and orderly market in their appointed

¹³ See e.g., Securities Exchange Act Release No. 35786 (May 31, 1995), 60 FR 30122 (June 7, 1995) (SR-Amex-94-51) (order approving proposal by American Stock Exchange, Inc. relating to the in person trading volume requirement for registered options traders).

classes, which the Exchange believes eliminates the risk of a material decrease in liquidity.¹⁴ In addition, Market Makers are required to abide by quoting requirements in their appointed options classes in order to maintain the status of a Market Maker, and PMMs in particular are held to the highest quoting standards on the Exchange.¹⁵ As further discussed above, PMMs are also required to enter quotes and participate during the Opening Process, pursuant to Rule 701. Lastly, the Exchange also notes that for non-appointed options classes of Market Makers, Rule 803(d) would continue to prohibit a Market Maker from engaging in transactions for an account in which it has an interest that are disproportionate in relation to, or in derogation of, the performance of its obligations as specified in Rule 803(b) with respect to its appointed options classes. In particular, Market Makers would be prohibited from (1) individually or as a group, intentionally or unintentionally, dominating the market in options contracts of a particular class and (2) effecting purchases or sales on the Exchange except in a reasonable and orderly manner.¹⁶ Accordingly, the proposal supports the quality of the Exchange's markets by helping to ensure that Market Makers and in particular, PMMs, will continue to be obligated to and have incentives to provide liquidity in their appointed classes. Ultimately, the benefit that the proposed rule change confers upon PMMs by increasing the percentage of contracts executed in the PMM's non-appointed classes from 10% to 25% is offset by the PMM's continued responsibilities to provide significant liquidity to the market to the benefit of market participants.

¹⁴ See Rule 803(b)(1) – (4).

¹⁵ See notes 6 and 7 above, with accompanying text.

¹⁶ See Rule 803(d)(1) and (2).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that its proposal will impose an undue burden on intra-market competition because it will align the percentage limitations for both PMMs and CMMs to 25% of their non-appointed classes, and will treat all Market Makers uniformly in this respect. In terms of inter-market competition, the Exchange operates in a highly competitive market in which market participants can send order flow to competing exchanges if they deem trading practices at a particular exchange to be onerous or cumbersome. The proposal to increase the limitation on the percentage of contracts executed in a PMM's non-appointed classes from 10% to 25% will serve to better align the Exchange's requirements with those in place at other options exchanges, which enhances the ability of its Market Makers to effectively compete with market makers on other options exchanges.¹⁷

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

The foregoing rule change has become effective pursuant to Section

¹⁷ See note 4 above.

19(b)(3)(A)(iii)¹⁸ of the Act and Rule 19b-4(f)(6) thereunder¹⁹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange does not believe that this proposal significantly affects the protection of investors or the public interest because the proposal will not adversely impact the Exchange's market quality or lead to a material decrease of liquidity. As discussed above, other options exchanges are operating today with similar or more generous allowances for its market makers without sacrificing market quality, and the Exchange therefore believes that the proposed increase will not result in a decrease of quality on its own market.²⁰ The Exchange also believes that the benefit the proposed rule change confers upon PMMs by increasing the percentage of contracts executed in the PMM's non-appointed classes from 10% to 25% is offset by the PMM's continued responsibilities to provide significant liquidity to the market to the benefit of market participants. In particular, the Exchange believes that the heightened obligations for PMMs to participate in the Opening Process and provide intra-day quotes, as further described above, will continue to ensure that PMMs provide liquidity in their appointed options classes notwithstanding the proposed increase in the trading allowance in non-

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ See note 4 above.

appointed classes.²¹

Furthermore, the Exchange does not believe that the proposed rule change will impose an undue burden on competition. As discussed above, the proposed increase of the limitation on the overall percentage of contracts executed in a PMM's non-appointed classes from 10% to 25% will bring GEMX in line with other options exchanges, and permit its Market Makers to effectively compete with other market makers on other options exchanges that provide market makers with similar benefits.²²

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 requests that the Commission waive the five business day pre-filing requirement, as set forth in Rule 19b-4(f)(6).

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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection

²¹ See notes 6 – 8 above, with accompanying text.

²² See note 4 above.

of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the Exchange may align its requirements with other options markets that impose a uniform 25% restriction on market makers for trading in non-appointed classes.²³ Waiver of the operative delay is consistent with the protection of investors and the public interest because it will facilitate fair competition among exchanges and encourage greater liquidity on GEMX to the benefit of investors. The proposed rule change will also benefit Market Makers by applying consistent requirements that are substantially similar to other options exchanges, which will reduce compliance burdens on market makers who provide liquidity across multiple options exchanges.

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

The proposal is similar to BX Options Rules, Chapter VII, Section 6(e) and CBOE Rule 8.7, Interpretations and Policies .03.

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.

²³

Id.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-GEMX-2018-42)

December __, 2018

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market Makers Trading in Non-Appointed Options Classes

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 December 12, 2018, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 805(b) relating to Market Makers³ trading in non-appointed options classes.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Rule 100(a)(33).

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 this rule change is to amend Rule 805(b) relating to Market Makers trading in non-appointed options classes.

Rule 805(b) presently governs the submission of orders by Market Makers in non-appointed options classes. Subparagraphs (b)(2) and (b)(3) place limitations on the overall percentage of executions that can occur in the non-appointed options classes. Specifically, subparagraph (b)(2) limits a Competitive Market Maker's ("CMM") total number of contracts executed in non-appointed options classes to 25% of the CMM's total number of contracts executed in its appointed options classes and with respect to which it was quoting pursuant to Rule 804(e)(1), and subparagraph (b)(3) limits a Primary Market Maker's ("PMM") total number of contracts executed in non-appointed options classes to 10% of the PMM's total number of contracts executed in its appointed classes.

The Exchange now proposes in subparagraph (b)(3) to increase the overall percentage of executions that can occur in a PMM's non-appointed options classes from 10% to 25% to align with the CMM allowance as well as other options exchanges,

including its affiliated options market, BX Options.⁴ The Exchange adopted the 10% volume limitation for PMMs as part of its application to be registered as a national securities exchange, and initially restricted PMMs in this manner because as a nascent exchange, it sought to promote PMM activity in their appointed options classes in order to encourage liquidity on the Exchange. Since then, there has been a proliferation of options classes added to the Exchange for trading, and the Exchange therefore believes that the 10% limitation is restrictive in light of the current environment. The Exchange does not believe that its proposal will adversely impact the quality of the Exchange's market or lead to a material decrease in liquidity. As noted above, other options exchanges are operating today with similar or more generous allowances for its market makers without sacrificing market quality, and the Exchange believes that its proposed increase will likewise not result in a decrease of market quality.⁵ Furthermore, Market Makers and in particular, PMMs, will continue to be subject to the highest standard applicable on the Exchange to provide liquidity. For instance as set forth in Rule 804(e)(2), PMMs are held to the highest quoting standards on the Exchange. Specifically, PMMs are required to provide two-sided quotations in 90% of the

⁴ BX Options Market Makers (including Lead Market Makers) can execute no more than 25% of their total volume outside of their registered options classes. See BX Options Rules, Chapter VII, Section 6(e). In addition, CBOE Rule 8.7, Interpretations and Policies .03 provides that 75% of a Market-Maker's total contract volume must be in classes to which the Market-Maker is appointed. Accordingly, only 25% of a CBOE Market-Maker's contract volume can be in non-appointed classes. CBOE Rule 8.7 applies equally to Lead Market-Makers and Designated Primary Market-Makers in the same manner as Market-Makers. The Exchange also notes that NYSE Arca Options does not impose a strict percentage limitation on its market makers for transacting in non-appointed classes. See NYSE Arca Options Rules 6.37-O(d) and 6.37B-O.

⁵ Id.

cumulative number of seconds for which that PMM's appointed options class is open for trading.⁶ Furthermore, PMMs are required to quote in certain options series of their appointed classes that are excluded from the quoting requirements of CMMs (i.e., Quarterly Options Series, Adjusted Options Series, and long-term options). In addition, the Exchange can announce a higher percentage than the current 90% quoting requirement if doing so would be in the interest of a fair and orderly market.⁷ PMMs are also required to enter quotes in their appointed options classes and participate in the Opening Process.⁸ Accordingly, the Exchange believes that the foregoing obligations will continue to ensure that PMMs will provide liquidity in their appointed options classes notwithstanding the proposed increase in the trading allowance in non-appointed classes.

In addition, the Exchange believes that the proposed increase in the overall percentage from 10% to 25% will bring GEMX in line with other options exchanges, and permit its Market Makers to effectively compete with market makers on other options exchanges. Moreover, applying requirements that are substantially similar to other options exchanges will remove a significant compliance burden on market makers who provide liquidity across multiple options exchanges.

⁶ See Rule 804(e)(2).

⁷ See Rule 804(e)(2). See also Securities Exchange Act Release No. 84581 (November 14, 2018), 83 FR 58657 (November 20, 2018) (SR-GEMX-2018-37).

⁸ See Rule 701(c)(3).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ 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. In particular, the Exchange believes that the proposed rule change promotes just and equitable principles of trade because it reduces an outdated restriction on PMMs, and simplifies the application of the rule by imposing the same 25% volume limitation on all Market Makers. The purpose of limiting the number of contracts executed in non-appointed classes to a small percentage of contracts executed in appointed classes was to encourage Market Makers to provide liquidity in their appointed classes. As discussed above, the Exchange initially adopted the 10% volume limitation for PMMs because as a nascent exchange, it sought to promote PMM activity in their appointed options classes in order to encourage liquidity on the Exchange. Since then, there has been a proliferation of options classes added to the Exchange for trading, and the Exchange therefore believes that the 10% limitation is restrictive in light of the current environment. Other options exchanges are operating today with similar or more generous allowances for its market makers without sacrificing market quality, and the Exchange therefore believes that the proposed increase will not result in a decrease of quality on its own market.¹¹ In

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See note 4 above.

addition, the Exchange believes that the heightened obligations for PMMs to participate in the Opening Process and provide intra-day quotes will continue to ensure that PMMs provide liquidity in their appointed options classes notwithstanding the proposed increase in the trading allowance in non-appointed classes.¹² As discussed above, the proposed rule change will also conform GEMX's Market Maker obligations to the requirements of other options markets, which will promote the application of consistent compliance standards for market makers who provide liquidity across multiple options exchanges.

Furthermore, such volume limitations were traditionally put in place and especially important at "floor-based" exchanges, since market makers were limited in the number of classes in which they could physically make markets, and it was in the floor-based exchange's interest that market makers focus their market making abilities on their appointed classes.¹³ Although limitations on trading in non-appointed classes may be less important on a fully electronic exchange since electronic quoting and trading systems allow market makers to make markets and provide liquidity in many more options classes than on a floor-based exchange, GEMX still believes focusing its Market Makers on trading in their appointed classes is important for providing liquidity in those classes. In this respect, the Exchange believes that its proposal would continue to meet that objective because the proposed limitation for PMMs would still require that a substantial percentage (i.e., 75%) of a PMM's transactions be effected in their appointed classes.

¹² See notes 6 – 8 above, with accompanying text.

¹³ See e.g., Securities Exchange Act Release No. 35786 (May 31, 1995), 60 FR 30122 (June 7, 1995) (SR-Amex-94-51) (order approving proposal by American Stock Exchange, Inc. relating to the in person trading volume requirement for registered options traders).

Finally, in determining to revise requirements for its Market Makers, the Exchange is mindful of the balance between the obligations and benefits provided to Market Makers. While the proposal will change obligations currently in place for Market Makers, the Exchange does not believe that these changes reduce the overall obligations applicable to Market Makers. In this respect, the Exchange still imposes many obligations on Market Makers to maintain a fair and orderly market in their appointed classes, which the Exchange believes eliminates the risk of a material decrease in liquidity.¹⁴ In addition, Market Makers are required to abide by quoting requirements in their appointed options classes in order to maintain the status of a Market Maker, and PMMs in particular are held to the highest quoting standards on the Exchange.¹⁵ As further discussed above, PMMs are also required to enter quotes and participate during the Opening Process, pursuant to Rule 701. Lastly, the Exchange also notes that for non-appointed options classes of Market Makers, Rule 803(d) would continue to prohibit a Market Maker from engaging in transactions for an account in which it has an interest that are disproportionate in relation to, or in derogation of, the performance of its obligations as specified in Rule 803(b) with respect to its appointed options classes. In particular, Market Makers would be prohibited from (1) individually or as a group, intentionally or unintentionally, dominating the market in options contracts of a particular class and (2) effecting purchases or sales on the Exchange except in a reasonable and orderly manner.¹⁶ Accordingly, the proposal supports the quality of the Exchange's

¹⁴ See Rule 803(b)(1) – (4).

¹⁵ See notes 6 and 7 above, with accompanying text.

¹⁶ See Rule 803(d)(1) and (2).

markets by helping to ensure that Market Makers and in particular, PMMs, will continue to be obligated to and have incentives to provide liquidity in their appointed classes.

Ultimately, the benefit that the proposed rule change confers upon PMMs by increasing the percentage of contracts executed in the PMM's non-appointed classes from 10% to 25% is offset by the PMM's continued responsibilities to provide significant liquidity to the market to the benefit of market participants.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that its proposal will impose an undue burden on intra-market competition because it will align the percentage limitations for both PMMs and CMMs to 25% of their non-appointed classes, and will treat all Market Makers uniformly in this respect. In terms of inter-market competition, the Exchange operates in a highly competitive market in which market participants can send order flow to competing exchanges if they deem trading practices at a particular exchange to be onerous or cumbersome. The proposal to increase the limitation on the percentage of contracts executed in a PMM's non-appointed classes from 10% to 25% will serve to better align the Exchange's requirements with those in place at other options exchanges, which enhances the ability of its Market Makers to effectively compete with market makers on other options exchanges.¹⁷

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.

¹⁷ See note 4 above.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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:

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-GEMX-2018-42 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-GEMX-2018-42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

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

All submissions should refer to File Number SR-GEMX-2018-42 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

Nasdaq GEMX Rules

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Rule 805. Market Maker Orders

(a) *Options Classes to Which Appointed.* Market makers may enter all order types defined in Rule 715 in the options classes to which they are appointed under Rule 802, except Stopped Orders, Reserve Orders and Customer Cross Orders. Competitive Market Makers shall comply with the provisions of Rule 804(e)(1) upon the entry of such orders if they were not previously quoting in the series.

(b) *Options Classes Other Than Those to Which Appointed.*

(1) A market maker may enter all order types permitted to be entered by non-customer participants under the Rules to buy or sell options in classes of options listed on the Exchange to which the market maker is not appointed under Rule 802, except for Reserve Orders, provided that:

(i) the spread between a limit order to buy and a limit order to sell the same options contract complies with the parameters contained in Rule 803(b)(4); and

(ii) the market maker does not enter orders in options classes to which it is otherwise appointed, either as a Competitive or Primary Market Maker.

(2) *Competitive Market Makers.* The total number of contracts executed during a quarter by a Competitive Market Maker in options classes to which it is not appointed may not exceed twenty-five percent (25%) of the total number of contracts traded by such Competitive Market Maker in classes to which it is appointed and with respect to which it was quoting pursuant to 804(e)(1).

(3) *Primary Market Makers.* The total number of contracts executed during a quarter by a Primary Market Maker in options classes to which it is not appointed may not exceed [ten percent (10%)]twenty-five percent (25%) of the total number of contracts traded per each Primary Market Maker Membership.

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