Dated: September 7, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95695; File No. SR–BX–2022–015]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 4, Rules 4120, 4702 and 4703

September 7, 2022.

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 August 25, 2022, Nasdaq BX, Inc. (''BX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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 Equity 4, Rules 4120, 4702 and 4703 in light of planned changes to the System as well as to address existing issues, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* 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 parts of such statements.

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

1. Purpose

The Exchange is preparing to introduce a new upgraded version of the OUCH Order entry protocol [3] that will enable the Exchange to make functional enhancements and improvements to specific Order Types [4] and Order Attributes.[5] Specifically, enhancements to OUCH will enable the Exchange to upgrade the logic and implementation of these Order Types and Order Attributes so that the features are more robust, streamlined, and harmonized across the Exchange's Systems and Order entry protocols. The Exchange developed OUCH with simplicity in mind, and therefore, it presently lacks certain complex order handling capabilities. By contrast, the Exchange specifically designed its RASH Order Entry Protocol [6] to support advanced functionality, including discretion, random reserve, pegging and routing. The introduction of OUCH upgrades will enable participants to utilize OUCH, in addition to RASH, to enter Order Types that require advanced functionality. Thus, the proposal does not seek to introduce new functionality, but rather, it offers to OUCH users advanced functionality that already exists for RASH users.

The Exchange plans to implement its enhancement of the OUCH protocol sequentially, by Order Type and Order Attribute.[7]

To support and prepare for the introduction of OUCH upgrades, the Exchange proposes to amend Rule 4702 pertaining to Order Types to specify that, going forward, OUCH may be used to enter certain Order Types together with certain Order Attributes, whereas now, Rule 4702 specifies that RASH and FIX, but not OUCH, may be used to enter such combinations of Order Types and Attributes. The Exchange also proposes to adjust the current functionality of the Pegging,[8] Reserve,[9] and Trade Now Order Attributes,[10] as described below, so that they align with how OUCH, once upgraded, will handle these Order Attributes going forward.

Changes to Use of Certain Order Types With Certain Order Attributes

Pursuant to Rule 4702(b), the availability of certain Order Attributes for use with certain Order Types presently depends upon the particular Order entry protocol a participant uses to enter its Order. For Price to Comply and Price to Display Orders entered though OUCH, the Reserve Size, Primary Pegging and Market Pegging, and Discretion Attributes are not available to participants presently. For Non-Displayed Orders entered through OUCH, the Primary Pegging, Market Pegging, and Discretion Attributes are not available presently. The Exchange proposes to amend Rule 4702(b) so that for each of the Order Types listed above, participants may utilize the corresponding Order Attributes when participants enter their Orders using the upgraded version of OUCH.

Meanwhile, for Non-Displayed Orders with the Midpoint Pegging Attribute, the behavior of such Orders presently varies, as set forth in Rule 4703(d), based upon whether a participant uses OUCH/FLITE or RASH/FIX to enter them into the System. Going forward, the Exchange proposes to amend the Rule to reference the amended version Rule 4703(d) (discussed below), which will describe variances in behavior involving Non-Displayed Orders with Midpoint Pegging which will no longer depend strictly upon the Order entry protocol associated with the Orders.

Changes to Market Maker Peg Orders

Rule 4702(b)(7)(A) presently provides that Market Maker Peg Orders may be entered through RASH or FIX only. The Exchange proposes to amend this provision to state that the upgraded

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

[2] 17 CFR 240.19b–4.

[3] The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. OUCH accepts limit Orders from members, and if there are matching Orders, they will execute. Non-matching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. OUCH only provides a method for members to send Orders and receive status updates on those Orders. See *https://www.nasdaqtrader.com/Trader.aspx?id=OUCH.*

[4] An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the Exchange. *See* Equity 1, Section 1(a)(11).

[5] An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the Exchange. *See id.*

[6] The RASH (Routing and Special Handling) Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing. See *http://nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/rash_sb.pdf.*

[7] The Exchange notes that its sister exchanges, The Nasdaq Stock Market and Nasdaq PSX, plan to file similar proposed rule changes with the Commission shortly.

[8] *See* Rule 4703(d).

[9] *See* Rule 4703(h).

[10] *See* Rule 4703(l).

version of OUCH may be used to enter such Orders going forward.

Changes to Pegging Order Attribute

In addition to the above, the Exchange proposes to amend Rule 4703(d), which governs the Pegging Order Attribute, to account for the new capabilities of the upgraded version of OUCH.

As described in Rule 4703(d), Pegging is an Order Attribute that allows an Order to have its price automatically set with reference to the NBBO. The Exchange offers three types of Pegging: Primary Pegging, Market Pegging, and Midpoint Pegging.[11] The behavior of each of these types of Pegged Orders currently varies based upon the particular Order entry protocol associated with their use. With the introduction of the upgraded version of OUCH, these variances will narrow, as OUCH will be capable of handling Pegged Orders similar to how RASH and FIX handle them. However, variances will not disappear entirely, as the upgraded version of OUCH will continue to handle Orders with Midpoint Pegging that the System cancels in response to changes to the Midpoint (''Fixed Midpoint Orders'') the same way that the current iteration of OUCH and FLITE handles them.

Indeed, pursuant to the proposed rule filing, the behavior of Pegged Orders will no longer vary strictly by the Order entry protocol that a participant uses; instead, variance will occur based upon whether the Pegged Orders are subject to management during their lifetimes, *i.e.,* the Exchange may adjust the prices of those Orders during their lifetimes. Managed Pegged Orders (''Peg Managed Orders'') will include Primary Pegged and Market Pegged Orders entered using OUCH, RASH, and FIX, as well as Midpoint Pegged Orders, entered using the same protocols, which the System may update in response to changes to the Midpoint (''Managed Midpoint Orders''). The Exchange will handle Managed Midpoint Orders differently from non-managed Orders, *i.e.,* Fixed Midpoint Orders, in like circumstances.

The specific proposed amendments that effectuate the above are as follows.

Existing Rule 4703(d) states that if, at the time of entry, there is no price to which a Pegged Order, that has not been assigned a Routing Order Attribute, can be pegged, or pegging would lead to a price at which the Order cannot be posted, then the Order will not be immediately available on the Exchange Book and will be entered once there is a permissible price, provided, however, that the System will cancel the Pegged Order if no permissible pegging price becomes available within one second after Order entry.[12] This existing language applies to Primary, Market, and Midpoint Pegging Orders entered through RASH/FIX, but not Orders entered through OUCH/FLITE. The Exchange proposes to amend this provision of the Rule so that it applies to ''Peg Managed Orders,'' rather than ''Pegged Orders,'' which in practice will mean that the behavior it currently describes for Primary Pegged and Market Pegged Orders entered through RASH/FIX will also now apply to such Orders entered through the upgraded version of OUCH, as well as to Managed Midpoint Orders entered through RASH/FIX/upgraded OUCH.[13] Moreover, the proposed amended provision would provide for Managed Midpoint Orders that are not assigned a Routing Order Attribute (or a Time in Force of IOC) to behave similarly if the Inside Bid and Inside Offer are crossed (*i.e.,* the Managed Midpoint Order will not be immediately available on the Exchange Book unless and until a permissible price emerges within one second of entry (or other such time that the Exchange designates, at its discretion)).

Existing Rule 4703(d) also states that if a Pegged Order has been assigned a Routing Order Attribute, but there is no permissible price to which the Order can be pegged at the time of entry, then the Exchange will reject it, except that the Exchange will accept a Displayed Order with Market Pegging and a Market or a Primary Pegged Order with a Non-Display Attribute at their respective limit prices in this circumstance. The Exchange again proposes to amend this provision so that it applies to Peg Managed Orders, rather than Pegged Orders. It also proposes to apply this provision to Managed Midpoint Orders that are assigned a Routing Order Attribute, if the Inside Bid and Inside Offer are crossed. Finally, as is explained further below, the Exchange proposes to delete the last two sentences of this paragraph, which describe the behavior of Orders with Midpoint Pegging, and move them to the end of the next paragraph, which also pertains to Orders with Midpoint Pegging. The Exchange proposes this organizational change for ease of readability.

As to the next paragraph of Rule 4703(d), the Exchange proposes several changes. First, the Exchange proposes to delete the first sentence of this paragraph, which lists the Order entry protocols for which Primary Pegging and Market Pegging are presently available (RASH and FIX). This sentence is no longer needed because, as discussed above, the Exchange proposes to add a new sentence that specifies that all Peg Managed Orders will be available, not only through RASH and FIX, but also through OUCH, going forward. Second, the Exchange proposes to modify the second sentence of the paragraph, which presently states that for an Order entered through OUCH or FLITE with Midpoint Pegging, the Order will have its price set upon initial entry to the Midpoint, unless the Order has a limit price, and that limit price is lower than the Midpoint for an Order to buy (higher than the Midpoint for an Order to sell), in which case the Order will be ranked on the Exchange Book at its limit price. The Exchange proposes to apply this language to Midpoint Pegging Orders generally, rather than only Midpoint Pegging Orders entered through OUCH or FLITE, as it will apply to both Fixed Midpoint Orders and Managed Midpoint Orders. Third, the Exchange proposes to add and partially restate the following language from the preceding paragraph:

> In the case of an Order with Midpoint Pegging, if the Inside Bid and Inside Offer are locked, the Order will be priced at the locking price; and for Orders with Midpoint Pegging entered through OUCH or FLITE, if the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Order will not be accepted. However, even if the Inside Bid and Inside Offer are locked, an Order with Midpoint Pegging that locked an Order on the Exchange Book would execute.

Specifically, the Exchange proposes to replace the phrase ''and for Orders with Midpoint Pegging entered through OUCH or FLITE'' with ''and for Fixed Midpoint Orders,'' because going forward, some Midpoint Pegging Orders entered through the upgraded version of OUCH will not behave in this manner; only Fixed Midpoint Orders will do so.[14]

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[11] *See* Rule 4703(d) (defining ''Primary Pegging'' as pegging with reference to the inside quotation on the same side of the market, ''Market Pegging'' as pegging with reference to the inside quotation on the opposite side of the market, and ''Midpoint Pegging'' as pegging with reference to the midpoint between the inside bid and the inside offer).

[12] The Exchange may, in the exercise of its discretion, modify the length of this one second time period by posting advance notice of the applicable time period on its website.

[13] The Exchange also proposes to clarify that this provision applies to a Peg Managed Order that has not been assigned a Routing Order Attribute or a Time-in-Force of Immediate-Or-Cancel (''IOC''). This additional amendment makes it clear that IOC orders in this scenario will cancel immediately if no permissible pegging price is available upon Order entry, rather than waiting up to one second after Order entry to do so.

[14] The Exchange also proposes to make a stylistic, non-substantive change to this text by deleting the

Continued

The Exchange proposes to amend the next paragraph, which describes how the Exchange handles Orders with Midpoint Pegging entered through OUCH or FLITE where the Exchange does not adjust the prices of the Orders based on changes to the Inside Bid or Offer that occur after the Orders post to the Exchange Book. The Exchange proposes to amend this paragraph to state that it applies to Fixed Midpoint Orders (rather than Orders with Midpoint Pegging entered through OUCH or FLITE) and to state expressly that it applies to such Orders after they post to the Exchange Book.

The subsequent paragraph of Rule 4703(d) describes how the Exchange handles Pegged Orders entered through RASH or FIX where the Exchange does adjust the prices of the Orders based on changes to the relevant Inside Quotation that occur after the Orders Post to the Exchange Book. Like the preceding paragraph, the Exchange proposes to amend this paragraph to state that it applies to Peg Managed Orders (rather than Orders entered through RASH or FIX with Pegging). The Exchange also proposes to amend text in this paragraph, which states that the Exchange will reject such an Order, if it assigned a Routing Order Attribute, and if the price to which it is pegged becomes unavailable or pegging would lead to a price at which it cannot be posted. The proposed amended language states that the Exchange will cancel such an Order back to the participant in these circumstances, rather than ''reject'' it; the use of the term ''cancel'' is more appropriate than ''reject'' in this provision insofar as the Exchange only rejects Orders upon entry, but thereafter, it cancels them. Consistent with amendments elsewhere in the proposal, the Exchange also proposes to state that Managed Midpoint Orders assigned a Routing Order Attribute will cancel back to the participant if the Inside Bid and Inside Offer become crossed. The Exchange also proposes to qualify the foregoing by noting that an Order with Market Pegging, or an Order with Primary Pegging and a Non-Display Attribute, will be re-entered at its limit price. Finally, the Exchange proposes to amend the subsequent text, which presently reads as follows:

''. . . if the Order is not assigned a Routing Order Attribute, the Order will be removed from the Exchange Book and will be re-entered once there is a permissible price, provided however, that the System will cancel the Pegged Order if no permissible pegging price becomes available within one second after the Order was removed and no longer available on the Exchange Book (the Exchange may, in the exercise of its discretion modify the length of this one second time period by posting advance notice of the applicable time period on its website).''

The Exchange proposes to amend this text to specify that it applies to a ''Peg Managed Order,'' rather than simply an ''Order.'' Additionally in this clause, the Exchange proposes to add, after the phrase, ''if [a Peg Managed Order] is not assigned a Routing Order Attribute,'' the following text, for clarity: ''and the price to which it is pegged becomes unavailable, pegging would lead to a price at which the Order cannot be posted, or, in the case of a Managed Midpoint Order, if the Inside Bid and Inside Offer become crossed, ...'' The Exchange believes that these conditions are implicit in the existing Rule text and should be made explicit to avoid confusion. Insofar as this proposed amended text will now account for Managed Midpoint Orders, then the Exchange proposes to delete the following existing text, which will otherwise be duplicative:

''For an Order with Midpoint Pegging, if the Inside Bid and Inside Offer become crossed or if there is no Inside Bid and/or Inside Offer, the Order will be removed from the Exchange Book and will be re-entered at the new midpoint once there is a valid Inside Bid and Inside Offer that is not crossed; provided, however, that the System will cancel the Order with Midpoint Pegging if no permissible price becomes available within one second after the Order was removed and no longer available on the Exchange Book (the Exchange may, in the exercise of its discretion modify the length of this one second time period by posting advance notice of the applicable time period on its website).''

Finally, the Exchange proposes to restate the paragraph of Rule 4703(d) that describes Pegging Order collars. In pertinent part, this paragraph presently states that ''any portion of a Pegging Order that could execute, either on the Exchange or when routed to another market center, at a price of more than $0.25 or 5 percent worse than the NBBO at the time when the order reaches the System, whichever is greater, will be cancelled.'' The Exchange proposes to restate this text to account for the fact that under certain conditions, the System will cancel Pegging Orders before clearing liquidity inside the collar. For non-routable Pegged Orders, the System cancels these Orders prior to polling the Exchange Book for liquidity (even inside of the collar) when the combination of limit price, pegging, offset, discretionary price, discretionary pegging, and discretionary offset attributes would result in the Order attempting to post to the book or clear resting Orders beyond the collar price (even if such liquidity does not exist).[15] For routable Primary or Market Peg Orders, by contrast, the System will clear any liquidity inside of the collar before cancelling.[16] The Exchange proposes to more precisely describe this behavior with the following restated text:

Any portion of a Pegging Order with a Routing attribute to buy (sell) that could execute, either on the Exchange or when routed to another market center, at a price of more than the greater of $0.25 or 5 percent higher (lower) than the NBO (NBB) at the time when the order reaches the System (the ''Collar Price''), will be cancelled. An Order entered without a Routing attribute will be cancelled if it would, as a result of the price determined by a Pegging or Discretionary Pegging attribute, execute or post to the Exchange Book at a price through the Collar Price.

Change To Reserve Attribute

The Exchange proposes to amend its rules governing the Reserve Order Attribute, at Rule 4703(h) to state that when a Reserve Order is entered using OUCH with a displayed size of an odd lot, the System will reject the Order, whereas if such an order is entered using RASH or FIX, then as is the case now under the existing Rule, the System will accept the Order but with the full size of the Order Displayed. The Exchange believes that this new proposed behavior will benefit participants insofar as Reserve Orders entered with odd lot displayed sizes are often the product of errors. Rather than expose erroneous displayed sizes, OUCH will cancel the Orders and thus provide participants with an opportunity to correct their errors, or to

phrase ''In the case of an Order with Midpoint Pegging.'' The Exchange believes this phrase is no longer needed due to the fact that the new paragraph to which it proposes to move the text clearly applies to Orders with Midpoint Pegging.

[15] For example, if NYSE is quoting $10.00 × $11.00 and a Displayed Sell Order of 100 shares is setting the NBO by resting on the Book at $10.05, then an incoming Primary Peg Buy order with a Limit Price of $10.75 and an Offset Value of $0.56 will be cancelled back without executing against the resting order at $10.05. The Primary Peg attribute initially sets the price of the Order at $10.00, then the offset amends the price to $10.56; the collar price is set to $10.05 + ($10.05 × 5%) = $10.5525, which is less than the price the incoming Order would attempt to book at.

[16] For example, if NYSE is quoting $10.00 × $11.00 and a Displayed Sell Order of 100 shares is setting the NBO by resting on the Book at $10.05, then an incoming Primary Peg Buy order of 200 shares with a Limit Price of $10.75, an Offset Value of $0.56, and the SCAN routing strategy will execute against the resting order before the remainder is cancelled before booking outside the collar price.

validate their original choices, by re-entering the Reserve Order.

Change To Trade Now Attribute

The Exchange proposes to amend its rules governing the Trade Now Order Attribute, at Rule 4703(l) to state that when the Trade Now Attribute is entered through RASH or FIX, and going forward, also through OUCH, the Trade Now Order Attribute may be enabled on an order-by-order or a port-level basis. In the next sentence in the paragraph, the existing text will continue to apply, but as to FLITE only, and not to OUCH. Thus, when entered through FLITE (but not OUCH), the Trade Now Order Attribute may be enabled on a port-level basis for all Order Types that support it, and for the Non-Displayed Order Type, also on an order-by-order basis.

Change To Limit Up-Limit Down Mechanism

The Exchange proposed to amend its rules governing Limit Up-Limit Down (''LULD'') functionality, at Rule 4120(a)(13)(E)(2)(a) to state that limit priced orders entered via the OUCH protocol, which are not assigned a Managed Pegging, Discretionary, or Reserve Attribute, shall be repriced upon entry only if the Price Bands are such that the price of the limit-priced interest to buy (sell) would be above (below) the upper (lower) Price Band. Additionally, the Exchange is proposing to amend Rule 4120(a)(13)(E)(2)(b) to state that limit-priced orders entered via RASH or FIX protocols, or via the OUCH protocol if assigned a Managed Pegging, Discretionary, or Reserve Attribute, the order shall be eligible to be repriced by the system multiple times if the Price Bands move such that the price of resting limit-priced interest to buy (sell) would be above (below) the upper (lower) Price Band.

The Exchange intends to implement the foregoing changes at the end of the Third Quarter or early in the Fourth Quarter of 2022. The Exchange will issue an Equity Trader Alert at least 7 days in advance of implementing the changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] 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.

Generally speaking, it is consistent with the Act to amend the Rulebook to reflect upgrades to the Exchange's OUCH Order entry protocols. The planned upgrades will enable members to utilize OUCH in additional circumstances, including for the entry of: (1) Price to Comply and Price to Display Orders with the Reserve Size, Primary and Market Pegging, and Discretion Order Attributes; (2) Non-Displayed Orders with the Primary and Market Pegging, Midpoint Pegging (in scenarios described in amended Rule 4703(d)), and Discretion Order Attributes; and (3) Market Maker Peg Orders.

Likewise, the Exchange believes that its proposed amendments to the Pegging Order Attribute, at Rule 4703(d), are consistent with the Act. The proposed amendments account for the fact that OUCH will become capable of use for the entry of Peg Managed Orders, including Managed Midpoint Orders, in addition to Fixed Midpoint Orders. The Exchange believes that it will be clearer and more coherent to describe the behavior of Pegged Orders and Orders with Midpoint Pegging in the Rule with regard to whether these Orders are ''Managed'' or ''Fixed,'' rather than with regard to the protocol used to enter them, especially as OUCH will be available for use in entering both Managed and Fixed Pegging Orders going forward. Additionally, proposed amendments to Rule 4703(d) would reorganize the description of the behavior of various types of Pegged Orders so that it flows more logically and is more readily comprehensible. Finally, proposed changes would describe the behavior of Pegged Orders more comprehensively, by adding language that was mistakenly omitted from the Rule.

Meanwhile, the Exchange's proposal to restate the Rule's description of the price collar applicable to Pegged Orders is consistent with the Act because it accounts for the fact that under certain conditions, the System will cancel Pegging Orders before clearing liquidity inside the collar.

The Exchange's proposal is consistent with the Act to amend its Rule governing the Reserve Order Attribute, at Rule 4703(h) to state that when a Reserve Order is entered using OUCH with a displayed size of an odd lot, the System will reject the Order. The Exchange believes that this new proposed behavior will benefit participants insofar as Reserve Orders entered with odd lot displayed sizes are often the product of errors. Rather than expose erroneous displayed sizes, OUCH will cancel the Orders and thus provide participants with an opportunity to correct their errors, or to validate their original choices, by re-entering the Reserve Order.

Additionally, the Exchange's proposal to amend its Rule governing the Trade Now Order Attribute, at Rule 4703(l), is consistent with the Act, because it accounts for the fact that when entered through the upgraded version of OUCH, the Trade Now Order Attribute may be enabled on an order-by-order or a port-level basis.

Finally, the Exchange's proposal to amend its Rule governing the Limit Up-Limit Down Mechanism, at Rules 4120(a)(13)(E)(2)(a) and 4120(a)(13)(E)(2)(b) are consistent with the Act because the proposed amendments align with OUCH's capability going forward, once upgraded, to handle certain Order Types and Order Attributes similar to how RASH and FIX handle them. Additionally, as discussed above, variance will occur in certain Order Types based upon whether the orders are subject to management during their lifetimes.

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. As a general principle, the proposed changes are reflective of the significant competition among exchanges and non-exchange venues for order flow. In this regard, proposed changes that facilitate enhancements to the Exchange's System and Order entry protocols as well as those that amend and clarify the Exchange's Rules regarding its Order Attributes, are pro-competitive because they bolster the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers.

Moreover, none of the proposed changes will unduly burden intra-market competition among various Exchange participants. Participants will experience no competitive impact from its proposals, as these proposals will restate and reorganize portions of the Rule to reflect the upgraded capabilities of OUCH, as well as to render the descriptions of OUCH's new capabilities easier to read and understand.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6) [23] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[24] the Commission may 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 proposal may become operative immediately upon filing. The Exchange has represented that the proposal does not seek to introduce new functionality, but rather, it offers to OUCH users advanced functionality that already exists for RASH users. The Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public interest as it will allow the Exchange to provide existing advanced functionality to OUCH users without delay. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[25]

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 under Section 19(b)(2)(B) [26] of the Act 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–BX–2022–015 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–2022–015. This file number should be included on the subject line if email 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 website (*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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2022–015 and should be submitted on or before October 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19684 Filed 9–12–22; 8:45 am]

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[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 15 U.S.C. 78s(b)(3)(A)(iii).

[22] 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, along with a brief description and 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 Exchange has satisfied this requirement.

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95699; File No. SR–NYSEAMER–2022–37]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Transfer the Services and Fees Related to Colocation

September 7, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 24, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 (1) transfer the services and fees related to colocation from the NYSE American Equities Price List and Fee Schedule and the NYSE American Options Fee Schedule (together, the ''Price List and

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.