upon principles and rules currently operative on the Exchange in the Simple Order Book.[135] In addition, MIAX notes that affording priority in the Strategy Book to Market Makers with a Complex priority quote should provide incentive for MIAX participants to submit complex quotes at the best prices and rewards Market Makers who are quoting in the Strategy Book at the best prices.[136]

H. Price Protection and Other Features

MIAX's proposed price and order protection features are intended to provide market participants with price and order size protection in order to allow them to better manage their risk exposure.[137] The VSV and CSV price protections are similar to functionalities already available on other options exchanges.[138] In addition, according to MIAX, the cMOM functionality may help ensure a fair and orderly market by rejecting inbound complex orders whose prices may be erroneous or disruptive.[139] The cMOM functionality is similar to an existing functionality on MIAX's simple market.[140] MIAX's provisions regarding wide market conditions, SMAT events, and halts could help protect investors by pausing trading during potentially disruptive conditions.[141] Finally, according to MIAX, adding complex orders to the Risk Protection Monitor should allow MIAX members to better manage their risk and encourage them to submit additional liquidity to the Exchange.[142] The Commission believes the proposed new price protection features are reasonably designed to promote just and equitable principles of trade to the extent they are able to mitigate potential risks associated with market participants entering orders or executing trades at what MIAX believes are erroneous or disruptive prices.[143] In addition, the Commission has noted that the Risk Protection Monitor may help members, and member groups, mitigate potential risk associated with the execution an unacceptable level of order

that result from, *e.g.,* technology issues.[144]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[145] that the proposed rule change (SR–MIAX–2016–26) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[146]

Robert W. Errett,
Deputy Secretary.
[FR Doc. 2016–24837 Filed 10–13–16; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79075; File No. SR–Nasdaq–2016–126]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Partial Amendment Nos. 1, 2 and 3, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Partial Amendment Nos. 1, 2 and 3, to System Functionality Necessary To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

October 7, 2016.

I. Introduction

On September 7, 2016, The Nasdaq Stock Market LLC ("Exchange" or "Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt paragraph (d) and Commentary .12 to Nasdaq Rule 4770 to change System[3] functionality necessary to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan" or "Pilot").[4] The Exchange is

also proposing amendments to Nasdaq Rule 4770(a) and (c) to clarify certain exceptions to the Trade-at Prohibition.[5] The proposed rule change was published for comment in the **Federal Register** on September 20, 2016.[6] The Commission received two comment letters in response to the Notice.[7] On September 29, 2016, the Exchange filed Partial Amendment No. 1 to the proposed rule change.[8] On October 4, 2016, the Exchange filed Partial Amendment No. 2 to the proposed rule change.[9] On October 7, 2016, the

---

[135] The Exchange currently follows the established hierarchy that generally affords priority to Priority Customer Orders, then to Market Makers with priority quotes, followed by Professional Interest at the same price. *See* Notice, 81 FR at 58773, n. 24 and MIAX Rule 514.

[136] *See* Notice, 81 FR at 58798.

[137] *See* Notice, 81 FR at 58800.

[138] *See* ISE Rule 722, Supplementary Material .07(c) and PHLX Rule 1098(g).

[139] *See* Notice, 81 FR at 58800.

[140] *See* MIAX Rule 519.

[141] *See* Notice, 81 FR at 58800.

[142] *See id.*

[143] *See id.*

[144] *See* Securities Exchange Act Release No. 74496 (March 13, 2015), 80 FR 14421 (March 19, 2015) (SR–MIAX–2015–03), at 14423. The Commission reminds members electing to use the Risk Protection Monitor to be mindful of their obligations to, among other things, seek best execution of orders they handle on an agency basis. *See id.*

[145] 15 U.S.C. 78s(b)(2).

[146] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The term "System" is defined as the automated system for order execution and trade reporting owned and operated by Nasdaq. *See* Nasdaq Rule 4701(a).

[4] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order"). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Plan.

[5] Nasdaq Rule 4770(c)(3)(D)(i) defines the "Trade-at Prohibition" as the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours. *See also* Plan Section VI(D).

[6] Securities Exchange Act Release No. 78837 (September 14, 2016), 81 FR 64544 ("Notice").

[7] *See* Letters to Brent J. Fields, Secretary, Commission, from Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange, Inc.; Eric Swanson, EVP, General Counsel and Secretary, BATS Global Markets, Inc.; Thomas A. Wittman, EVP, Global Head of Equities, Nasdaq, Inc., dated September 9, 2016 ("Comment Letter No. 1") and from Eric Swanson, EVP, General Counsel and Secretary, BATS Global Markets, Inc., dated September 12, 2016 ("Comment Letter No. 2").

[8] In Partial Amendment No. 1, the Exchange proposes to change references in the rule text from "added to the Nasdaq Book" to "ranked on the Nasdaq Book" as applicable for Price to Comply Orders, Non-Displayed Orders, Post-Only Orders, and Orders with Reserve Size. The Exchange also proposes to clarify that in certain cases Price to Comply Orders, not attributable Post-Only Orders, and certain Orders with Reserve Size may be ranked on the Nasdaq Book at the midpoint of the National Best Bid or Offer ("NBBO"). Finally, the Exchange proposes three amendments related to the operation of Reserve Size for Test Group Three Pilot Securities: (i) Change references from "Reserve Order" to "Order with Reserve Size"; (ii) clarify that the Reserve Size attribute is only available for Price to Comply Orders and Price to Display Orders entered via the RASH FIX, or QIX protocols; and (iii) clarify the handling of Orders with Reserve Size in scenarios where such Orders are entered at a price that locks a Protected Quotation on an away market center.

[9] In Partial Amendment No. 2, the Exchange proposes to delete certain rule text to remove the proposed re-pricing functionality for resting Price to Comply Orders, resting Non-Displayed Orders, and resting Post-Only Orders entered via OUCH or FLITE protocols for Test group Three Pilot Securities. The Exchange explained that its systems were re-programmed for Test Group Three Pilot Securities to permit resting Price to Comply Orders, resting Non-Displayed Orders, and resting Post-Only Orders entered via OUCH or FLITE protocols to repeatedly re-price in response to changes to the NBBO and/or the Nasdaq best Bid or Offer ("BBO"). Nasdaq noted that it is currently re-programming its systems to remove the proposed functionality. Further, Nasdaq stated that if it appears that the multiple re-pricing functionality will remain operational by October 17, 2016, the Exchange will file a proposed rule change with the Commission and provide notice to market participants sufficiently in advance of that date. The proposed rule change and notice to market participants will describe the current operation of the systems and

Exchange filed Partial Amendment No. 3 to the proposed rule change.[10]

This order provides notice of filing of Partial Amendment Nos. 1, 2 and 3, and approves the proposal, as modified by Partial Amendment Nos. 1, 2 and 3, on an accelerated basis.

II. Description of the Amended Proposal

The Exchange's proposed rule change provides for changed functionality to certain Order Types[11] and Order Attributes[12] applicable to Pilot Securities to implement the Plan. Proposed Nasdaq Rule 4770(d) would specify the order handling, executing, re-pricing and displaying for the following Order Types in Pilot Securities: (i) Price to Comply Orders; (ii) Non-Displayed Orders; (iii) Post-Only Orders; (iv) Midpoint Peg Post-Only Orders; (v) Supplemental Orders; and (vi) Market Maker Peg Orders. The following Order Attributes would also be amended: (i) Midpoint Pegging; (ii) Reserve Size; and (iii) Good-till-Cancelled. In addition, amended Nasdaq Rule 4770(d)(1) specifies that any Order Type in a security of any of the Test Groups that requires a price and does not qualify for an exception, will not be accepted if it is in a minimum price increment ("MPI") other than $0.05.[13]

The Exchange also proposes to amend the definition of the term "Trade-at Intermarket Sweep Order" ("TA ISO") and one of the TA ISO exceptions to the Trade-at Prohibition.[14] Finally, the Exchange is proposing to modify the Block Size Order exception to the Trade-at Prohibition and add a related commentary.[15]

---

timing of re-programming. In any event, Nasdaq states that the removal of this functionality shall be completed no later than November 30, 2016. In addition, the Exchange proposes to modify the Block Size Order exception to the Trade-at Prohibition. Finally, the Exchange is making certain non-substantive, clarifying amendments.

[10] In Partial Amendment No. 3, the Exchange clarifies that it would not apply the Trade-at Prohibition outside of Regular Trading Hours.

[11] An "Order Type" is a standardized set of instructions associated with an order that define its behavior with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to the System. *See* Nasdaq Rule 4701(e).

[12] 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 System. *See* Nasdaq Exchange Rule 4701(e). The availability of, and interaction between, Order Types and Order Attributes is described in Nasdaq Rules 4702 and 4703.

[13] Proposed Nasdaq Rule 4770(d)(1) clarifies that the System will use $0.05 as the MPI when re-pricing or rounding by the System.

[14] *See* proposed Nasdaq Rule 4770(a)(1)(D)(ii) and proposed Nasdaq Rule 4770(c)(3)(D)(iii)(j).

[15] *See* proposed Nasdaq Rule 4770(c)(3)(D)(iii)(c) and Nasdaq Rule 4770, proposed Commentary .12.

A. Amendments to Order Type Functionality

1. Price To Comply Orders[16]

The Exchange proposes that a Price to Comply Order in a Test Group Pilot Security would operate consistent with current Nasdaq Rule 4702(b)(1) except as provided below. Specifically, if a Price to Comply Order for a Test Group Three Pilot Security partially executes on entry and the remainder would lock the Protected Quotation of another market center, the unexecuted portion of the Order would be cancelled. In addition, if a Price to Comply Order for a Test Group Three Pilot Security to buy (sell) is not executable against any orders residing on the Nasdaq Book and its limit price would lock or cross the Protected Quotation of another market center, the Order would display at one MPI below (above) the Protected Quotation and be ranked at the current midpoint of the NBBO on the Nasdaq Book.[17]

2. Non-Displayed Orders[18]

The Exchange proposes that a Non-Displayed Order in a Test Group Pilot Security would operate consistent with current Nasdaq Rule 4702(b)(3) except as provided below. Specifically, a resting Non-Displayed Order in a Test Group Three Pilot Security could not execute at the price of a Protected Quotation of another market center unless the incoming Order qualifies for an exception to the Trade-at Prohibition.[19] In addition, for Test Group Three Pilot Securities, if the limit price of a buy (sell) Non-Displayed Order would lock or cross a Protected Quotation of another market center, the Order would be ranked on the Nasdaq Book at either one MPI below (above) the National Best Offer ("NBO") ((National Best Bid) ("NBB")) or at the midpoint of the NBBO, whichever is higher (lower).[20] Further, for a Non-Displayed Order in a Test Group Three Pilot Security, entered via RASH, QIX or FIX, if after being posted to the Nasdaq Book the NBBO changes such that the Order would not be executable at its posted price due to the requirements of Regulation NMS or the Plan, the Non-Displayed Order to buy (sell) would be re-priced to either one MPI below (above) the NBO (NBB) or the midpoint of the NBBO, whichever is higher (lower) and receive a new timestamp. In

[16] *See* proposed Nasdaq Rule 4770(d)(2). *See also* Partial Amendment No. 2.

[17] *See* Partial Amendment No. 1.

[18] *See* proposed Nasdaq Rule 4770(d)(3). *See also* Partial Amendment No. 2.

[19] *See* Nasdaq Rule 4770(c)(3)(D).

[20] *See* Partial Amendment No. 1.

the same scenario, if the Non-Displayed Order was entered via OUCH or FLITE, instead of re-pricing, the Order would be cancelled back to the Participant.

3. Post-Only Orders[21]

The Exchange proposes that Post-Only Orders will operate consistent with current Nasdaq Rule 4702(b)(4) except as provided below. Specifically, for a not attributable Post-Only Order for a Test Group Three Pilot Security, if the limit price to buy (sell) would lock or cross a Protected Quotation of another market center, the Order would display at one MPI below (above) the Protected Quotation and would be ranked at the current midpoint of the NBBO on the Nasdaq Book.[22]

4. Midpoint Peg Post-Only Orders[23]

The Exchange proposes that a Midpoint Peg Post-Only Order in a Test Group Pilot Security will operate consistent with current Nasdaq Rule 4702(b)(5) and may execute at the midpoint of the NBBO in an increment other than the MPI.

5. Supplemental Orders[24]

The Exchange proposes that Supplemental Orders for Test Group One and Test Group Two Pilot Securities will operate consistent with current Nasdaq Rule 4702(b)(6). In addition, the Exchange proposes to not accept Supplemental Orders for Test Group Three Pilot Securities.

6. Market Maker Peg Orders[25]

The Exchange proposes that a Market Maker Peg Order in a Test Group Pilot Security will operate consistent with current Nasdaq Rule 4702(b)(7), except the displayed price of such an Order would be rounded up for bids (down for offers) to the nearest MPI (*i.e.,* $0.05) if it would otherwise display at an increment smaller than the MPI.

B. Amendments To Order Attribute Functionality

1. Midpoint Pegging[26]

The Exchange proposes that an Order with a Midpoint Pegging attribute in a Test Group Pilot Security will operate consistent with current Nasdaq Rule 4703(d). The Exchange also specifies that such Orders may execute at the midpoint of the NBBO in an increment other than the MPI.

[21] *See* proposed Nasdaq Rule 4770(d)(4). *See also* Partial Amendment No. 2.

[22] *See* Partial Amendment No. 1.

[23] *See* proposed Nasdaq Rule 4770(d)(5).

[24] *See* proposed Nasdaq Rule 4770(d)(6).

[25] *See* proposed Nasdaq Rule 4770(d)(7).

[26] *See* proposed Nasdaq Rule 4770(d)(8).

2. Reserve Size [27]

The Exchange proposes that an Order with Reserve Size in a Test Group Pilot Security will operate consistent with current Nasdaq Rule 4703(h) except as described below. Specifically, a resting Order with Reserve Size in a Test Group Three Pilot Security (*i.e.,* a Price to Comply Order or a Price to Display Order entered via RASH, FIX or QIX) may not execute the non-displayed Reserve Size at the price of a Protected Quotation of another market center unless the incoming Order qualifies for an exception to the Trade-at Prohibition.[28] If an Order with Reserve Size for a Test Group Three Pilot Security is partially executed upon entry and the remainder would lock a Protected Quotation of another market center, the unexecuted portion of the Order would be cancelled. If a Price to Comply Order with Reserve Size to buy (sell) a Test Group Three Pilot Security is not executable against previously posted Orders on the Nasdaq Book, and has a limit price that would lock or cross a Protected Quotation of another market center, the displayed portion of the Order would display one MPI below (above) the Protected Quotation, and the displayed and non-displayed portions of the Order would be ranked at the current midpoint of the NBBO on the Nasdaq Book. If a Price to Display Order with Reserve Size is not executable against any previously posted Orders on the Nasdaq Book and its limit price would lock or cross a Protected Quotation of another market center, then the displayed portion of the Order would be displayed and ranked one MPI below (above) the Protected Quotation and the non-displayed portion of the Order would be ranked at the midpoint of the NBBO. If after being posted to the Exchange Book, the NBBO changes such that an Order with Reserve Size was not executable at its ranked price due to the requirements of Regulation NMS or the Plan, the Order would adjust as described above.

3. Good-Till-Cancelled [29]

The Exchange proposes that an Order with a Time-in-Force of Good-till-Cancelled in a Test Group Pilot Security will operate consistent with current Nasdaq Rule 4703(a)(3) except such Order would be adjusted based on a $0.05 increment.

---

[27] *See* proposed Nasdaq Rule 4770(d)(9). *See also* Partial Amendment No. 1.

[28] *See* Nasdaq Rule 4770(c)(3)(D).

[29] *See* proposed Nasdaq Rule 4770(d)(10).

C. Amendments to Certain Trade-at Prohibition Exceptions

1. TA ISO [30]

The Exchange proposes to add the phrase ''or Intermarket Sweep Orders'' (''ISO'') to the definition of TA ISO as well as to the related TA ISO exception to the Trade-at Prohibition [31] to clarify that ISOs may be routed to execute against the full displayed size of the Protected Quotation that was traded at.

2. Block Size Order Exception for the Trade-at Prohibition [32]

Currently, Nasdaq Rule 4770(c)(3)(D)(iii)(c) provides an exception to the Trade-at Prohibition for Block Size Orders.[33] The Exchange proposes in Commentary .12 that for purposes of qualifying for the exception Orders must have a size of 5,000 shares or more and the resulting execution upon entry is for a size of 5,000 shares or more in aggregate. In addition, Nasdaq proposes to amend the Block Size Order exception to the Trade-at Prohibition to allow execution on multiple Trading Centers to comply with Regulation NMS.[34]

III. Summary of Comments Received [35]

Both comment letters express support for the proposal and suggest that the Commission should approve the proposal. In Comment Letter No. 1, the commenters stated that if the proposal is approved as proposed, then the Exchange would be able to meet the implementation date. Further, in Comment Letter No. 1, the commenters stated their belief that the requirements from the Commission have been unclear. In Comment Letter No. 2, the commenter questioned the Commission staff's authority.

IV. Discussion and Commission's Findings

After careful review of the proposed rule change, as modified by Partial Amendment Nos. 1, 2 and 3, and the comment letters, the Commission finds that the proposal, as modified by Partial Amendment Nos. 1, 2 and 3, is consistent with the requirements of the Act, Rule 608 of Regulation NMS,[36] and the rules and regulations thereunder

---

[30] *See* proposed Nasdaq Rule 4770(a)(1)(D)(ii).

[31] *See* proposed Nasdaq Rule 4770(c)(3)(D)(iii)(j).

[32] *See* proposed Nasdaq Rule 4770(c)(3)(D)(iii)(c) and Nasdaq Rule 4770, proposed Commentary .12.

[33] The plan defines Block Size as ''an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000. *See* Plan Section I(F).

[34] *See* proposed Nasdaq Rule 4770(c)(3)(D)(iii)(c). *See also* Partial Amendment No. 2.

[35] *See supra* note 7.

[36] 17 CFR 242.608.

---

that are applicable to a national securities exchange.[37] Specifically, the Commission finds that the rule change is consistent with Section 6(b)(5) of the Act,[38] which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, 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 to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Approval Order, the Plan is by design, an objective, data-driven test to evaluate how a wider tick size would impact trading, liquidity, and market quality of securities of smaller capitalization companies. In addition, the Plan is designed with three Test Groups and a Control Group, to allow analysis and comparison of incremental market structure changes on the Pilot Securities and is designed to produce empirical data that could inform future policy decisions. As such, any proposed changes targeted at particular Test Groups during the Pilot Period should be necessary for compliance with the Plan.

The Exchange proposes to modify its handling of certain Order Types and Order Attributes during the Pilot Period. First, the Exchange proposes to clarify that it will not accept Orders in a Test Group Pilot Security in an increment other than $0.05 unless there is an applicable exception to the MPI. Second, the Exchange proposes to clarify that the displayed price of Market Maker Peg Orders for any Test Group Pilot Security would be rounded to the nearest MPI and that Good-till-Cancelled Orders for a Test Group Pilot Security would be adjusted based on the $0.05 increment. Finally, the Exchange proposes to clarify that Midpoint Peg Post-Only Orders and Orders with the Midpoint Pegging Attribute in a Test Group Pilot Security may execute at the midpoint of the NBBO in an increment other than the MPI.

The Exchange also proposes to modify the handling of certain Orders and Order Attributes in Test Group Three Pilot Securities, including: (i) Price to Comply Orders, (ii) Non-Displayed Orders, (iii) Post-Only Orders; (iv) Supplemental Orders, and (v) Orders

---

[37] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[38] 15 U.S.C. 78f(b)(5).

with Reserve Size. The proposed changes are intended to facilitate compliance with the Trade-at Prohibition.[39]

Finally, the Exchange proposes to amend provisions related to two exceptions to the Trade-at Prohibition. First, the Exchange proposes to amend the definition of TA ISO to reflect that ISOs may be routed to the full displayed size of a Protected Quotation that is traded-at and to make the corresponding change to the applicable Trade-at Prohibition exception. Second, the Exchange proposes to amend the Trade-at Prohibition exception for Block Size Orders to allow such Orders to be executed on multiple Trading Centers. Further, the Exchange proposes that for purposes of the Block Size Order exception to the Trade-at Prohibition, the Order must have a size of 5,000 shares and the resulting execution upon entry must have a size of 5,000 shares or more in aggregate.[40]

The Commission believes that the proposed changes are reasonably designed to comply with the Plan. Further, the Commission believes that the proposed changes that target particular Test Groups are necessary for compliance with the Plan.[41] Accordingly, the Commission finds that these changes are consistent with Section 6(b)(5) of the Act [42] and Rule 608 of Regulation NMS [43] because they implement the Plan and clarify Exchange Rules.

For these reasons, the Commission finds that the proposed rule change, as modified by Partial Amendment Nos. 1, 2 and 3, is consistent with the

requirements of the Act [44] and Rule 608 of Regulation NMS.[45]

V. Solicitation of Comments on Partial Amendment Nos. 1, 2 and 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as modified by Partial Amendment Nos. 1, 2 and 3, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

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

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2016–126 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–NASDAQ–2016–126. 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 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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–NASDAQ–2016–126 and should be

submitted on or before November 4, 2016.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Partial Amendment Nos. 1, 2 and 3

The Commission finds good cause to approve the proposed rule change, as modified by Partial Amendment Nos. 1, 2 and 3, prior to the thirtieth day after the date of publication of notice of the proposed rule change, as modified by Partial Amendment Nos. 1, 2 and 3 in the **Federal Register**. As described above, the Exchange proposes to amend its rules to comply with the Plan. The Commission notes that the Pilot started implementation on October 3, 2016, and accelerated approval of the proposal would ensure that the rules of the Exchange would be in place during implementation. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[46] to approve the proposed rule change, as modified by Partial Amendment Nos. 1, 2 and 3, on an accelerated basis.

VII. Conclusion

It is therefore ordered that, pursuant to Section 19(b)(2) of the Exchange Act,[47] that the proposed rule change (SR–NASDAQ–2016–126), as modified by Partial Amendment Nos. 1, 2 and 3, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–24834 Filed 10–13–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79070; File No. SR-BatsBZX–2016–66]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of Bats BZX Exchange, Inc.

October 7, 2016.

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 September 30, 2016, Bats BZX

---

[39] In Partial Amendment No. 3, the Exchange clarified that it would not apply the Trade-at Prohibition outside of Regular Trading Hours. The Commission notes that this is consistent with the Plan. *See* Plan Section I(LL).

[40] *See* also Exchange Rule 4770(c)(3)(D)(iii)(c).

[41] The Commission notes that the Exchange originally proposed to modify the operation of Post to Comply Orders, Non-Displayed Orders, and Post Only Orders entered via OUCH and FLITE for Test Group Three Pilot Securities only. In Partial Amendment No. 2, the Exchange proposes to remove the proposed functionality. Thus, the Commission believes that the proposal, as modified, is consistent with the Plan. The Exchange has committed to make the system changes necessary to implement Partial Amendment No. 2. If it appears that the system changes will not be completed by October 17, 2016, the date on which the Participants will begin implementation of Test Group 3, Nasdaq will file a proposed rule change with the Commission to propose any necessary changes to the Exchange's rules, and provide notice to market participants sufficiently in advance of this date to adequately inform market participants of the current operation of Nasdaq's systems. *See* Partial Amendment No. 2.

[42] 15 U.S.C. 78f(b)(5).

[43] 17 CFR 242.608.

[44] 15 U.S.C. 78f(b)(5).

[45] 17 CFR 242.608.

[46] 15 U.S.C. 78s(b)(2).

[47] *Id.*

[48] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.