NBBO in a large number of securities which the Exchange believes will improve market quality. By relaxing the qualification criteria, the modifications will make the Program more accessible to new member organizations and easier for existing QMMs to remain in the Program.

Intermarket Competition

Addressing whether the proposed fee could impose a burden on competition on other SROs that is not necessary or appropriate, the Exchange believes that its proposed modifications to its schedule of credits and charges will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed credit for adding liquidity and the proposed modifications to the QMM Program are reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume in recent months.

In sum, the Exchange intends for the modified QMM Program to increase member organizations incentives to quote more securities at the NBBO for at least 10 percent of the day, which stands to improve the quality of the Exchange's market and its attractiveness to participants; however, if the proposals are unattractive to market participants, it is likely that the Exchange will either fail to increase its market share or even lose market share as a result. Accordingly, the Exchange does not believe that the proposed amended credits will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9]

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

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–Phlx–2021–01 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–Phlx–2021–01. 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–Phlx–2021–01 and should be submitted on or before February 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–01136 Filed 1–19–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90910; File No. SR–CboeBZX–2021–005]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Fees Schedule

January 13, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 200.30–3(a)(12).

''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 4, 2021, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''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 the Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options'') in connection with its Market Maker Penny Add Volume Tiers, effective January 4, 2021.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 8% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange's fee schedule sets forth standard rebates and rates applied per contract, which varies depending on the Member's Capacity (Customer, Firm, Market Maker, etc.), whether the order adds or removes liquidity, and whether the order is in Penny or Non-Penny Pilot Securities. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

For example, the Exchange currently offers 12 Market Maker Penny Add Volume Tiers under footnote 6 of the Fee Schedule which provide additional rebates between $0.33 and $0.46 per contract for qualifying Market Maker orders (*i.e.,* that yield fee code PM or XM)[4] where a Member meets certain liquidity thresholds. For example, current Tier 12 offers an enhanced rebate of $0.46 per contract for qualifying orders where a Member has an ADAV[5] in Market Maker orders greater or equal to 0.75% of OCV.[6] The Exchange now proposes to amend the Market Maker Penny Add Volume Tiers by adding a new Tier 12 (and subsequently updating current Tier 12 to Tier 13). As proposed, new Tier 12 will provide an opportunity for a Member to receive an enhanced rebate of $0.44 per contract for qualifying orders where the Member (1) has a Step-Up ADAV in Market Maker orders from December 2020 ≥ 0.05% of overage [sic] OCV; and (2) is a Lead Market Maker (''LMM'') in at least 85 LMM Securities on BZX Equities.[7] The Exchange believes the proposed tier, along with the existing tiers, will continue to provide an incremental incentive for Members to strive for the highest tier levels, which provide increasingly higher rebates for such transactions. Additionally, the Exchange notes that the two prongs of the proposed criteria are similar to the criteria set forth in other Market Maker Penny Add Volume tiers. Many of the existing tiers provide criteria in which a Member must ''step up'' a percentage of ADAV or ADV[8] from a certain point in time over OCV or TCV,[9] and criteria which measures a Member's participation on the Exchange's equities platform (''BZX Equities''). Overall, the proposed enhanced rebate and corresponding criteria is designed to encourage Market Makers (including LMMs) to increase their order flow on BZX Options and Equities, which facilitates tighter spreads, signaling increased activity from other market participants, and thus ultimately contributes to deeper and more liquid markets and provides greater execution opportunities on the Exchange to the benefit of all market participants. The proposed change encourages Members to enroll as LMMs

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

[2] 17 CFR 240.19b–4.

[3] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (December 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/*.

[4] Orders yielding fee code PM are Market Maker orders that add liquidity in Penny Program Securities and are offered a rebate of $0.29, and orders yielding fee code XM are Market Maker orders in XSP options that add liquidity and are offered a rebate of $0.29.

[5] ''ADAV'' means average daily added volume calculated as the number of contracts added, per day.

[6] ''OCC Customer Volume'' or ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[7] Pursuant to BZX Equities Rules, the term ''LMM'' means a Market Maker registered with the Exchange for a particular LMM Security that has committed to maintain Minimum Performance Standards in the LMM Security, and the term ''LMM Security'' means a Listed Security that has an LMM. *See* Cboe BZX Exchange, Inc. Rule 11.8(e)(1)(B) [sic] and (C) [sic].

[8] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day.

[9] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

in LMM Securities on the Exchange's equities platform, which enhances market quality in securities listed on the Exchange's equity platform. The Exchange notes that LMMs serve a crucial role in providing quotes and trading opportunities for all market participants, which can lead to increased volume, enhanced price discovery and transparency, and more robust markets overall. As such, the proposed tier is designed to benefits all Members by contributing towards a robust and well-balanced market ecosystem across the Exchange's options and equities platforms, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed tier is reasonable because it provides an additional opportunity for Members to receive an enhanced rebate on qualifying orders in a manner that incentivizes increased Market Maker order flow to the Exchange and LMM participation on the Exchange's equities platform. The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,[13] including the Exchange,[14] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon Members achieving certain volume and/or growth thresholds.

Moreover, the Exchange believes the proposed additional Market Maker Penny Add Volume Tier is a reasonable means to encourage Market Makers to increase their order flow on the Exchange, as well as their participation in securities on the Exchange's equities platform. More specifically, the Exchange believes that adopting a tier with alternative criteria to the existing Market Maker Penny Add Volume Tiers may encourage those Members who could not previously achieve the criteria under existing Market Maker Volume Tiers 10 and 11 (which offer the same enhanced rebate as proposed for new Tier 12) or 12 (proposed to be renumbered to Tier 13) to increase their order flow on BZX Options and Equities. For example, the proposed tier would provide an additional rebate opportunity for Market Makers who increase their ADAV in Market Makers orders over OCV by at least 0.05% from December 2020 and participate as an LMM in at least 85 LMM Securities on BZX Equities, but do not meet the more stringent criteria under Tier 13 (*i.e.,* current Tier 12) of having an ADAV in Market Maker orders that is greater than or equal to 0.75% of average OCV (and thus, do not receive the slightly higher enhanced rebate of $0.46 per contract), or do not meet all three of the different, yet comparable, prongs of criteria under Tier 10 or Tier 11 (which provide the same enhanced rebate of $0.44 per contract). Overall, the proposed tier provides an alternative opportunity for Members to receive an enhanced rebate, as is thereby reasonably designed to incentivize Market Makers to grow their options volume and increase their participation on BZX Equities. The Exchange notes that increased Market Maker activity (including LMMs), particularly, facilitates tighter spreads and an increase in overall liquidity provider activity, both of which signal additional corresponding increase in order flow from other market participants, contributing towards a robust, well-balanced market ecosystem. Indeed, increased overall order flow benefits investors across both the Exchange's options and equities platforms by continuing to deepen the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Exchange also believes that proposed enhanced rebate is reasonably based on the difficulty of satisfying the proposed tier's criteria and ensures the proposed rebate and thresholds appropriately reflect the incremental difficulty in achieving the existing Market Maker Penny Add Volume Tiers. As indicated above, the Exchange does not believe that the proposed enhanced rebate amount represents a significant departure from the enhanced rebates currently offered under the Exchange's existing Market Maker Penny Add Volume Tiers. Indeed, the proposed enhanced rebate amount under new Tier 12 ($0.44) is incrementally lower than Tier 13 (current Tier 12) ($0.46), which, as described above, offers slightly more stringent criteria than proposed Tier 12, but is the same amount as the enhanced rebate offered under existing Tier 11 (*i.e.,* new Tier 11) ($0.44), the criteria for which the Exchange believes is comparable to the proposed criteria under proposed Tier 12.

The Exchange believes that the proposal represents an equitable allocation of fees and is not unfairly

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f.(b)(5).

[13] *See e.g.,* NYSE Arca Options Fee Schedule, Market Maker Penny and SPY Posting Credit Tiers. NYSE Arca also provides various discounts for its LMMs throughout its fee schedule.

[14] *See e.g.,* BZX Options Fee Schedule, Footnote 6, Market Maker Penny Add Volume Tiers, and Footnote 7, Market Maker Non-Penny Add Volume Tiers.

discriminatory because it applies uniformly to all Market Makers, in that all Market Makers have the opportunity to compete for and achieve the proposed tier and the proposed enhanced rebate will apply automatically and uniformly to all Market Makers that achieve the proposed tier's criteria. While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Market Maker qualifying for the proposed tiers, the Exchange believes that at least two Market Makers will reasonably be able to compete for and achieve the proposed criteria in proposed Tier 12; however, the proposed tiers are open to any Market-Maker that satisfies the tier's criteria. The Exchange believes the proposed tier could provide an incentive for other Members to submit additional liquidity on BZX Options and Equities to qualify for the proposed additional enhanced rebate. To the extent a Member participates on the Exchange but not on BZX Equities, the Exchange believes that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of BZX Equities. Particularly, the Exchange believes such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Equities or not. The proposed pricing program is also fair and equitable in that membership in BZX Equities and enrollment as an LMM is available to all market participants, which would provide them with access to the benefits on BZX Equities provided by the proposed change, even where a member of BZX Equities is not necessarily eligible for the proposed enhanced rebates on the Exchange.

The Exchange lastly notes that it does not believe the proposed tier will adversely impact any Member's pricing or ability to qualify for other tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive the proposed enhanced rebate, and has 11 alternative choices (including only one with criteria the Exchange believes is more stringent) to aim to achieve under the Market Maker Penny Add Volume Tiers. Furthermore, the proposed enhanced rebate would apply to all Members that meet the required criteria under the proposed tier.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small." [15]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change applies uniformly to all Market Makers (including LMMs on BZX Equities). As described above, the Exchange believes that Market Makers (including LMMs) provide key liquidity to the Exchange's options and equities platforms, facilitating tighter spreads, signaling additional corresponding increase in order flow from other market participants, and ultimately contributing towards a robust, well-balanced market ecosystem. To the extent a Member participates on the Exchange but not on BZX Equities, the Exchange notes that the proposed change can provide an overall benefit to the Exchange resulting from the success of BZX Equities. Such success enables the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Equities or not. The proposed pricing program is also fair and equitable in that membership in BZX Equities is available to all market participants and registration as an LMM is available equally to all BZX Equities members.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 17% of the market share.[16] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." [17] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .".[18] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposed rule change.

[15] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[16] *See supra* note 4.

[17] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[18] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 [20] thereunder. 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBZX–2021–005 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–CboeBZX–2021–005. 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–CboeBZX–2021–005 and should be submitted on or before February 11, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–01131 Filed 1–19–21; 8:45 am]

BILLING CODE 8011–01–P

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

[20] 17 CFR 240.19b–4(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90909; File No. SR–Phlx–2021–02]

Self-Regulatory Organizations; Nasdaq Phlx LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Phlx Options 8, Section 28, "Responsibilities of Floor Brokers" and Section 30, "Crossing, Facilitation and Solicited Orders"

January 13, 2021.

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 January 4, 2021, Nasdaq Phlx LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to modify Phlx Options 8, Section 28, "Responsibilities of Floor Brokers" and Section 30, "Crossing, Facilitation and Solicited Orders."

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

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

1. Purpose

Phlx proposes to amend its Trading Floor rules at Options 8, Section 28, "Responsibilities of Floor Brokers" and Section 30, "Crossing, Facilitation and Solicited Orders" to permit Floor Brokers [3] to utilize the Options Floor Based Management System ("FBMS"),[4] remotely,[5] to enter certain orders that do not require exposure in open outcry. This proposal is intended to provide greater accessibility to Floor Brokers for the portion of their business which does not require the physical infrastructure afforded by the Trading Floor and allow member organizations to more efficiently staff their operations.

Background

Today, Phlx Rules provide a Business Continuity and Disaster Recovery Plan for its Trading Floor ("BCP") which is

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

[2] 17 CFR 240.19b–4.

[3] The term "Floor Broker" means an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders. *See* Options 8, Section 2(2).

[4] FBMS, an order management system, is the gateway for the electronic execution of equity, equity index and U.S. dollar-settled foreign currency option orders represented by Floor Brokers on the Exchange's Options Floor. Floor Brokers contemporaneously upon receipt of an order and prior to the representation of such an order in the trading crowd, record all options orders represented by such Floor Broker to FBMS, which creates an electronic audit trail. The execution of orders to Phlx's electronic trading system also occurs via FBMS. The FBMS application is available on hand-held tablets and stationary desktops.

[5] Utilizing FBMS while not physically present on the Trading Floor would be considered remote access.