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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-87264; File No. SR-NYSECHX-2019-08]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Add Rules to Support the Transition of Trading to the Pillar Trading Platform
October 9, 2019.

I. Introduction

On August 6, 2019, NYSE Chicago, Inc. (“NYSE Chicago” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change in connection with the transition of trading on the Exchange to the Pillar trading platform, described below. The proposed rule change was published for comment in the Federal Register on August 26, 2019.³ The Commission received no comments on the proposed rule change. On October 2, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which supersedes and replaces the original filing in its entirety.⁴ The Commission is approving the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 86709 (August 20, 2019), 84 FR 44654 (“Notice”).

⁴ In Amendment No. 1, the Exchange proposes, among other things, to: (i) extend the pilot period for proposed NYSE Chicago Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility) to October 18, 2020; (ii) amend NYSE Chicago Article 17, Rule 5(c)(3) to add definitions of stock-option combination order and stock-future combination order and amend NYSE Chicago Article 1, Rule 1 to state that the definitions of stock-option combination order and stock-future combination order in NYSE Chicago Article 1, Rule 1 (jj) and (kk) are not applicable to trading on the Pillar trading platform; and (iii) cross reference Article 21, Rule 1 in proposed NYSE Chicago Rule 7.45(d)(2)(A). Although the Exchange proposed with Amendment No. 1 to supersede and replace the original proposal, for ease of reference this Order cites to the published Notice with

proposed rule change, as modified by Amendment No. 1, on an accelerated basis, and is soliciting comments on Amendment No. 1.

II. Description of the Proposal

In July 2018, NYSE Chicago and its direct parent company were acquired by NYSE Group, Inc., and the Exchange became part of a corporate family including NYSE Arca, Inc. (“NYSE Arca”), NYSE American LLC (“NYSE American”), NYSE National, Inc. (“NYSE National”) and New York Stock Exchange LLC (“NYSE”) (collectively, the “Affiliated Exchanges”).⁵ Since the acquisition, NYSE Chicago has continued to operate with rules distinct from those of the Affiliated Exchanges.⁶

The Exchange now proposes to transition trading in Tape A, Tape B, and Tape C-listed securities from its current trading platform to a fully automated price-time priority allocation model that operates on the Pillar trading platform, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates. NYSE Chicago would offer the same suite of orders and modifiers, generally, as are available on NYSE Arca or NYSE National.⁷ Accordingly, the Exchange proposes trading rules based on the rules and trading model of the cash equities platforms of those exchanges – including rules relating to orders and modifiers, ranking and

respect to those aspects of the original proposal that have not been changed. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysechx-2019-08/srnysechx201908-6244417-192732.pdf>.

⁵ See Securities Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 19, 2018) (SR-CHX-2018-004); see also Securities Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (May 29, 2018) (SR-CHX-2018-004).

⁶ See Notice, supra note 3, at 44655.

⁷ See id. at footnote 8 for a discussion of the differences between the rules of NYSE Arca and NYSE National and those of markets of the other Affiliated Exchanges that share a substantial number of trading functions and Pillar platform rules with them.

display of orders, execution and routing of orders, and all other trading functionality – with certain differences in some of the details of its rules, as discussed below.

The Exchange states that it will continue to support its dual listings, but would not provide trading functions that support the operation of a primary listing exchange.⁸ Accordingly, the Exchange states, once it transitions to Pillar, NYSE Chicago will function most similarly to NYSE National, which, unlike NYSE Arca, is not a listing exchange.⁹ The Exchange proposes, however, a number of substantive differences in its trading on the Pillar platform from how trading on NYSE Arca and NYSE National function.¹⁰

First, the Exchange states, it would continue to support Institutional Brokers,¹¹ as provided for under Article 17 of the current NYSE Chicago rules.¹² Second, the Exchange would continue to support a Qualified Contingent Trade (“QCT”) cross order modifier to facilitate compliance with the contingent trade exemption of Rule 611 of Regulation NMS.¹³

⁸ See Notice at 44655.

⁹ As a result, for example, the Exchange does not propose to operate any auctions and therefore does not propose rules like those of NYSE Arca to provide for auction functionality on the Exchange. Concomitantly, like NYSE National, the Exchange would offer “Auction-Only Orders,” which are orders designated to participate in an auction on the primary listing market. See NYSE National (and proposed NYSE Chicago) Rule 7.31(c). The Exchange would route all such orders to the primary listing market. See Notice at 44660 for a discussion of this and other, related provisions based on NYSE National rules. See also Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR-NYSENAT-2018-02).

¹⁰ See Notice at 44655.

¹¹ The term “Institutional Broker” is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange.

¹² As detailed below, the Exchange proposes to amend the rules set forth under Article 17 as necessary to support differences in the Pillar trading platform as compared to the Exchange’s current trading rules. See infra notes 52-54 and accompanying text.

¹³ The QCT cross order modifier, which is currently described in Article 1, Rule 2(b)(2)(E)

Third, the Exchange will continue to support non-regular way settlement instructions for cross orders and the ability for cross orders to be submitted in an increment as small as \$0.000001, as provided in its current rules.¹⁴ Fourth, the Exchange will not support Market Makers on the Exchange.¹⁵

The following is an overview of the proposed revisions to the Exchange's existing rules as well as a more detailed discussion of some of the proposed new rules for the Pillar trading platform.¹⁶

The following current rules of the Exchange will continue to be operative without any substantive changes:¹⁷ Article 2 (Committees); Article 3 (Participants and Participant Firms); Article 5 (except for Rule 1) (Access to the Exchange); Article 6 (Registration, Supervision and Training); Article 7 (Financial Responsibility and Reporting Requirements); Article 8 (except for Rule 17) (Business Conduct); Article 9 (except for Rule 23) (General Trading Rules); Article 10 (Margins); Article 11 (except for Rule 3(b)(8)) (Participant Books and Records); Article 12 (Disciplinary Matters and Trial Proceedings); Article 13 (Suspension - Reinstatement); Article

of the current NYSE Chicago rules, is designed for an Institutional Broker to comply with the contingent trade exemption. The Exchange states that, while NYSE Arca and NYSE National both describe this exemption in their respective rules, neither exchange offers a specific order type designed for this exemption. See Notice at 44655 and NYSE Arca Rule 7.37-E(f)(5) and NYSE National Rule 7.37(f)(5).

¹⁴ See infra note 29 and accompanying text.

¹⁵ Accordingly, the Exchange does not propose rules based on Section 2 of NYSE Arca Rule 7-E or NYSE National Rule 7, relating to market makers, and will not offer the "Q" order type described in NYSE Arca Rule 7.31-E(j) and NYSE National Rule 7.31(j). See Notice at 44655. "Q" orders are relevant only for market makers.

¹⁶ See Notice, supra note 3, for a more complete description.

¹⁷ The Exchange's existing rules will appear in its rulebook in their current numbering format following a rules set that is based on numbering system of NYSE National's rules, the framework of which was recently adopted by the Exchange and is organized in 13 Rules. See Securities Exchange Act Release No. 85297 (March 12, 2019), 84 FR 9854 (March 18, 2019) (SR-NYSECHX-2019-03).

14 (Arbitration); Article 15 (Hearings and Reviews); Article 21 (Clearance and Settlement); and Article 22 (Listed Securities).¹⁸

Once trading on the Pillar trading platform begins, certain specified current Exchange rules would not be applicable, either because they are not relevant for Pillar or because there is an equivalent or replacement provision in the Pillar rules set that addresses the same topic.¹⁹

With respect, specifically, to the Exchange's current rules regarding cross orders, certain aspects of these rules that are unique to NYSE Chicago would be integrated within the rules governing crosses in the Pillar platform,²⁰ while certain of these would be eliminated in Pillar.²¹

¹⁸ Regarding the exceptions to the rules included in this paragraph, see infra note 19.

¹⁹ These include: certain of the definitions set forth in Article 1, Rule 1 (see infra note 24); Article 1, Rule 2 (Order Types, Modifiers, and Related Terms), covered in proposed Section 3 of Rule 7 (see infra text accompanying notes 32-48); Article 1, Rule 3 (Time) (see proposed Rule 1.1(e), providing that all times in the Pillar Platform Rules are Eastern Time); Article 1, Rule 4 (Exchange Use of the Securities Information Processors) (see proposed Rule 7.37); Article 3, Rule 21 (Mandatory Participation Testing of Backup Systems), covered by proposed Rule 2.13 (see infra note 25); Article 4, relating to Book Feed and Connect service, which will not be offered on Pillar (see Notice at 44663); Article 5, Rule 1 (Access to Exchange Systems), covered by proposed Rule 7.29; Article 8, Rule 17 (Customer Disclosures), covered in proposed Rule 7.34; Article 9, Rule 23 (Short Sales), covered in proposed Rule 7.16; Article 11, Rule 3(b)(8), covered by proposed Rule 7.33, relating to capacity codes; Article 16 (Market Makers), not applicable on the Exchange (see supra note 15); Article 19 (Operation of the Routing Services), covered by proposed rule 7.45; Article 20, Rules 1-8, 10, 12-13, replaced by provisions in proposed Rule 7 covering trading sessions, trading halts, Limit Up-Limit Down Plan, firm orders, orders eligible for entry, prevention of trade-throughs, locked and crossed markets, operation of the matching system, clearly erroneous transactions, order cancellation, and reporting of transactions (see discussion infra); and Article 22, Rule 6(a)(3), relating to trading halts for derivative securities products traded pursuant to unlisted trading privileges, covered by proposed Rule 7.18. For each current rule (or Article) that would not be applicable for trading on the Pillar trading platform, the Exchange proposes to state in a preamble to such rule that "this Rule/Article is not applicable to trading on the Pillar trading platform."

²⁰ As previously mentioned, the Exchange would continue to support the QCT cross order type, which is designed for Institutional Brokers to comply with the contingent trade exemption. See supra note 13. Similarly, it would retain the "Cross with Size" modifier available in its existing rules. However, the Exchange proposes to no longer offer "Benchmark" or "Midpoint Cross" orders once it transitions to Pillar.

The new rules relating to trading on the Pillar platform that are proposed in this filing will be added in Rules 0, 1, 2, and 7 of the recently adopted new numbering framework.²² They include the following:

Rule 0 – Regulation of the Exchange and ETP Holders

Proposed NYSE Chicago Rule 0 would establish the regulation of the Exchange and Participants. Proposed NYSE Chicago Rule 0 would provide that the Exchange and FINRA are parties to a regulatory services agreement in which FINRA will perform certain functions on behalf of the Exchange, with the Exchange retaining ultimate legal responsibility for, and control of, such functions. The proposed rule is based on the NYSE National Rule 0 and NYSE Arca Rule 0 without any differences.²³

Rule 1 - Definitions

Proposed NYSE Chicago Rule 1 would contain definitions applicable to trading on the Exchange's Pillar platform. The Exchange represents that the definitions are based on the rules of NYSE Arca, NYSE American, and NYSE National.²⁴

Rule 2 – Trading Permits

The Exchange proposes to add proposed NYSE Chicago Rule 2.13 concerning the mandatory testing of the Exchange's business continuity and disaster recovery plans. Proposed NYSE Chicago Rule 2.13 provides that the Exchange will establish standards to identify Participants that it reasonably determines are the minimum necessary for the maintenance of fair

²¹ See infra notes 39-48 and accompanying text.

²² See supra note 17.

²³ See Notice at 44656.

²⁴ Because these definitions would be applicable to the rules pertaining to trading on Pillar, the Exchange proposes to amend Article 1, Rule 1 of the existing rules to specify which current definitions would not be applicable to trading on the Pillar trading platform. See Notice at 44657-58 and additional current definitions specified in Amendment No. 1.

and orderly markets in the event the Exchange’s business continuity and disaster recovery plans are activated and require designated Participants to participate in the functional and performance testing of the Exchange’s business continuity and disaster recovery plans.²⁵ The Exchange represents that proposed NYSE Chicago Rule 2.13 is based on NYSE National Rule 2.13 without any substantive differences.²⁶

Rule 7 – Equities Trading

To accommodate trading on Pillar, the Exchange proposes to adopt in NYSE Chicago Rule 7, “Equities Trading,” rules that are based largely on the equivalent rules of NYSE National and NYSE Arca for their cash equities trading platforms.²⁷

Proposed NYSE Chicago Rule 7 is divided into six sections. In Section 1, “General Provisions,” the Exchange proposes to add provisions relating to units of trading; trading differentials; anonymity of bids and offers; binding prices; clearly erroneous executions;

²⁵ “Participants” – defined formally in Article 1, Rule 1(s) of the Exchange’s existing rules – signifies, generally, persons who are permitted to trade on the Exchange, who are deemed “members” for purposes of the Act. The Exchange proposes to retain its current rules governing membership and registration, which are found, generally, in Article 3 of its existing rules and thus does not propose to add any membership rules in Rule 2 (Trading Permits) corresponding to those of NYSE National in its Rule 2, with the exception of proposed Rule 2.13, which is being added, according to the Exchange, to maintain consistency among the Affiliated Exchanges. Correspondingly, the Exchange proposes to amend Article 3, Rule 21 of its existing rules to add a preamble stating that such rule would not be applicable to trading on the Pillar trading platform.

²⁶ See Notice at 44658.

²⁷ See supra note 7. Certain rules would differ from the NYSE Arca and NYSE National rules, as discussed within the descriptions below. In addition, the Exchange has identified certain trading rules of NYSE Arca and NYSE National that it is not proposing to adopt. For example, as already noted, the Exchange would not operate auctions and therefore is not proposing rules pertaining to auction procedures (see supra note 9), and is also not proposing to adopt rules relating to market makers (supra note 15). In addition, the Exchange does not propose rules based on NYSE National Rule 7.14 and 7.41, relating to clearing. Current Article 21 (Clearance and Settlement) will continue to be operative on the Pillar trading platform without any differences. See supra note 17 and accompanying text.

Exchange compliance with the Limit Up-Limit Down National Market System Plan; trading halts; short sales; and firmness of quotes.²⁸

The Exchange proposes a difference from the rules of NYSE Arca and NYSE National within this section relating to trading differentials in proposed Rule 7.6. Based on its current rules, NYSE Chicago proposes that, a Cross Order, whether priced less than or at or above \$1.00, would be permitted to be submitted in an increment as small as \$0.000001 unless the Cross Order has been designated with regular way settlement terms and does not meet Cross with Size.²⁹

The Exchange proposes another difference from the rules of NYSE Arca and NYSE National within this section, relating to settlement terms. Whereas the rules of those exchanges, in Rule 7.8, provide that bids and offers are considered to be “regular way” settlement terms, the proposed NYSE Chicago rules would make an exception based on its current rules that would provide that Cross Orders would be considered to be “regular way” unless designated with either of the following settlement terms: “Cash” or “Next Day”.³⁰ Also based in part on current rules,

²⁸ See Notice at 44658 and proposed NYSE Chicago Rules 7.5, 7.6, 7.7, 7.9, 7.10, 7.11, 7.12, 7.16, 7.17, and 7.18. The Exchange proposes to add NYSE Chicago Rules 7.14 and 7.15 and designate them as “Reserved” to maintain continuity of rule numbering with the rules of NYSE Chicago’s exchange affiliates. See Notice at footnote 23.

²⁹ See current Article 20, Rule 4(a)(7)(B). For Cross Orders designated with regular way settlement terms (that do not meet Cross with Size requirements), the cross price would be required to be (i) at least \$0.01 above (below) the BB (BO) if the cross price is at or above \$1.00 or (ii) at least \$0.0001 above (below) the BB (BO) if the cross price is under \$1.00.

³⁰ A Cross Order designated for “non-regular way” settlement would be permitted to execute at any price without regard to the Protected Best Bid or Offer or any orders on the Exchange’s book. See proposed Rules 7.8 and 7.8A. The Exchange states that this proposed rule text is based in part on current Article 20, Rule 4(a)(7)(A), which provides that a cross order may be submitted for non-regular way settlement, and current Article 1, Rule 2(e)(2), which provides that cross orders may be settled with one of three conditions: Cash, Next Day, or Seller’s Option. However, on Pillar, the Exchange does not propose to offer Seller’s Option non-regular way settlement instructions. See Notice

a cross order marked for non-regular way settlement would be permitted under the proposed rules to execute at any price, without regard to the NBBO or any other orders in the Matching System.³¹

Section 3 of proposed NYSE Chicago Rule 7,³² “Exchange Trading,” sets forth provisions regarding authorized access to the Exchange and establishes rules relating to the kinds of order types available on the Exchange and how they are designed to trade. Section 3 of proposed Rule 7 also would set forth the rules of the Exchange relating to order entry (including one substantive difference from the rules of NYSE Arca and NYSE National);³³ the codes by which the ETP Holder submitting an order must indicate whether it is acting in a principal, agency, or riskless principal capacity; and the three trading sessions for which the Exchange will be open (early, core, and late), including the order types that may be traded in each and the disclosures that Participants must make to non-Participants that send orders to them for trading in the early or late session regarding, among other things, the risks that may apply to such orders.³⁴

Further, Section 3 of proposed NYSE Chicago Rule 7 would establish rules relating to the display and non-display of various order types, the ranking of orders in the Exchange book

at 44662. See also id. for a discussion of other changes that the Exchanges proposes to implement with respect to current Article 1, Rule 2(e).

³¹ See Article 1, Rule 2(e)(2). See also Article 20, Rule 8(e)(3).

³² As noted above, the Exchange at this time will not support market makers, and therefore, does not propose the rules relating to market makers that make up Section 2 of the Pillar rules of Affiliated Exchanges, and proposes instead to designate Section 2 as “Reserved.”

³³ As set forth in proposed NYSE Chicago Rule 7.32 (Order Entry), unlike NYSE Arca and NYSE National rule, the Exchange would accept cross orders that are up to 25 million shares in size. The Exchange states that this provision is based on NYSE Rule 7.32. See Notice at 44663.

³⁴ See proposed NYSE Chicago Rules 7.33 (Capacity Codes); and 7.34 (Trading Sessions).

with respect to execution priority, and the role of price and time in determining such priority.³⁵ The section also includes proposed rules that pertain to routing of orders to away markets; the prohibition of trading through protected quotations and exceptions thereto; and compliance with other aspects of Regulation NMS under the Act.³⁶ It also lists the data feeds that the Exchange proposes to use for the handling, execution, and routing of orders, as well as regulatory compliance.³⁷ Additional proposed rules in Section 3 relate to odd lot and mixed lot trading on the Exchange; and trade execution and reporting.³⁸

In Section 3, the Exchange proposes, as already mentioned,³⁹ to combine existing Pillar functionality relating to cross orders with the Exchange's current cross order offerings. Proposed Rule 7.31(g) would first define Cross Orders as two-sided orders with instructions to match the identified buy-side with the identified sell-side at a specified price (the "cross price"), and is based on NYSE Arca and NYSE National rules. As in the rules of those other exchanges, Rule 7.31(g) would further provide that a Cross Order must trade in full at its cross price and will not route. NYSE Chicago, however – unlike at the other exchanges – proposes to permit a Cross Order to be designated with non-regular way settlement instructions, based on current Exchange rules, stating that this proposed provision is based on its current rules.⁴⁰ Also based on its current rules, the Exchange proposes to further provide in its version of Rule 7.31(g) that a Cross Order entered by an Institutional Broker may represent interest of one or more Participants and

³⁵ See proposed NYSE Chicago Rule 7.36 (Order Ranking and Display).

³⁶ See proposed NYSE Chicago Rule 7.37 (Order Execution and Routing).

³⁷ Id.

³⁸ See proposed NYSE Chicago Rules 7.38 and 7.40, respectively.

³⁹ See supra note 20.

⁴⁰ See Article 1, Rule 2(e)(2) of the current rules, which provides that the Exchange's Matching System will only accept cross orders for non-regular way settlement.

may be executed as agent or principal.⁴¹

Proposed Rule 7.31(g)(1) would set forth the proposed “Limit IOC Cross Order,” which is based in part on how the Limit IOC Cross Order functions on NYSE Arca and NYSE National. As proposed, a Limit IOC Cross Order would be a Cross Order that would be rejected under the following circumstance: (a) if the cross price would trade through the PBBO;⁴² (b) if the cross price is not between the BBO, unless it meets Cross with Size requirements, in which case the cross price may be equal to the BB (BO);⁴³ or (c) if there is no PBB or PBO or the PBBO is locked or crossed. As on NYSE Arca and NYSE National, under the proposed rule the Exchange would accept and execute a Limit IOC Cross Order that is priced between the BBO – a functionality currently not available on the Exchange – and the cross will be executed even if there are non-displayed or odd-lot sized buy or sell orders between the BBO.⁴⁴ The proposed rule text differs from the NYSE Arca and NYSE National rules to account for the availability of the Cross with Size modifier (described immediately below) which, when utilized, would permit

⁴¹ The Exchange states that this proposed provision is based in part on current Article 1, Rule 2(b)(2)(E), which provides that Institutional Brokers may execute a cross order as agent or principal, and current Article 1, Rule 2(g)(1), which provides that a cross order with Cross with Size may represent interest of one or more Participants of the Exchange. On Pillar, the Exchange proposes that any Cross Order entered by an Institutional Broker may represent interest of one or more Participants on the Exchange.

⁴² The term PBBO is defined on NYSE Arca and NYSE National, and would be defined on the Exchange under proposed Rule 1.1(o) to mean the best Protected Bid and the Best Protected Offer, as those terms are defined in Rule 600(b)(57) of Regulation NMS.

⁴³ The BBO is defined on NYSE Arca and NYSE National, and would be defined on the Exchange under proposed Rule 1.1(c), to mean the best bid or offer that is a Protected Quotation on the Exchange. The term “BB” would mean the best bid that is a Protected Quotation on the Exchange and the term “BO” would mean the best offer that is a Protected Quotation on the Exchange. Pursuant to proposed Rule 1.1(r), the term “Protected Quotation” would mean a Protected Bid or Protected Offer and references definitions under Rule 600(b) of Regulation NMS. Odd-lot sized bids and offers are not Protected Quotations.

⁴⁴ See Notice at 44661.

the cross price to be equal to the BB or BO.

The Cross with Size modifier permits a cross order of at least 5,000 shares of the same security with a total value of at least \$100,000 to execute, notwithstanding resting orders in the book at the same price. To qualify, the cross order must be larger than the largest order displayed on the Exchange Book at the BB or BO.⁴⁵

Proposed Rule 7.31(g)(2) would define a QCT Cross Order as a Cross Order that is part of a transaction consisting of two or more component orders that qualifies for a Contingent Order Exemption under proposed Rule 7.37(f)(5).⁴⁶ The proposed rule would provide that a QCT Cross Order, which would be available only to Institutional Brokers,⁴⁷ would be rejected if the cross price is not between the BBO (unless it meets Cross with Size requirements). However, because, as noted above, Cross Orders generally would newly be permitted to execute on the Exchange if the cross price is between the BBO,⁴⁸ the Exchange would also apply this functionality when it transitions QCT Cross Orders to Pillar.

Another difference in Section 3 from the rules of NYSE Arca and NYSE National is proposed in Rule 7.32 (Order Entry), which provides, generally, that orders entered that are greater than five million shares in size are to be rejected. NYSE Chicago's proposed rule, based

⁴⁵ The Exchange states that the Cross with Size modifier, which would be set forth in proposed Rule 7.31(g)(3), is based in part on Article 1, Rule 2(g)(1) of the current rules with differences to reflect that on Pillar, Cross Orders would be eligible to execute if the cross price is between the BBO even without a size requirement. See supra note 44 and Notice at 44662. Because of this, Cross with Size would only be necessary if the proposed cross price is equal to the BB (BO).

⁴⁶ Proposed Rule 7.37(f)(5), which is based on corresponding rules of NYSE Arca and NYSE National, would set forth the requirements for a transaction to qualify as a QCT Cross Order.

⁴⁷ See proposed Rule 7.31(g)(b)(2). The Exchange states that this proposed provision is based on current Article 1, Rule 2(b)(2)(E), which provides that a QCT cross order modifier may only be utilized by an Institutional Broker.

⁴⁸ See supra note 44 and Notice at 44662.

on the rules of NYSE, another Affiliated Exchange, would provide an exception in the case of Cross Orders, which the Exchange will accept in sizes up to 25 million shares.⁴⁹

Section 4 of proposed NYSE Chicago Rule 7, “Operation of Routing Broker,” would define “routing broker” as “the broker-dealer affiliate of the Exchange and/or any other non-affiliate third-party broker-dealer that acts as a facility of the Exchange for routing orders entered into Exchange systems to other market centers for execution whenever such routing is required by the Rules of the Exchange or the federal securities laws.”⁵⁰ In Section 4, the Exchange further proposes rules covering outbound and inbound routing functions.⁵¹

As noted above, the Exchange proposes changes to existing Article 17 of its rules to support differences in the Pillar trading platform as compared to the Exchange’s current trading rules.⁵² The Exchange proposes to amend Article 17 to specify order types defined under proposed Exchange Rule 7.31 that an Institutional Broker would not be able to enter via BrokerPlex⁵³ and specify that the Quote@Exchange and Reprice@Exchange order types will not

⁴⁹ See supra note 33.

⁵⁰ See proposed NYSE Chicago Rule 7.45, which comprises the whole of Section 4.

⁵¹ See Notice at 44661 for additional details. The proposed rule would also set forth the parameters of the Exchange’s relationship with its affiliated broker-dealer, Archipelago Securities LLC, which would function solely as a routing broker on behalf of both the Exchange and the Affiliated Exchanges. See id.

⁵² See supra note 12.

⁵³ BrokerPlex is an order and trade entry, recordation and management system developed and operated by the Exchange for use by affiliated representatives of Institutional Brokers as provided in Article 17, Rule 5. The orders that would not be available include: Inside Limit Orders, Auction-Only Orders, MPL Orders, Tracking Orders, ISOs, Primary Only Orders, Primary Until 9:45 Orders, Primary After 3:55 Orders, Pegged Orders, Non-Display Remove Modifier, Proactive if Locked or Crossed Modifier, Self-Trade Prevention Modifier, and Minimum Trade Size Modifier. The Exchange states that, while these order types would not be available via Brokerplex, an Institutional Broker could enter these orders via any other system that they choose to use to connect with the Exchange, just as any other NYSE Chicago Participant could choose to do.

be available on Pillar.⁵⁴

Finally, the Exchange proposes to amend Article 12, Rule 8(h) (Exchange Rules and Policies subject to the Minor Rule Violation Plan) as follows: (1) delete the reference to “Failure to Clear the Matching System (Article 20, Rule 7),” as this rule has been eliminated, and reserve Rule 8(h)(2)(F); (2) add proposed NYSE Chicago Rules 7.6 (concerning minimum trading increments, 7.16 (short sales) and 7.30 (failure to comply with authorized trader requirements) as subject to the Exchange’s minor rule violation plan.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.⁵⁵ In particular, the Commission finds that the amended proposed rule change is consistent with Section 6(b)(5) of the Act,⁵⁶ which requires, among other things, that the rules of a national securities exchange be designed to

⁵⁴ The Exchange also proposes to renumber these order types as proposed NYSE Chicago Rule 5(c)(3)(C) and (D), respectively. See in this regard Amendment No. 1. Further in Amendment No. 1, the Exchange proposes to move text relating to Stock-Option Combination Orders, and Stock-Future Combination Orders, which are currently defined in Article 1, Rule 1(jj)-(kk), to new subparagraphs (A) and (B) under Article 17, Rule 5(c)(3). As noted above, the Exchange proposes to specify that certain provisions of Article 1, Rule 1 (Definitions) would not be applicable to trading on Pillar. Because both Stock-Option and Stock-Future Combination Orders are currently available via Brokerplex, the Exchange proposes to amend its rules to specify that these are order types that would be available via Brokerplex. The Exchange states that, because such orders are cross orders, an order that meets the requirements of either a Stock-Option or Stock-Future Combination Order could be entered for execution on Pillar as either a QCT Cross Order (if it also meets the requirements of QCT) or a Limit IOC Cross Order, as described above. Such orders would continue to be subject to Article 20, Rule 11 and the Exchange proposes non-substantive amendments to that rule to update rule cross references.

⁵⁵ In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵⁶ 15 U.S.C. 78f(b)(5).

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, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

1. Transitioning of Exchange Trading to the Pillar Trading Platform

The Exchange's proposal would transition trading on the Exchange from the current trading platform to the Pillar platform as a fully-automated cash equities trading market with a price-time priority allocation model. As discussed at length in the proposed rule change, as amended, the re-launched Exchange would neither list securities nor operate an auction, although it would retain its dual-listed securities.

The Commission notes that the Exchange's amended proposal would establish new rules that are based on, and are substantially similar to, the rules of its Affiliated Exchanges and its current rules, which were filed and approved by the Commission (or which became immediately effective) pursuant to Section 19(b) of the Act.⁵⁷ Several of its Affiliated Exchanges currently operate using the Pillar trading platform, and a number of other national securities exchanges operate fully electronic markets. Under the proposal, the Exchange would retain many of its existing rules that are unique to the Exchange – such as its rules relating to Institutional Brokers, the QCT cross order modifier, provisions for trades with non-regular way settlement and permitted trading differentials for such trades – and adjust them, where appropriate, with respect to the Pillar platform, and, in the case of cross orders, integrate them within the Pillar rules while adopting several features of the related rules of the Affiliated Exchanges. Accordingly, the Commission finds that the amended proposal raises no novel regulatory issues, that it is

⁵⁷ See 78 U.S.C 78s(b).

reasonably designed to protect investors and the public interest, and that it is consistent with the requirements of the Act.

2. Section 11(a) of the Act

Section 11(a)(1) of the Act⁵⁸ prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, “covered accounts”) unless an exception applies. Rule 11a2-2(T) under the Act,⁵⁹ known as the “effect versus execute” rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2-2(T)’s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once the order has been transmitted to the member performing the execution;⁶⁰ (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor an associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Participants entering orders into the Exchange’s Pillar trading system would satisfy the requirements of Rule 11a2-2(T).

⁵⁸ 15 U.S.C. 78k(a)(1).

⁵⁹ 17 CFR 240.11a2-2(T).

⁶⁰ This prohibition also applies to associated persons of the initiating member. The member may, however, participate in clearing and settling the transaction.

Rule 11a2-2(T)'s first requirement is that orders for covered accounts be transmitted from off the exchange floor. The Exchange represents that it will not have a physical trading floor when it re-launches trading and the Exchange's Pillar trading system will receive orders from members electronically through remote terminals or computer-to-computer interfaces.⁶¹ In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account is transmitted from a remote location directly to an exchange's floor by electronic means.⁶² Because the Pillar trading system receives orders electronically through remote terminals or computer-to-computer interfaces, the Commission believes that the Pillar trading system would satisfy this off-floor transmission requirement.

Second, Rule 11a2-2(T) requires that neither the initiating member nor an associated person of the initiating member participate in the execution of the transaction at any time after the order for the transaction has been transmitted. The Exchange represents that the Pillar trading system would at no time following the submission of an order allow a Member or an associated person of the Member to acquire control or influence over the result or timing of the

⁶¹ See Notice at 44665.

⁶² In the context of other all-electronic systems, the Commission has similarly found that the off-floor transmission requirement is met if the system receives orders electronically through remote terminals or computer-to-computer interfaces. See, e.g., Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR-BSE-2008-48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10-131) (granting the application of The Nasdaq Stock Market LLC for registration as a national securities exchange); and 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25) (approving the establishment of the Archipelago Exchange as the equities trading facility of PCX Equities, Inc., a subsidiary of the Pacific Exchange, Inc.).

order's execution.⁶³ According to the Exchange, the execution of a Member's order would be determined solely by the quotes and orders that are present in the system at the time the member submits the order and by the order priority under the Exchange rules.⁶⁴ Accordingly, the Commission believes that an Exchange member and its associated persons would not participate in the execution of an order submitted to the Pillar trading system.

Third, Rule 11a2-2(T) requires that the order be executed by an exchange member that is not associated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.⁶⁵ The Exchange represents that the design of the Pillar trading system ensures that no Participant has any special or unique trading

⁶³ See Notice at 44665.

⁶⁴ See *id.* The Exchange notes that Rule 11a2-2(T) does not preclude a member from cancelling or modifying orders, or from modifying the instructions for executing orders, after they have been transmitted, provided that such cancellations or modifications are transmitted from off an exchange floor. See *id.* The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as the modifications or cancellations are also transmitted from off the floor. See Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) ("1978 Release") (stating that the "non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor").

⁶⁵ In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T). See Securities Exchange Act Release No. 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979).

advantage in the handling of its orders after transmitting its orders to the Exchange.⁶⁶ Based on the Exchange's representation, the Commission believes that the Pillar trading system would satisfy this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2-2(T) thereunder.⁶⁷ Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.⁶⁸

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

⁶⁶ See Notice at 44665.

⁶⁷ In addition, Rule 11a2-2(T)(d) requires that, if a member or associated person is authorized by written contract to retain compensation in connection with effecting transactions for covered accounts over which the member or associated person thereof exercises investment discretion, the member or associated person must furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. See 17 CFR 240.11a2-2(T)(d). See also 1978 Release, supra note 107 ("The contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests").

⁶⁸ The Exchange represents that it will advise its membership through the issuance of a Regulatory Bulletin that those Participants trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exemption in Rule 11a2-2(T). See Notice at 44665.

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSECHX-2019-08 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-NYSECHX-2019-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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-NYSECHX-2019-08

and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of Proposed Rule Change, as Modified By Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the Federal Register. As discussed above, in Amendment No. 1, the Exchange proposes, among other things, to: (i) extend the pilot period for proposed NYSE Chicago Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility) to October 18, 2020; (ii) amend NYSE Chicago Article 17, Rule 5(c)(3) to add definitions of stock-option combination order and stock-future combination order and amend NYSE Chicago Article 1, Rule 1 to state that the definitions of stock-option combination order and stock-future combination order in NYSE Chicago Article 1, Rule 1 (jj) and (kk) are not applicable to trading on the Pillar trading platform; and (iii) cross reference Article 21, Rule 1 in proposed NYSE Chicago Rule 7.45(d)(2)(A). The proposed changes do not introduce any rules that differ in any substantive manner from rules that previously have been approved by the Commission, or that have become immediately effective, pursuant to Section 19(b) of the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁶⁹ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis so that the Exchange can commence its transition to the Pillar platform without unnecessary delay.

⁶⁹ 15 U.S.C. 78s(b)(2).

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷⁰ that the proposed rule change (SR-NYSECHX-2019-08), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷¹

Jill M. Peterson,
Assistant Secretary.

⁷⁰ Id.

⁷¹ 17 CFR 200.30-3(a)(31).

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