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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2026 - * 014

Amendment No. (req. for Amendments *) 1

Filing by Cboe BYX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☐	☒	☐	☒	☐	☐

Pilot

Extension of Time Period for
Commission Action *

Date Expires *

Rule

☐	19b-4(f)(1)	☐	19b-4(f)(4)
☐	19b-4(f)(2)	☐	19b-4(f)(5)
☐	19b-4(f)(3)	☐	19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the
Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Contact InformationProvide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization
prepared to respond to questions and comments on the action.

First Name *	Courtney	Last Name *	Smith
Title *	Senior Counsel		
E-mail *	csmith@cboe.com		
Telephone *	(913) 815-7046	Fax	

SignaturePursuant to the requirements of the Securities Exchange of 1934, Cboe BYX Exchange, Inc.
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date

08/06/2026

(Title *)

By

Matthew Iwamaye

(Name *)

VP, Associate General Counsel +

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

Matthew Iwamaye

Date: 2026.08.06
11:25:58 -05'00'

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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BYX-26-014 19b-4 (Contingents in PA

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

Exhibit 1 - Notice of Proposed Rule Change *

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BYX-26-014 Exhibit 1 (Contingents in

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

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

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

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

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

☐

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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

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Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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BYX-26-014 Exhibit 5 (Contingents in

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

Partial Amendment

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

Item 1. Text of the Proposed Rule Change

(a) Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to amend Rule 11.25 to introduce an optional, Contingent Instruction applicable to Periodic Auction Only Orders, introduce a time-in-force of Auction or Cancel, and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. The text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on April 15, 2026. The Exchange will announce via Exchange Notice the implementation date of the proposed rule change no later than 30 days after the approval date of this rule filing.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Courtney Smith, Senior Counsel, 913-222-4652, Cboe BYX Exchange, Inc., 433 West Van Buren Street, Chicago, Illinois 60607.

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

(a) Purpose

The Exchange proposes to amend Rule 11.25 (“Periodic Auctions”) to introduce an optional, Contingent Instruction (discussed in detail, *infra*) applicable to Periodic

Auction Only Orders.¹ The Exchange also seeks to introduce a time-in-force of Auction or Cancel and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. By way of background, a Periodic Auction is an intraday price forming auction that the Exchange developed as a way to provide an additional price discovery function to investors seeking liquidity in U.S. equity securities, including block-size liquidity, during the course of the trading day.² Periodic Auctions do not interrupt trading in the continuous market and execute at the price level that maximizes the total number of shares in both the Periodic Auction Book³ and the Continuous Book.⁴ Periodic Auctions are available in all securities traded on the Exchange.

Periodic Auctions were designed, in part, to improve market quality in thinly-traded securities that suffer from diminished market quality as compared to their more actively-traded counterparts.⁵ Periodic Auctions are intended to facilitate the sourcing of larger blocks of liquidity that may not be available in continuous trading.⁶ Specifically, Periodic Auction Orders are required to have a size of 100 shares or more in securities priced below \$500.00 based on the consolidated last sale price as one way to attract larger

¹ See Rule 11.25(b)(1). A “Periodic Auction Only Order” is a non-displayed limit order entered with an instruction to participate solely in Periodic Auctions pursuant to Rule 11.25. Periodic Auction Only Orders are not eligible for execution on the Continuous Book.

² See Securities Exchange Act Release No. 91423 (March 26, 2021), 86 FR 17230 (April 1, 2021), SR-CboeBYX-2020-021 (“Periodic Auction Approval Order”).

³ See Rule 11.25(a)(6). The term “Periodic Auction Book” shall mean the System’s electronic file of such Periodic Auction Orders. The term “Periodic Auction Order” shall mean a “Periodic Auction Order” or a “Periodic Auction Eligible Order”.

⁴ See Rule 11.25(a)(2). The term “Continuous Book” shall mean the System’s file of such Continuous Book Orders. The term “Continuous Book Order” shall mean an order on the BYX Book that is not a Periodic Auction Order.

⁵ See Periodic Auction Approval Order at 17231.

⁶ Id. at 17232.

blocks of liquidity.⁷ Additionally, the Exchange permits market participants seeking to execute larger orders to include a minimum execution quantity instruction that would allow the Periodic Auction Order to execute in a Periodic Auction only if the minimum size specified can be executed against one or more contra-side Periodic Auction Orders or Continuous Book Orders.⁸ While the Exchange believed that these optional order instructions would attract significant order flow to Periodic Auctions, current data suggests that enhancements to Periodic Auctions are needed to make this offering more attractive to potential Users. Exchange data indicates that between July 2025 – December 2025 (the “Reference Period”), there were a total of 411,557,479 Periodic Auction Orders (this includes both Periodic Auction Only Orders and Periodic Auction Eligible Orders) received by the Exchange. However, during this same period only 2,259,916 Periodic Auction Orders were filled by the Exchange, representing approximately 0.55% of Periodic Auction Orders received by the Exchange.

User⁹ feedback has indicated that additional functionality is needed in order to encourage additional Users to submit Periodic Auction Orders. Particularly, the current Users of Periodic Auctions have told the Exchange that it is difficult to send large block-size orders to the Exchange without a reasonable expectation that sufficient contra-side liquidity exists. As such, the Exchange now proposes to introduce an optional, Contingent Instruction that would be applicable only to Periodic Auction Only Orders as a way to encourage additional participation in Periodic Auctions. As discussed further,

⁷ See Rule 11.23(b).

⁸ See Rule 11.25(b)(1)(B).

⁹ See Rule 1.5(cc). The term “User” shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

infra, the proposed Contingent Instruction would provide a way for Users to indicate to other market participants that they have liquidity available to participate in a Periodic Auction without being required to confirm the size and price of such liquidity until a Periodic Auction begins. The Exchange proposes various amendments to Rule 11.25, as discussed below, to properly describe the application of its proposed Contingent Instruction.

Definitions

The Exchange proposes to amend various provisions of Rule 11.25(a), which currently provides various definitions associated with Periodic Auctions. First, the Exchange proposes to introduce Rule 11.25(a)(10) to define the term “Contingent Instruction.” The term Contingent Instruction shall mean an optional order instruction that may be appended to a Periodic Auction Only Order. A Contingent Instruction is an instruction that renders a Periodic Auction Only Order non-binding upon entry. A Periodic Auction Only Order containing a Contingent Instruction will only become binding after: i) matching with contra-side liquidity; and ii) the sender of the Periodic Auction Only Order containing a Contingent Instruction confirming its intent to trade as described in proposed Rule 11.25(h). A Contingent Instruction may not be appended to a Periodic Auction Eligible Order or a Continuous Book Order. To participate in a Periodic Auction, a Periodic Auction Only Order containing a Contingent Instruction must initiate a Periodic Auction or be resting on the BYX Book¹⁰ when a Periodic Auction is initiated. A Periodic Auction Only Order containing a Contingent Instruction (a “PAOC”) will not

¹⁰ See Rule 1.5(e). The term “BYX Book” shall mean the System’s electronic file of orders.

be eligible to participate in a Periodic Auction that is already in progress if it is received by the Exchange after the Periodic Auction Period has begun.

Next, the Exchange proposes to amend Rule 11.25(a)(8) to revise the Periodic Auction Period.¹¹ Currently, the Periodic Auction Period is a fixed time period of 100 milliseconds.¹² The Exchange proposes to amend the Periodic Auction Period from a fixed time of 100 milliseconds to a fixed time of 70 milliseconds plus a random time period of 0 – 30 milliseconds immediately following the fixed time period of 70 milliseconds. The effect of this proposed change is that a Periodic Auction Period would be a minimum of 70 milliseconds in length, but no longer than 100 milliseconds in length. As discussed further, *infra*, the Exchange also proposes to amend Rule 11.25(c) to revise when a Periodic Auction Message is sent to market participants upon the initiation of a Periodic Auction. In addition to revising the time period of the Periodic Auction Period, the Exchange also proposes to amend Rule 11.25(a)(8) to include language regarding the initiation and length of subsequent Periodic Auctions that immediately follow the conclusion of a Periodic Auction Period. Specifically, the Exchange proposes that a subsequent Periodic Auction Period may begin immediately following the conclusion of a Periodic Auction (a “Subsequent Auction”) provided one or more Periodic Auction Orders to buy is executable against one or more Periodic Auction Orders to sell and did not trade in the immediately preceding Periodic Auction. A Subsequent Auction would occur for a fixed time period of 70 milliseconds for

¹¹ See Rule 11.25(a)(8). The term “Periodic Auction Period” is the time period for conducting a Periodic Auction.

¹² See Rule 11.25(a)(8).

conducting a Periodic Auction. There is no limit to the number of Subsequent Auctions that may occur.

The Exchange also proposes a non-substantive change to Rule 11.25(a)(2) in order to add the word “the” ahead of the word “System’s” as this word was inadvertently left out of the sentence upon drafting.

Order Entry and Cancellation

Current Rule 11.25(b) describes the manner in which Users may enter Periodic Auction Orders and Continuous Book Orders on the Exchange to participate in a Periodic Auction. The Exchange proposes to amend Rule 11.25(b)(1) to include a new time-in-force of Auction-or-Cancel (“AOC”) that may be appended to a Periodic Auction Only Order. A Periodic Auction Order with a time-in-force of AOC is to be executed in whole or in part at the end of the Periodic Auction Period immediately following receipt of such order.¹³ A Periodic Auction Only Order with a time-in-force of AOC may join a Periodic Auction that is already in progress when the order is received by the Exchange. A Periodic Auction Only Order with a time-in-force of AOC is not eligible for routing to another trading center. The portion of a Periodic Auction Only Order not immediately executed in a Periodic Auction is treated as cancelled and is not posted to the Continuous Book.

Additionally, the Exchange proposes to introduce subparagraph (i) to Rule 11.25(b)(1) to note that a Periodic Auction Only Order containing a Contingent Instruction and a time-in-force of AOC will not be permitted to join a Periodic Auction that is already in progress when the order is received by the Exchange. The Exchange also proposes to amend Rule

¹³ The proposed AOC time-in-force is intended to be substantially similar to an order containing a time-in-force of Immediate-or-Cancel (“IOC”), with the only difference being that the order is not immediately executable on the Continuous Book but rather only immediately executable if it initiates a Periodic Auction or is received by the Exchange while a Periodic Auction is in progress.

11.25(b)(1) by introducing subparagraph (D), which would provide that a User may include a Contingent Instruction on its Periodic Auction Only Order.

In addition, the Exchange proposes to amend Rule 11.25(b)(2)(A) to make clear that a Periodic Auction Eligible Order may not be entered with a time-in-force of AOC.

Initiation and Publication of Periodic Auction Information

Existing Rule 11.25(c) describes the manner in which a Periodic Auction may be initiated and the messaging sent out by the Exchange upon the initiation of a Periodic Auction. The Exchange does not propose to change how a Periodic Auction may be initiated – namely, that when one or more Periodic Auction Orders to buy become executable against one or more Periodic Auction Orders to sell, a Periodic Auction will be initiated. The Exchange proposes to amend Rule 11.25(c) in order to describe the timing of the initial Periodic Auction Message that will be disseminated by the Exchange. Currently, a Periodic Auction Message is sent at a randomized time in one millisecond intervals after a Periodic Auction has been initiated and before the end of the Periodic Auction. As proposed, a Periodic Auction Message would be sent immediately following the initiation of a Periodic Auction rather than at a randomized time following the initiation of a Periodic Auction and before the end of the Periodic Auction. The initial Periodic Auction Message would continue to include the Periodic Auction Book Price¹⁴ and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price. The revised Periodic Auction Message would continue to

¹⁴ See Rule 11.25(a)(5). The term “Periodic Auction Book Price” shall mean the price within the Collar Price Range at which the most shares from the Periodic Auction Book would match.

be disseminated in five millisecond intervals for the remaining duration of the Periodic Auction.

The Exchange also proposes to introduce subparagraph (1) to Rule 11.25(c) to describe the proposed Contingent Instruction's impact to the Periodic Auction Message. Proposed Rule 11.25(c)(1) would state that if one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the Periodic Auction Message will include the matched quantity executable at the Periodic Auction Book Price of any order(s) containing a Contingent Instruction that matched with a contra-side Periodic Auction Order and where a confirmation request has been sent.¹⁵ The Periodic Auction Message would also indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction.

Priority and Execution of Orders

Rule 11.25(e) describes the order priority of orders that are executable at the end of the Periodic Auction Period. No changes to order priority and execution of orders will occur as a result of the introduction of the optional Contingent Instruction or as a result of the introduction of the proposed time-in-force of AOC. At the end of a Periodic Auction, any displayed Continuous Book Orders executable at the Periodic Auction Price will continue to be executed in price/time priority, any Periodic Auction Orders executable at the Periodic Auction Price will continue to be executed in size/time priority, and any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price will

¹⁵ The Exchange notes that there would be no change to the content of the Periodic Auction Message (i.e., the Periodic Auction Message would continue to include the Periodic Auction Book Price and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price). Subparagraph (1) is included only to note that the full quantity and price of orders containing a Contingent Instruction would be included in the Periodic Auction Message.

continue to be executed as provided in Rule 11.12(a)(2)(B).¹⁶ The time-in-force appended to an order will not impact the order's priority, just as time-in-force does not affect priority under current Rule 11.25(e) or Rule 11.12(a)(2)(B) today. The Exchange proposes to amend Rule 11.25(e) to further provide that size and time priority for a PAOC is based on receipt of the Confirmation Order and not the size of or time that the PAOC is received by the System.¹⁷ This proposed change is necessary because an order containing a Contingent Instruction is not eligible to participate in a Periodic Auction until the Exchange receives a Confirmation Order in response to a System-generated confirmation request, and the terms on which such order will actually trade are therefore not established until that Confirmation Order is received. As a result, a PAOC may lose priority relative to other Periodic Auction Orders or Continuous Book Orders that are received by the System after the original order containing the Contingent Instruction but before the corresponding Confirmation Order is received. The Exchange believes basing priority on the receipt of the Confirmation Order is appropriate because it ties priority to the size and timing of the order reflecting a User's confirmed, firm trading interest, rather than to the size and timing of an order whose execution remains contingent on a subsequent confirmation.

Confirmation of Orders Containing a Contingent Instruction

¹⁶ The Exchange notes that the current rule text incorrectly states that non-displayed Continuous Book Orders executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). As part of this proposal the Exchange will amend the rule reference to Rule 11.12(a)(2)(B), which describes order priority.

¹⁷ As discussed *infra*, a Periodic Auction Only Order containing a Contingent Instruction is automatically cancelled when the System-generated request for confirmation is sent to the sender of the order containing the Contingent Instruction. As such, time priority for an order containing a Contingent Instruction shall be based on receipt of the Confirmation Order.

The Exchange proposes to introduce Rule 11.25(h), which will describe the process for the sender of a PAOC to confirm its intent to trade after the initiation of a Periodic Auction. When a Periodic Auction is initiated and one or both sides of the initiating orders contain a Contingent Instruction, the sender(s) of the orders containing a Contingent Instruction shall be required to confirm their intent to trade before the order(s) containing a Contingent Instruction may participate in the Periodic Auction. Users shall confirm their intent to trade by responding to the System-generated confirmation request with a Periodic Auction Only Order (the “Confirmation Order”).¹⁸ The PAOC will be cancelled as soon as the System-generated confirmation request is sent. A Confirmation Order may be submitted for any size and any price, and does not have to match the size and/or price of the order containing a Contingent Instruction.

Scoring Measurements for Sending of Orders with Contingent Instructions

Under the Interpretations and Policies section of Rule 11.25 the Exchange proposes to introduce subparagraph .05, which would contain rule text that describes the scoring measurements that will be utilized by the Exchange to track confirmation responses by senders of orders containing a Contingent Instruction following the initiation of a Periodic Auction. The scoring measurements will be calculated by the System daily, on a per symbol basis. A User’s scoring measurement shall be used: i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions are able to match with a contra-side Periodic Auction Order; and ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The following components will be tracked by the System: i)

¹⁸ The Confirmation Order may contain either a time-in-force of AOC or a time-in-force of RHO.

confirmation response rate; ii) confirmation response size; and iii) confirmation response price. Each individual component of a User's scoring measurement shall be equal weighted (e.g., 33.33% each). The System will calculate and track a User's score at the MPID level. Scoring will be based on the current trading day's activity only and will be tracked at the individual symbol level. A minimum of 10 confirmation requests are required before a score may be assigned to an MPID and Users will automatically be placed in the top scoring band until 10 confirmation requests have been sent for a given symbol.

The Exchange believes that the confirmation response rate, confirmation response size, and confirmation response price are the elements of a Confirmation Order that are most relevant in determining the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order and in determining whether a User is prohibited from submitting additional orders containing a Contingent Instruction on a given trading day. By tracking a User's confirmation response rate, the Exchange is seeking to identify how many times a User responds to a confirmation request with a Confirmation Order. However, the Exchange believes that tracking a User's response rate alone does not provide an adequate view of whether that particular User is confirming its intent to trade and as such, also proposes to track the User's confirmation response size and confirmation response price.

By also tracking size, the Exchange is seeking to determine whether a User is responding with a Confirmation Order that is at least equal to the size of the PAOC's matched quantity. While Users are free to respond with any size, if a User responds with

a size that is less than its matched size, its score will be lower as compared to a User who responds with a size that is equal to or greater than the size of its matched size. Similarly, by tracking the price of the Confirmation Order, the Exchange is seeking to determine whether a User is responding to a confirmation request with a Confirmation Order that is priced equal to or better than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received. Just as with size, a User is free to respond to a confirmation request with any price, but if a User chooses to respond with a price that is lower than (for buy Confirmation Orders) or higher than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received, its score in the price category will be lower as compared to a User who responds with a price that is equal to or higher than (for buy Confirmation Orders) or lower than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received.

At the outset, the Exchange proposes that a User's overall scoring measurement shall be composed of the three components identified above (i.e., response rate, response size, and response price), each of which shall be equal weighted in the calculation of the overall scoring measurement. As discussed *infra*, Users responding to confirmation requests will be ranked within different scoring bands and the scoring bands shall be used to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction match with a contra-side Periodic

Auction Order. Any User that responds to a confirmation request and subsequently cancels its confirmation response prior to the conclusion of the Periodic Auction Period shall not receive credit for its confirmation response.

To determine the score for each User, the System will assign a value based on a User's Confirmation Order (or lack of response). To determine a score for the response rate metric, a User that provides any Confirmation Order would receive a value of 1, regardless of whether the response size and response price satisfies the criteria set forth by the Exchange. On the contrary, a User that does not submit a Confirmation Order would receive a value of 0. To determine a score for the response price metric, a User that provides a Confirmation Order price that is priced equal to or better than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received would receive a value of 1, while a User that provides a Confirmation Order price that is priced worse than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received would receive a value of 0. To determine a score for the response size metric, a User that provides a Confirmation Order size that is at least equal to the matched size would receive a value of 1. However, a User that provides a Confirmation Order size that is lower than the size of its matched quantity would receive a value based on the size provided in the Confirmation Order as a percentage of the matched quantity. For example, assume the matched quantity was 500 shares. A User that responds with a Confirmation Order size of 500 shares receives a value of 1, whereas a User that responds with a Confirmation Order size of 250 shares receives a value of .5

(250 shares is 50% of the matched quantity of 500 shares, thus earning 50% of the value of 1). Any User that does not provide a Confirmation Order would receive a 0 for the response rate metric and would not receive a score for either the response price metric or the response size metric. Once a User has received 10 confirmation requests, the System will calculate a separate average for each of the three scoring measurements (i.e., confirmation response rate, confirmation response size, and confirmation response price). The average of each scoring measurement is then multiplied by the respective weight assigned to each scoring measurement. The three resulting values are then added together to determine a User's score.¹⁹

The combination of response rate, response size, and response price provides the Exchange with a holistic view of how a User is responding to confirmation requests sent by the System. The Exchange believes that by requiring a minimum of 10 confirmation requests in an individual symbol before calculating a score is appropriate in that it would provide for an adequate number of requests before a User could potentially be ranked lower than its peers should it choose to not respond to confirmation requests or should it choose to provide responses to confirmation requests with Confirmation Orders that have a size or price that do not match the scoring measurements as discussed *supra*.

Additionally, the Exchange believes it is appropriate to track a User's confirmation responses at the individual symbol level rather than across all symbols because volume in

¹⁹ For example, assume that the three scoring measurements are equal-weighted (i.e., 33.33%, 33.33%, and 33.34%). User 1 has an average response rate of 80%, an average response size of 60%, and an average response price of 90%. The average scoring measurements multiplied by the weight of each scoring measurement results in a value of 26.66% for the User's average response rate (80% x 33.33%), a value of 19.99% for the User's average response size (60% x 33.33%), and a value of 30% for the User's average response price. User 1's score is therefore 76.65% (26.66 + 19.99 + 30).

individual symbols can vary widely. As such, the Exchange does not believe it is appropriate to attribute a User's performance in one symbol that has a limited number of Periodic Auctions throughout the trading day to other symbols that may have a much higher volume of Periodic Auctions and vice versa.

Scoring Based Confirmation Request Priority

The Exchange proposes to introduce subparagraph .06 to Rule 11.25, Interpretations and Policies in order to describe the scoring bands that will be utilized to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order. In the event that there are multiple Users within the same scoring band that can match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users. The scoring bands are as follows: Band 1: $\geq 80\%$; Band 2: $\geq 70\%$ and below 80% ; Band 3: $< 70\%$.

The Exchange believes it is appropriate to have different scoring bands in order to encourage Users to submit responses to confirmation requests in a timely manner that also align with the size of the original order containing a Contingent Instruction and the Periodic Auction Book Price. Attaining a higher score based on the scoring measurement components described above will allow a User to be ranked higher in terms of how the Exchange prioritizes when the User is sent a confirmation request when an order containing a Contingent Instruction matches with a contra-side Periodic Auction Order and initiates a Periodic Auction as compared to Users with lower scores. For example, using the three scoring bands described above, all Users in band one would be sent confirmation requests before any User in band two is sent a confirmation request, and all

Users in band two would be sent confirmation requests before any User in band three is sent a confirmation request. If there are multiple Users within each band that have matched with the contra-side Periodic Auction Order, the Exchange will then utilize size/time priority of the PAOC to determine the order in which confirmation requests are sent to those Users.

Scoring Based Automated Lock-Out

The Exchange also proposes to introduce subparagraph .07 to the Interpretations and Policies section of Rule 11.25, which would describe the proposed lock-out of Users that fall below a certain scoring measurement. Proposed subparagraph .07 would provide that a User that submits Periodic Auction Only Orders containing a Contingent Instruction shall be prohibited from submitting additional Periodic Auction Only Orders containing a Contingent Instruction in a given symbol if the User's intraday score at the MPID level falls below the lock-out threshold determined by the Exchange. The lock-out shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User's score is below the applicable lock-out threshold. Users would only be prohibited from submitting additional Periodic Auction Only Orders containing a Contingent Instruction and would be permitted to submit orders without a Contingent Instruction to the Exchange. The applicable lock-out threshold shall be 50%.

The proposed lock-out would be controlled at the System-level and would utilize the same scoring measurements described above that are utilized to determine the order in which confirmation requests are sent to Users in the event that multiple Periodic Auction Only Orders containing a Contingent Instruction match with a contra-side Periodic Auction Order. As described above, the System will not assign a score to an

MPID until a minimum of 10 confirmation requests have been sent to the individual MPID. Each MPID will begin the trading day with a score of 100% and will keep that score of 100% until the MPID reaches 10 confirmation requests.

In order to show how the proposed Periodic Auction Only Order with a Contingent Instruction would operate, the Exchange has included the following examples:²⁰

Example 1

This example is intended to demonstrate the process of an incoming PAOC matching with a resting Periodic Auction Order.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 100 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100;

²⁰

Unless otherwise indicated, the Periodic Auction Period described in the examples would last for a minimum of 70 milliseconds but no longer than 100 milliseconds, with no subsequent auction being triggered.

total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02. User 2 increases the size of its order from 100 shares to 200 shares, as permitted under proposed Rule 11.25(h).
 - The next Periodic Auction Message sent out indicates a matched quantity of 200 shares at a price of \$10.025.
- **RESULT:** At the end of the Periodic Auction Period, User 1 and User 2's orders execute in a Periodic Auction for 200 shares at a price of \$10.025. Since User 2 sent a Confirmation Order for 200 shares, User 1 was able to have its entire order filled at a price of \$10.025 at the conclusion of the Periodic Auction Period.

Example 2

This example is intended to demonstrate the process when a Periodic Auction Only Order containing a Contingent Instruction and a resting Periodic Auction Order match with an incoming, contra-side Periodic Auction Order.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a Periodic Auction Only Order containing a Contingent Instruction and a Midpoint Peg instruction to buy 300 shares of ABC at \$10.03.
 - User 2's order is posted and ranked at \$10.025.
- User 3 enters a Periodic Auction Eligible Order with a Midpoint Peg instruction to sell 600 shares of ABC at \$10.02.
 - User 3's order immediately initiates a Periodic Auction with User 1 and User 2's orders for 500 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 300 shares; total auction matched size of 500 shares, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 100 shares of ABC at \$10.03. User 2 decreases the size of its order from 300 shares to 100 shares, as permitted under proposed Rule 11.25(h).
 - The next Periodic Auction Message sent out indicates a matched quantity of 300 shares at a price of \$10.025.
- **RESULT:** At the end of the Periodic Auction Period, User 1's order executes against User 3's order for 200 shares and User 2's order executes against User 3's order for 100 shares in the Periodic Auction at a price of \$10.025. Since User 2 sent a Confirmation Order for 100 shares, which was lower than its original order containing 300 shares, the amount of matched shares in the Periodic Auction decreased from 500 shares to 300 shares. The remaining 300 shares of User 3's Periodic Auction Eligible Order post to the BYX Book at a price of \$10.025 (assuming the NBBO remains at \$10.00 x \$10.05).

Example 3

This example is intended to demonstrate what occurs when a Periodic Auction Only Order containing a Contingent Instruction matches with a resting Periodic Auction Order for a partial amount of the size of the order containing the Contingent Instruction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.

- User 2 enters a Periodic Auction Only Order containing a Contingent Instruction and a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that one side of the order contains an order with a Contingent Instruction.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 100 shares of ABC at \$10.02. User 2 decreases the size of its order from 200 shares to 100 shares, as permitted under proposed Rule 11.25(h).
 - The next Periodic Auction Message sent out indicates a matched quantity of 100 shares at a price of \$10.025.

- **RESULT:** At the end of the Periodic Auction Period, User 1 and User 2's orders execute in a Periodic Auction for 100 shares at a price of \$10.025.

Example 4

This example is intended to demonstrate the process when two PAOCs match and initiate a Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 100 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously, a confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 1 and User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 1 sends a Periodic Auction Only Order with a Midpoint Peg instruction as its Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the expiration of the Periodic Auction Period.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction as its Confirmation Order and a time-in-force of RHO to sell 100 shares of ABC at a price of \$10.02 prior to the expiration of the Periodic Auction Period.
- **RESULT:** At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025.

Example 5

This example is intended to demonstrate the outcome when a User submits a Periodic Auction Only Confirmation Order that would have a remaining quantity after the conclusion of the Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.

- User 2 enters a PAOC with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02.
- **RESULT:** At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025 in the Periodic Auction. User 2's remaining 100 shares from its Periodic Auction Only Confirmation Order are posted on the BYX Periodic Auction Book as a traditional Periodic Auction Only Order with a Midpoint Peg instruction (and would not contain a Contingent Instruction).

Example 6

This example is intended to demonstrate the outcome when a User submits an Auction or Cancel Confirmation Order that would have a remaining quantity after the conclusion of the Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Confirmation Order with a Midpoint Peg instruction and a time-in-force of AOC before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02.
- **RESULT:** At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025 in the Periodic Auction. User 2's remaining 100 shares from its Confirmation Order are immediately cancelled pursuant to proposed Rule 11.25(b)(1) as the remainder of a Periodic Auction Only Order with a time-in-force of AOC not executed in a Periodic Auction is treated as cancelled and is not posted to the Continuous Book.

Example 7

This example is intended to show how confirmation requests will be sent when multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order.

For this example, assume that the following scoring bands are in effect:

Band 1: 80% and above

Band 2: Below 80% to 70%

Band 3: Below 70%

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a PAOC with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
 - Assume User 1 has an intraday scoring measurement of 70%.

- User 2 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 2's order is posted and ranked at \$10.025.
 - Assume User 2 has an intraday scoring measurement of 81%.
- User 3 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 3's order is posted and ranked at \$10.025.
 - Assume User 3 has an intraday scoring measurement of 75%.
- User 4 enters a Periodic Auction Only Order with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
- **RESULT:** User 4's Periodic Auction Only Order immediately initiates a Periodic Auction with User 2's PAOC and User 1's PAOC. User 2's PAOC is included in the initiation of the Periodic Auction because it has the highest intraday scoring measurement (for this example, it is the only order in scoring band 1). User 1's PAOC is included in the initiation of the Periodic Auction because it has size priority over User 3's order (both User 1 and User 3 are in scoring band 2). User 3 will not participate in this Periodic Auction but will remain on the BYX Periodic Auction Book to participate in later Periodic Auctions. A confirmation request is immediately sent to both User 2 and User 1 showing a matched size of 100 shares, a total auction matched size of 200 shares, and a Periodic Auction Book Price of \$10.025. Concurrently with the sending of the confirmation requests to User 2 and User 1, User 2 and User 1's PAOCs are cancelled and a placeholder is kept in the System awaiting a

response from each User. Simultaneously with the sending of the confirmation requests, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 200 shares have matched at a price of \$10.025 and has an indicator that at least one side of the auction contains an order with a Contingent Instruction. User 2 and User 1 both send a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its respective Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. At the end of the Periodic Auction Period, User 1 and User 2 each trade 100 shares at \$10.025 with User 4 in the Periodic Auction.

Example 8

This example is intended to show how confirmation requests will be sent when multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order.

For this example, assume that the following scoring bands are in effect:

Band 1: 80% and above

Band 2: Below 80% to 70%

Band 3: Below 70%

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a PAOC with a Midpoint Peg instruction to buy 500 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
 - Assume User 1 has an intraday scoring measurement of 75%.

- User 2 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 2's order is posted and ranked at \$10.025.
 - Assume User 2 has an intraday scoring measurement of 80%.
- User 3 enters a Periodic Auction Only Order with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
- **RESULT:** User 3's Periodic Auction Only Order immediately initiates a Periodic Auction with User 2's PAOC and User 1's PAOC. A confirmation request is immediately sent to both User 2 and User 1 showing a matched size of 100 shares, a total auction matched size of 200 shares, and an indicative auction price of \$10.025. Concurrently with the sending of the confirmation requests to User 2 and User 1, User 2 and User 1's PAOCs are cancelled and a placeholder is kept in the System awaiting a response from each User. Simultaneously with the sending of the confirmation requests, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 200 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction. User 2 sends a Periodic Auction Only Order containing a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. User 1 sends a Periodic Auction Only Order containing a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order to buy 200 shares (an increase in quantity from its

original 100 share order) of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. At the end of the Periodic Auction Period, User 1 trades 200 shares at \$10.025 with User 4 in the Periodic Auction due to having size priority at the final auction price over User 2.

Example 9

This example is intended to show order priority when different order types and orders containing different times-in-force are involved in a Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAOC to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAO to sell 1500 shares of ABC at \$10.05.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 500 shares at \$10.05.
 - A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 500; total auction matched size of 500, and an indicative auction price of \$10.05.
 - Simultaneously with the sending of the confirmation request to User 1, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 3 enters a PAO with a time-in-force of Day to buy 500 shares of ABC at \$10.05 at 12:00:00:000.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1000 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 4 enters a PAO with a time-in-force of AOC to buy 500 shares of ABC at \$10.05 at 12:00:00:005.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 5 enters a Midpoint Peg continuous book order to buy 500 shares of ABC at \$10.05 at 12:00:01:010.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- User 1 submits its Confirmation Order to buy 500 shares of ABC at \$10.05 at 12:00:00:015
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- **RESULT:** Pursuant to Rule 11.24(e), Periodic Auction Orders and Continuous Book Orders that are executable at the end of the Periodic Auction Period are executed at the Periodic Auction Price as follows: first, any Displayed Continuous Book Orders that are executable at the Periodic

Auction Price are executed in price/time priority; second, any Periodic Auction Orders that are executable at the Periodic Auction Price are executed in size/time priority, beginning with the largest order; and finally, any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). The Exchange has also proposed new language to Rule 11.24(e) that provides that size and time priority for a PAOC is based on the size and receipt of the Confirmation Order and not the size or time that the PAOC is received by the System. As such, User 2's PAO trades with the following contra-side orders: First, User 2's PAO trades 500 shares with User 3's PAO with a time-in-force of Day at \$10.05. Next, User 2's PAO trades 500 shares with User 4's PAO with a time-in-force of AOC at \$10.05. Lastly, User 2's PAO trades 500 shares with User 5's Midpoint Peg continuous book order at \$10.05. User 1's PAOC does not receive a fill because based on size/time priority it has equal size priority but the lowest time priority (the Confirmation Order was received with a timestamp of 12:00:00:015 while the orders submitted by Users 3, 4, and 5 had earlier timestamps).

Example 10

This example is intended to show order priority when different order types and orders containing different times-in-force are involved in a Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAOC to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.

- User 2 enters a PAO to sell 1500 shares of ABC at \$10.05.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 500 shares at \$10.05.
 - A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 500; total auction matched size of 500, and an indicative auction price of \$10.05.
 - Simultaneously with the sending of the confirmation request to User 1, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 3 enters a PAO with a time-in-force of Day to buy 500 shares of ABC at \$10.05 at 12:00:00:000.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1000 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 4 enters a PAO with a time-in-force of AOC to buy 500 shares of ABC at \$10.05 at 12:00:00:005.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.

- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 5 enters a Midpoint Peg continuous book order to buy 500 shares of ABC at \$10.05 at 12:00:01:010.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- User 1 submits its Confirmation Order to buy 1500 shares of ABC at \$10.05 at 12:00:00:015
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- **RESULT:** Pursuant to Rule 11.24(e), Periodic Auction Orders and Continuous Book Orders that are executable at the end of the Periodic Auction Period are executed at the Periodic Auction Price as follows: first, any Displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed in price/time priority; second, any Periodic Auction Orders that are executable at the Periodic Auction Price are executed in size/time priority, beginning with the largest order; and finally, any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). The Exchange has also proposed new language to Rule 11.24(e) that provides that size and time priority for a PAOC is based on the size and receipt of the Confirmation Order and not the size or time that the PAOC is received by the System. As such, User 2's PAO trades with User 1's Confirmation Order for the full amount of 1,500 shares because User 1's Confirmation Order has size priority over Users

3, 4, and 5 (the Confirmation Order has a size of 1,500 shares while the orders submitted by Users 3, 4, and 5 had sizes of 500 shares).

Example 11

This example is included to show how a Subsequent Auction may be triggered.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAO to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAO to buy 100 shares of ABC at \$10.04.
 - User 2's order is posted and ranked at \$10.04.
- User 3 enters a PAO to sell 500 shares of ABC at \$10.05.
 - User 3's PAO matches with User 1's PAO and initiates a Periodic Auction ("Auction 1").
 - A Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05.
- User 4 enters a PAO to sell 100 shares of ABC at \$10.04.
 - User 4's PAO joins Auction 1.
 - The subsequent Periodic Auction Message indicates a matched quantity of 500 shares at \$10.05. The addition of User 4's PAO to Auction 1 does not change the price at which most shares can trade at.
- Auction 1 ends after 90 milliseconds (70 milliseconds fixed plus 20 milliseconds randomized).

- User 1's PAO trades 500 shares with User 3's PAO at the conclusion of Auction 1.
- Immediately following the conclusion of Auction 1, the System initiates a Periodic Auction between User 2's PAO and User 4's PAO ("Auction 2").
 - A Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.04.
- Auction 2 ends after 70 milliseconds with User 2's PAO and User 4's PAO trading 100 shares at \$10.04.

Example 12

This example is also included to show how a Subsequent Auction may be triggered. For this example, assume that User 1 and User 2 are in the same Scoring Band.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAOC to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAOC to buy 100 shares of ABC at \$10.05.
 - User 2's order is posted and ranked at \$10.05.
- User 3 enters a PAO to sell 500 shares of ABC at \$10.05.
 - User 3's PAO matches with User 1's PAOC due to size priority within the Scoring Band and initiates a Periodic Auction ("Auction 1").
 - A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 500;

total auction matched size of 500, and an indicative auction price of \$10.05. No confirmation request is sent to User 2.

- Simultaneously with the sending of the confirmation request to User 1, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 1 does not respond to the confirmation request.
- Auction 1 ends after 90 milliseconds (70 milliseconds fixed plus 20 milliseconds randomized).
 - No trade occurs at the completion of Auction 1 because User 1 did not respond to the confirmation request with a Confirmation Order.
- Immediately following the conclusion of Auction 1, the System initiates a Periodic Auction between User 3's PAO and User 2's PAOC ("Auction 2").
 - A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.05.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of

\$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 responds to the confirmation request with a PAO with a time-in-force of AOC as its Confirmation Order to buy 100 shares of ABC at \$10.05.
- Auction 2 ends after 70 milliseconds.
 - User 3's PAO trades 100 shares with User 2's Confirmation Order at the conclusion of Auction 2.

Regulatory Considerations

The Exchange notes that its existing Regulatory obligations as described in the Interpretations and Policies section of Rule 11.25 would continue to apply should the proposed Contingent Instruction be approved. These existing rules describe how Periodic Auctions are processed consistent with certain other regulatory obligations, including obligations related to member conduct, or otherwise to ensure transparent handling in certain specified circumstances and provide transparency to members and investors with respect to how the Exchange processes Periodic Auctions consistent with relevant obligations under the Exchange Act, or as otherwise necessary or appropriate to maintain a fair and orderly market on the Exchange. The Exchange does not propose to amend existing Interpretations and Policies .01 - .03 of Rule 11.25. The Exchange proposes to amend existing Interpretations and Policies .04 as described *infra* and proposes to introduce additional Interpretations and Policies related to the automated scoring mechanism described above.

The Exchange proposes to amend Interpretations and Policies .04 (Member Conduct) to add language that provides that a pattern or practice of failing to respond to a

confirmation request will be deemed conduct inconsistent with just and equitable principles of trade. Just as the Exchange currently makes Members aware that certain conduct (i.e., a pattern or practice of entering and immediately cancelling Periodic Auction Orders) will be deemed conduct inconsistent with just and equitable principles of trade, the Exchange believes it is necessary to notify Members that a pattern or practice of failing to respond to a confirmation request similarly will be deemed conduct inconsistent with just and equitable principles of trade. However, the Exchange also proposes to add language to Interpretations and Policies .04 to codify that there may be a legitimate business reason that a Member may engage in a pattern or practice of entering and immediately cancelling Periodic Auction Orders and a legitimate business reason that a Member may engage in a pattern or practice of failing to respond to a confirmation request. The addition of the “legitimate business reason” language is necessary to make clear that should a Member provide sufficient documentation that its behavior of entering and immediately cancelling Periodic Auction Orders or failing to respond to confirmation requests is, in fact, related to legitimate business activities, its conduct in question would not be deemed inconsistent with just and equitable principles of trade.

Proposed Interpretations and Policies .05 – .07 to Rule 11.25 describe the automated scoring mechanism used for senders of PAOCs. As described above, a User’s scoring mechanism is used i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions match with a contra-side Periodic Auction Order; and ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The User’s score will be automatically calculated and tracked by the System at the individual symbol level and

will automatically place a User in the appropriate scoring band once the minimum amount of confirmation requests have been sent to the User. The User would also automatically be prohibited from sending additional PAOCs to the Exchange in a given symbol for the remainder of a trading day should its score fall below the designated threshold.

The use of a PAOC is entirely voluntary and is not required for participation in Periodic Auctions. Users who choose to utilize the proposed Contingent Instruction do so with the understanding that they are choosing to subject themselves to the automated scoring mechanism and that they may be prohibited from submitting additional PAOCs in a particular symbol on a given trading day should they fall below the designated threshold.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.²¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²² 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

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

I. Proposal

As discussed in the Purpose section, Periodic Auctions were originally designed to facilitate the sourcing of larger blocks of liquidity that may not be available in continuous trading. The Exchange's experience, however, indicates that additional functionality is needed to encourage additional Users to submit Periodic Auction Orders. Particularly, the current Users of Periodic Auctions have told the Exchange that it is difficult to send large block-size orders to the Exchange without a reasonable expectation that sufficient contra-side liquidity exists. As such, the Exchange believes that the proposed enhancements to this product may therefore contribute to a free and open market and national market system. Specifically, the proposed optional Contingent Instruction applicable to Periodic Auction Only Orders would provide investors trading on a national securities exchange with a mechanism that is currently available only in off-exchange trading venues. This optional functionality would provide Users an additional venue to which a non-firm order could be sent, and would be the first-of-its kind order instruction on a national securities exchange. The proposed PAOC order instruction would provide additional price improvement opportunities and allow market participants to reduce risks that may be associated with placing large orders on a traditional limit order book. As such, PAOCs may improve market quality in U.S. equity securities traded

²³

Id.

on the Exchange, and these benefits may be even more pronounced in securities that currently trade with diminished market quality. The paragraphs that follow address each aspect of the proposed Contingent Instruction applicable to Periodic Auction Only Orders in turn.

In addition to contributing to a free and open market and national market system, the Exchange believes its proposal promotes just and equitable principles of trade by bringing a concept that is well-established in off-exchange trading venues to a national securities exchange, which, if approved, could help drive volume back to regulated, national securities exchanges rather than continuing the trend of ever-growing off-exchange trading volumes. Former Commission Chair Gary Gensler noted in a June 2022 speech that “[R]ight now, there isn’t a level playing field among different parts of the market: wholesalers, dark pools, and lit exchanges. Further, the markets have become increasingly hidden from view.”²⁴ The Exchange submits its proposal with the intent of offering a non-firm order instruction that market participants are already familiar with on a regulated, national securities exchange to narrow the gap between national securities exchanges and off-exchange venues. While the proposed Contingent Instruction is not necessarily innovative in that it is already utilized across off-exchange venues today, seeking to utilize the proposed Contingent Instruction on a national securities exchange is innovative and promotes just and equitable principles of trade. Current Commission Chairman Paul Atkins has explicitly encouraged a regulatory approach that supports innovation across U.S. markets, stating “[T]he SEC should not fear innovation. Rather, it

²⁴ See “Market Structure and the Retail Investor:” Remarks Before the Piper Sandler Global Exchange Conference (June 8, 2022), available at: <https://www.sec.gov/newsroom/speeches-statements/gensler-remarks-piper-sandler-global-exchange-conference-060822>

should embrace and champion it.”²⁵ Similarly, the Commission’s Director of Trading and Markets, Jamie Selway, has also indicated that he would work with Chairman Atkins to encourage innovation by stating “[C]hairman Atkins is bringing about a ‘new day’ at the SEC...Together, we will promote the SEC’s mission and enable innovation, to the benefit of our nation’s investors.”²⁶ The Exchange is committed to innovation that improves the quality of the equities markets and believes that the proposed addition of the Contingent Instruction may increase the attractiveness of the Exchange for the execution of large, institutional orders that may otherwise seek to be executed on off-exchange venues.

The Exchange believes that introducing a Contingent Instruction applicable to Periodic Auction Only Orders to enhance its existing Periodic Auction functionality contributes to a free and open market and national market system. Use of the Contingent Instruction would be strictly voluntary, and market participants would be able to determine whether and how the proposed Contingent Instruction fits into their existing workflows. Specifically, the proposed Contingent Instruction would be eligible to be appended only to Periodic Auction Only Orders and if included on a User’s Periodic Auction Only Order would render the Periodic Auction Only Order non-binding upon entry. The Exchange believes it is appropriate to offer Users the ability to enter Periodic Auction Only Orders as binding or non-binding upon entry so that Users can decide whether to use Periodic Auctions as the sole means of sourcing liquidity (in the event that the User elects to use the Periodic Auction Only Order without a Contingent Instruction)

²⁵ See “Prepared Remarks Before SEC Speaks” (May 19, 2025), available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

²⁶ See “SEC Names Jamie Selway as Director of Trading and Markets” (June 13, 2025), available at: <https://www.sec.gov/newsroom/press-releases/2025-87-sec-names-jamie-selway-director-trading-markets>.

or as part of a strategy where the User posts non-binding orders across multiple venues in an attempt to secure an execution while minimizing the risk of displaying orders in the public market (by utilizing the proposed Contingent Instruction appended to a Periodic Auction Only Order).

The Exchange does not propose to make any changes to the current operation of a Periodic Auction Only Order in conjunction with the introduction of its proposed Contingent Instruction. All existing instructions that are currently applicable to Periodic Auction Only Orders, such as minimum execution quantity instruction and pegging instructions, will continue to be accepted if the User elects to append a Contingent Instruction to its Periodic Auction Only Order. The Exchange believes that it is important to continue to offer existing Periodic Auction Only Order functionality without change and allow a User to merely supplement its Periodic Auction Only Orders with an optional, Contingent Instruction should the User decide that the Contingent Instruction is appropriate in its workflow. Offering additional, optional functionality to enhance the Exchange's Periodic Auction process without changing the foundation upon which Periodic Auctions were built is consistent with the maintenance of a fair and orderly market and will promote just and equitable principles of trade.

The Exchange also proposes to introduce a time-in-force of Auction or Cancel to Rule 11.25(b)(1) that would be available to all Periodic Auction Only Orders, including PAOCs. As described in the Purpose section, a Periodic Auction Only Order containing a time-in-force of AOC is to be executed in whole or in part at the end of the Periodic Auction Period immediately following receipt of such order. A Periodic Auction Only order containing a time-in-force of AOC may be used to attempt to initiate a Periodic

Auction or as a response to a System-generated request to confirm the sender of a PAOC's intent to trade. The introduction of the proposed AOC time-in-force provides an alternative option for Users of PAOCs to confirm their intent to trade and submit a binding order for participation in a Periodic Auction that will immediately cancel upon the conclusion of the Periodic Auction if the order is not filled. Users of PAOCs have elected to use a non-binding order instruction rather than a traditional Periodic Auction Only Order as part of a broader trading strategy and the proposed AOC time-in-force further perpetuates that strategy by limiting any potential execution to a single Periodic Auction. If, instead, a User were forced to respond to a confirmation request with a Continuous Book Order or a Periodic Auction Only Order containing a time-in-force of RHO, the User's order could then persist beyond the Periodic Auction in progress and deviate from the User's intended strategy. As such, the Exchange believes that the introduction of the AOC time-in-force would facilitate the operation of a fair and orderly market and promotes just and equitable principles of trade.

The Exchange believes the addition of the time-in-force of AOC is not unfairly discriminatory because all Users of Periodic Auction Only Orders may utilize a time-in-force of AOC and the use case is not limited to senders of PAOCs who are responding to confirmation requests. Additionally, the Exchange does not believe that it is unfairly discriminatory to not allow Users of Periodic Auction Eligible Orders to use the AOC time-in-force as the purpose of a Periodic Auction Eligible Order is to interact with both the Periodic Auction Book and the Continuous Book. Should a User of a Periodic Auction Eligible Order have the option to include a time-in-force of AOC, then any remainder of a Periodic Auction Eligible Order that does not immediately initiate a

Periodic Auction upon receipt of the order by the Exchange would be cancelled and would not have the opportunity to post to the Continuous Book. Further, use of the AOC time-in-force is completely voluntary and Users are free to utilize other times-in-force as appropriate for the order type which they are sending to the Exchange. Periodic Auctions are also voluntary, and no User is required to participate in Periodic Auctions nor submit Periodic Auction Orders to the Exchange.

The Exchange believes it is consistent with just and equitable principles to trade to limit the ability of a PAOC to become binding subject to certain requirements. The proposed Periodic Auction Only Order containing a Contingent Instruction would only become binding after i) matching with contra-side liquidity; and ii) the sender of the PAOC confirming its intent to trade as described in proposed Rule 11.25(h). Without requiring a sender of a PAOC to confirm its intent to trade upon matching with contra-side liquidity, the PAOC would not be “contingent” and would instead function as a traditional, binding order. Just as with Periodic Auction Only Orders entered today, a PAOC would not be eligible to match with a Continuous Book Order and would only be eligible to match with contra-side Periodic Auction Orders (which include Periodic Auction Only Orders, and Periodic Auction Eligible Orders). Additionally, to participate in a Periodic Auction, a PAOC must either initiate a Periodic Auction or be resting on the BYX Book when a Periodic Auction is initiated and will not be permitted to join a Periodic Auction that is already in progress. The proposed limitations on PAOCs becoming binding and participating in a Periodic Auction are consistent with just and equitable principles of trade because they are designed to ensure that an order containing a Contingent Instruction does not introduce any additional delay to the Periodic Auction

process by executing against Continuous Book Orders that are not participating in a Periodic Auction, or joining a Periodic Auction already in progress.

As part of the proposed introduction of the Contingent Instruction, the Exchange proposes to amend certain aspects of timing related to the Periodic Auction process that are currently in place. First, the Exchange proposes to amend the Periodic Auction Period from a fixed time period of 100 milliseconds to a combination of a fixed time period of 70 milliseconds plus a random time period of 0 – 30 milliseconds immediately following the fixed time period of 70 milliseconds. The Exchange also proposes to make clear that any Subsequent Auction shall have a fixed time period of 70 milliseconds. Next, the Exchange proposes to update the timing with which the initial message containing Periodic Auction Information is disseminated over the Exchange's market data feed. Currently, an initial Periodic Auction Information message is sent at a randomized time in one millisecond intervals. The Exchange proposes to now send the initiate Periodic Auction Information message immediately after a Periodic Auction has been initiated to minimize any advantage that the sender of a PAOC would have otherwise received should the Exchange send a confirmation request prior to the initial Periodic Auction Information message.

The Exchange believes these changes would facilitate the operation of a fair and orderly market. Functionally, the Exchange's proposal changes the length of a Periodic Auction from 100 milliseconds to a fixed time of at least 70 milliseconds but with an end time between 70 and 100 milliseconds. Practically speaking, however, Users currently do not have the full 100 milliseconds to join a Periodic Auction due to the randomization of the initial Periodic Auction Message that is sent out by the Exchange. By standardizing

the initial Periodic Auction Message and randomizing the end time of the Periodic Auction, the Exchange would be able to promptly process and execute a Periodic Auction while continuing to provide time for interested market participants to enter order to participate in the auction, including those Users who have submitted an order with a Contingent Instruction.

A User that elects to utilize the Contingent Instruction will be required to confirm its intent to trade before the PAOC is a binding order and as such, the Exchange proposes to send a System-generated request to the sender of a PAOC immediately upon a PAOC matching with a contra-side order. This confirmation request will be sent to the sender of a PAOC at the same time that the initial Periodic Auction Information message is sent out on the Exchange's market data feed. To ensure that all Users were receiving the same information at the same time, the Exchange needed to align the timing of three related pieces of a Periodic Auction: i) the Periodic Auction Period; ii) the sending of the initial Periodic Auction Information message; and iii) and the System-generated confirmation request. The Exchange believes the proposed changes to standardize the timing of i) the Periodic Auction Period; ii) the sending of the initial Periodic Auction Information message; and iii) and the System-generated confirmation request is not unfairly discriminatory because the Exchange is seeking to provide access to information to all participants at the same time and is not seeking to favor those participants that choose to submit PAOCs or those who choose to participate in Periodic Auctions using binding order types by either sending different messages on the market data feed or sending messages only after a Confirmation Order has been received. Recipients of Exchange market data will receive an initial Periodic Auction Information message at the same time

that the sender of a PAOC receives a confirmation request to confirm its intent to trade. Additionally, if one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the initial Periodic Auction Information message will indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction. Further, the initial Periodic Auction Message will include the full quantity and price of any order(s) containing a Contingent Instruction. By providing all participants with the same information at the same time, the Exchange would not preference one side of the Periodic Auction over another and would not preference the non-firm order instruction over a binding order type. All participants would have access to the same Periodic Auction Message information, with the only difference being that the sender of a PAOC would receive a confirmation request in addition to the initial Periodic Auction Message.

The Exchange believes the confirmation request sent to the sender of a PAOC that has matched against a contra-side order in a Periodic Auction is not unfairly discriminatory as it is necessary to allow the sender of a PAOC to confirm its intent to trade. The confirmation request would provide the same information that is contained in the initial Periodic Auction Message but would also contain the quantity of the PAOC that matched with a contra-side order in the Periodic Auction. This additional piece of information in the confirmation request is essential to the sender of the PAOC so that it may i) confirm its intent to trade in the Periodic Auction; and ii) if necessary, update or cancel any other non-firm orders that may exist on other venues. Since senders of non-firm orders generally submit non-firm orders across multiple venues at the same time to maximize the odds that an order will match against contra-side liquidity, the sender of the

non-firm order must act quickly to confirm its intent to trade and simultaneously update or cancel other non-firm orders on other venues to reflect the confirmation and subsequent execution of its matched order. The utility of providing this additional piece of information regarding the matched size of the PAOC is not discriminatory, but rather necessary to offer identical functionality for non-firm orders that exists on off-exchange venues today. The Exchange notes that its existing Regulatory obligations as described in the Interpretations and Policies section of Rule 11.25 would continue to apply should the proposed Contingent Instruction be approved. These existing rules describe how Periodic Auctions are processed consistent with certain other regulatory obligations, including obligations related to member conduct, or otherwise to ensure transparent handling in certain specified circumstances and provide transparency to members and investors with respect to how the Exchange processes Periodic Auctions consistent with relevant obligations under the Exchange Act, or as otherwise necessary or appropriate to maintain a fair and orderly market on the Exchange. The proposed amendments to existing Interpretations and Policies .04 of Rule 11.25 continue to promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the amendments provide notice of additional behavior (i.e., a pattern or practice of failing to respond to confirmation requests) that would be deemed conduct inconsistent with just and equitable principles of trade while also recognizing that there may be legitimate business reasons for why a User of a Periodic Auction Order may engage in the conduct described in proposed Interpretations and Policies .04. Indeed, allowing for Users to provide sufficient evidence of legitimate business reasons for certain conduct in question further promotes just and equitable principles of trade by

clarifying that not all conduct as described in proposed Interpretations and Policies .04 to Rule 11.25 would result in a User violating an Exchange Rule. Further, the proposed addition of the “legitimate business reason” language is consistent with the protection of investors and the public interest because conduct in question that does not have a legitimate business reason will continue to be deemed conduct inconsistent with just and equitable principles of trade, and only conduct where the Exchange determines there is sufficient evidence of a legitimate business reason may be permitted.

The Exchange also proposes to introduce subparagraphs .05 – .07 to the Interpretations and Policies section associated with Rule 11.25. The proposed subparagraphs will describe the automated scoring measurements that the Exchange will introduce as part of its proposed Contingent Instruction. The scoring measurements promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the proposed measurements serve to deter senders of PAOCs from initiating a Periodic Auction and then subsequently failing to respond to confirmation requests from the Exchange in an attempt to discover information about available contra-side liquidity. First, the Exchange proposes to introduce subparagraph .05, which will describe the use case for the scoring measurement and the components that comprise the scoring measurement. A User’s scoring measurement shall have two purposes: first, to determine the priority in which a confirmation request is sent to a User when multiple PAOCs match with a contra-side Periodic Auction Order; and second, to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction for the remainder of a trading day in a given symbol. The following components will make up the scoring

measurement: i) confirmation response rate; ii) confirmation response size; and iii) confirmation response price. All scoring measurements will be tracked and calculated automatically by the System at the MPID level.

The Exchange believes that tracking confirmation response rate, confirmation response size, and confirmation response price promotes just and equitable principles of trade and is consistent with the protection of investors and the public interest because it encourages Users of PAOCs to respond to confirmation requests within a timely manner (e.g., before the expiration of the Periodic Auction Period) at a price that is marketable and for a size that is equal to or greater than the original matched quantity. While a User is free to respond to a confirmation request with any price and any size, its score will be higher should it respond with a size that is at least equal to its matched quantity (as compared to a User who responds with a size that is less than its matched quantity). Similarly, a User's score will be higher should it respond with a price that is higher than (for buy Confirmation Orders) or lower than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received (as compared to a User who responds with prices that are lower (higher) than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received).

The Exchange believes equally weighting the three components that make up the scoring measurement is not unfairly discriminatory because it provides an objective, verifiable standard that applies uniformly to all Users. Equal weighting ensures that no single component is given disproportionate influence in determining a User's score. This

approach treats all Users identically with respect to the relative importance of each component, eliminating any potential for the scoring methodology to favor Users whose responses to confirmation requests may favor one component at the expense of others. By declining to assign any particular component a greater weighting, the Exchange avoids creating a system that could potentially advantage one class of market participant over another based on differences in responding to confirmation requests. Equal weighting also promotes objectivity and transparency in the scoring process. Because each component carries identical weight, Users can readily understand and predict how responding to confirmation requests will affect their score. This predictability enables all Users to make informed decisions about whether and how to utilize the proposed Contingent Instruction, and to adjust their confirmation practices accordingly.

Further, equal weighting reflects the Exchange's determination that each of the three components is independently significant to the integrity and efficiency of the Periodic Auction process. Confirmation response rate measures a User's basic willingness to confirm its intent to trade; confirmation response size measures whether the User stands behind the matched quantity; and confirmation response price measures whether the User is willing to transact at a marketable price. Each component addresses a distinct concern that, if not adequately addressed, could undermine the reliability of Periodic Auctions. Assigning equal weight to each component reflects the Exchange's belief that no single component is inherently more important than the others, and that a holistic assessment incorporating all three dimensions provides the most accurate measure of a User's commitment to confirming orders in good faith.

Providing a higher score for Users that respond to confirmation requests with orders that are competitively priced and orders with a size that is equal to or greater than the original matched quantity is also not unfairly discriminatory. Senders of PAOCs that respond to confirmation requests with Confirmation Orders that are competitively priced and contain sufficient size to execute against the matched size of the contra-side orders should benefit from higher scores because these market participants are providing liquidity that would support the quality of price discovery, offer additional cost savings, deepen the Exchange's liquidity pool, and generally improve market quality for all investors participating in Periodic Auctions. Rewarding those participants that are routinely providing marketable Confirmation Orders may encourage other market participants utilizing PAOCs to respond with more competitively priced and sufficiently sized orders to earn the ability to receive a confirmation request prior to other senders of PAOCs, thus enhancing Periodic Auctions generally. Further, the Exchange believes that not giving credit to those Users who respond to a confirmation request and subsequently cancel their respective Confirmation Orders prior to the conclusion of the Periodic Auction Period promotes just and equitable principles of trade and is not unfairly discriminatory because it is a tool designed to deter a User who may be attempting to gain informational advantages about contra-side liquidity by assigning a score comparable to that of a User that fails to respond to a confirmation request.

Use of the Contingent Instruction is strictly optional, and is not required for any User. The Exchange will not make any changes to either the components or the weightings of each component as part of the total scoring measurement without advance notice to Users. While optional, the proposed Contingent Instruction is available to all

Users, and all Users will be subject to the same scoring measurements regardless of the frequency with which they submit a PAOC or the size or price of PAOCs submitted to the Exchange. All scoring measurements occur at the System-level and all Users will have a perfect score until a User has received 10 confirmation requests in a given symbol. The Exchange also believes that applying the scoring measurement on a symbol-by-symbol level as opposed to cumulatively is not unfairly discriminatory as Users may have different strategies across different symbols and therefore volume in individual symbols can vary widely. As such, the Exchange believes it is appropriate to not attribute a User's performance in one symbol that has a limited number of Periodic Auctions throughout the trading day to other symbols that may have a much higher volume of Periodic Auctions and vice versa.

Next, the Exchange proposes to introduce subparagraph .06 to the Interpretations and Policies section of Rule 11.25, which would describe the scoring-based confirmation request priority. As described in the Purpose section, one of the use cases of the scoring measurement is to determine the order in which confirmation requests are sent to senders of PAOCs if multiple PAOCs can match with a contra-side Periodic Auction Order. If there are multiple Users within the same scoring band that can match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users.

The Exchange believes that scoring bands promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the scoring bands will encourage Users to respond to confirmation requests: i) in a timely manner; and ii) at sizes and prices that align with the size of the PAOC and the Periodic

Auction Book Price or NBBO midpoint. Attaining a higher score based on the scoring measurement components described above will allow a User to be ranked higher in terms of how quickly the User is sent a confirmation request when a PAOC matches with a contra-side Periodic Auction Order and initiates a Periodic Auction. For example, if there are three scoring bands, all Users in band one would be sent confirmation requests before any User in band two is sent a confirmation request, and all Users in band two would be sent confirmation requests before any User in band three is sent a confirmation request. If there are multiple Users within each band that have matched with the contra-side Periodic Auction Order, the Exchange will then utilize size/time priority to determine the order in which confirmation requests are sent to those Users.

The proposed scoring bands are also not unfairly discriminatory. While the scoring bands are used to sort Users that submit PAOCs to determine the order in which confirmation requests are allocated, the Exchange believes this act of separating Users into the relevant scoring bands is consistent with Section 6(b)(5) of the Act, as it does not permit *unfair* discrimination. All Users will be aware of the applicable scoring bands, which are proposed as follows: Band 1: $\geq 80\%$; Band 2: $\geq 70\%$ and below 80% ; Band 3: $< 70\%$.

Specifically, the Exchange does not believe it is unfairly discriminatory to divide Users into different scoring bands based on their scores. Rather, the use of scoring bands permits the Exchange to differentiate among Users based on performance-based criteria that are directly related to the integrity and efficiency of the Periodic Auction mechanism and the scores are calculated entirely based on responses submitted by the User responding to the confirmation request.

The scoring bands are based on objective, quantifiable criteria derived from each User's own behavior and are applied uniformly to all Users who submit PAOCs and receive a confirmation request. Users are not assigned to bands based on their identity, their trading volume, their membership status, or any other characteristic unrelated to their actual performance in responding to confirmation requests. Rather, each User's placement within a band is determined solely by its own conduct, which the User can monitor and control. All Users begin with a perfect score until they have received 10 confirmation requests in a given symbol, at which point their score is calculated based on their actual performance. Users have the ability to improve their band placement by adjusting their confirmation response practices.

Additionally, the scoring bands serve to promote legitimate market-quality objectives. The primary purpose of the bands is to encourage Users of PAOCs to respond to confirmation requests in a timely manner with marketable prices and adequate size, thereby promoting the reliability and efficiency of Periodic Auctions. Users who consistently respond to confirmation requests with marketable Confirmation Orders demonstrate a genuine commitment to executing in Periodic Auctions, and the Exchange believes it is appropriate to reward such commitment by prioritizing such Users when allocating confirmation requests in situations where multiple PAOCs match with contra-side liquidity. Conversely, Users who fail to respond, or who respond with non-marketable prices or inadequate size, impose costs on other market participants and diminish the utility of Periodic Auctions. Differentiating among Users based on responses to confirmation requests entirely within the control of such Users reflects legitimate risk differentiation because it aligns confirmation request priority with demonstrated trading

intent. Further, within each scoring band, the Exchange applies size/time priority to determine the order in which confirmation requests are sent to Users. This approach ensures that even among Users within the same band, priority is allocated based on neutral, objective criteria (e.g., the size and time of entry of their PAOCs) rather than on any arbitrary basis. The combination of band-based differentiation and intra-band size/time priority appropriately rewards both consistent confirmation behavior (through band placement) and order characteristics (through intra-band priority) that the Exchange believes is not unfairly discriminatory.

Finally, the Exchange proposes to introduce subparagraph .07 to the Interpretations and Policies section of Rule 11.25. Subparagraph .07 would describe the scoring-based automated lock-out applicable to Users that submit PAOCs. The Exchange believes that the scoring-based automated lock-out promotes just and equitable principles of trade and is consistent with the protection of investors and the public interest because the lock-out would serve to minimize the chance that a User would utilize PAOCs to initiate Periodic Auctions and then fail to participate in the Periodic Auction. To this point, a User that submits PAOCs shall be prohibited from submitting additional PAOCs in a given symbol if the User's intraday score at the MPID level falls below the lock-out threshold of 50%. The lock-out shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User's score is below the 50% lock-out threshold.

The Exchange believes that imposing a lockout on Users whose intraday score falls below the designated threshold of 50% is not unfairly discriminatory as the lockout mechanism serves legitimate regulatory, risk management, and market integrity purposes

that are directly connected to the Exchange's responsibilities under the Act to maintain fair and orderly markets and to protect investors and the public interest. The lockout mechanism is designed to prevent misuse of PAOCs by Users who demonstrate a pattern of failing to confirm their intent to trade after initiating Periodic Auctions. Absent such a mechanism, a User could submit PAOCs on a repeated basis, trigger Periodic Auctions, and then fail to respond to a confirmation request and potentially gain informational advantages about contra-side liquidity without committing capital or assuming execution risk. Such conduct would be inconsistent with just and equitable principles of trade and could undermine the integrity of Periodic Auctions by discouraging bona fide participants from utilizing PAOCs. The lockout mechanism directly addresses this risk by removing Users who fall below an objective performance threshold from the ability to submit additional PAOCs for the remainder of the trading day in the affected symbol.

This regulatory purpose is directly analogous to other exchange rules and mechanisms that impose restrictions on market participants who fail to meet objective performance standards. For example, exchanges routinely impose restrictions on market makers who fail to meet quoting obligations,²⁷ and the Commission has recognized that such restrictions are consistent with Section 6(b)(5) where they are based on objective criteria and serve legitimate market-quality objectives. The lockout mechanism operates in the same manner: it imposes a restriction on a User's ability to utilize a particular order instruction based on the User's own conduct, as measured against an objective, publicly disclosed threshold. This is not unfair discrimination; it is an appropriate response to

²⁷ See Rule 11.8(c).

conduct that could harm other market participants and undermine the integrity of the Periodic Auction process.

The lockout mechanism is also narrowly tailored to address the specific risk it is designed to mitigate. The lockout applies only to the submission of additional PAOCs and does not prohibit the affected User from submitting other order types on the Exchange, participating in Periodic Auctions using Periodic Auction Orders without a Contingent Instruction, or otherwise trading on the Continuous Book. Furthermore, the lockout applies only at the MPID and individual symbol level and only for the remainder of the trading day. This targeted scope ensures that the lockout does not impose undue burdens on Users beyond what is necessary to protect the integrity of Periodic Auctions involving PAOCs. Additionally, the lockout threshold of 50% applies uniformly to all Users who submit PAOCs. Users are aware in advance of the consequences of falling below this threshold and have the ability to manage their confirmation response practices to avoid triggering a lockout. All Users begin each trading day with a perfect score and are not subject to scoring until they have received at least 10 confirmation requests in a given symbol, providing an adequate opportunity to establish a baseline before any lockout could apply. This combination of advance disclosure, uniform application, and User control over the relevant conduct supports the conclusion that the lockout mechanism is administered in a fair and non-discriminatory manner.

Finally, the Exchange notes that the lockout mechanism is entirely avoidable by Users who do not wish to be subject to it as the Contingent Instruction is optional, and Users who prefer not to be subject to the scoring-based lockout may simply elect to submit traditional Periodic Auction Orders without a Contingent Instruction. The

voluntary nature of the Contingent Instruction, combined with the transparent and objective criteria governing the lockout, further supports the Exchange's position that the lockout mechanism is not unfairly discriminatory under Section 6(b)(5) of the Act.

In total, the Exchange believes that the proposed scoring measurements and proposed scoring-based automated lock-out promote just and equitable principles of trade and are not unfairly discriminatory because they are designed to promote the integrity, efficiency, and fairness of Periodic Auctions and provide a mechanism for the Exchange to dissuade Users from attempting to gain an advantage over others by submitting PAOCs without an intent to execute in the Periodic Auction. The proposed scoring measurements and automated lock-out would provide additional protections to investors than those already found in the Exchange's Interpretation and Policy .04 to Rule 11.25. Currently, a User that initiates a Periodic Auction and then immediately cancels its Periodic Auction Order is subject only to the following limitation: "[a] pattern or practice of submitting orders for the purpose of disrupting or manipulating Periodic Auctions, including entering and immediately cancelling Periodic Auction Orders, will be deemed conduct inconsistent with just and equitable principles of trade."²⁸ The Exchange views the failure of the sender of a PAOC to respond to a confirmation request as no different than the behavior of the User who initiates a Periodic Auction and then cancels its Periodic Auction Order prior to the end of the Periodic Auction Period. However, the Exchange believes it will be furthering just and equitable principles of trade by requiring senders of PAOCs to be subject to the proposed scoring measurements and proposed scoring-based automated lock-out as these requirements are based on similar

²⁸ See Rule 11.25, Interpretations and Policy .04.

requirements that exist on off-exchange venues and are reasonably designed to encourage senders of PAOCs to respond to confirmation requests in a reasonable amount of time with firm orders that will execute at the end of the Periodic Auction Period.

Further, the proposed scoring measurements and proposed scoring-based automated lock-out are not unfairly discriminatory as they will apply to all senders of PAOCs equally. Applying more stringent requirements to senders of PAOCs as compared to those market participants who choose not to submit PAOCs is also not *unfairly* discriminatory. The proposed Contingent Instruction is completely voluntary and Users are not required to utilize the Contingent Instruction in order to participate in Periodic Auctions. All Users shall have equal access to the applicable scoring measurements and scoring-based automated lock-out threshold on a publicly available Exchange website, and may choose whether to submit PAOCs as part of their broader investing strategy. A User is free to determine whether the proposed scoring measurements and proposed scoring-based automated lock-out are incompatible with its trading strategy and, if so, is not required to utilize the Contingent Instruction on its Periodic Auction Only Orders nor participate in Periodic Auctions. The Exchange proposes to offer the Contingent Instruction simply to provide a regulated, transparent venue as an additional option to which Users may submit non-firm orders and would not require any User to utilize the proposed functionality.

II. Compliance with Other Regulatory Requirements

As discussed in more detail below, the Exchange believes that Periodic Auctions continue to be consistent with other regulatory requirements, including the Order

Protection Rule, the LULD Plan, and Rule 602 of Regulation NMS (i.e., the “Quote Rule”).

First, with respect to compliance with the Order Protection Rule, the Exchange will continue to provide auction collars designed to limit trades to prices that are within the Protected NBBO. As discussed in the Periodic Auction Approval Order, the Order Protection Rule applies to transactions executed during Regular Trading Hours. Although opening and closing auctions are generally exempt from these requirements,²⁹ there are currently no exceptions that would apply to Periodic Auctions that perform a similar role in facilitating price discovery. The Exchange does not execute Periodic Auctions at prices that are inconsistent with the requirements of that rule and this proposal would not change the current behavior of Periodic Auctions. Generally, the Order Protection Rule requires trading centers to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected quotations in NMS stocks, unless an exception applies. A “trade-through” is defined in Rule 600(b)(81) of Regulation NMS as the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer. The relevant auction collars will continue to be applied at the time of execution, and therefore will prevent trades from occurring at prices that would constitute a trade-through at the time the Periodic Auction is processed, consistent with the requirements of the Order Protection Rule.

²⁹ Rule 611(b)(3) of Regulation NMS provides an exception to the requirements of the Order Protection Rule where the transaction that constituted the trade-through was a single-priced opening, reopening, or closing transaction by the trading center.

Similarly, with respect to compliance with the LULD Plan, the Exchange's auction collars will continue to limit trades to prices that are within the LULD Price Bands established pursuant to that national market system plan. As is the case with the Exchange's utilization of the Protected NBBO in setting applicable auction collars, the LULD Price Bands will continue to be used as an additional collar on Periodic Auctions, and would ensure that all transactions that result from a Periodic Auction would be executed within the applicable LULD Price Bands at the time the Periodic Auction is processed. The Exchange does not execute Periodic Auctions at prices that are inconsistent with the LULD Plan and the proposal would not change how the Exchange executes Periodic Auctions.

The Exchange also believes that the proposed rule change is consistent with the Quote Rule. Generally, the firm quote provisions of the Quote Rule require each responsible broker or dealer to execute an order presented to it, other than an odd lot order, at a price at least as favorable as its published bid or published offer, in any amount up to its published quotation size. The proposed Contingent Instruction applicable to a Periodic Auction Only Order would at all times be non-displayed, and therefore would not trigger the firm quote requirements of the Quote Rule. That is, there would be no "published bid" or "published offer" displayed to market participants that would be required to be "firm" under the Quote Rule.

Similarly, the proposal does not amend how Periodic Auctions function alongside trading on the Continuous Book and therefore would not result in violations of the Quote Rule. Continuous Book Orders entered to trade with the Exchange's published quotation will continue to be able to do so in the same manner that they do today, notwithstanding

the occurrence of Periodic Auctions conducted throughout the course of the trading day. The Exchange has designed its system for trading Periodic Auctions to minimize unnecessary latency, and does not believe that the introduction of PAOCs to the existing Periodic Auction functionality would impair the ability of the Exchange to execute incoming orders entered on the Continuous Book against its published bids or offers. The proposed Contingent Instruction will not extend the length of the Periodic Auction Period. The Exchange will continue to monitor system performance and latency after the introduction of PAOCs and related functionality to ensure that it is able to process both Periodic Auctions and Continuous Book Orders efficiently and without undue latency.

In addition, the Exchange would continue to handle events processed by the matching engine in sequence, and a Continuous Book Order that is included in the Exchange's published bid or offer would continue to trade with incoming Continuous Book Orders unless the Periodic Auction is processed prior to the matching engine's receipt of the incoming Continuous Book Order. Such executions would not run afoul of the firm quote requirements of the Quote Rule as Rule 602(b)(3) of Regulation NMS contains an explicit exemption from these requirements for broker-dealers that are in the process of effecting a transaction in that security at the time the incoming order is "presented" to the broker-dealer for potential execution.

Further, the Exchange believes the Periodic Auction Message itself does not constitute a "published bid" or "published offer" within the meaning of the Quote Rule. The Periodic Auction Message is a market data message that provides information regarding a Periodic Auction that has been initiated on the Exchange. The Periodic Auction Message is not an actionable quote that can be executed against by market

participants. The information contained in the Periodic Auction Message (i.e., the Periodic Auction Book Price and the total number of shares matched at that price) is indicative in nature and reflects the current state of the Periodic Auction at the time the message is disseminated. Market participants cannot execute against a Periodic Auction Message in the manner that they could execute against a displayed quotation on the Continuous Book. As such, the Exchange believes Periodic Auction Message falls outside the scope of the firm quote requirements of Rule 602 because it is not a quotation that the Quote Rule was designed to regulate.

Additionally, the Periodic Auction Message serves a fundamentally different purpose than a published quotation on the Continuous Book. A published quotation under Rule 602 represents a commitment to execute at the quoted price, subject to the published quotation size. In contrast, the Periodic Auction Message is designed to attract additional liquidity to an ongoing Periodic Auction by providing transparency into the auction process by functioning as a notification to market participants that a Periodic Auction has been initiated. The distinction is similar to the difference between an indicative price disseminated by a trading venue as part of its opening or closing auction messaging and a firm, executable quotation that is available for immediate execution. The firm quote requirements of Rule 602 are designed to apply to published bids and offers that represent firm commitments, not to informational messages that facilitate trading.³⁰

³⁰ The definition of “bid or offer” in Rule 600(b)(16) excludes informational messages by specifically stating that “indications of interest” are not included in the definition of “bid or offer.” See 17 CFR 242.600(b)(16), which provides: “Bid or offer means the bid price of the offer price communicated by a member of a national securities exchange or member of a national securities association to any broker or dealer, or to any customer, at which it is willing to buy or sell one or more round lots of an NMS security, as either principal or agent, but shall not include indications of interest.”

Moreover, unlike a displayed quotation on the Continuous Book, the Periodic Auction Message does not create an obligation on any market participant to execute at the indicative price communicated by the Periodic Auction Message. The Periodic Auction Book Price and matched quantity reflected in the Periodic Auction Message may change during the course of the Periodic Auction Period as additional orders are received or cancelled prior to the conclusion of the Periodic Auction Period. The Periodic Auction ultimately executes at the conclusion of the Periodic Auction Period at the price that maximizes the total number of shares matched and not necessarily at the price or for the size indicated in any prior Periodic Auction Message. This dynamic nature of the Periodic Auction process further underscores the Exchange's belief that the Periodic Auction Message serves as an informational tool for market participants rather than a firm quotation subject to Rule 602.

The Exchange notes that the proposed introduction of PAOCs does not change how the Periodic Book Price or the matched quantity contained within the Periodic Auction Message is calculated. Current Periodic Auction Messages contain a Periodic Book Price, which is the price within the Collar Price Range at which the most shares from the Periodic Auction Book would match, and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price. Should PAOCs be introduced, the Periodic Auction Message would simply include the matched quantity executable at the Periodic Auction Book Price of any order(s) containing a Contingent Instruction that matched with a contra-side Periodic Auction Order and where a confirmation request has been sent in its messaging of the Periodic Auction Book Price and matched quantity. Should the sender of a PAOC send a Confirmation Order for a

different price or different size, this would be reflected in an update to the respective Periodic Auction Book Price and/or matched quantity disseminated by the Periodic Auction Message. In the Exchange's view, this is no different than current updates to the Periodic Auction Book Price and/or matched quantity that can occur if orders are cancelled during the Periodic Auction Period or additional orders match at the Periodic Auction Book Price during the Periodic Auction Period. The Exchange believes that the proposed introduction of PAOCs does not cause the Periodic Auction Message to become a firm quote subject to the requirements of Rule 602 because the Periodic Auction Book Price and matched quantity are not "firm" and are merely indications of the price at which the Periodic Auction will occur at the end of the Periodic Auction Period.

Finally, the Exchange's published quotations would continue to be considered "automated quotations" as defined in Rule 600(b)(4) of Regulation NMS. As discussed with respect to compliance with the Quote Rule, the Exchange has designed its system for trading Periodic Auctions to minimize unnecessary latency, and therefore does not believe that the introduction of any functionality related to the proposed Contingent Instruction would impair the ability of the Exchange to execute incoming orders entered on the Continuous Book against its published bids or offers. In this regard, the Exchange represents that any additional latency on the Continuous Book that may result from the proposed introduction of functionality related to the proposed Contingent Instruction would not be material from the perspective of compliance with the Order Protection Rule. Under Regulation NMS, an "automated" quotation is one that, among other things, can be executed "immediately and automatically" against an incoming immediate-or-cancel order. Although the Commission's recent guidance related to automated quotations has

focused on the introduction of intentional delay mechanisms or “speed bumps,”³¹ which present different and more complex issues under Regulation NMS, the Exchange believes that its proposed enhancement to Periodic Auctions would not frustrate the purposes of the Order Protection Rule by “impairing fair and efficient access” to the Exchange’s quotations. In this regard, the Exchange notes that it has engaged in substantial testing of its Periodic Auction product containing the proposed functionality related to Contingent Instructions and, based on that testing, believes that any additional latency that may be experienced on the Continuous Book as a result of the proposal would be minimal and *de minimis* from the perspective of the Order Protection Rule.³²

III. Conclusion

Chairman Atkins has expressed the importance of innovation by stating, “...we are getting back to our roots of promoting, rather than stifling, innovation. The markets innovate, and the SEC should not be in the business of telling them to stand still.”³³ The proposed Contingent Instruction is a prime example of a place where the Commission can promote, rather than stifle, innovation. The proposed Contingent Instruction, while novel to the Exchange and to the Commission in a proposed rulemaking, is not, in fact, a

³¹ See Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2017) (File No. S7-03-16) (“Commission Interpretation”).

³² Although the Commission refused to enumerate a numeric latency threshold for an intentional delay that is sufficiently *de minimis* for the purposes of the Order Protection Rule, the Staff of the Division of Trading and Markets has issued guidance stating the Staff’s belief that delays of less than one millisecond would qualify as *de minimis*. See Staff Guidance on Automated Quotations under Regulation NMS (June 17, 2016), available at <https://www.sec.gov/divisions/marketreg/automated-quotations-under-regulation-nms.htm>. While the Exchange’s proposal would not introduce an intentional delay, the Exchange’s testing indicates that any additional latency that may result from the proposed introduction of the Contingent Instruction within Periodic Auctions would be well within this threshold.

³³ See “Prepared Remarks Before SEC Speaks,” (May 19, 2025), available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

novel concept in the equities markets. For years, market participants have been able to utilize a non-binding order instruction to post block-size liquidity across multiple off-exchange venues at the same time. This order instruction is particularly useful when sourcing block-size liquidity because it allows for large, non-binding orders to be entered in a non-displayed capacity across multiple venues yet only execute on a single venue when a match is received and the market participant confirms its intent to trade. Once a non-binding order instruction is confirmed on one venue, the market participant is able to modify or cancel its remaining non-binding order instructions across the remaining venues. This non-binding characteristic of the order is attractive to market participants because it allows for market participants to post liquidity on multiple venues in search of the most favorable execution. The Exchange's proposed PAOC would simply provide an additional regulated, transparent venue to which market participants could direct non-binding order flow in search of block-size liquidity and does not seek to introduce functionality with which market participants are not already familiar.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase competition by introducing an additional mechanism for equities market participants seeking to execute bulk-size liquidity during the course of the trading day on a national securities exchange. Indeed, the proposed introduction of the Contingent Instruction is a pro-competitive means of seeking to attract liquidity back to a regulated, transparent venue. The proposal, which seeks to introduce the Contingent Instruction as part of its existing Periodic Auction process, would allow competition, rather than regulatory intervention designed

to limit competition and innovation, to improve market quality for thinly-traded and other securities.

The introduction of PAOCs is designed to provide an on-exchange opportunity for investors sourcing liquidity during the trading day using a non-binding instruction, and, in particular, those that are actively placing non-binding instructions across multiple venues in an attempt to source the most favorable execution. Providing an additional mechanism for non-binding orders to be executed would promote competition between venues that seek to execute this order flow, and provide market participants and investors with greater choice with respect to how they choose to source liquidity. The equities industry is fiercely competitive as the Exchange must compete with other equities exchanges and off-exchange venues for order flow. The proposal is both evidence of this competition, and would further enable the Exchange to compete effectively in this market.

Item 5. 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.

Item 6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Securities and Exchange Commission (the “Commission”) action on the proposed rule change specified in Section 19(b)(2) of the Act.³⁴

³⁴ 15 U.S.C. 78s(b)(2).

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

Not applicable.

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

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 2 – 4. Not applicable.

Exhibit 5. Proposed rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CboeBYX-2026-014]

[Insert date]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Amend Rule 11.25

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 [insert date], Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) 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 Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to amend Rule 11.25 to introduce an optional, Contingent Instruction applicable to Periodic Auction Only Orders, introduce a time-in-force of Auction or Cancel, and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(https://www.cboe.com/us/equities/regulation/rule_filings/byx/), and at the principal office of the Exchange.

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 Rule 11.25 ("Periodic Auctions") to introduce an optional, Contingent Instruction (discussed in detail, *infra*) applicable to Periodic Auction Only Orders.³ The Exchange also seeks to introduce a time-in-force of Auction or Cancel and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. By way of background, a Periodic Auction is an intraday price forming auction that the Exchange developed as a way to provide an additional price discovery function to investors seeking liquidity in U.S. equity securities, including block-size liquidity, during the course of the trading day.⁴ Periodic Auctions do not interrupt trading in the continuous market and execute at the price level that

³ See Rule 11.25(b)(1). A "Periodic Auction Only Order" is a non-displayed limit order entered with an instruction to participate solely in Periodic Auctions pursuant to Rule 11.25. Periodic Auction Only Orders are not eligible for execution on the Continuous Book.

⁴ See Securities Exchange Act Release No. 91423 (March 26, 2021), 86 FR 17230 (April 1, 2021), SR-CboeBYX-2020-021 ("Periodic Auction Approval Order").

maximizes the total number of shares in both the Periodic Auction Book⁵ and the Continuous Book.⁶ Periodic Auctions are available in all securities traded on the Exchange.

Periodic Auctions were designed, in part, to improve market quality in thinly-traded securities that suffer from diminished market quality as compared to their more actively-traded counterparts.⁷ Periodic Auctions are intended to facilitate the sourcing of larger blocks of liquidity that may not be available in continuous trading.⁸ Specifically, Periodic Auction Orders are required to have a size of 100 shares or more in securities priced below \$500.00 based on the consolidated last sale price as one way to attract larger blocks of liquidity.⁹ Additionally, the Exchange permits market participants seeking to execute larger orders to include a minimum execution quantity instruction that would allow the Periodic Auction Order to execute in a Periodic Auction only if the minimum size specified can be executed against one or more contra-side Periodic Auction Orders or Continuous Book Orders.¹⁰ While the Exchange believed that these optional order instructions would attract significant order flow to Periodic Auctions, current data suggests that enhancements to Periodic Auctions are needed to make this offering more attractive to potential Users. Exchange data indicates that between July 2025 – December

⁵ See Rule 11.25(a)(6). The term “Periodic Auction Book” shall mean the System’s electronic file of such Periodic Auction Orders. The term “Periodic Auction Order” shall mean a “Periodic Auction Order” or a “Periodic Auction Eligible Order”.

⁶ See Rule 11.25(a)(2). The term “Continuous Book” shall mean the System’s file of such Continuous Book Orders. The term “Continuous Book Order” shall mean an order on the BYX Book that is not a Periodic Auction Order.

⁷ See Periodic Auction Approval Order at 17231.

⁸ Id. at 17232.

⁹ See Rule 11.23(b).

¹⁰ See Rule 11.25(b)(1)(B).

2025 (the “Reference Period”), there were a total of 411,557,479 Periodic Auction Orders (this includes both Periodic Auction Only Orders and Periodic Auction Eligible Orders) received by the Exchange. However, during this same period only 2,259,916 Periodic Auction Orders were filled by the Exchange, representing approximately 0.55% of Periodic Auction Orders received by the Exchange.

User¹¹ feedback has indicated that additional functionality is needed in order to encourage additional Users to submit Periodic Auction Orders. Particularly, the current Users of Periodic Auctions have told the Exchange that it is difficult to send large block-size orders to the Exchange without a reasonable expectation that sufficient contra-side liquidity exists. As such, the Exchange now proposes to introduce an optional, Contingent Instruction that would be applicable only to Periodic Auction Only Orders as a way to encourage additional participation in Periodic Auctions. As discussed further, *infra*, the proposed Contingent Instruction would provide a way for Users to indicate to other market participants that they have liquidity available to participate in a Periodic Auction without being required to confirm the size and price of such liquidity until a Periodic Auction begins. The Exchange proposes various amendments to Rule 11.25, as discussed below, to properly describe the application of its proposed Contingent Instruction.

Definitions

The Exchange proposes to amend various provisions of Rule 11.25(a), which currently provides various definitions associated with Periodic Auctions. First, the

¹¹ See Rule 1.5(cc). The term “User” shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

Exchange proposes to introduce Rule 11.25(a)(10) to define the term “Contingent Instruction.” The term Contingent Instruction shall mean an optional order instruction that may be appended to a Periodic Auction Only Order. A Contingent Instruction is an instruction that renders a Periodic Auction Only Order non-binding upon entry. A Periodic Auction Only Order containing a Contingent Instruction will only become binding after: i) matching with contra-side liquidity; and ii) the sender of the Periodic Auction Only Order containing a Contingent Instruction confirming its intent to trade as described in proposed Rule 11.25(h). A Contingent Instruction may not be appended to a Periodic Auction Eligible Order or a Continuous Book Order. To participate in a Periodic Auction, a Periodic Auction Only Order containing a Contingent Instruction must initiate a Periodic Auction or be resting on the BYX Book¹² when a Periodic Auction is initiated. A Periodic Auction Only Order containing a Contingent Instruction (a “PAOC”) will not be eligible to participate in a Periodic Auction that is already in progress if it is received by the Exchange after the Periodic Auction Period has begun.

Next, the Exchange proposes to amend Rule 11.25(a)(8) to revise the Periodic Auction Period.¹³ Currently, the Periodic Auction Period is a fixed time period of 100 milliseconds.¹⁴ The Exchange proposes to amend the Periodic Auction Period from a fixed time of 100 milliseconds to a fixed time of 70 milliseconds plus a random time period of 0 – 30 milliseconds immediately following the fixed time period of 70 milliseconds. The effect of this proposed change is that a Periodic Auction Period would

¹² See Rule 1.5(e). The term “BYX Book” shall mean the System’s electronic file of orders.

¹³ See Rule 11.25(a)(8). The term “Periodic Auction Period” is the time period for conducting a Periodic Auction.

¹⁴ See Rule 11.25(a)(8).

be a minimum of 70 milliseconds in length, but no longer than 100 milliseconds in length. As discussed further, *infra*, the Exchange also proposes to amend Rule 11.25(c) to revise when a Periodic Auction Message is sent to market participants upon the initiation of a Periodic Auction. In addition to revising the time period of the Periodic Auction Period, the Exchange also proposes to amend Rule 11.25(a)(8) to include language regarding the initiation and length of subsequent Periodic Auctions that immediately follow the conclusion of a Periodic Auction Period. Specifically, the Exchange proposes that a subsequent Periodic Auction Period may begin immediately following the conclusion of a Periodic Auction (a “Subsequent Auction”) provided one or more Periodic Auction Orders to buy is executable against one or more Periodic Auction Orders to sell and did not trade in the immediately preceding Periodic Auction. A Subsequent Auction would occur for a fixed time period of 70 milliseconds for conducting a Periodic Auction. There is no limit to the number of Subsequent Auctions that may occur.

The Exchange also proposes a non-substantive change to Rule 11.25(a)(2) in order to add the word “the” ahead of the word “System’s” as this word was inadvertently left out of the sentence upon drafting.

Order Entry and Cancellation

Current Rule 11.25(b) describes the manner in which Users may enter Periodic Auction Orders and Continuous Book Orders on the Exchange to participate in a Periodic Auction. The Exchange proposes to amend Rule 11.25(b)(1) to include a new time-in-force of Auction-or-Cancel (“AOC”) that may be appended to a Periodic Auction Only Order. A Periodic Auction Order with a time-in-force of AOC is to be executed in whole

or in part at the end of the Periodic Auction Period immediately following receipt of such order.¹⁵ A Periodic Auction Only Order with a time-in-force of AOC may join a Periodic Auction that is already in progress when the order is received by the Exchange. A Periodic Auction Only Order with a time-in-force of AOC is not eligible for routing to another trading center. The portion of a Periodic Auction Only Order not immediately executed in a Periodic Auction is treated as cancelled and is not posted to the Continuous Book. Additionally, the Exchange proposes to introduce subparagraph (i) to Rule 11.25(b)(1) to note that a Periodic Auction Only Order containing a Contingent Instruction and a time-in-force of AOC will not be permitted to join a Periodic Auction that is already in progress when the order is received by the Exchange. The Exchange also proposes to amend Rule 11.25(b)(1) by introducing subparagraph (D), which would provide that a User may include a Contingent Instruction on its Periodic Auction Only Order.

In addition, the Exchange proposes to amend Rule 11.25(b)(2)(A) to make clear that a Periodic Auction Eligible Order may not be entered with a time-in-force of AOC.

Initiation and Publication of Periodic Auction Information

Existing Rule 11.25(c) describes the manner in which a Periodic Auction may be initiated and the messaging sent out by the Exchange upon the initiation of a Periodic Auction. The Exchange does not propose to change how a Periodic Auction may be initiated – namely, that when one or more Periodic Auction Orders to buy become executable against one or more Periodic Auction Orders to sell, a Periodic Auction will be initiated. The Exchange proposes to amend Rule 11.25(c) in order to describe the

¹⁵ The proposed AOC time-in-force is intended to be substantially similar to an order containing a time-in-force of Immediate-or-Cancel (“IOC”), with the only difference being that the order is not immediately executable on the Continuous Book but rather only immediately executable if it initiates a Periodic Auction or is received by the Exchange while a Periodic Auction is in progress.

timing of the initial Periodic Auction Message that will be disseminated by the Exchange. Currently, a Periodic Auction Message is sent at a randomized time in one millisecond intervals after a Periodic Auction has been initiated and before the end of the Periodic Auction. As proposed, a Periodic Auction Message would be sent immediately following the initiation of a Periodic Auction rather than at a randomized time following the initiation of a Periodic Auction and before the end of the Periodic Auction. The initial Periodic Auction Message would continue to include the Periodic Auction Book Price¹⁶ and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price. The revised Periodic Auction Message would continue to be disseminated in five millisecond intervals for the remaining duration of the Periodic Auction.

The Exchange also proposes to introduce subparagraph (1) to Rule 11.25(c) to describe the proposed Contingent Instruction's impact to the Periodic Auction Message. Proposed Rule 11.25(c)(1) would state that if one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the Periodic Auction Message will include the matched quantity executable at the Periodic Auction Book Price of any order(s) containing a Contingent Instruction that matched with a contra-side Periodic Auction Order and where a confirmation request has been sent.¹⁷ The Periodic Auction

¹⁶ See Rule 11.25(a)(5). The term "Periodic Auction Book Price" shall mean the price within the Collar Price Range at which the most shares from the Periodic Auction Book would match.

¹⁷ The Exchange notes that there would be no change to the content of the Periodic Auction Message (i.e., the Periodic Auction Message would continue to include the Periodic Auction Book Price and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price). Subparagraph (1) is included only to note that the full quantity and price of orders containing a Contingent Instruction would be included in the Periodic Auction Message.

Message would also indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction.

Priority and Execution of Orders

Rule 11.25(e) describes the order priority of orders that are executable at the end of the Periodic Auction Period. No changes to order priority and execution of orders will occur as a result of the introduction of the optional Contingent Instruction or as a result of the introduction of the proposed time-in-force of AOC. At the end of a Periodic Auction, any displayed Continuous Book Orders executable at the Periodic Auction Price will continue to be executed in price/time priority, any Periodic Auction Orders executable at the Periodic Auction Price will continue to be executed in size/time priority, and any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price will continue to be executed as provided in Rule 11.12(a)(2)(B).¹⁸ The time-in-force appended to an order will not impact the order's priority, just as time-in-force does not affect priority under current Rule 11.25(e) or Rule 11.12(a)(2)(B) today. The Exchange proposes to amend Rule 11.25(e) to further provide that size and time priority for a PAOC is based on receipt of the Confirmation Order and not the size of or time that the PAOC is received by the System.¹⁹ This proposed change is necessary because an order containing a Contingent Instruction is not eligible to participate in a Periodic Auction until the Exchange receives a Confirmation Order in response to a System-generated

¹⁸ The Exchange notes that the current rule text incorrectly states that non-displayed Continuous Book Orders executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). As part of this proposal the Exchange will amend the rule reference to Rule 11.12(a)(2)(B), which describes order priority.

¹⁹ As discussed *infra*, a Periodic Auction Only Order containing a Contingent Instruction is automatically cancelled when the System-generated request for confirmation is sent to the sender of the order containing the Contingent Instruction. As such, time priority for an order containing a Contingent Instruction shall be based on receipt of the Confirmation Order.

confirmation request, and the terms on which such order will actually trade are therefore not established until that Confirmation Order is received. As a result, a PAOC may lose priority relative to other Periodic Auction Orders or Continuous Book Orders that are received by the System after the original order containing the Contingent Instruction but before the corresponding Confirmation Order is received. The Exchange believes basing priority on the receipt of the Confirmation Order is appropriate because it ties priority to the size and timing of the order reflecting a User's confirmed, firm trading interest, rather than to the size and timing of an order whose execution remains contingent on a subsequent confirmation.

Confirmation of Orders Containing a Contingent Instruction

The Exchange proposes to introduce Rule 11.25(h), which will describe the process for the sender of a PAOC to confirm its intent to trade after the initiation of a Periodic Auction. When a Periodic Auction is initiated and one or both sides of the initiating orders contain a Contingent Instruction, the sender(s) of the orders containing a Contingent Instruction shall be required to confirm their intent to trade before the order(s) containing a Contingent Instruction may participate in the Periodic Auction. Users shall confirm their intent to trade by responding to the System-generated confirmation request with a Periodic Auction Only Order (the "Confirmation Order").²⁰ The PAOC will be cancelled as soon as the System-generated confirmation request is sent. A Confirmation Order may be submitted for any size and any price, and does not have to match the size and/or price of the order containing a Contingent Instruction.

Scoring Measurements for Sending of Orders with Contingent Instructions

²⁰

The Confirmation Order may contain either a time-in-force of AOC or a time-in-force of RHO.

Under the Interpretations and Policies section of Rule 11.25 the Exchange proposes to introduce subparagraph .05, which would contain rule text that describes the scoring measurements that will be utilized by the Exchange to track confirmation responses by senders of orders containing a Contingent Instruction following the initiation of a Periodic Auction. The scoring measurements will be calculated by the System daily, on a per symbol basis. A User's scoring measurement shall be used: i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions are able to match with a contra-side Periodic Auction Order; and ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The following components will be tracked by the System: i) confirmation response rate; ii) confirmation response size; and iii) confirmation response price. Each individual component of a User's scoring measurement shall be equal weighted (e.g., 33.33% each). The System will calculate and track a User's score at the MPID level. Scoring will be based on the current trading day's activity only and will be tracked at the individual symbol level. A minimum of 10 confirmation requests are required before a score may be assigned to an MPID and Users will automatically be placed in the top scoring band until 10 confirmation requests have been sent for a given symbol.

The Exchange believes that the confirmation response rate, confirmation response size, and confirmation response price are the elements of a Confirmation Order that are most relevant in determining the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order and in determining whether a User is prohibited from

submitting additional orders containing a Contingent Instruction on a given trading day.

By tracking a User's confirmation response rate, the Exchange is seeking to identify how many times a User responds to a confirmation request with a Confirmation Order.

However, the Exchange believes that tracking a User's response rate alone does not provide an adequate view of whether that particular User is confirming its intent to trade and as such, also proposes to track the User's confirmation response size and confirmation response price.

By also tracking size, the Exchange is seeking to determine whether a User is responding with a Confirmation Order that is at least equal to the size of the PAOC's matched quantity. While Users are free to respond with any size, if a User responds with a size that is less than its matched size, its score will be lower as compared to a User who responds with a size that is equal to or greater than the size of its matched size. Similarly, by tracking the price of the Confirmation Order, the Exchange is seeking to determine whether a User is responding to a confirmation request with a Confirmation Order that is priced equal to or better than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received. Just as with size, a User is free to respond to a confirmation request with any price, but if a User chooses to respond with a price that is lower than (for buy Confirmation Orders) or higher than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received, its score in the price category will be lower as compared to a User who responds with a price that is equal to or higher than (for buy Confirmation Orders) or

lower than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received.

At the outset, the Exchange proposes that a User's overall scoring measurement shall be composed of the three components identified above (i.e., response rate, response size, and response price), each of which shall be equal weighted in the calculation of the overall scoring measurement. As discussed *infra*, Users responding to confirmation requests will be ranked within different scoring bands and the scoring bands shall be used to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order. Any User that responds to a confirmation request and subsequently cancels its confirmation response prior to the conclusion of the Periodic Auction Period shall not receive credit for its confirmation response.

To determine the score for each User, the System will assign a value based on a User's Confirmation Order (or lack of response). To determine a score for the response rate metric, a User that provides any Confirmation Order would receive a value of 1, regardless of whether the response size and response price satisfies the criteria set forth by the Exchange. On the contrary, a User that does not submit a Confirmation Order would receive a value of 0. To determine a score for the response price metric, a User that provides a Confirmation Order price that is priced equal to or better than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received would receive a value of 1, while a User that provides a Confirmation Order price that is

priced worse than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received would receive a value of 0. To determine a score for the response size metric, a User that provides a Confirmation Order size that is at least equal to the matched size would receive a value of 1. However, a User that provides a Confirmation Order size that is lower than the size of its matched quantity would receive a value based on the size provided in the Confirmation Order as a percentage of the matched quantity. For example, assume the matched quantity was 500 shares. A User that responds with a Confirmation Order size of 500 shares receives a value of 1, whereas a User that responds with a Confirmation Order size of 250 shares receives a value of .5 (250 shares is 50% of the matched quantity of 500 shares, thus earning 50% of the value of 1). Any User that does not provide a Confirmation Order would receive a 0 for the response rate metric and would not receive a score for either the response price metric or the response size metric. Once a User has received 10 confirmation requests, the System will calculate a separate average for each of the three scoring measurements (i.e., confirmation response rate, confirmation response size, and confirmation response price). The average of each scoring measurement is then multiplied by the respective weight assigned to each scoring measurement. The three resulting values are then added together to determine a User's score.²¹

²¹ For example, assume that the three scoring measurements are equal-weighted (i.e., 33.33%, 33.33%, and 33.34%). User 1 has an average response rate of 80%, an average response size of 60%, and an average response price of 90%. The average scoring measurements multiplied by the weight of each scoring measurement results in a value of 26.66% for the User's average response rate (80% x 33.33%), a value of 19.99% for the User's average response size (60% x 33.33%), and a value of 30% for the User's average response price. User 1's score is therefore 76.65% (26.66 + 19.99 + 30).

The combination of response rate, response size, and response price provides the Exchange with a holistic view of how a User is responding to confirmation requests sent by the System. The Exchange believes that by requiring a minimum of 10 confirmation requests in an individual symbol before calculating a score is appropriate in that it would provide for an adequate number of requests before a User could potentially be ranked lower than its peers should it choose to not respond to confirmation requests or should it choose to provide responses to confirmation requests with Confirmation Orders that have a size or price that do not match the scoring measurements as discussed *supra*.

Additionally, the Exchange believes it is appropriate to track a User's confirmation responses at the individual symbol level rather than across all symbols because volume in individual symbols can vary widely. As such, the Exchange does not believe it is appropriate to attribute a User's performance in one symbol that has a limited number of Periodic Auctions throughout the trading day to other symbols that may have a much higher volume of Periodic Auctions and vice versa.

Scoring Based Confirmation Request Priority

The Exchange proposes to introduce subparagraph .06 to Rule 11.25, Interpretations and Policies in order to describe the scoring bands that will be utilized to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order. In the event that there are multiple Users within the same scoring band that can match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users. The scoring bands are as follows: Band 1: $\geq 80\%$; Band 2: $\geq 70\%$ and below 80% ; Band 3: $< 70\%$.

The Exchange believes it is appropriate to have different scoring bands in order to encourage Users to submit responses to confirmation requests in a timely manner that also align with the size of the original order containing a Contingent Instruction and the Periodic Auction Book Price. Attaining a higher score based on the scoring measurement components described above will allow a User to be ranked higher in terms of how the Exchange prioritizes when the User is sent a confirmation request when an order containing a Contingent Instruction matches with a contra-side Periodic Auction Order and initiates a Periodic Auction as compared to Users with lower scores. For example, using the three scoring bands described above, all Users in band one would be sent confirmation requests before any User in band two is sent a confirmation request, and all Users in band two would be sent confirmation requests before any User in band three is sent a confirmation request. If there are multiple Users within each band that have matched with the contra-side Periodic Auction Order, the Exchange will then utilize size/time priority of the PAOC to determine the order in which confirmation requests are sent to those Users.

Scoring Based Automated Lock-Out

The Exchange also proposes to introduce subparagraph .07 to the Interpretations and Policies section of Rule 11.25, which would describe the proposed lock-out of Users that fall below a certain scoring measurement. Proposed subparagraph .07 would provide that a User that submits Periodic Auction Only Orders containing a Contingent Instruction shall be prohibited from submitting additional Periodic Auction Only Orders containing a Contingent Instruction in a given symbol if the User's intraday score at the MPID level falls below the lock-out threshold determined by the Exchange. The lock-out

shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User's score is below the applicable lock-out threshold. Users would only be prohibited from submitting additional Periodic Auction Only Orders containing a Contingent Instruction and would be permitted to submit orders without a Contingent Instruction to the Exchange. The applicable lock-out threshold shall be 50%.

The proposed lock-out would be controlled at the System-level and would utilize the same scoring measurements described above that are utilized to determine the order in which confirmation requests are sent to Users in the event that multiple Periodic Auction Only Orders containing a Contingent Instruction match with a contra-side Periodic Auction Order. As described above, the System will not assign a score to an MPID until a minimum of 10 confirmation requests have been sent to the individual MPID. Each MPID will begin the trading day with a score of 100% and will keep that score of 100% until the MPID reaches 10 confirmation requests.

In order to show how the proposed Periodic Auction Only Order with a Contingent Instruction would operate, the Exchange has included the following examples:²²

Example 1

This example is intended to demonstrate the process of an incoming PAOC matching with a resting Periodic Auction Order.

- NBBO for security ABC is \$10.00 x \$10.05.

²² Unless otherwise indicated, the Periodic Auction Period described in the examples would last for a minimum of 70 milliseconds but no longer than 100 milliseconds, with no subsequent auction being triggered.

- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 100 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02. User 2 increases the size of its order from 100 shares to 200 shares, as permitted under proposed Rule 11.25(h).

- The next Periodic Auction Message sent out indicates a matched quantity of 200 shares at a price of \$10.025.
- **RESULT:** At the end of the Periodic Auction Period, User 1 and User 2's orders execute in a Periodic Auction for 200 shares at a price of \$10.025. Since User 2 sent a Confirmation Order for 200 shares, User 1 was able to have its entire order filled at a price of \$10.025 at the conclusion of the Periodic Auction Period.

Example 2

This example is intended to demonstrate the process when a Periodic Auction Only Order containing a Contingent Instruction and a resting Periodic Auction Order match with an incoming, contra-side Periodic Auction Order.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a Periodic Auction Only Order containing a Contingent Instruction and a Midpoint Peg instruction to buy 300 shares of ABC at \$10.03.
 - User 2's order is posted and ranked at \$10.025.
- User 3 enters a Periodic Auction Eligible Order with a Midpoint Peg instruction to sell 600 shares of ABC at \$10.02.
 - User 3's order immediately initiates a Periodic Auction with User 1 and User 2's orders for 500 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 300 shares; total auction matched size of 500 shares, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 100 shares of ABC at \$10.03. User 2 decreases the size of its order from 300 shares to 100 shares, as permitted under proposed Rule 11.25(h).
 - The next Periodic Auction Message sent out indicates a matched quantity of 300 shares at a price of \$10.025.
- **RESULT:** At the end of the Periodic Auction Period, User 1's order executes against User 3's order for 200 shares and User 2's order executes against User 3's order for 100 shares in the Periodic Auction at a price of \$10.025. Since User 2 sent a Confirmation Order for 100 shares, which was lower than its original order containing 300 shares, the amount of matched shares in the Periodic Auction decreased from 500 shares to 300 shares. The remaining 300

shares of User 3's Periodic Auction Eligible Order post to the BYX Book at a price of \$10.025 (assuming the NBBO remains at \$10.00 x \$10.05).

Example 3

This example is intended to demonstrate what occurs when a Periodic Auction Only Order containing a Contingent Instruction matches with a resting Periodic Auction Order for a partial amount of the size of the order containing the Contingent Instruction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a Periodic Auction Only Order containing a Contingent Instruction and a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of

\$10.025 and has an indicator that one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 100 shares of ABC at \$10.02. User 2 decreases the size of its order from 200 shares to 100 shares, as permitted under proposed Rule 11.25(h).
 - The next Periodic Auction Message sent out indicates a matched quantity of 100 shares at a price of \$10.025.
- **RESULT:** At the end of the Periodic Auction Period, User 1 and User 2's orders execute in a Periodic Auction for 100 shares at a price of \$10.025.

Example 4

This example is intended to demonstrate the process when two PAOCs match and initiate a Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 100 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
- Simultaneously, a confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
- Simultaneously with the sending of the confirmation request to User 1 and User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 1 sends a Periodic Auction Only Order with a Midpoint Peg instruction as its Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the expiration of the Periodic Auction Period.
- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction as its Confirmation Order and a time-in-force of RHO to sell 100 shares of ABC at a price of \$10.02 prior to the expiration of the Periodic Auction Period.

- **RESULT:** At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025.

Example 5

This example is intended to demonstrate the outcome when a User submits a Periodic Auction Only Confirmation Order that would have a remaining quantity after the conclusion of the Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.
 - A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of

\$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02.
- **RESULT:** At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025 in the Periodic Auction. User 2's remaining 100 shares from its Periodic Auction Only Confirmation Order are posted on the BYX Periodic Auction Book as a traditional Periodic Auction Only Order with a Midpoint Peg instruction (and would not contain a Contingent Instruction).

Example 6

This example is intended to demonstrate the outcome when a User submits an Auction or Cancel Confirmation Order that would have a remaining quantity after the conclusion of the Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
- User 2 enters a PAOC with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.
- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 2 sends a Confirmation Order with a Midpoint Peg instruction and a time-in-force of AOC before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02.
- **RESULT:** At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025 in the Periodic Auction. User 2's remaining 100 shares from its Confirmation Order are immediately cancelled pursuant to proposed Rule 11.25(b)(1) as the remainder of a Periodic Auction Only Order with a time-in-force of AOC not executed in a Periodic Auction is treated as cancelled and is not posted to the Continuous Book.

Example 7

This example is intended to show how confirmation requests will be sent when multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order.

For this example, assume that the following scoring bands are in effect:

Band 1: 80% and above

Band 2: Below 80% to 70%

Band 3: Below 70%

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a PAOC with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
 - Assume User 1 has an intraday scoring measurement of 70%.
- User 2 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 2's order is posted and ranked at \$10.025.
 - Assume User 2 has an intraday scoring measurement of 81%.
- User 3 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 3's order is posted and ranked at \$10.025.
 - Assume User 3 has an intraday scoring measurement of 75%.
- User 4 enters a Periodic Auction Only Order with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
- **RESULT:** User 4's Periodic Auction Only Order immediately initiates a Periodic Auction with User 2's PAOC and User 1's PAOC. User 2's PAOC is included in the initiation of the Periodic Auction because it has the highest intraday scoring measurement (for this example, it is the only order in scoring

band 1). User 1's PAOC is included in the initiation of the Periodic Auction because it has size priority over User 3's order (both User 1 and User 3 are in scoring band 2). User 3 will not participate in this Periodic Auction but will remain on the BYX Periodic Auction Book to participate in later Periodic Auctions. A confirmation request is immediately sent to both User 2 and User 1 showing a matched size of 100 shares, a total auction matched size of 200 shares, and a Periodic Auction Book Price of \$10.025. Concurrently with the sending of the confirmation requests to User 2 and User 1, User 2 and User 1's PAOCs are cancelled and a placeholder is kept in the System awaiting a response from each User. Simultaneously with the sending of the confirmation requests, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 200 shares have matched at a price of \$10.025 and has an indicator that at least one side of the auction contains an order with a Contingent Instruction. User 2 and User 1 both send a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its respective Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. At the end of the Periodic Auction Period, User 1 and User 2 each trade 100 shares at \$10.025 with User 4 in the Periodic Auction.

Example 8

This example is intended to show how confirmation requests will be sent when multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order.

For this example, assume that the following scoring bands are in effect:

Band 1: 80% and above

Band 2: Below 80% to 70%

Band 3: Below 70%

- NBBO for security ABC is \$10.00 x \$10.05.
- User 1 enters a PAOC with a Midpoint Peg instruction to buy 500 shares of ABC at \$10.03.
 - User 1's order is posted and ranked at \$10.025.
 - Assume User 1 has an intraday scoring measurement of 75%.
- User 2 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.
 - User 2's order is posted and ranked at \$10.025.
 - Assume User 2 has an intraday scoring measurement of 80%.
- User 3 enters a Periodic Auction Only Order with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.
- **RESULT:** User 3's Periodic Auction Only Order immediately initiates a Periodic Auction with User 2's PAOC and User 1's PAOC. A confirmation request is immediately sent to both User 2 and User 1 showing a matched size of 100 shares, a total auction matched size of 200 shares, and an indicative auction price of \$10.025. Concurrently with the sending of the confirmation requests to User 2 and User 1, User 2 and User 1's PAOCs are cancelled and a placeholder is kept in the System awaiting a response from each User. Simultaneously with the sending of the confirmation requests, a Periodic

Auction Message is sent over the Exchange's market data feed. The message indicates 200 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction. User 2 sends a Periodic Auction Only Order containing a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. User 1 sends a Periodic Auction Only Order containing a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order to buy 200 shares (an increase in quantity from its original 100 share order) of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. At the end of the Periodic Auction Period, User 1 trades 200 shares at \$10.025 with User 4 in the Periodic Auction due to having size priority at the final auction price over User 2.

Example 9

This example is intended to show order priority when different order types and orders containing different times-in-force are involved in a Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAOC to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAO to sell 1500 shares of ABC at \$10.05.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 500 shares at \$10.05.

- A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 500; total auction matched size of 500, and an indicative auction price of \$10.05.
- Simultaneously with the sending of the confirmation request to User 1, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 3 enters a PAO with a time-in-force of Day to buy 500 shares of ABC at \$10.05 at 12:00:00:000.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1000 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 4 enters a PAO with a time-in-force of AOC to buy 500 shares of ABC at \$10.05 at 12:00:00:005.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 5 enters a Midpoint Peg continuous book order to buy 500 shares of ABC at \$10.05 at 12:00:01:010.

- The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- User 1 submits its Confirmation Order to buy 500 shares of ABC at \$10.05 at 12:00:00:015
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- **RESULT:** Pursuant to Rule 11.24(e), Periodic Auction Orders and Continuous Book Orders that are executable at the end of the Periodic Auction Period are executed at the Periodic Auction Price as follows: first, any Displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed in price/time priority; second, any Periodic Auction Orders that are executable at the Periodic Auction Price are executed in size/time priority, beginning with the largest order; and finally, any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). The Exchange has also proposed new language to Rule 11.24(e) that provides that size and time priority for a PAOC is based on the size and receipt of the Confirmation Order and not the size or time that the PAOC is received by the System. As such, User 2's PAO trades with the following contra-side orders: First, User 2's PAO trades 500 shares with User 3's PAO with a time-in-force of Day at \$10.05. Next, User 2's PAO trades 500 shares with User 4's PAO with a time-in-force of AOC at \$10.05. Lastly, User 2's PAO trades 500 shares with User 5's Midpoint Peg continuous book order at \$10.05. User 1's PAOC does not

receive a fill because based on size/time priority it has equal size priority but the lowest time priority (the Confirmation Order was received with a timestamp of 12:00:00:015 while the orders submitted by Users 3, 4, and 5 had earlier timestamps).

Example 10

This example is intended to show order priority when different order types and orders containing different times-in-force are involved in a Periodic Auction.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAOC to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAO to sell 1500 shares of ABC at \$10.05.
 - User 2's order immediately initiates a Periodic Auction with User 1's order for 500 shares at \$10.05.
 - A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 500; total auction matched size of 500, and an indicative auction price of \$10.05.
 - Simultaneously with the sending of the confirmation request to User 1, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 3 enters a PAO with a time-in-force of Day to buy 500 shares of ABC at \$10.05 at 12:00:00:000.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1000 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 4 enters a PAO with a time-in-force of AOC to buy 500 shares of ABC at \$10.05 at 12:00:00:005.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- While the Periodic Auction is in progress and the System is awaiting a Confirmation Order from User 1, User 5 enters a Midpoint Peg continuous book order to buy 500 shares of ABC at \$10.05 at 12:00:01:010.
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- User 1 submits its Confirmation Order to buy 1500 shares of ABC at \$10.05 at 12:00:00:015
 - The subsequent Periodic Auction Message indicates a matched quantity of 1500 shares at \$10.05.
- **RESULT:** Pursuant to Rule 11.24(e), Periodic Auction Orders and Continuous Book Orders that are executable at the end of the Periodic Auction Period are executed at the Periodic Auction Price as follows: first, any Displayed Continuous Book Orders that are executable at the Periodic

Auction Price are executed in price/time priority; second, any Periodic Auction Orders that are executable at the Periodic Auction Price are executed in size/time priority, beginning with the largest order; and finally, any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). The Exchange has also proposed new language to Rule 11.24(e) that provides that size and time priority for a PAOC is based on the size and receipt of the Confirmation Order and not the size or time that the PAOC is received by the System. As such, User 2's PAO trades with User 1's Confirmation Order for the full amount of 1,500 shares because User 1's Confirmation Order has size priority over Users 3, 4, and 5 (the Confirmation Order has a size of 1,500 shares while the orders submitted by Users 3, 4, and 5 had sizes of 500 shares).

Example 11

This example is included to show how a Subsequent Auction may be triggered.

- NBBO for security ABC is \$10.00 x \$10.10.
- User 1 enters a PAO to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAO to buy 100 shares of ABC at \$10.04.
 - User 2's order is posted and ranked at \$10.04.
- User 3 enters a PAO to sell 500 shares of ABC at \$10.05.
 - User 3's PAO matches with User 1's PAO and initiates a Periodic Auction ("Auction 1").

- A Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05.
- User 4 enters a PAO to sell 100 shares of ABC at \$10.04.
 - User 4's PAO joins Auction 1.
 - The subsequent Periodic Auction Message indicates a matched quantity of 500 shares at \$10.05. The addition of User 4's PAO to Auction 1 does not change the price at which most shares can trade at.
- Auction 1 ends after 90 milliseconds (70 milliseconds fixed plus 20 milliseconds randomized).
 - User 1's PAO trades 500 shares with User 3's PAO at the conclusion of Auction 1.
- Immediately following the conclusion of Auction 1, the System initiates a Periodic Auction between User 2's PAO and User 4's PAO ("Auction 2").
 - A Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.04.
- Auction 2 ends after 70 milliseconds with User 2's PAO and User 4's PAO trading 100 shares at \$10.04.

Example 12

This example is also included to show how a Subsequent Auction may be triggered. For this example, assume that User 1 and User 2 are in the same Scoring Band.

- NBBO for security ABC is \$10.00 x \$10.10.

- User 1 enters a PAOC to buy 500 shares of ABC at \$10.05.
 - User 1's order is posted and ranked at \$10.05.
- User 2 enters a PAOC to buy 100 shares of ABC at \$10.05.
 - User 2's order is posted and ranked at \$10.05.
- User 3 enters a PAO to sell 500 shares of ABC at \$10.05.
 - User 3's PAO matches with User 1's PAOC due to size priority within the Scoring Band and initiates a Periodic Auction ("Auction 1").
 - A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a matched size of 500; total auction matched size of 500, and an indicative auction price of \$10.05. No confirmation request is sent to User 2.
 - Simultaneously with the sending of the confirmation request to User 1, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 1 does not respond to the confirmation request.
- Auction 1 ends after 90 milliseconds (70 milliseconds fixed plus 20 milliseconds randomized).
 - No trade occurs at the completion of Auction 1 because User 1 did not respond to the confirmation request with a Confirmation Order.

- Immediately following the conclusion of Auction 1, the System initiates a Periodic Auction between User 3's PAO and User 2's PAOC ("Auction 2").
 - A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.05.
 - Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.05 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.
- User 2 responds to the confirmation request with a PAO with a time-in-force of AOC as its Confirmation Order to buy 100 shares of ABC at \$10.05.
- Auction 2 ends after 70 milliseconds.
 - User 3's PAO trades 100 shares with User 2's Confirmation Order at the conclusion of Auction 2.

Regulatory Considerations

The Exchange notes that its existing Regulatory obligations as described in the Interpretations and Policies section of Rule 11.25 would continue to apply should the proposed Contingent Instruction be approved. These existing rules describe how Periodic Auctions are processed consistent with certain other regulatory obligations, including obligations related to member conduct, or otherwise to ensure transparent handling in

certain specified circumstances and provide transparency to members and investors with respect to how the Exchange processes Periodic Auctions consistent with relevant obligations under the Exchange Act, or as otherwise necessary or appropriate to maintain a fair and orderly market on the Exchange. The Exchange does not propose to amend existing Interpretations and Policies .01 - .03 of Rule 11.25. The Exchange proposes to amend existing Interpretations and Policies .04 as described *infra* and proposes to introduce additional Interpretations and Policies related to the automated scoring mechanism described above.

The Exchange proposes to amend Interpretations and Policies .04 (Member Conduct) to add language that provides that a pattern or practice of failing to respond to a confirmation request will be deemed conduct inconsistent with just and equitable principles of trade. Just as the Exchange currently makes Members aware that certain conduct (i.e., a pattern or practice of entering and immediately cancelling Periodic Auction Orders) will be deemed conduct inconsistent with just and equitable principles of trade, the Exchange believes it is necessary to notify Members that a pattern or practice of failing to respond to a confirmation request similarly will be deemed conduct inconsistent with just and equitable principles of trade. However, the Exchange also proposes to add language to Interpretations and Policies .04 to codify that there may be a legitimate business reason that a Member may engage in a pattern or practice of entering and immediately cancelling Periodic Auction Orders and a legitimate business reason that a Member may engage in a pattern or practice of failing to respond to a confirmation request. The addition of the “legitimate business reason” language is necessary to make clear that should a Member provide sufficient documentation that its behavior of entering

and immediately cancelling Periodic Auction Orders or failing to respond to confirmation requests is, in fact, related to legitimate business activities, its conduct in question would not be deemed inconsistent with just and equitable principles of trade.

Proposed Interpretations and Policies .05 – .07 to Rule 11.25 describe the automated scoring mechanism used for senders of PAOCs. As described above, a User's scoring mechanism is used i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions match with a contra-side Periodic Auction Order; and ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The User's score will be automatically calculated and tracked by the System at the individual symbol level and will automatically place a User in the appropriate scoring band once the minimum amount of confirmation requests have been sent to the User. The User would also automatically be prohibited from sending additional PAOCs to the Exchange in a given symbol for the remainder of a trading day should its score fall below the designated threshold.

The use of a PAOC is entirely voluntary and is not required for participation in Periodic Auctions. Users who choose to utilize the proposed Contingent Instruction do so with the understanding that they are choosing to subject themselves to the automated scoring mechanism and that they may be prohibited from submitting additional PAOCs in a particular symbol on a given trading day should they fall below the designated threshold.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to

the Exchange and, in particular, the requirements of Section 6(b) of the Act.²³

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

I. Proposal

As discussed in the Purpose section, Periodic Auctions were originally designed to facilitate the sourcing of larger blocks of liquidity that may not be available in continuous trading. The Exchange's experience, however, indicates that additional functionality is needed to encourage additional Users to submit Periodic Auction Orders. Particularly, the current Users of Periodic Auctions have told the Exchange that it is difficult to send large block-size orders to the Exchange without a reasonable expectation that sufficient contra-side liquidity exists. As such, the Exchange believes that the proposed enhancements to this product may therefore contribute to a free and open market and national market system. Specifically, the proposed optional Contingent

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ Id.

Instruction applicable to Periodic Auction Only Orders would provide investors trading on a national securities exchange with a mechanism that is currently available only in off-exchange trading venues. This optional functionality would provide Users an additional venue to which a non-firm order could be sent, and would be the first-of-its kind order instruction on a national securities exchange. The proposed PAOC order instruction would provide additional price improvement opportunities and allow market participants to reduce risks that may be associated with placing large orders on a traditional limit order book. As such, PAOCs may improve market quality in U.S. equity securities traded on the Exchange, and these benefits may be even more pronounced in securities that currently trade with diminished market quality. The paragraphs that follow address each aspect of the proposed Contingent Instruction applicable to Periodic Auction Only Orders in turn.

In addition to contributing to a free and open market and national market system, the Exchange believes its proposal promotes just and equitable principles of trade by bringing a concept that is well-established in off-exchange trading venues to a national securities exchange, which, if approved, could help drive volume back to regulated, national securities exchanges rather than continuing the trend of ever-growing off-exchange trading volumes. Former Commission Chair Gary Gensler noted in a June 2022 speech that “[R]ight now, there isn’t a level playing field among different parts of the market: wholesalers, dark pools, and lit exchanges. Further, the markets have become increasingly hidden from view.”²⁶ The Exchange submits its proposal with the intent of

²⁶ See “Market Structure and the Retail Investor:” Remarks Before the Piper Sandler Global Exchange Conference (June 8, 2022), available at: <https://www.sec.gov/newsroom/speeches-statements/gensler-remarks-piper-sandler-global-exchange-conference-060822>

offering a non-firm order instruction that market participants are already familiar with on a regulated, national securities exchange to narrow the gap between national securities exchanges and off-exchange venues. While the proposed Contingent Instruction is not necessarily innovative in that it is already utilized across off-exchange venues today, seeking to utilize the proposed Contingent Instruction on a national securities exchange is innovative and promotes just and equitable principles of trade. Current Commission Chairman Paul Atkins has explicitly encouraged a regulatory approach that supports innovation across U.S. markets, stating “[T]he SEC should not fear innovation. Rather, it should embrace and champion it.”²⁷ Similarly, the Commission’s Director of Trading and Markets, Jamie Selway, has also indicated that he would work with Chairman Atkins to encourage innovation by stating “[C]hairman Atkins is bringing about a ‘new day’ at the SEC...Together, we will promote the SEC’s mission and enable innovation, to the benefit of our nation’s investors.”²⁸ The Exchange is committed to innovation that improves the quality of the equities markets and believes that the proposed addition of the Contingent Instruction may increase the attractiveness of the Exchange for the execution of large, institutional orders that may otherwise seek to be executed on off-exchange venues.

The Exchange believes that introducing a Contingent Instruction applicable to Periodic Auction Only Orders to enhance its existing Periodic Auction functionality contributes to a free and open market and national market system. Use of the Contingent Instruction would be strictly voluntary, and market participants would be able to

²⁷ See “Prepared Remarks Before SEC Speaks” (May 19, 2025), available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

²⁸ See “SEC Names Jamie Selway as Director of Trading and Markets” (June 13, 2025), available at: <https://www.sec.gov/newsroom/press-releases/2025-87-sec-names-jamie-selway-director-trading-markets>.

determine whether and how the proposed Contingent Instruction fits into their existing workflows. Specifically, the proposed Contingent Instruction would be eligible to be appended only to Periodic Auction Only Orders and if included on a User's Periodic Auction Only Order would render the Periodic Auction Only Order non-binding upon entry. The Exchange believes it is appropriate to offer Users the ability to enter Periodic Auction Only Orders as binding or non-binding upon entry so that Users can decide whether to use Periodic Auctions as the sole means of sourcing liquidity (in the event that the User elects to use the Periodic Auction Only Order without a Contingent Instruction) or as part of a strategy where the User posts non-binding orders across multiple venues in an attempt to secure an execution while minimizing the risk of displaying orders in the public market (by utilizing the proposed Contingent Instruction appended to a Periodic Auction Only Order).

The Exchange does not propose to make any changes to the current operation of a Periodic Auction Only Order in conjunction with the introduction of its proposed Contingent Instruction. All existing instructions that are currently applicable to Periodic Auction Only Orders, such as minimum execution quantity instruction and pegging instructions, will continue to be accepted if the User elects to append a Contingent Instruction to its Periodic Auction Only Order. The Exchange believes that it is important to continue to offer existing Periodic Auction Only Order functionality without change and allow a User to merely supplement its Periodic Auction Only Orders with an optional, Contingent Instruction should the User decide that the Contingent Instruction is appropriate in its workflow. Offering additional, optional functionality to enhance the Exchange's Periodic Auction process without changing the foundation upon which

Periodic Auctions were built is consistent with the maintenance of a fair and orderly market and will promote just and equitable principles of trade.

The Exchange also proposes to introduce a time-in-force of Auction or Cancel to Rule 11.25(b)(1) that would be available to all Periodic Auction Only Orders, including PAOCs. As described in the Purpose section, a Periodic Auction Only Order containing a time-in-force of AOC is to be executed in whole or in part at the end of the Periodic Auction Period immediately following receipt of such order. A Periodic Auction Only order containing a time-in-force of AOC may be used to attempt to initiate a Periodic Auction or as a response to a System-generated request to confirm the sender of a PAOC's intent to trade. The introduction of the proposed AOC time-in-force provides an alternative option for Users of PAOCs to confirm their intent to trade and submit a binding order for participation in a Periodic Auction that will immediately cancel upon the conclusion of the Periodic Auction if the order is not filled. Users of PAOCs have elected to use a non-binding order instruction rather than a traditional Periodic Auction Only Order as part of a broader trading strategy and the proposed AOC time-in-force further perpetuates that strategy by limiting any potential execution to a single Periodic Auction. If, instead, a User were forced to respond to a confirmation request with a Continuous Book Order or a Periodic Auction Only Order containing a time-in-force of RHO, the User's order could then persist beyond the Periodic Auction in progress and deviate from the User's intended strategy. As such, the Exchange believes that the introduction of the AOC time-in-force would facilitate the operation of a fair and orderly market and promotes just and equitable principles of trade.

The Exchange believes the addition of the time-in-force of AOC is not unfairly discriminatory because all Users of Periodic Auction Only Orders may utilize a time-in-force of AOC and the use case is not limited to senders of PAOCs who are responding to confirmation requests. Additionally, the Exchange does not believe that it is unfairly discriminatory to not allow Users of Periodic Auction Eligible Orders to use the AOC time-in-force as the purpose of a Periodic Auction Eligible Order is to interact with both the Periodic Auction Book and the Continuous Book. Should a User of a Periodic Auction Eligible Order have the option to include a time-in-force of AOC, then any remainder of a Periodic Auction Eligible Order that does not immediately initiate a Periodic Auction upon receipt of the order by the Exchange would be cancelled and would not have the opportunity to post to the Continuous Book. Further, use of the AOC time-in-force is completely voluntary and Users are free to utilize other times-in-force as appropriate for the order type which they are sending to the Exchange. Periodic Auctions are also voluntary, and no User is required to participate in Periodic Auctions nor submit Periodic Auction Orders to the Exchange.

The Exchange believes it is consistent with just and equitable principles to trade to limit the ability of a PAOC to become binding subject to certain requirements. The proposed Periodic Auction Only Order containing a Contingent Instruction would only become binding after i) matching with contra-side liquidity; and ii) the sender of the PAOC confirming its intent to trade as described in proposed Rule 11.25(h). Without requiring a sender of a PAOC to confirm its intent to trade upon matching with contra-side liquidity, the PAOC would not be “contingent” and would instead function as a traditional, binding order. Just as with Periodic Auction Only Orders entered today, a

PAOC would not be eligible to match with a Continuous Book Order and would only be eligible to match with contra-side Periodic Auction Orders (which include Periodic Auction Only Orders, and Periodic Auction Eligible Orders). Additionally, to participate in a Periodic Auction, a PAOC must either initiate a Periodic Auction or be resting on the BYX Book when a Periodic Auction is initiated and will not be permitted to join a Periodic Auction that is already in progress. The proposed limitations on PAOCs becoming binding and participating in a Periodic Auction are consistent with just and equitable principles of trade because they are designed to ensure that an order containing a Contingent Instruction does not introduce any additional delay to the Periodic Auction process by executing against Continuous Book Orders that are not participating in a Periodic Auction, or joining a Periodic Auction already in progress.

As part of the proposed introduction of the Contingent Instruction, the Exchange proposes to amend certain aspects of timing related to the Periodic Auction process that are currently in place. First, the Exchange proposes to amend the Periodic Auction Period from a fixed time period of 100 milliseconds to a combination of a fixed time period of 70 milliseconds plus a random time period of 0 – 30 milliseconds immediately following the fixed time period of 70 milliseconds. The Exchange also proposes to make clear that any Subsequent Auction shall have a fixed time period of 70 milliseconds. Next, the Exchange proposes to update the timing with which the initial message containing Periodic Auction Information is disseminated over the Exchange's market data feed. Currently, an initial Periodic Auction Information message is sent at a randomized time in one millisecond intervals. The Exchange proposes to now send the initiate Periodic Auction Information message immediately after a Periodic Auction has been initiated to

minimize any advantage that the sender of a PAOC would have otherwise received should the Exchange send a confirmation request prior to the initial Periodic Auction Information message.

The Exchange believes these changes would facilitate the operation of a fair and orderly market. Functionally, the Exchange's proposal changes the length of a Periodic Auction from 100 milliseconds to a fixed time of at least 70 milliseconds but with an end time between 70 and 100 milliseconds. Practically speaking, however, Users currently do not have the full 100 milliseconds to join a Periodic Auction due to the randomization of the initial Periodic Auction Message that is sent out by the Exchange. By standardizing the initial Periodic Auction Message and randomizing the end time of the Periodic Auction, the Exchange would be able to promptly process and execute a Periodic Auction while continuing to provide time for interested market participants to enter order to participate in the auction, including those Users who have submitted an order with a Contingent Instruction.

A User that elects to utilize the Contingent Instruction will be required to confirm its intent to trade before the PAOC is a binding order and as such, the Exchange proposes to send a System-generated request to the sender of a PAOC immediately upon a PAOC matching with a contra-side order. This confirmation request will be sent to the sender of a PAOC at the same time that the initial Periodic Auction Information message is sent out on the Exchange's market data feed. To ensure that all Users were receiving the same information at the same time, the Exchange needed to align the timing of three related pieces of a Periodic Auction: i) the Periodic Auction Period; ii) the sending of the initial Periodic Auction Information message; and iii) and the System-generated confirmation

request. The Exchange believes the proposed changes to standardize the timing of i) the Periodic Auction Period; ii) the sending of the initial Periodic Auction Information message; and iii) and the System-generated confirmation request is not unfairly discriminatory because the Exchange is seeking to provide access to information to all participants at the same time and is not seeking to favor those participants that choose to submit PAOCs or those who choose to participate in Periodic Auctions using binding order types by either sending different messages on the market data feed or sending messages only after a Confirmation Order has been received. Recipients of Exchange market data will receive an initial Periodic Auction Information message at the same time that the sender of a PAOC receives a confirmation request to confirm its intent to trade. Additionally, if one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the initial Periodic Auction Information message will indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction. Further, the initial Periodic Auction Message will include the full quantity and price of any order(s) containing a Contingent Instruction. By providing all participants with the same information at the same time, the Exchange would not preference one side of the Periodic Auction over another and would not preference the non-firm order instruction over a binding order type. All participants would have access to the same Periodic Auction Message information, with the only difference being that the sender of a PAOC would receive a confirmation request in addition to the initial Periodic Auction Message.

The Exchange believes the confirmation request sent to the sender of a PAOC that has matched against a contra-side order in a Periodic Auction is not unfairly

discriminatory as it is necessary to allow the sender of a PAOC to confirm its intent to trade. The confirmation request would provide the same information that is contained in the initial Periodic Auction Message but would also contain the quantity of the PAOC that matched with a contra-side order in the Periodic Auction. This additional piece of information in the confirmation request is essential to the sender of the PAOC so that it may i) confirm its intent to trade in the Periodic Auction; and ii) if necessary, update or cancel any other non-firm orders that may exist on other venues. Since senders of non-firm orders generally submit non-firm orders across multiple venues at the same time to maximize the odds that an order will match against contra-side liquidity, the sender of the non-firm order must act quickly to confirm its intent to trade and simultaneously update or cancel other non-firm orders on other venues to reflect the confirmation and subsequent execution of its matched order. The utility of providing this additional piece of information regarding the matched size of the PAOC is not discriminatory, but rather necessary to offer identical functionality for non-firm orders that exists on off-exchange venues today. The Exchange notes that its existing Regulatory obligations as described in the Interpretations and Policies section of Rule 11.25 would continue to apply should the proposed Contingent Instruction be approved. These existing rules describe how Periodic Auctions are processed consistent with certain other regulatory obligations, including obligations related to member conduct, or otherwise to ensure transparent handling in certain specified circumstances and provide transparency to members and investors with respect to how the Exchange processes Periodic Auctions consistent with relevant obligations under the Exchange Act, or as otherwise necessary or appropriate to maintain a fair and orderly market on the Exchange. The proposed amendments to existing

Interpretations and Policies .04 of Rule 11.25 continue to promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the amendments provide notice of additional behavior (i.e., a pattern or practice of failing to respond to confirmation requests) that would be deemed conduct inconsistent with just and equitable principles of trade while also recognizing that there may be legitimate business reasons for why a User of a Periodic Auction Order may engage in the conduct described in proposed Interpretations and Policies .04. Indeed, allowing for Users to provide sufficient evidence of legitimate business reasons for certain conduct in question further promotes just and equitable principles of trade by clarifying that not all conduct as described in proposed Interpretations and Policies .04 to Rule 11.25 would result in a User violating an Exchange Rule. Further, the proposed addition of the “legitimate business reason” language is consistent with the protection of investors and the public interest because conduct in question that does not have a legitimate business reason will continue to be deemed conduct inconsistent with just and equitable principles of trade, and only conduct where the Exchange determines there is sufficient evidence of a legitimate business reason may be permitted.

The Exchange also proposes to introduce subparagraphs .05 – .07 to the Interpretations and Policies section associated with Rule 11.25. The proposed subparagraphs will describe the automated scoring measurements that the Exchange will introduce as part of its proposed Contingent Instruction. The scoring measurements promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the proposed measurements serve to deter senders of PAOCs from initiating a Periodic Auction and then subsequently failing to

respond to confirmation requests from the Exchange in an attempt to discover information about available contra-side liquidity. First, the Exchange proposes to introduce subparagraph .05, which will describe the use case for the scoring measurement and the components that comprise the scoring measurement. A User's scoring measurement shall have two purposes: first, to determine the priority in which a confirmation request is sent to a User when multiple PAOCs match with a contra-side Periodic Auction Order; and second, to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction for the remainder of a trading day in a given symbol. The following components will make up the scoring measurement: i) confirmation response rate; ii) confirmation response size; and iii) confirmation response price. All scoring measurements will be tracked and calculated automatically by the System at the MPID level.

The Exchange believes that tracking confirmation response rate, confirmation response size, and confirmation response price promotes just and equitable principles of trade and is consistent with the protection of investors and the public interest because it encourages Users of PAOCs to respond to confirmation requests within a timely manner (e.g., before the expiration of the Periodic Auction Period) at a price that is marketable and for a size that is equal to or greater than the original matched quantity. While a User is free to respond to a confirmation request with any price and any size, its score will be higher should it respond with a size that is at least equal to its matched quantity (as compared to a User who responds with a size that is less than its matched quantity). Similarly, a User's score will be higher should it respond with a price that is higher than (for buy Confirmation Orders) or lower than (for sell Confirmation Orders) the less

aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received (as compared to a User who responds with prices that are lower (higher) than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received).

The Exchange believes equally weighting the three components that make up the scoring measurement is not unfairly discriminatory because it provides an objective, verifiable standard that applies uniformly to all Users. Equal weighting ensures that no single component is given disproportionate influence in determining a User's score. This approach treats all Users identically with respect to the relative importance of each component, eliminating any potential for the scoring methodology to favor Users whose responses to confirmation requests may favor one component at the expense of others. By declining to assign any particular component a greater weighting, the Exchange avoids creating a system that could potentially advantage one class of market participant over another based on differences in responding to confirmation requests. Equal weighting also promotes objectivity and transparency in the scoring process. Because each component carries identical weight, Users can readily understand and predict how responding to confirmation requests will affect their score. This predictability enables all Users to make informed decisions about whether and how to utilize the proposed Contingent Instruction, and to adjust their confirmation practices accordingly.

Further, equal weighting reflects the Exchange's determination that each of the three components is independently significant to the integrity and efficiency of the Periodic Auction process. Confirmation response rate measures a User's basic

willingness to confirm its intent to trade; confirmation response size measures whether the User stands behind the matched quantity; and confirmation response price measures whether the User is willing to transact at a marketable price. Each component addresses a distinct concern that, if not adequately addressed, could undermine the reliability of Periodic Auctions. Assigning equal weight to each component reflects the Exchange's belief that no single component is inherently more important than the others, and that a holistic assessment incorporating all three dimensions provides the most accurate measure of a User's commitment to confirming orders in good faith.

Providing a higher score for Users that respond to confirmation requests with orders that are competitively priced and orders with a size that is equal to or greater than the original matched quantity is also not unfairly discriminatory. Senders of PAOCs that respond to confirmation requests with Confirmation Orders that are competitively priced and contain sufficient size to execute against the matched size of the contra-side orders should benefit from higher scores because these market participants are providing liquidity that would support the quality of price discovery, offer additional cost savings, deepen the Exchange's liquidity pool, and generally improve market quality for all investors participating in Periodic Auctions. Rewarding those participants that are routinely providing marketable Confirmation Orders may encourage other market participants utilizing PAOCs to respond with more competitively priced and sufficiently sized orders to earn the ability to receive a confirmation request prior to other senders of PAOCs, thus enhancing Periodic Auctions generally. Further, the Exchange believes that not giving credit to those Users who respond to a confirmation request and subsequently cancel their respective Confirmation Orders prior to the conclusion of the Periodic

Auction Period promotes just and equitable principles of trade and is not unfairly discriminatory because it is a tool designed to deter a User who may be attempting to gain informational advantages about contra-side liquidity by assigning a score comparable to that of a User that fails to respond to a confirmation request.

Use of the Contingent Instruction is strictly optional, and is not required for any User. The Exchange will not make any changes to either the components or the weightings of each component as part of the total scoring measurement without advance notice to Users. While optional, the proposed Contingent Instruction is available to all Users, and all Users will be subject to the same scoring measurements regardless of the frequency with which they submit a PAOC or the size or price of PAOCs submitted to the Exchange. All scoring measurements occur at the System-level and all Users will have a perfect score until a User has received 10 confirmation requests in a given symbol. The Exchange also believes that applying the scoring measurement on a symbol-by-symbol level as opposed to cumulatively is not unfairly discriminatory as Users may have different strategies across different symbols and therefore volume in individual symbols can vary widely. As such, the Exchange believes it is appropriate to not attribute a User's performance in one symbol that has a limited number of Periodic Auctions throughout the trading day to other symbols that may have a much higher volume of Periodic Auctions and vice versa.

Next, the Exchange proposes to introduce subparagraph .06 to the Interpretations and Policies section of Rule 11.25, which would describe the scoring-based confirmation request priority. As described in the Purpose section, one of the use cases of the scoring measurement is to determine the order in which confirmation requests are sent to senders

of PAOCs if multiple PAOCs can match with a contra-side Periodic Auction Order. If there are multiple Users within the same scoring band that can match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users.

The Exchange believes that scoring bands promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the scoring bands will encourage Users to respond to confirmation requests: i) in a timely manner; and ii) at sizes and prices that align with the size of the PAOC and the Periodic Auction Book Price or NBBO midpoint. Attaining a higher score based on the scoring measurement components described above will allow a User to be ranked higher in terms of how quickly the User is sent a confirmation request when a PAOC matches with a contra-side Periodic Auction Order and initiates a Periodic Auction. For example, if there are three scoring bands, all Users in band one would be sent confirmation requests before any User in band two is sent a confirmation request, and all Users in band two would be sent confirmation requests before any User in band three is sent a confirmation request. If there are multiple Users within each band that have matched with the contra-side Periodic Auction Order, the Exchange will then utilize size/time priority to determine the order in which confirmation requests are sent to those Users.

The proposed scoring bands are also not unfairly discriminatory. While the scoring bands are used to sort Users that submit PAOCs to determine the order in which confirmation requests are allocated, the Exchange believes this act of separating Users into the relevant scoring bands is consistent with Section 6(b)(5) of the Act, as it does not permit *unfair* discrimination. All Users will be aware of the applicable scoring bands,

which are proposed as follows: Band 1: $\geq 80\%$; Band 2: $\geq 70\%$ and below 80% ; Band 3: $< 70\%$.

Specifically, the Exchange does not believe it is unfairly discriminatory to divide Users into different scoring bands based on their scores. Rather, the use of scoring bands permits the Exchange to differentiate among Users based on performance-based criteria that are directly related to the integrity and efficiency of the Periodic Auction mechanism and the scores are calculated entirely based on responses submitted by the User responding to the confirmation request.

The scoring bands are based on objective, quantifiable criteria derived from each User's own behavior and are applied uniformly to all Users who submit PAOCs and receive a confirmation request. Users are not assigned to bands based on their identity, their trading volume, their membership status, or any other characteristic unrelated to their actual performance in responding to confirmation requests. Rather, each User's placement within a band is determined solely by its own conduct, which the User can monitor and control. All Users begin with a perfect score until they have received 10 confirmation requests in a given symbol, at which point their score is calculated based on their actual performance. Users have the ability to improve their band placement by adjusting their confirmation response practices.

Additionally, the scoring bands serve to promote legitimate market-quality objectives. The primary purpose of the bands is to encourage Users of PAOCs to respond to confirmation requests in a timely manner with marketable prices and adequate size, thereby promoting the reliability and efficiency of Periodic Auctions. Users who consistently respond to confirmation requests with marketable Confirmation Orders

demonstrate a genuine commitment to executing in Periodic Auctions, and the Exchange believes it is appropriate to reward such commitment by prioritizing such Users when allocating confirmation requests in situations where multiple PAOCs match with contra-side liquidity. Conversely, Users who fail to respond, or who respond with non-marketable prices or inadequate size, impose costs on other market participants and diminish the utility of Periodic Auctions. Differentiating among Users based on responses to confirmation requests entirely within the control of such Users reflects legitimate risk differentiation because it aligns confirmation request priority with demonstrated trading intent. Further, within each scoring band, the Exchange applies size/time priority to determine the order in which confirmation requests are sent to Users. This approach ensures that even among Users within the same band, priority is allocated based on neutral, objective criteria (e.g., the size and time of entry of their PAOCs) rather than on any arbitrary basis. The combination of band-based differentiation and intra-band size/time priority appropriately rewards both consistent confirmation behavior (through band placement) and order characteristics (through intra-band priority) that the Exchange believes is not unfairly discriminatory.

Finally, the Exchange proposes to introduce subparagraph .07 to the Interpretations and Policies section of Rule 11.25. Subparagraph .07 would describe the scoring-based automated lock-out applicable to Users that submit PAOCs. The Exchange believes that the scoring-based automated lock-out promotes just and equitable principles of trade and is consistent with the protection of investors and the public interest because the lock-out would serve to minimize the chance that a User would utilize PAOCs to initiate Periodic Auctions and then fail to participate in the Periodic Auction. To this

point, a User that submits PAOCs shall be prohibited from submitting additional PAOCs in a given symbol if the User's intraday score at the MPID level falls below the lock-out threshold of 50%. The lock-out shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User's score is below the 50% lock-out threshold.

The Exchange believes that imposing a lockout on Users whose intraday score falls below the designated threshold of 50% is not unfairly discriminatory as the lockout mechanism serves legitimate regulatory, risk management, and market integrity purposes that are directly connected to the Exchange's responsibilities under the Act to maintain fair and orderly markets and to protect investors and the public interest. The lockout mechanism is designed to prevent misuse of PAOCs by Users who demonstrate a pattern of failing to confirm their intent to trade after initiating Periodic Auctions. Absent such a mechanism, a User could submit PAOCs on a repeated basis, trigger Periodic Auctions, and then fail to respond to a confirmation request and potentially gain informational advantages about contra-side liquidity without committing capital or assuming execution risk. Such conduct would be inconsistent with just and equitable principles of trade and could undermine the integrity of Periodic Auctions by discouraging bona fide participants from utilizing PAOCs. The lockout mechanism directly addresses this risk by removing Users who fall below an objective performance threshold from the ability to submit additional PAOCs for the remainder of the trading day in the affected symbol.

This regulatory purpose is directly analogous to other exchange rules and mechanisms that impose restrictions on market participants who fail to meet objective performance standards. For example, exchanges routinely impose restrictions on market

makers who fail to meet quoting obligations,²⁹ and the Commission has recognized that such restrictions are consistent with Section 6(b)(5) where they are based on objective criteria and serve legitimate market-quality objectives. The lockout mechanism operates in the same manner: it imposes a restriction on a User's ability to utilize a particular order instruction based on the User's own conduct, as measured against an objective, publicly disclosed threshold. This is not unfair discrimination; it is an appropriate response to conduct that could harm other market participants and undermine the integrity of the Periodic Auction process.

The lockout mechanism is also narrowly tailored to address the specific risk it is designed to mitigate. The lockout applies only to the submission of additional PAOCs and does not prohibit the affected User from submitting other order types on the Exchange, participating in Periodic Auctions using Periodic Auction Orders without a Contingent Instruction, or otherwise trading on the Continuous Book. Furthermore, the lockout applies only at the MPID and individual symbol level and only for the remainder of the trading day. This targeted scope ensures that the lockout does not impose undue burdens on Users beyond what is necessary to protect the integrity of Periodic Auctions involving PAOCs. Additionally, the lockout threshold of 50% applies uniformly to all Users who submit PAOCs. Users are aware in advance of the consequences of falling below this threshold and have the ability to manage their confirmation response practices to avoid triggering a lockout. All Users begin each trading day with a perfect score and are not subject to scoring until they have received at least 10 confirmation requests in a given symbol, providing an adequate opportunity to establish a baseline before any

²⁹ See Rule 11.8(c).

lockout could apply. This combination of advance disclosure, uniform application, and User control over the relevant conduct supports the conclusion that the lockout mechanism is administered in a fair and non-discriminatory manner.

Finally, the Exchange notes that the lockout mechanism is entirely avoidable by Users who do not wish to be subject to it as the Contingent Instruction is optional, and Users who prefer not to be subject to the scoring-based lockout may simply elect to submit traditional Periodic Auction Orders without a Contingent Instruction. The voluntary nature of the Contingent Instruction, combined with the transparent and objective criteria governing the lockout, further supports the Exchange's position that the lockout mechanism is not unfairly discriminatory under Section 6(b)(5) of the Act.

In total, the Exchange believes that the proposed scoring measurements and proposed scoring-based automated lock-out promote just and equitable principles of trade and are not unfairly discriminatory because they are designed to promote the integrity, efficiency, and fairness of Periodic Auctions and provide a mechanism for the Exchange to dissuade Users from attempting to gain an advantage over others by submitting PAOCs without an intent to execute in the Periodic Auction. The proposed scoring measurements and automated lock-out would provide additional protections to investors than those already found in the Exchange's Interpretation and Policy .04 to Rule 11.25. Currently, a User that initiates a Periodic Auction and then immediately cancels its Periodic Auction Order is subject only to the following limitation: "[a] pattern or practice of submitting orders for the purpose of disrupting or manipulating Periodic Auctions, including entering and immediately cancelling Periodic Auction Orders, will be

deemed conduct inconsistent with just and equitable principles of trade.”³⁰ The Exchange views the failure of the sender of a PAOC to respond to a confirmation request as no different than the behavior of the User who initiates a Periodic Auction and then cancels its Periodic Auction Order prior to the end of the Periodic Auction Period. However, the Exchange believes it will be furthering just and equitable principles of trade by requiring senders of PAOCs to be subject to the proposed scoring measurements and proposed scoring-based automated lock-out as these requirements are based on similar requirements that exist on off-exchange venues and are reasonably designed to encourage senders of PAOCs to respond to confirmation requests in a reasonable amount of time with firm orders that will execute at the end of the Periodic Auction Period.

Further, the proposed scoring measurements and proposed scoring-based automated lock-out are not unfairly discriminatory as they will apply to all senders of PAOCs equally. Applying more stringent requirements to senders of PAOCs as compared to those market participants who choose not to submit PAOCs is also not *unfairly* discriminatory. The proposed Contingent Instruction is completely voluntary and Users are not required to utilize the Contingent Instruction in order to participate in Periodic Auctions. All Users shall have equal access to the applicable scoring measurements and scoring-based automated lock-out threshold on a publicly available Exchange website, and may choose whether to submit PAOCs as part of their broader investing strategy. A User is free to determine whether the proposed scoring measurements and proposed scoring-based automated lock-out are incompatible with its trading strategy and, if so, is not required to utilize the Contingent Instruction on its Periodic Auction Only Orders nor

³⁰ See Rule 11.25, Interpretations and Policy .04.

participate in Periodic Auctions. The Exchange proposes to offer the Contingent Instruction simply to provide a regulated, transparent venue as an additional option to which Users may submit non-firm orders and would not require any User to utilize the proposed functionality.

II. Compliance with Other Regulatory Requirements

As discussed in more detail below, the Exchange believes that Periodic Auctions continue to be consistent with other regulatory requirements, including the Order Protection Rule, the LULD Plan, and Rule 602 of Regulation NMS (i.e., the “Quote Rule”).

First, with respect to compliance with the Order Protection Rule, the Exchange will continue to provide auction collars designed to limit trades to prices that are within the Protected NBBO. As discussed in the Periodic Auction Approval Order, the Order Protection Rule applies to transactions executed during Regular Trading Hours. Although opening and closing auctions are generally exempt from these requirements,³¹ there are currently no exceptions that would apply to Periodic Auctions that perform a similar role in facilitating price discovery. The Exchange does not execute Periodic Auctions at prices that are inconsistent with the requirements of that rule and this proposal would not change the current behavior of Periodic Auctions. Generally, the Order Protection Rule requires trading centers to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected quotations in NMS stocks, unless an exception applies. A “trade-through” is

³¹ Rule 611(b)(3) of Regulation NMS provides an exception to the requirements of the Order Protection Rule where the transaction that constituted the trade-through was a single-priced opening, reopening, or closing transaction by the trading center.

defined in Rule 600(b)(81) of Regulation NMS as the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer. The relevant auction collars will continue to be applied at the time of execution, and therefore will prevent trades from occurring at prices that would constitute a trade-through at the time the Periodic Auction is processed, consistent with the requirements of the Order Protection Rule.

Similarly, with respect to compliance with the LULD Plan, the Exchange's auction collars will continue to limit trades to prices that are within the LULD Price Bands established pursuant to that national market system plan. As is the case with the Exchange's utilization of the Protected NBBO in setting applicable auction collars, the LULD Price Bands will continue to be used as an additional collar on Periodic Auctions, and would ensure that all transactions that result from a Periodic Auction would be executed within the applicable LULD Price Bands at the time the Periodic Auction is processed. The Exchange does not execute Periodic Auctions at prices that are inconsistent with the LULD Plan and the proposal would not change how the Exchange executes Periodic Auctions.

The Exchange also believes that the proposed rule change is consistent with the Quote Rule. Generally, the firm quote provisions of the Quote Rule require each responsible broker or dealer to execute an order presented to it, other than an odd lot order, at a price at least as favorable as its published bid or published offer, in any amount up to its published quotation size. The proposed Contingent Instruction applicable to a Periodic Auction Only Order would at all times be non-displayed, and therefore would not trigger the firm quote requirements of the Quote Rule. That is, there

would be no “published bid” or “published offer” displayed to market participants that would be required to be “firm” under the Quote Rule.

Similarly, the proposal does not amend how Periodic Auctions function alongside trading on the Continuous Book and therefore would not result in violations of the Quote Rule. Continuous Book Orders entered to trade with the Exchange’s published quotation will continue to be able to do so in the same manner that they do today, notwithstanding the occurrence of Periodic Auctions conducted throughout the course of the trading day. The Exchange has designed its system for trading Periodic Auctions to minimize unnecessary latency, and does not believe that the introduction of PAOCs to the existing Periodic Auction functionality would impair the ability of the Exchange to execute incoming orders entered on the Continuous Book against its published bids or offers. The proposed Contingent Instruction will not extend the length of the Periodic Auction Period. The Exchange will continue to monitor system performance and latency after the introduction of PAOCs and related functionality to ensure that it is able to process both Periodic Auctions and Continuous Book Orders efficiently and without undue latency.

In addition, the Exchange would continue to handle events processed by the matching engine in sequence, and a Continuous Book Order that is included in the Exchange’s published bid or offer would continue to trade with incoming Continuous Book Orders unless the Periodic Auction is processed prior to the matching engine’s receipt of the incoming Continuous Book Order. Such executions would not run afoul of the firm quote requirements of the Quote Rule as Rule 602(b)(3) of Regulation NMS contains an explicit exemption from these requirements for broker-dealers that are in the

process of effecting a transaction in that security at the time the incoming order is “presented” to the broker-dealer for potential execution.

Further, the Exchange believes the Periodic Auction Message itself does not constitute a “published bid” or “published offer” within the meaning of the Quote Rule. The Periodic Auction Message is a market data message that provides information regarding a Periodic Auction that has been initiated on the Exchange. The Periodic Auction Message is not an actionable quote that can be executed against by market participants. The information contained in the Periodic Auction Message (i.e., the Periodic Auction Book Price and the total number of shares matched at that price) is indicative in nature and reflects the current state of the Periodic Auction at the time the message is disseminated. Market participants cannot execute against a Periodic Auction Message in the manner that they could execute against a displayed quotation on the Continuous Book. As such, the Exchange believes Periodic Auction Message falls outside the scope of the firm quote requirements of Rule 602 because it is not a quotation that the Quote Rule was designed to regulate.

Additionally, the Periodic Auction Message serves a fundamentally different purpose than a published quotation on the Continuous Book. A published quotation under Rule 602 represents a commitment to execute at the quoted price, subject to the published quotation size. In contrast, the Periodic Auction Message is designed to attract additional liquidity to an ongoing Periodic Auction by providing transparency into the auction process by functioning as a notification to market participants that a Periodic Auction has been initiated. The distinction is similar to the difference between an indicative price disseminated by a trading venue as part of its opening or closing auction messaging and a

firm, executable quotation that is available for immediate execution. The firm quote requirements of Rule 602 are designed to apply to published bids and offers that represent firm commitments, not to informational messages that facilitate trading.³²

Moreover, unlike a displayed quotation on the Continuous Book, the Periodic Auction Message does not create an obligation on any market participant to execute at the indicative price communicated by the Periodic Auction Message. The Periodic Auction Book Price and matched quantity reflected in the Periodic Auction Message may change during the course of the Periodic Auction Period as additional orders are received or cancelled prior to the conclusion of the Periodic Auction Period. The Periodic Auction ultimately executes at the conclusion of the Periodic Auction Period at the price that maximizes the total number of shares matched and not necessarily at the price or for the size indicated in any prior Periodic Auction Message. This dynamic nature of the Periodic Auction process further underscores the Exchange's belief that the Periodic Auction Message serves as an informational tool for market participants rather than a firm quotation subject to Rule 602.

The Exchange notes that the proposed introduction of PAOCs does not change how the Periodic Book Price or the matched quantity contained within the Periodic Auction Message is calculated. Current Periodic Auction Messages contain a Periodic Book Price, which is the price within the Collar Price Range at which the most shares

³² The definition of "bid or offer" in Rule 600(b)(16) excludes informational messages by specifically stating that "indications of interest" are not included in the definition of "bid or offer." See 17 CFR 242.600(b)(16), which provides: "Bid or offer means the bid price of the offer price communicated by a member of a national securities exchange or member of a national securities association to any broker or dealer, or to any customer, at which it is willing to buy or sell one or more round lots of an NMS security, as either principal or agent, but shall not include indications of interest."

from the Periodic Auction Book would match, and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price. Should PAOCs be introduced, the Periodic Auction Message would simply include the matched quantity executable at the Periodic Auction Book Price of any order(s) containing a Contingent Instruction that matched with a contra-side Periodic Auction Order and where a confirmation request has been sent in its messaging of the Periodic Auction Book Price and matched quantity. Should the sender of a PAOC send a Confirmation Order for a different price or different size, this would be reflected in an update to the respective Periodic Auction Book Price and/or matched quantity disseminated by the Periodic Auction Message. In the Exchange's view, this is no different than current updates to the Periodic Auction Book Price and/or matched quantity that can occur if orders are cancelled during the Periodic Auction Period or additional orders match at the Periodic Auction Book Price during the Periodic Auction Period. The Exchange believes that the proposed introduction of PAOCs does not cause the Periodic Auction Message to become a firm quote subject to the requirements of Rule 602 because the Periodic Auction Book Price and matched quantity are not "firm" and are merely indications of the price at which the Periodic Auction will occur at the end of the Periodic Auction Period.

Finally, the Exchange's published quotations would continue to be considered "automated quotations" as defined in Rule 600(b)(4) of Regulation NMS. As discussed with respect to compliance with the Quote Rule, the Exchange has designed its system for trading Periodic Auctions to minimize unnecessary latency, and therefore does not believe that the introduction of any functionality related to the proposed Contingent Instruction would impair the ability of the Exchange to execute incoming orders entered

on the Continuous Book against its published bids or offers. In this regard, the Exchange represents that any additional latency on the Continuous Book that may result from the proposed introduction of functionality related to the proposed Contingent Instruction would not be material from the perspective of compliance with the Order Protection Rule. Under Regulation NMS, an “automated” quotation is one that, among other things, can be executed “immediately and automatically” against an incoming immediate-or-cancel order. Although the Commission’s recent guidance related to automated quotations has focused on the introduction of intentional delay mechanisms or “speed bumps,”³³ which present different and more complex issues under Regulation NMS, the Exchange believes that its proposed enhancement to Periodic Auctions would not frustrate the purposes of the Order Protection Rule by “impairing fair and efficient access” to the Exchange’s quotations. In this regard, the Exchange notes that it has engaged in substantial testing of its Periodic Auction product containing the proposed functionality related to Contingent Instructions and, based on that testing, believes that any additional latency that may be experienced on the Continuous Book as a result of the proposal would be minimal and *de minimis* from the perspective of the Order Protection Rule.³⁴

III. Conclusion

³³ See Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2017) (File No. S7-03-16) (“Commission Interpretation”).

³⁴ Although the Commission refused to enumerate a numeric latency threshold for an intentional delay that is sufficiently *de minimis* for the purposes of the Order Protection Rule, the Staff of the Division of Trading and Markets has issued guidance stating the Staff’s belief that delays of less than one millisecond would qualify as *de minimis*. See Staff Guidance on Automated Quotations under Regulation NMS (June 17, 2016), available at <https://www.sec.gov/divisions/marketreg/automated-quotations-under-regulation-nms.htm>. While the Exchange’s proposal would not introduce an intentional delay, the Exchange’s testing indicates that any additional latency that may result from the proposed introduction of the Contingent Instruction within Periodic Auctions would be well within this threshold.

Chairman Atkins has expressed the importance of innovation by stating, "...we are getting back to our roots of promoting, rather than stifling, innovation. The markets innovate, and the SEC should not be in the business of telling them to stand still."³⁵ The proposed Contingent Instruction is a prime example of a place where the Commission can promote, rather than stifle, innovation. The proposed Contingent Instruction, while novel to the Exchange and to the Commission in a proposed rulemaking, is not, in fact, a novel concept in the equities markets. For years, market participants have been able to utilize a non-binding order instruction to post block-size liquidity across multiple off-exchange venues at the same time. This order instruction is particularly useful when sourcing block-size liquidity because it allows for large, non-binding orders to be entered in a non-displayed capacity across multiple venues yet only execute on a single venue when a match is received and the market participant confirms its intent to trade. Once a non-binding order instruction is confirmed on one venue, the market participant is able to modify or cancel its remaining non-binding order instructions across the remaining venues. This non-binding characteristic of the order is attractive to market participants because it allows for market participants to post liquidity on multiple venues in search of the most favorable execution. The Exchange's proposed PAOC would simply provide an additional regulated, transparent venue to which market participants could direct non-binding order flow in search of block-size liquidity and does not seek to introduce functionality with which market participants are not already familiar.

³⁵

See "Prepared Remarks Before SEC Speaks," (May 19, 2025), available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase competition by introducing an additional mechanism for equities market participants seeking to execute bulk-size liquidity during the course of the trading day on a national securities exchange. Indeed, the proposed introduction of the Contingent Instruction is a pro-competitive means of seeking to attract liquidity back to a regulated, transparent venue. The proposal, which seeks to introduce the Contingent Instruction as part of its existing Periodic Auction process, would allow competition, rather than regulatory intervention designed to limit competition and innovation, to improve market quality for thinly-traded and other securities.

The introduction of PAOCs is designed to provide an on-exchange opportunity for investors sourcing liquidity during the trading day using a non-binding instruction, and, in particular, those that are actively placing non-binding instructions across multiple venues in an attempt to source the most favorable execution. Providing an additional mechanism for non-binding orders to be executed would promote competition between venues that seek to execute this order flow, and provide market participants and investors with greater choice with respect to how they choose to source liquidity. The equities industry is fiercely competitive as the Exchange must compete with other equities exchanges and off-exchange venues for order flow. The proposal is both evidence of this competition, and would further enable the Exchange to compete effectively in this market.

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.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2026-014 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-CboeBYX-2026-014. 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBYX-2026-014 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

³⁶

17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

* * * * *

Rules of Cboe BYX Exchange, Inc.

* * * * *

Rule 11.25. Periodic Auctions

(a) *Definitions.*

(1) No change.

(2) The term “Continuous Book Order” shall mean an order on the BYX Book that is not a Periodic Auction Order, and the term “Continuous Book” shall mean the System’s electronic file of such Continuous Book Orders.

(3) – (7) No change.

(8) The term “Periodic Auction Period” shall mean the fixed time period of [10]70 milliseconds plus a random time period of 0 – 30 milliseconds immediately following the fixed time period for conducting a Periodic Auction. Notwithstanding the foregoing, a Periodic Auction initiated pursuant to Rule 11.25(c) will be performed at the end of the Regular Trading Session if the Periodic Auction Period would otherwise end after the Regular Trading Session. A subsequent Periodic Auction Period may begin immediately following the conclusion of a Periodic Auction (a “Subsequent Auction”) provided one or more Periodic Auction Orders to buy is executable against one or more Periodic Auction Orders to sell and did not trade in the immediately preceding Periodic Auction. A Subsequent Auction shall have a fixed time period of 70 milliseconds for conducting a Periodic Auction. There is no limit to the number of Subsequent Auctions that may occur.

(9) No change.

(10) The term “Contingent Instruction” shall mean an optional order instruction that may be appended to a Periodic Auction Only Order. A Contingent Instruction is an instruction that renders a Periodic Auction Only Order non-binding upon entry. A Periodic Auction Only Order containing a Contingent Instruction will only become binding after: i) matching with contra-side liquidity; and ii) the sender of the Periodic Auction Only Order containing a Contingent Instruction confirming its intent to trade as described in Rule 11.25(h). A Contingent Instruction may not be appended to a Periodic Auction Eligible Order or a Continuous Book Order. In order to participate in a Periodic Auction, a Periodic Auction Only Order containing a Contingent Instruction must initiate a Periodic Auction or be resting on the BYX Book when a Periodic Auction is initiated. A Periodic Auction Only Order containing a Contingent Instruction will not be eligible to participate in a Periodic

Auction that is already in progress if it is received by the Exchange after the Periodic Auction Period has begun.

(b) *Order Entry and Cancellation.* Users may enter Periodic Auction Orders that are eligible to initiate Periodic Auctions pursuant to Rule 11.25(c), and Continuous Book Orders that may participate in such Periodic Auctions if present on the Continuous Book at the time a Periodic Auction is executed. Periodic Auction Orders and Continuous Book Orders may be modified and/or cancelled at any time; provided that a User entering a Periodic Auction Order may optionally include an instruction not to cancel the order during a Periodic Auction Period if it is marketable at the Periodic Auction Book Price. Periodic Auction Orders must be for a size of 100 shares or more in securities priced below \$500 based on the consolidated last sale price, or if no consolidated last sale price is available, the previous day's closing price.

(1) A "Periodic Auction Only Order" is a non-displayed limit order entered with an instruction to participate solely in Periodic Auctions pursuant to this Rule 11.25. Periodic Auction Only Orders are not eligible for execution on the Continuous Book.

(A) Periodic Auction Only Orders entered [either during or]outside of Regular Trading Hours must include a time-in-force of Regular Hours Only ("RHO"). Periodic Auction Only Orders entered during Regular Trading Hours may include a time-in-force of RHO or Auction-or-Cancel ("AOC"). A Periodic Auction Only Order with a time-in-force of AOC is to be executed in whole or in part at the end of the Periodic Auction Period immediately following the receipt of such order. A Periodic Auction Only Order with a time-in-force of AOC may join a Periodic Auction that is already in progress when the order is received by the Exchange. A Periodic Auction Only Order with a time-in-force of AOC is not eligible for routing to another trading center. The portion of a Periodic Auction Only Order not immediately executed in a Periodic Auction is treated as cancelled and is not posted to the Continuous Book.

(i) A Periodic Auction Only Order containing a Contingent Instruction and a time-in-force of AOC will not be permitted to join a Periodic Auction that is already in progress when the order is received by the Exchange.

(B) – (C) No change.

(D) A User may include a Contingent Instruction on its Periodic Auction Only Order.

(2) *Periodic Auction Eligible Orders.* A "Periodic Auction Eligible Order" is a non-displayed limit order eligible to trade on the Continuous Book that is entered with an instruction to also initiate a Periodic Auction, if possible, pursuant to this Rule 11.25. Periodic Auction Eligible Orders will be ranked as Non-Displayed Limit Orders consistent with the priority of orders outlined in Rule 11.12(a). An incoming Periodic Auction Eligible Order that is eligible both to trade on the Continuous Book and initiate a Periodic Auction against a Periodic Auction Only Order at the same price will trade immediately with the Continuous

Book. Incoming Periodic Auction Eligible Orders will upon entry interact with Continuous Book Orders and other Periodic Auction Eligible Orders according to their rank under Rule 11.12(a). Periodic Auction Eligible Orders will not trade on the Continuous Book during a Periodic Auction Period in the security.

(A) Periodic Auction Eligible Orders cannot be entered with a time-in-force of AOC, IOC or fill-or-kill (“FOK”).

(B) – (E) No change.

(3) No change.

(c) *Initiation and Publication of Periodic Auction Information.* A Periodic Auction will be initiated in a security during Regular Trading Hours when one or more Periodic Auction Orders to buy become executable against one or more Periodic Auction Orders to sell pursuant to this Rule 11.25. [At a randomized time in one millisecond intervals]Immediately after a Periodic Auction has been initiated[and before the end of the Periodic Auction], the Exchange will disseminate via electronic means a Periodic Auction Message that includes the Periodic Auction Book Price and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price. Thereafter, a revised Periodic Auction Message will be disseminated in five millisecond intervals for the remaining duration of the Periodic Auction.

(1) If one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the Periodic Auction Message will include the matched quantity executable at the Periodic Auction Book Price of any order(s) containing a Contingent Instruction that matched with a contra-side Periodic Auction Order and where a confirmation request has been sent. The Periodic Auction Message will also indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction.

(d) No change.

(e) *Priority and Execution of Orders.* Periodic Auction Orders and Continuous Book Orders that are executable at the end of the Periodic Auction Period are executed at the Periodic Auction Price determined pursuant to Rule 11.25(d), as follows: First, any displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed in price/time priority. Second, any Periodic Auction Orders that are executable at the Periodic Auction Price are executed in size/time priority, beginning with the largest order. Size and time priority for a Periodic Auction Only Order containing a Contingent Instruction is based on the size and receipt of the Confirmation Order and not the size of or time that the Periodic Auction Only Order containing a Contingent Instruction is received by the System. Finally, any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price are executed as provided in Rule 11.9[12(a)(2)(B).

(f) – (g) No change.

(h) Confirmation of Orders Containing a Contingent Instruction. When a Periodic Auction is initiated and one or both sides of the initiating orders contain a Contingent Instruction, the sender(s) of the orders containing a Contingent Instruction shall be required to confirm their intent to trade before the order(s) containing a Contingent Instruction may participate in the Periodic Auction.

A confirmation request shall be sent to the sender of an order containing a Contingent Instruction immediately upon an order with a Contingent Instruction matching with a contra-side order and initiating a Periodic Auction. Users shall confirm their intent to trade by responding to the System-generated confirmation request with a Periodic Auction Only Order containing a time-in-force of AOC or RHO (the “Confirmation Order”). The Periodic Auction Only Order containing the Contingent Instruction will be cancelled as soon as the System-generated confirmation request is sent. A Confirmation Order may be submitted for any size and any price, and does not have to match the size and/or price of the order containing a Contingent Instruction.

Interpretations and Policies

.01 - .03 No Change.

.04 *Member Conduct.* Periodic Auction Orders must be entered with the intent to participate in Periodic Auctions. A pattern or practice of submitting orders for the purpose of disrupting or manipulating Periodic Auctions, including entering and immediately cancelling Periodic Auction Orders without a legitimate business rationale or failing to respond to a confirmation request without a legitimate business rationale, will be deemed conduct inconsistent with just and equitable principles of trade.

.05 *Scoring Measurements for Senders of Orders with Contingent Instructions.* Users that submit Periodic Auction Orders containing a Contingent Instruction shall have their confirmation responses tracked by the Exchange on a per symbol basis. A User’s scoring measurement shall be used: i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions match with a contra-side Periodic Auction Order; and ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The following components will be tracked by the System: i) confirmation response rate; ii) confirmation response size; and iii) confirmation response price. Each individual component of a User’s scoring measurement shall be equal weighted (e.g., 33.33% each). The System will calculate and track a User’s score at the MPID level. Scoring will be based on the current trading day’s activity only and will be tracked at the individual symbol level. A minimum of 10 confirmation requests are required before a score may be assigned to an MPID. Any User that responds to a confirmation request and subsequently cancels its confirmation response prior to the conclusion of the Periodic Auction Period shall not receive credit for its confirmation response.

.06 *Scoring-Based Confirmation Request Priority.* Scoring bands shall be used to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order. In the event that there are multiple Users within the same scoring band that match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users. The scoring bands are as follows: Band 1: $\geq 80\%$; Band 2: $\geq 70\%$ and below 80% ; Band 3: $< 70\%$.

.07 *Scoring-Based Automated Lock-Out.* A User that submits orders containing a Contingent Instruction shall be prohibited from submitting additional orders containing a Contingent Instruction in a given symbol if the User’s intraday score at the MPID level falls below the lock-out threshold determined by the Exchange. The lock-out shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User’s score is below the applicable lock-out threshold.

Users will only be prohibited from submitting orders containing a Contingent Instruction and will continue to be permitted to submit orders without a Contingent Instruction to the Exchange. The applicable lock-out threshold shall be 50%.

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