

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81246; File No. SR-Phlx-2017-57)

July 28, 2017

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 1012

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 July 21, 2017, NASDAQ PHLX LLC (“Phlx” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 1012, entitled “Series of Options Open for Trading.”

The text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

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NASDAQ PHLX Rules

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OPTIONS RULES

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Rule 1012. Series of Options Open for Trading

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(a) – (d) No change.

••• *Commentary:* -----

.01 - .04 No change

.05

(a)

(i) – (iii) No change.

(iv)

(A) and (B) No change.

(C) Notwithstanding any other provision regarding the interval of strike prices of series of options on Exchange-Traded Fund Shares in this rule, the interval of strike prices on SPDR® S&P 500® ETF (“SPY”), iShares Core S&P 500 ETF (“IVV”), and the SPDR® Dow Jones® Industrial Average ETF (“DIA”) options will be \$1 or greater.

(v) – (vii) No change.

(b) and (c) No change.

.06 - .13 No change.

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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 1012, entitled “Series of Options Open for Trading” by modifying the strike setting regime for the iShares Core S&P 500 ETF (“IVV”) options. Specifically, the Exchange proposes to modify the interval setting regime for IVV options to allow \$1 strike price intervals above \$200.

The Exchange believes that the proposed rule change would make IVV options easier for investors and traders to use and more tailored to their investment needs. Additionally, the interval setting regime the Exchange proposes to apply to IVV options is currently applied to options on units of the Standard & Poor’s Depository Receipts Trust (“SPY”),³ which is an exchange-traded fund (“ETF”) that is identical in all material respects to the IVV ETF.

The SPY and IVV ETFs are identical in all material respects. The SPY and IVV ETFs are designed to roughly track the performance of the S&P 500 Index with the price of SPY and IVV designed to roughly approximate 1/10th of the price of the S&P 500 Index.

Accordingly, SPY and IVV strike prices – having a multiplier of \$100 – reflect a value roughly equal to 1/10th of the value of the S&P 500 Index. For example, if the S&P 500 Index is at 1972.56, SPY and IVV options might have a value of approximately 197.26 with a notional value of \$19,726. In general, SPY and IVV options provide retail investors and traders with the benefit of trading the broad market in a manageably sized contract. As options with an ETP underlying, SPY and IVV options are listed in the same manner as equity options under the Rules.

³ See Commentary .05(a)(iv)(C) to Rule 1012. See also Securities Exchange Act Release No. 80913 (June 13, 2017), 82 FR 27907 (June 19, 2017) (SR-CBOE-2017-048) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Rule 5.5).

However, pursuant to current Commentary .05(a) to Rule 1012, the interval between strike prices in series of options on ETPs, including IVV options will be \$1 or greater where the strike price is \$200 or less and \$5.00 or greater where the strike price is greater than \$200. In addition, pursuant to Commentary .11(e) to Rule 1012,

The interval between strike prices on Short Term Option Series may be (i) \$0.50 or greater where the strike price is less than \$100, and \$1 or greater where the strike price is between \$100 and \$150 for all classes that participate in the Short Term Options Series Program; (ii) \$0.50 for classes that trade in one dollar increments in Related non-Short Term Options and that participate in the Short Term Option Series Program; or (iii) \$2.50 or greater where the strike price is above \$150. Related non-Short Term Option series shall be opened during the month prior to expiration of such Related non-Short Term Option series in the same manner as permitted in Commentary .11 to this Rule 1012 and in the same strike price intervals that are permitted in Commentary .11 to this Rule 1012.

The Exchange's proposal seeks to narrow the strike price intervals to \$1 for IVV options above \$200, in effect matching the strike setting regime for strike intervals in IVV options below \$200 and matching the strike setting regime applied to SPY options.

Currently, the S&P 500 Index is above 2000. The S&P 500 Index is widely regarded as the best single gauge of large cap U.S. equities and is widely quoted as an indicator of stock prices and investor confidence in the securities market. As a result, individual investors often use S&P 500 Index-related products to diversify their portfolios and benefit from market trends. Accordingly, the Exchange believes that offering a wide range of S&P 500 Index-based options affords traders and investors important hedging and trading opportunities. The Exchange believes that not having the proposed \$1 strike price intervals above \$200 in IVV significantly constricts investors' hedging and trading possibilities.

The Exchange proposes to amend Commentary .05(a)(iv)(C) of Rule 1012 to allow IVV options to trade in \$1 increments above a strike price of \$200. Specifically, the Exchange proposes to amend Commentary .05(a)(iv)(C) of Rule 1012 to state that notwithstanding other

provisions limiting the ability of the Exchange to list \$1 increment strike prices on equity and ETF options above \$200, the interval between strike prices of series of options on Units of IVV will be \$1 or greater. The Exchange believes that by having smaller strike intervals in IVV, investors would have more efficient hedging and trading opportunities due to the lower \$1 interval ascension. The proposed \$1 intervals, particularly above the \$200 strike price, will result in having at-the-money series based upon the underlying IVV moving less than 1%.

The Exchange believes that the proposed strike setting regime is in line with the slower movements of broad-based indices. Furthermore, the proposed \$1 intervals would allow option trading strategies (such as, for example, risk reduction/hedging strategies using IVV weekly options), to remain viable. Considering the fact that \$1 intervals already exist below the \$200 price point and that IVV is above the \$200 level, the Exchange believes that continuing to maintain the artificial \$200 level (above which intervals increase 500% [sic] by \$5), would have a negative effect on investing, trading and hedging opportunities, and volume.

The Exchange believes that the investing, trading, and hedging opportunities available with IVV options far outweighs any potential negative impact of allowing IVV options to trade in more finely tailored intervals above the \$200 price point. The proposed strike setting regime would permit strikes to be set to more closely reflect values in the underlying S&P 500 Index and allow investors and traders to roll open positions from a lower strike to a higher strike in conjunction with the price movement of the underlying.

Pursuant to Rule 1012, where the next higher available series would be \$5 away above a \$200 strike price, the ability to roll such positions is effectively negated. Accordingly, to move a position from a \$200 strike to a \$205 strike pursuant to the current rule, an investor would need for the underlying product to move 2.5%, and would not be able to execute a roll up until such a

large movement occurred. With the proposed rule change, however, the investor would be in a significantly safer position of being able to roll his open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying.

The proposed rule change will allow the Exchange to better respond to customer demand for IVV strike prices more precisely aligned with current S&P 500 Index values. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by providing investors the flexibility to more closely tailor their investment and hedging decisions using IVV options. By allowing series of IVV options to be listed in \$1 intervals between strike prices over \$200, the proposal will moderately augment the potential total number of options series available on the Exchange. However, the Exchange believes it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange also believes that members will not have a capacity issue due to the proposed rule change.

In addition, the Exchange represents that it does not believe that this expansion will cause fragmentation of liquidity. In addition, the interval setting regime the Exchange proposes to apply to IVV options is currently applied to options on SPY,⁴ which is an ETF that is identical in all material respects to the IVV ETF.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, the requirements

⁴ See note 4 [sic] above.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

of Section 6(b) of the Act [sic].⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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)⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change will allow investors to more easily use IVV options. Moreover, the proposed rule change would allow investors to better trade and hedge positions in IVV options where the strike price is greater than \$200, and ensure that IVV options investors are not at a disadvantage simply because of the strike price.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The rule change proposal allows the Exchange to respond to customer demand to allow IVV options to trade in \$1 intervals above a \$200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ Id.

As noted above, ETF options trade in wider \$5 intervals above a \$200 strike price, whereas options at or below a \$200 strike price trade in \$1 intervals. This creates a situation where contracts on the same option class effectively may not be able to execute certain strategies such as, for example, rolling to a higher strike price, simply because of the arbitrary \$200 strike price above which options intervals increase by \$5. This proposal remedies the situation by establishing an exception to the current ETF interval regime for IVV options to allow such options to trade in \$1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with a prior rule change.¹⁰

With regard to the impact of this proposal on system capacity, the Exchange believes it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

In addition, the interval setting regime the Exchange proposes to apply to IVV options is currently applied to options on SPY,¹¹ which is an ETF that is identical in all material respects to the IVV ETF.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the

¹⁰ See Securities and Exchange Act Release 34-72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-046).

¹¹ See note 4 [sic] above.

Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that IVV options investors and traders will significantly benefit from the availability of finer strike price intervals above a \$200 price point. In addition, the interval setting regime the Exchange proposes to apply to IVV options is currently applied to options on SPY,¹² which is an ETF that is identical in all material respects to the IVV ETF. Thus, applying the same strike setting regime to SPY and IVV options will help level the playing field for options on similar, competing ETFs.

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

No written comments were either solicited or received.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)¹³ of the Act and Rule 19b-4(f)(6)¹⁴ thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁵

¹² See note 4 [sic] above.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay because this proposal permits listing IVV options in a manner permitted by the Chicago Board Options Exchange, Incorporated,¹⁸ and will provide investors with an alternative venue for trading IVV options. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁰ of the Act to determine whether the proposed rule change should be approved or disapproved.

change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ See Securities Exchange Act Release No. 80913 (June 13, 2017), 82 FR 27907 (June 19, 2017) (SR-CBOE-2017-048).

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁰ 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2017-57 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2017-57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the

principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2017-57, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Eduardo A. Aleman
Assistant Secretary

²¹ 17 CFR 200.30-3(a)(12).