

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85210; File No. SR-Phlx-2019-02)

February 27, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Terms of Index Option Contracts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 21, 2019, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Phlx Rule 1101A, “Terms of Index Option Contracts,” to amend certain expiration timeframes and make technical corrections to this rule.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).³

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

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 1101A, “Terms of Index Options Contracts,” to amend expirations for Phlx index options. The Exchange also proposes to amend expirations related to the listing and trading, on a pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expiration dates (“Nonstandard Program”). Finally, the Exchange proposes technical amendments within Phlx Rule 1101A. Each rule change will be discussed below.

Expirations of Index Options and Technical Amendments

The Exchange proposes to add titles and re-number/re-letter Rule 1101A. The Exchange proposes to add the title “General” to the beginning of the rule. The Exchange proposes to add the title “Exercise Prices” in front of current Rule 1101A and the title “Strike Prices” before the paragraph after the list of sector indexes. The Exchange proposes to add these titles and re-number/re-letter this rule to make the rule more clear and add the various sections to provide ease of reference as to the content of the rule. The Exchange proposes to relocate current Rule 1033A to new section Rule 1101A(a)(1).

The Exchange proposes a new section Rule 1101A(a)(4) with a title “Expiration Months and Weeks.” The Exchange proposes to amend Rule 1101A to add specific expiration months

and weeks to Rule 1101A similar to expiration months and weeks at Cboe Exchange, Inc. (“Cboe”). Cboe Rule 24.9(a)(2) provides for expiration months and weeks for its index products.⁴ Today, Phlx Rule 1101A contains no expiration language. The proposed rule text provides that index options contracts may expire at three (3)-month intervals or in consecutive weeks or months. Further, the Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options.⁵ The Exchange is proposing similar expiration language on Nasdaq ISE, LLC in a separate rule change. The Exchange notes that the proposed new rule text would govern the listing of all index options and the new proposed text regarding 12 standard (monthly) expirations will govern the listing of NDX options.

⁴ Cboe Rule 24.9(a)(2) provides, “Expiration Months and Weeks. Index option contracts may expire at three-month intervals, in consecutive months or in consecutive weeks (as specified by class below). The Exchange may:

- list up to six standard monthly expirations at any one time in a class, but will not list index options that expire more than 12 months out;
- list up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index and for CBOE S&P 500 AM/PM Basis, EAFE, EM, FTSE Emerging, FTSE Developed, FTSE 100, China 50, and S&P Select Sector Index (SIXM, SIXE, SIXT, SIXV, SIXU, SIXR, SIXI, SIXY, SIXB, and SIXRE, and SIXC) options;
- list up to 12 consecutive weekly expirations in VXST options; and,
- list up to six weekly expirations and up to 12 standard (monthly) expirations in VIX options. The six weekly expirations shall be for the nearest weekly expirations from the actual listing date and weekly expirations may not expire in the same week in which standard (monthly) VIX options expire. Standard (monthly) expirations in VIX options are not counted as part of the maximum six weekly expirations permitted for VIX options.”

⁵ This provision is similar to a provision that Cboe notes for its VIX options at Rule 24.9(a)(2).

Nonstandard Expirations Pilot Program

The Exchange proposes to amend current Rule 1101A(b)(vii)(1) which is proposed to be re-numbered Rule 1101A(b)(5)(A) to modify the maximum number of expirations that may be listed for each Weekly expiration in the Nonstandard Program. Today, current Rule 1101A(b)(vii)(1) provides, “The maximum number of expirations that may be listed for each Weekly Expiration (i.e., a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class is the same as the maximum number of expirations permitted for standard options on the same broad-based index.” The Exchange proposes to instead provide, “The maximum number of expirations that may be listed for each Weekly Expiration (i.e., a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class is the maximum number of expirations permitted for standard index options in Rule 1101A(a)(4).” This provision would be modified to reference the new rule text proposed within Rule 1101A(a)(4).

The Exchange notes that Cboe Rule 24.9(e)(1) references Cboe Rule 24.9(a)(2) for the maximum number of expirations for weekly expirations in the nonstandard expirations pilot program. This proposed amendment to Phlx’s Nonstandard Program would amend the maximum expirations so they would be similar to expirations on Cboe.

Technical Amendment

The Exchange proposes to amend a sentence [sic] current Rule 1101A(b)(vii)(1) which is proposed to be re-numbered Rule 1101A(b)(5)(A) which currently provides, “Weekly Expirations that are first listed in a given class may expire up to four weeks from the actual listing date.” The Exchange proposes to amend this sentence to replace the word “first” with “initially.” The Exchange is not proposing to amend the meaning of this sentence, rather the

Exchange proposes to make clear that the word “initially” applies to the four week expiration period for listing initial weeklies in the Nonstandard Program.

Finally, the Exchange proposes to renumber parts of Rule 1101A to conform the lettering/numbering to the proposed new rule text and remove a hyphen between Market and Maker within current Rule 1101A(b)(vi)(D).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by clearly indicating the permissible expirations periods for index options and the Nonstandard Program to permit the listing of additional expirations. This proposal will conform Phlx’s ability to list index options expirations similar to Cboe.

Expirations of Index Options

Today, Rule 1101A does not provide specific expirations for broad-based indexes. With this proposal the Exchange would be permitted to list index options contracts that expire at three (3)-month intervals or in consecutive weeks or months. Further, the Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options. The Exchange believes that this rule text is consistent with the Act because it brings clarity to the manner in which Phlx

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

may list expirations on index options. Further, this proposal will permit the Exchange to list similar index options as are listed by Cboe today, including in the Nonstandard Program.

Nonstandard Expirations Pilot Program

The Exchange's proposal to amend current Rule 1101A(b)(vii)(1) which is proposed to be re-numbered Rule 1101A(b)(5)(A) to modify the maximum number of expirations that may be listed for each weekly expiration in the Nonstandard Program to the proposed new expiration timeframes is consistent with the Act because today those timeframes refer to the timeframes for standard listed options. Providing for the maximum numbers of expirations permitted under the Nonstandard Program within the standard index options rule will clarify the timeframes and eliminate any potential ambiguity about the maximum numbers of expirations permitted under the Nonstandard Program. Additionally, this amendment will align the Exchange's Nonstandard Program to Cboe's nonstandard program.

Technical Amendment

The Exchange's proposal amend [sic] a sentence within current Rule 1101A(b)(vii)(1) which is proposed to be re-numbered Rule 1101A(b)(5)(A) by replacing the word "first" with "initially" is consistent with the Act because it will make clear the meaning of the term and the meaning. The Exchange is not proposing to amend the meaning of this sentence, rather the Exchange proposes to make clear that the word "initially" applies to the four week expiration period for listing initial weeklies in the Nonstandard Program.

Finally, the Exchange believes that adding [sic] title to Rule 1101A as well as memorializing the meaning of bids and offers and re-numbering/re-lettering this rule will bring greater clarity to the index rule and align the rule with a similar proposal on Nasdaq ISE, LLC.

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. Specifically, the Exchange does not believe the proposal will impose any burden on intramarket competition as all market participants will be treated in the same manner with respect to expirations of index options. Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition as market participants are welcome to become Phlx Members and trade at Phlx if they determine that this proposed rule change has made Phlx more attractive or favorable. Finally, all options exchanges are free to compete by listing and trading their own broad-based index options with similar expirations. This proposal will permit Phlx to compete with Cboe with respect to listing expirations on index options.

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

Because the foregoing 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule 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.

A proposed rule change filed under Rule 19b-4(f)(6) of the Act¹⁰ normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹¹ permits the Commission to designate a shorter time if the action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange represents that the proposed rule change will add clarity to Rule 1101A and allow the Exchange to list expirations on index options and in its Nonstandard Program in a manner similar to another exchange. Because the proposed rule change does not present any new or novel issues, the Commission believes that waiving the 30-day operative delay period is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing.¹²

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.

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:

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² 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).

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-2019-02 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-2019-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-Phlx-2019-02, 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.¹³

Eduardo A. Aleman
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).