

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85953; File No. SR-Phlx-2019-22)

May 29, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Allow \$1 or Greater Strike Price Intervals for Options on QQQ and IWM

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 May 17, 2019, Nasdaq PHLX LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 allow \$1 or greater strike price intervals for options on certain Exchange-Traded Fund (“ETF”) Shares, as described below.

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 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 purpose of the proposed rule change is to amend the Exchange’s rules to allow \$1 or greater strike price intervals for options listed on the PowerShares QQQ Trust (“QQQ”) and the iShares Russell 2000 Index Fund (“IWM”), consistent with recent changes proposed by Cboe Exchange, Inc. (“CBOE”) and approved by the Commission.⁵

Currently, Commentary .05(a)(iv)(C) to Rule 1012 allows for the interval between strike prices of series of options on SPY, IVV, and DIA to be \$1 or greater where the strike price is greater than \$200. QQQ and IWM options, however, currently trade on the Exchange with \$1 intervals up to a strike price of \$200 pursuant to Commentary .05(a)(iv)(A) to Rule 1012. Above \$200, these options classes trade with significantly wider \$5 strike price intervals. The Exchange now proposes to modify Commentary .05(a)(iv)(C) to Rule 1012 to allow \$1 strike price intervals where the strike price is above \$200 for QQQ and IWM options, in effect matching the strike setting regime for these products below \$200 and also for options on SPY, IVV, and DIA.

⁵ See Securities Exchange Act Release No. 85754 (April 30, 2019), 84 FR 19823 (May 6, 2019) (SR-CBOE-2019-015).

The Exchange believes that the proposed rule change would make QQQ and IWM options easier for investors and traders to use, and more tailored to their investment needs.

QQQ and IWM are designed to provide investors different ways to efficiently gain exposure to the equity markets and execute risk management, hedging, asset allocation and income generation strategies. QQQ is a unit investment trust designed to closely track the price and performance of the Nasdaq-100 Index (“NDX”), which represents the largest and most active non-financial domestic and international issues listed on The Nasdaq Stock Market based on market capitalization. Likewise, IWM is an index ETF designed to closely track the price and performance of the Russell 2000 Index (“RUT”), which represents the small capitalization sector of the U.S. equity market. In general, QQQ and IWM options provide investors with the benefit of trading broader markets in a manageably sized contract.

The value of QQQ is designed to approximate 1/40 the value of the underlying NDX. For example, if the NDX price level is 1400, QQQ strike prices generally would be expected to be priced around \$35. The value of IWM is designed to approximate 1/10 the value of the underlying RUT. In the past year, NDX has climbed above a price level of 7500 and RUT climbed to a price level of approximately 1700 (both prior to the December 2018 market-wide decline). The prices for QQQ and IWM options have correspondingly increased within the same time period.⁶ As the value of the underlying ETF (and the index the ETF tracks) and resulting strike prices for each option appreciates, investor and member demands to list additional strike prices (\$1 increments) in QQQ and IWM options above \$200 continue to increase. QQQ is among the most actively traded ETFs on the market. It is widely quoted as an indicator of technology stock price and investor confidence in the technology and telecommunication market

⁶ For example, by the end of August 2018, QQQ was trading at more than \$185 per share and IWM was trading at more than \$170 per share.

spaces, a significant indicator of overall economic health. Similarly, IWM is among the most actively traded ETFs on the market and provides investors with an investment tool to gain exposure to small U.S. public companies. Industry-wide trade volume in QQQ more than doubled from 2017 to 2018. QQQ options and IWM options have grown to become two of the largest options contracts in terms of trading volume. Investors use these products to diversify their portfolios and benefit from market trends.

Accordingly, the Exchange believes that offering a wider base of QQQ and IWM options affords traders and investors important hedging and trading opportunities, particularly in the midst of current price trends. The Exchange believes that not having the proposed \$1 strike price intervals above \$200 in QQQ and IWM options significantly constricts investors' hedging and trading possibilities. The Exchange therefore believes that by having smaller strike intervals in QQQ and IWM, investors would have more efficient hedging and trading opportunities due to the lower \$1 intervals. The proposed \$1 intervals above the \$200 strike price will result in having at-the-money series based upon the underlying ETFs moving less than 1%. The Exchange believes that the proposed strike setting regime is in line with the slower movements of broad-based indices. Considering the fact that \$1 intervals already exist below the \$200 price point and that both QQQ and IWM have consistently inclined in price toward the \$200 level, the Exchange believes that continuing to maintain the current \$200 level (above which intervals increase 500% to \$5), may have a negative effect on investing, trading and hedging opportunities, and volume. The Exchange believes that the investing, trading, and hedging opportunities available with QQQ and IWM options far outweighs any potential negative impact of allowing QQQ and IWM 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 the increasing values in the underlying indices, and allow investors and traders to roll open positions from a lower strike to a higher strike in conjunction with the price movements of the underlying ETFs. Under the current rule, 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 under 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. As discussed above, NDX and RUT have experienced continued, steady growth. The Exchange believes that with the proposed rule change, the investor would be in a significantly safer position of being able to roll his/her open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying. The Exchange believes that the proposed rule change will benefit investors by providing them the flexibility to more closely tailor their investment and hedging decisions using QQQ and IWM options.

By allowing series of QQQ and IWM 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 that it and the Options Price Reporting Authority (“OPRA”) have the necessary system capacity to handle any potential additional traffic associated with this 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 this expansion will cause fragmentation of liquidity, but rather, believes that finer strike intervals will serve to increase liquidity available as well as price efficiency by providing more trading opportunities for all market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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. In particular, the proposed rule change to Commentary .05(a)(iv)(C) to Rule 1012 will allow investors to more easily and effectively use QQQ and IWM options. Moreover, the proposed rule change would allow investors to better trade and hedge positions in QQQ and IWM options where the strike price is greater than \$200, and ensure that investors in both options 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,⁹ 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 QQQ and IWM 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.

As noted above, QQQ and IWM options currently trade in wider \$5 intervals above a \$200 strike price, whereas the same products at or below a \$200 strike price trade in \$1 intervals. This creates a situation where contracts on the same options class effectively may not be able to

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(1).

execute certain strategies such as, for example, rolling to a higher strike price, simply because of the \$200 strike price, above which options intervals increase by 500%. This proposal remedies the situation by allowing QQQ and IWM options to trade in \$1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposal is consistent with changes adopted by CBOE and approved by the Commission.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. As discussed above, the Exchange further believes that its members will not have a capacity issue as a result of this proposal.

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. To the contrary, the proposed rule change is a competitive response to a recent CBOE filing approved by the Commission.¹¹ The Exchange believes that the proposed rule change is essential to ensure fair competition between markets, and 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.

¹⁰ See supra note 5.

¹¹ See supra note 5.

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 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 Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁵ permits the Commission to 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 so that the proposal may become operative immediately upon filing. The Exchange states that waiver of this requirement will ensure fair competition among the exchanges by allowing the Exchange to set the interval between strike prices of series of options on ETF shares of QQQ and IWM in a manner consistent with another exchange. Further, the Exchange states that because the proposed rule change is based on the

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

rules of another exchange,¹⁶ it does not introduce any new or novel regulatory issues. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁷

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 to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2019-22 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.

¹⁶ See supra note 5.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-Phlx-2019-22. 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 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-2019-22 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.¹⁸

Vanessa A. Countryman
Acting Secretary

¹⁸ 17 CFR 200.30-3(a)(12).