

(SECURITIES AND EXCHANGE COMMISSION)
(Release No. 34-98232; File No. SR-Phlx-2023-07)

August 28, 2023

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, to Make Permanent Certain P.M.-Settled Pilots

On February 23, 2023, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to make permanent the pilot program to permit the listing and trading of options based on 1/100 the value of the Nasdaq-100 Index and the Exchange’s nonstandard expirations pilot program. The proposed rule change was published for comment in the Federal Register on March 2, 2023.³

On April 7, 2023, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On May 11, 2023, the Exchange submitted Amendment No. 1 to the proposed rule change (“Amendment No. 1”).⁶ On May 31, 2023, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change and published Amendment No. 1 for notice and comment.⁷

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 96980 (February 24, 2023), 88 FR 13161.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 97260, 88 FR 22498 (April 13, 2023).

⁶ Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-phlx-2023-07/srphlx202307.htm>.

⁷ See Securities Exchange Act Release No. 97624, 88 FR 37107 (June 6, 2023).

Section 19(b)(2) of the Exchange Act⁸ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on March 2, 2023.⁹ The 180th day after publication of the proposed rule change is August 29, 2023. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,¹⁰ designates October 28, 2023, as the date

⁸ 15 U.S.C. 78s(b)(2).

⁹ See supra note 3 and accompanying text.

¹⁰ 15 U.S.C. 78s(b)(2).

by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-Phlx-2023-07).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

¹¹ 17 CFR 200.30-3(a)(57).