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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85692; File No. SR-Phlx-2019-16)

April 18, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pilot Period for the Listing of P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 12, 2019, Nasdaq PHLX LLC (“Phlx” or “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 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 extend the pilot period for the listing of P.M.-settled Nasdaq-100 Index Options expiring on the third Friday of the month (“NDXPM”).

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.

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

In August 2017, the Commission approved a proposed rule change for the listing on the Exchange of NDXPM options on a pilot basis, with the pilot to terminate on the earlier to occur of (i) 12 months following the date of the first listing of the NDXPM options, or (ii) December 29, 2018 pursuant to Phlx Rule 1101A Commentary .05.<sup>3</sup> Thereafter, the Exchange amended Commentary .05 to Phlx Rule 1101A to extend the pilot through May 6, 2019 because P.M.-settled options on the NASDAQ-100 Index ("NASDAQ-100") had not yet been listed by Phlx.<sup>4</sup>

By way of background, the Pilot permits the listing and trading, on a pilot basis, of NASDAQ-100 options with third-Friday-of-the month expiration dates, whose exercise settlement value will be based on the closing index value, symbol XQC, of the NASDAQ-100 on the expiration day ("P.M.-settled"). In particular, NDXPM uses a \$100 multiplier, and the minimum trading increment will be \$0.05 for options trading below \$3.00 and \$0.10 for all other series. Strike price intervals are set at no less than \$5.00. Consistent with existing rules for index options, the Exchange allows up to nine near term expiration months, as well as LEAPS.

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<sup>3</sup> See Securities Exchange Act Release No. 81293 (August 2, 2017), 82 FR 37138 (August 8, 2017) (approving SR-Phlx-2017-04) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Permit the Listing and Trading of P.M.-Settled Nasdaq-100 Index Options on a Pilot Basis) ("Pilot").

<sup>4</sup> See Securities Exchange Act Release No. 84685 (November 29, 2019 [sic]), 83 FR 62942 (December 6, 2018) (SR-Phlx-2018-76) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pilot Period for the Listing of P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month).

The product will have European-style exercise and will not be subject to position limits, though there would be enhanced reporting requirements.

The Exchange now proposes to amend Commentary .05 to Phlx Rule 1101A to extend the duration of the pilot program for these nonstandard expirations through November 4, 2019. The Exchange continues to experience technical programming delays related to P.M.-settled options on the NASDAQ-100 and as a result, these option series have not yet been listed by the Exchange. In order to allow sufficient time to realize the benefits of a pilot program for NDXPM options, the Exchange proposes the extension. By extending the outer limit of the pilot period, the Exchange believes it will have adequate time to resolve the programming issues, implement the listing of NDXPM options, and provide the pilot reports associated with the initial approval order over a meaningful period of time.<sup>5</sup> Without the amendment, the pilot period would end on May 6, 2019 and would not afford the Exchange or Commission a sufficient period of time within which NDXPM options may trade in order to be meaningfully evaluated by the Exchange as provided in the August 2017 approval order.<sup>6</sup> The Exchange will make public on its website any data and analysis it submits to the Commission under the pilot program.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> 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

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<sup>5</sup> The Exchange will issue an Options Trader Alert notifying Members when NDXPM options are listed.

<sup>6</sup> See note 4 above.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

investors and the public interest. The Exchange believes the proposed rule change will protect investors and the public interest by extending the pilot period for listing NDXPM options until November 4, 2019, providing the Exchange, the Commission and investors the benefit of a pilot program of sufficient duration to yield meaningful information concerning the impact of NDXPM options on the market.

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. NDXPM options would be available for trading to all market participants. The proposed rule change will facilitate the listing and trading of a novel option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of NDXPM will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to NASDAQ-100 stocks. Further, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Also, the Exchange notes that it is possible for other exchanges to develop or license the use of a new or different index to compete with the NASDAQ-100 and seek Commission approval to list and trade options on such an index.

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 Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)<sup>12</sup> 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 proposed rule change may become effective and operative immediately upon filing. The Exchange states that such waiver would allow the Exchange to extend the pilot period for listing NDXPM options prior to the Pilot's scheduled expiration, providing the Exchange, the Commission, and investors the benefit of a pilot program of sufficient duration to yield meaningful information concerning the impact of NDXPM options on the market. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.<sup>13</sup>

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). 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.

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> 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).

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2019-16 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-2019-16. 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-2019-16 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.<sup>14</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).

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