



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87517; File No. SR-Phlx-2019-49)

November 13, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove Rule Text from Phlx Rule 1101A

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 November 8, 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 remove rule text from Phlx Rule 1101A, “Terms of Options Contracts” at Commentary .05 in connection to the listing of P.M.-settled Nasdaq-100 Index Options expiring on the third Friday of the month (“NDXPM”).

The Exchange also proposes to remove other obsolete rule text regarding indices within Rule 1101A(1)(2), Rule 1104A, “SIG Indices, LLLP”, Rule 1106A, “Lehman Brothers Inc. Indexes”, Rule 1108A, “MSCI EM Index” and Rule 1109A “MSCI EAFE Index.”

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.

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

Phlx proposes to remove rule text from Phlx Rule 1101A, “Terms of Options Contracts” at Commentary .05 in connection to the listing of P.M.-settled Nasdaq-100 Index Options expiring on the third Friday of the month (“NDXPM”). The Exchange also proposes to remove other obsolete rule text regarding indices within Rule 1101A(1)(2), Rule 1104A, “SIG Indices, LLLP”, Rule 1106A, “Lehman Brothers Inc. Indexes”, Rule 1108A, “MSCI EM Index” and Rule 1109A “MSCI EAFE Index.”

Pilot

In August 2017, the Commission approved a proposed rule change for the listing of NDXPM options on a pilot basis on Phlx, 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, “Terms of Options Contracts” Commentary .05.³ By way of

³ 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) See also Securities Exchange Act Release No. 85692 (April 18, 2019), 84 FR 17213 (April 24, 2019) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the

background, the Pilot permitted the listing and trading, on a pilot basis, of NASDAQ-100 options with third-Friday-of-the month expiration dates, whose exercise settlement value was based on the closing index value, symbol XQC, of the NASDAQ-100 on the expiration day (“P.M.-settled”).

The Exchange extended the pilot through May 6, 2019, and, subsequently through November 4, 2019, because P.M.-settled options on the NASDAQ-100 Index (“NASDAQ-100”) had not yet been listed by Phlx.⁴ The Exchange did not renew this Pilot a third time and therefore the Pilot expired on November 4, 2019.

At this time, the Exchange proposes to remove Commentary .05 to Phlx Rule 1101A as this Pilot has expired. The Exchange also proposes to renumber Commentary .06 to Phlx 1101A as .05.

Other Amendments

The Exchange proposes to remove the following indexes at Rule 1001A(a)(2)(xxii) SIG Oil Exploration & Production IndexTM, (xxiv) KBW Capital Markets Index, (xxv) KBW Insurance Index, (xxvi) KBW Mortgage Finance Index, (xxvii) KBW Regional Banking Index, (xxxiii) NASDAQ China IndexSM, and (xxxiv) SIG Energy MLP IndexTM. The Exchange proposes to remove the reserved rules and re-letter the remaining rule text. These indexes are no longer traded so the rule text is obsolete. There is no outstanding interest in any of the

Listing of P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month)(“Pilot”).

⁴ See Securities Exchange Act Release Nos. 84685 (November 29, 2019), 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) and 85692 (April 18, 2019), 84 FR 17213 (April 24, 2019) (SR-Phlx-2019-16) (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).

aforementioned indexes. If Phlx determines to list any of these indexes at a future date the Exchange will file a proposal with the Commission.

The Exchange proposes to remove other obsolete rule text regarding indices. The Exchange no longer lists SIG Indices and therefore proposes to remove rule text which permits the listing of such index options within Rule 1104A, “SIG Indices, LLLP.” The Exchange no longer lists Lehman Brothers Indexes and therefore proposes to remove rule text which permits the listing of such index options within Rule 1106A, “Lehman Brothers Inc. Indexes.” The Exchange also no longer lists the MSCI EM or MSCI EAFE index options. The Exchange proposes to remove Rule 1108A, “MSCI EM Index” and Rule 1109A “MSCI EAFE Index.” There is no outstanding interest in any of the aforementioned indexes. These indexes have not been listed in some time on Phlx. If Phlx determines to list any of these indexes at a future date the Exchange will file a proposal with the Commission.

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, 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. The Exchange believes that removing the rule text related to the expired Pilot within Commentary .05 to Phlx Rule 1101A will protect investors and the public interest by avoiding confusion as to the existence of this Pilot. Further the Exchange believes that removing obsolete language related to the listing of index options which have not been listed for some time on Phlx will also protect investors and the public interest by avoiding

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

confusion as to the availability of these listings. There is no outstanding interest in any of the aforementioned indexes. If Phlx determines to list any of these indexes at a future date the Exchange will file a proposal with the Commission.

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. With the expiration of the Pilot, NDXPM options would not be listed by Phlx and therefore would not be available to any market participant. Further, no market participant may trade any of the index options which are being deleted.

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 Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 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.

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-2019-49 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-2019-49. 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-2019-49 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.⁹

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Assistant Secretary

⁹ 17 CFR 200.30-3(a)(12).

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