

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84034; File No. SR-Phlx-2018-57]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Move the P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month to the NDX Index Options Class

September 5, 2018.

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 August 27, 2018, 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, II, and III, 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 move the P.M.-settled Nasdaq-100 Index Options expiring on the third Friday of the month (“NDXPM”) to the NDX index options class. In connection with the move, the Exchange proposes changing the trading symbol for these options from “NDXPM” to “NDXP”.

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 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 seeks to amend Exchange rules related to certain P.M.-settled options on the NASDAQ-100 Index which have been approved by the Commission but which have not yet been listed by the Exchange.³ Currently, third-Friday P.M.-settled NASDAQ-100 Index options form a separate options class and, if listed by the Exchange, would trade under the symbol “NDXPM.” The Exchange now seeks to move these third-Friday P.M.-settled NASDAQ-100 Index options into the NASDAQ-100 (“NDX”) options class.

The Exchange has also recently received Commission approval to list nonstandard expirations of P.M.-settled NASDAQ-100 Index options trading under the symbol “NDXP”, also on a pilot basis.⁴ NDXP options are series of the NDX options class. These NDXP options may expire on Mondays, Wednesdays, Fridays (other than third-Friday-of-the-month), and the last trading day of the month.⁵ The proposed rule change would facilitate a change to the trading symbol for P.M.-settled NASDAQ-100 Index options that have standard third Friday-of-the-month (“third-Friday”) expirations from “NDXPM” to “NDXP.”

The Exchange believes moving NDXPM into the NDX options class to trade under the NDXP symbol will have no adverse impact on the marketplace. In fact, the Exchange believes moving NDXPM into the NDX options class to trade under the NDXP symbol will have a positive impact on the marketplace and retail customers in particular.

As previously noted, in addition to end-of-the-month expirations, NDXP options are P.M.-settled NASDAQ-100 Index options that may expire on Mondays, Wednesdays, and Fridays (other than third-Friday-of-the-month) (*i.e.*, nonstandard weekly expirations pursuant to Rule 1101A(b)(vii)). Trading P.M.-settled third-Friday expirations under the NDXP symbol will ensure

³ See Securities Exchange Act Release No. 81293 (August 2, 2017), 82 FR 37138 (August 8, 2017) (approving SR-Phlx-2017-04).

⁴ See Securities Exchange Act Release No. 82341 (December 15, 2017), 82 FR 60651 (December 21, 2017) (SR-Phlx-2017-79). In its proposed rule change to adopt a nonstandard expirations pilot program, the Exchange noted that it anticipated filing a proposed rule change in the near future to move the NDXPM index options with standard third Friday of the month expiration dates to the NDX index option class.

⁵ See Rule 1101A(b)(vii), Nonstandard Expirations Pilot Program.

market participants, particularly retail customers, have seamless access to P.M.-settled NASDAQ-100 Index options expiring every Friday of the month.

Without the proposed amendments, a user of NDXP options could not roll an existing NDXP position that expires on a first or second Friday of a month into a NDXP position that expires on a third-Friday. Thus, for NDXP users, there would be a gap in Friday expirations. Changing the NDXPM symbol to NDXP would remove the gap in Friday NDXP expirations and allow market participants, especially retail customers that are less likely to utilize both NDXPM and NDXP options to maintain exposure to Friday expirations, to have seamless access to P.M.-settled NASDAQ-100 Index options expiring every Friday of the month.

In addition, offering seamless access to P.M.-settled NASDAQ-100 Index options that expire every Friday of the month would allow market participants to submit complex orders with options series that expire on third-Fridays and other Friday expirations. Without the proposed amendments, market participants would not be able to submit into the trading system complex orders that consist of NDXPM options series and NDXP options series because they are currently in separate classes.⁶ Although market participants would have the ability to submit separate orders to leg into a position with third-Friday and other Friday exposure, retail customers would be less likely to leg into a position. Thus, changing the NDXPM symbol to NDXP would allow market participants, especially retail customers, to submit complex orders with options series that expire on third-Fridays and other Fridays.

As previously noted, the Exchange does not believe moving NDXPM into the NDX options class and changing the NDXPM symbol to NDXP will have any adverse impact on market participants. Because the Exchange has not yet listed NDXPM, and because Exchange Rules and systems will treat NDXPM and NDXP the same (other than having separate pilot programs and listing schedules), the Exchange expects a smooth transition of NDXPM series to the NDXP symbol.

⁶ See Rule 1098, Complex Orders on the System, Section (a)(i) which provides that for purposes of the electronic trading of Complex Orders, a Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Position Limits/Reporting Requirements

In addition, since third-Friday P.M.-settled options trading under the NDXP symbol will be a new type of series under the NDX options class and not a new options class, all third-Friday P.M.-settled NDXP options will be aggregated together with all other standard expirations for applicable reporting and other requirements.⁷ The Exchange therefore proposes to delete language in Rules 1079, FLEX Index, Equity and Currency Options and 1001A, Position Limits, dealing with position limits for NDXPM options specifically.

Pilot Reports

Third-Friday P.M.-settled NASDAQ-100 Index options are currently approved to be listed on a pilot basis.⁸ After implementation of the proposed amendments, the pilot would continue under the same terms that originally established the pilot. As part of the pilot, the Exchange would submit periodic reports and annual reports that analyze the market impact and trading patterns of third-Friday P.M.-settled NASDAQ-100 Index options. The reports would provide the same data and analysis for third-Friday P.M.-settled NASDAQ-100 Index options trading under symbol NDXP that would have been submitted for third-Friday P.M.-settled NASDAQ-100 Index options trading under symbol NDXPM had they been listed.

Implementation Date

The Exchange intends to change the NDXPM symbol to NDXP prior to its listing. The Exchange does not intend to list NDXPM as a separate class. Consistent with the original NDXPM approval order, the pilot for listing third-Friday P.M.-settled NASDAQ-100 Index options trading under symbol NDXP would terminate on December 29, 2018.⁹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹

⁷ See e.g., Rule 1001A(c) which sets forth the reporting requirements for certain broad-based indexes that do not have position limits.

⁸ See Rule 1101A Commentary .05 and Securities Exchange Act Release No. 81293 (August 2, 2017), 82 FR 37138 (August 8, 2017) (approving SR-Phlx-2017-04).

⁹ The NDXPM approval order provided for termination of the pilot on the earlier to occur of (i) 12 months following the date of the first listing of the options, or (ii) December 29, 2018. Since fewer than 12 months now remain in 2018, the pilot will terminate on December 29, 2018.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes trading P.M.-settled third-Friday expirations under the NDXP symbol rather than the separate NDXPM symbol will ensure market participants, particularly retail customers, have seamless access to P.M.-settled NASDAQ-100 Index options expiring every Friday of the month, which helps to remove impediments to and perfect the mechanism of a free and open market. The Exchange believes the proposed rule change will help to protect investors and the public interest by allowing market participants to enter options positions with the same underlying in one symbol that spans every Friday expiration in a month, thus providing a more efficient way to gain exposure and hedge risk.

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. The Exchange does not believe the rule change will impose a burden on intramarket competition because all market participants will continue to have access to P.M.-settled NASDAQ-100 Index options expiring every Friday of the month and will be able to trade them under the NDXP symbol. The proposal will not impose a burden on intermarket competition because the options affected by this proposal are exclusive to the Exchange.

Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition as market participants on other exchanges are welcome to become members and trade at Phlx if they determine that this proposed rule change has made Phlx more attractive or favorable.

¹² *Id.*

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)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 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 email to rule-comments@sec.gov. Please include File Number SR-Phlx-2018-57 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-2018-57. This file

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

number should be included on the subject line if email 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 a.m. and 3 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-2018-57 and should be submitted on or before October 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84031; File No. SR-BOX-2018-14]

Self-Regulatory Organizations; BOX Options Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt Rules Governing the Trading of Complex Qualified Contingent Cross Orders and Complex Customer Cross Orders

September 5, 2018.

I. Introduction

On May 22, 2018, BOX Options Exchange LLC ("BOX" or the "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 adopt rules governing the trading of Complex Qualified Contingent Cross Orders ("QCC") and Complex Customer Cross Orders. The proposed rule change was published for comment in the **Federal Register** on June 8, 2018.³ On July 16, 2018, 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 approve or disapprove the proposed rule change.⁵ The Commission has received no comment letters regarding the proposed rule change. This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposal

BOX has proposed to adopt rules governing the trading of Complex Customer Cross Orders⁷ and Complex QCC Orders.⁸ The proposal also applies

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 83367 (June 4, 2018), 83 FR 26719 ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 83647, 83 FR 34635 (July 20, 2018). The Commission designated September 6, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ A Complex Customer Cross Order is comprised of one Public Customer Complex Order to buy and one Public Customer Complex Order to sell at the same price and for the same quantity. See proposed BOX Rule 7240(b)(4)(iii).

⁸ A Complex QCC Order is comprised of an originating Complex Order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in IM-7110-2, coupled with a contra-side Complex Order or orders totaling an equal number of contracts. See proposed BOX Rule 7240(b)(4)(iv). A "qualified contingent trade" is a transaction consisting of two or more component orders, executed as agent or principal, where: (1) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (3) the execution of one component is contingent upon the execution of all other components at or near the same time; (4) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (5) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (6) the transaction is fully hedged (without regard to any

two existing Complex Order price protections, the debit/credit check and the maximum price protection, to the proposed Complex Customer Cross and Complex QCC Orders.⁹

Proposed BOX Rule 7110(c)(7) provides that a Complex Customer Cross order will be executed automatically upon entry provided that the execution (i) is at least \$0.01 better than (inside) the cBBO¹⁰ and any Public Customer Complex Order on the Complex Order Book; (ii) is at or better than any non-Public Customer Complex Order on the Complex Order Book; and (iii) is at or between the cNBBO.¹¹ The system will reject a Complex Customer Cross Order if, at the time of receipt of the Complex Customer Cross Order: (i) The strategy is subject to an ongoing auction (including the COPIP, Facilitation, and Solicitation auctions); or (ii) there is an exposed order on the strategy pursuant to BOX Rule 7240(b)(3)(B).¹² Complex Customer Cross Orders will be cancelled automatically if they cannot be executed, and Complex Customer Cross Orders may only be entered in the minimum trading increments applicable to Complex Orders under BOX Rule 7240(b)(1).¹³ BOX proposes to apply BOX IM-7140-1 to the entry and execution of Complex Customer Cross Orders.¹⁴

prior existing position) as a result of other components of the contingent trade. See BOX IM-7110-2. See Notice, *supra* note 3, for additional description of the proposed rule change, including examples demonstrating the operation of the proposed Complex Customer Cross and Complex QCC Orders.

⁹ See proposed BOX IM-7240-1(a)(5) and (b)(5).

¹⁰ The cBBO is the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of the Strategy. See BOX Rule 7240(a)(1). The BOX Book is the electronic book of orders on each single option series maintained by the BOX Trading Host. See BOX Rule 100(a)(10).

¹¹ The cNBBO is the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of the Strategy. See BOX Rule 7240(a)(3).

¹² See proposed BOX Rule 7110(c)(7).

¹³ See proposed BOX Rule 7110(c)(7)(i) and (ii).

¹⁴ See proposed BOX Rule 7110(c)(7)(iii). BOX IM-7140-1 provides: "[BOX Rule 7140(b)] prevents an Options Participant executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on BOX an opportunity to trade with the agency order pursuant to Rule 7150 (Price Improvement Period), Rule 7245 (Complex Order Price Improvement Period) or Rule 7270 (Block Trades). However, the Exchange recognizes that it may be possible for an Options Participant to establish a relationship with a Customer or other person (including affiliates) to deny agency orders the opportunity to interact on BOX and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of [BOX Rule 7140(b)] for an Options Participant to circumvent [BOX Rule 7140(b)] by providing an opportunity for a Customer or other person (including affiliates) to

Continued

¹⁵ 17 CFR 200.30-3(a)(12).