SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95996; File No. SR–C2–2022–017]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.34 Concerning Drill-Through Protection and Fat Finger Check

October 6, 2022.

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 October 4, 2022, Cboe C2 Exchange, Inc. (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''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

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2 Options'') proposes to amend Rule 5.34. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.34. Specifically, the Exchange proposes to amend its drill-through protection mechanism for both simple and complex orders and its limit order fat finger check.

The Exchange proposes to amend Rule 5.34(a)(4) and (b)(6) to update the drill-through protection mechanism for simple and complex orders, respectively, to provide orders with additional execution opportunities. Pursuant to the current simple drill-through protection, if a buy (sell) order enters the Book at the conclusion of the opening auction process or would execute or post to the Book at the time of order entry, the System executes the order up to a buffer amount (the Exchange determines the buffer amount on a class and premium basis) above (below) the offer (bid) limit of the opening collar [3] or the national best bid (''NBO'') (national best offer (''NBB'')) that existed at the time of order entry, respectively (the ''drill-through price'').[4] The System enters a limit order (as long as it has a Time-in-Force of Day, Good-til-Cancelled or Good-til-Day) (or unexecuted portion) not executed pursuant to the provision in the immediately preceding sentence in the Book with a displayed equal to the drill-through price.[5] The order (or unexecuted portion) rests in the Book at the drill-through price [6] until the earlier to occur of its full execution and the end of the duration of a number of consecutive time periods (the Exchange determines on a class-by-class basis the number of periods, which may not exceed five, and the length of the time period in milliseconds, which may not exceed three seconds).[7]

The proposed rule change amends Rule 5.34(a)(4)(C)(i) to eliminate the concept that there will be a maximum number of time periods and proposes that the order (or unexecuted portion) will rest in the Book at the drill-through price for the duration of consecutive time periods.[8] The proposed rule change makes conforming changes to subparagraph (ii) by deleting references to ''the final period'' and subparagraph (iv) by deleting the reference to ''any remaining time period(s),'' as there will no longer be an Exchange-determined limited number of time periods. Currently, as set forth in current subparagraph (i), the drill-through mechanism will continue until the earlier to occur of the order's full execution and the end of the duration of the Exchange-determined number of time periods. The Exchange proposes to amend subparagraph (iv) to describe when the drill-through process will conclude. Specifically, proposed Rule 5.34(a)(4)(C)(iv) provides that the order continues through the process described in subparagraph (ii) (as proposed to be amended) until the earliest of the following to occur: (a) the order fully executes; (b) the User cancels the order; and (c) the order's limit price equals or is less than (if a buy order) or greater than (if a sell order) the drill-through price at any time during application of the drill-through mechanism, in which case the order rests in the Book at its limit price, subject to a User's instructions. In other words, the order will continue through consecutive time periods until it fully executes (unless it is cancelled by the User or reaches its limit price prior to full execution), compared to today when the order will continue through consecutive time periods until it fully executes or reaches the Exchange-determined final time period, at which time the order would be cancelled (unless it reaches its limit price prior to full execution). The Exchange believes eliminating the limit on the number of time periods may increase execution opportunities for limit orders, which will still continue to be bound by their limit prices and protected by the limit order fat finger check.[9]

The proposed rule change makes a similar change to the drill-through protection mechanism for complex orders. Specifically, the proposed rule change eliminates the concept that, for complex orders for which the user does not establish a buffer amount (and instead the Exchange-determined default buffer amount applies),[10] there

[3] *See* Rule 5.31(a) for the definition of Opening Collars.

[4] *See* Rule 5.34(a)(4)(A).

[5] *See* Rule 5.34(a)(4)(C).

[6] The proposed rule change adds ''at the drill-through price'' in the first sentence of subparagraph (a)(4)(C)(i), which is a nonsubstantive change, as it reflects current functionality and is stated in the introductory paragraph to Rule 5.34(a)(4)(C). The proposed rule change merely includes this detail in the next portion of the rule for additional clarity.

[7] *See* Rule 5.34(a)(4)(C)(i).

[8] The Exchange will continue to determine on a class-by-class basis the length of the time periods in milliseconds, which may continue to not exceed three seconds.

[9] If a limit price is ''too far away'' from the market, the order will continue to be subject to the limit order fat finger protection set forth in Rule 5.34(c)(1) and thus will still be subject to protection against a potentially erroneous execution due to an order pricing error upon submission.

[10] *See* Rule 5.34(b)(6)(A).

will be a maximum number of time periods and proposes that the complex order (or unexecuted portion) will rest in the Book at the drill-through price for the duration of consecutive time periods.[11] Currently, similar to the drill-through protection mechanism for simple orders (as described above), if a user enters a buy (sell) complex order into the System (and does not enter its own buffer amount), the System executes the order [12] up to a buffer amount above (below) the Synthetic National Best Offer (''SNBO'') (Synthetic National Best Bid (''SNBB'')) that existed at the time of entry (the ''drill-through price'') or initiates a complex order auction (''COA'') at the drill-through price if the order would initiate a COA.[13] For complex orders for which the user did not establish a buffer amount, the complex order (or unexecuted portion) rests in the COB with a displayed price equal to the drill-through price until the earlier to occur of the complex order's full execution and the end of the duration of a number of time periods (the Exchange determines on a class-by-class basis the number of periods, which may not exceed five, and the length of the time period in milliseconds, which may not exceed three seconds). Following the end of each period prior to the final period, the System adds (if a buy order) or subtracts (if a sell order) one buffer amount to the drill-through price displayed during the immediately preceding period (each new price becomes the ''drill-through price''). The complex order (or unexecuted portion) rests in the COB at that new drill-through price during the subsequent period. Following the end of the final period, the System cancels, the complex order (or unexecuted portion) not executed during any time period.[14]

The proposed rule change amends Rule 5.34(b)(6)(B)(i) and (ii) to eliminate the concept that there will be a maximum number of time periods and proposes that the order (or unexecuted portion) will rest in the COB at the drill-through price for the duration of consecutive time periods when a User does not establish its own buffer amount.[15] The proposed rule change makes conforming changes to current subparagraphs (i), (ii), and (iv) (proposed subparagraphs (ii) and (iii)) by deleting references to ''the final period'' and deleting the reference to ''any remaining time period(s),'' as there will no longer be an Exchange-determined limited number of time periods. Currently, as set forth in current subparagraphs (i), (ii), and (iv), if the inputting User does not establish a buffer amount for the complex order, the drill-through mechanism will continue until the earlier to occur of the order's full execution and the end of the duration of the Exchange-determined number of time periods (unless it reaches its limit price prior to full execution), at which time the order would be cancelled. The Exchange proposes to add to the end of proposed subparagraph (ii) when the drill-through process will conclude and what happens at that time for complex orders for which the user did not establish a buffer amount. Specifically, proposed Rule 5.34(b)(6)(B)(ii) provides that the complex order continues through the process described in proposed subparagraph (ii) until the earliest of the following to occur: (a) the complex order fully executes; (b) the User cancels the order; and (c) the complex order's limit price equals or is less than (if a buy order) or greater than (if a sell order) the drill-through price at any time during application of the drill-through mechanism, in which case the complex order rests in the COB at its limit price, subject to a User's instructions.[16] In other words, a complex order for which the User did not establish a buffer amount will continue through consecutive time periods until it fully executes (or is cancelled or reaches its limit price), compared to today when the complex order will continue through consecutive time periods until it fully executes or reaches the Exchange-determined final time period, at which time the order would be cancelled (unless it reaches its limit price, as described in current subparagraph (iv)). The Exchange believes eliminating the limit on the number of time periods may increase execution opportunities for limit orders, which will still continue to be bound by their limit prices and protected by the limit order fat finger check.[17]

The proposed rule change also makes certain nonsubstantive changes to Rule 5.34(b)(6). Specifically, the proposed rule change moves all provisions specific to the application of the drill-through mechanism if the user establishes a buffer amount into Rule 5.34(b)(6)(B)(i) and moves all provisions specific to the application of the drill-through mechanism if the user does not establish a buffer amount into Rule 5.34(b)(6)(B)(ii). This includes incorporating into each of proposed subparagraphs (i) and (ii) how the System handles a complex order if its limit price equals or less than (if a buy order) or greater than (if a sell order) the drill-through price, as described in current subparagraph (iv). As a result, the proposed rule change deletes current subparagraph (iv). Additionally, the proposed rule change moves certain language regarding what happens if the SBBO changes during any period, which applies to all complex orders subject to the drill-through protection mechanism, regardless of whether the user input its own buffer amount, to proposed subparagraph (iii) from current subparagraph (ii) and correspondingly changes current subparagraph (iii) to proposed subparagraph (iv). The proposed rule change makes a nonsubstantive change to the beginning of proposed subparagraph (iii) by changing ''However'' to ''Notwithstanding the above,'' as the Exchange believes that phrase is more appropriate.

In addition, the Exchange proposes to amend Rule 5.34(c)(1)(D) to add Limit-on-Close orders [18] to the list of orders to which the limit order fat finger check does not apply. Pursuant to the limit order fat finger check, if a User submits a buy (sell) limit order to the System with a price that is more than a buffer

[11] *See* proposed Rule 5.34(b)(6)(B). The proposed rule change has no impact on how the drill-through protection mechanism applies to a complex order for which the inputting user establishes a buffer amount, as in that situation, there is only a single time period pursuant to the current rule (which will continue to be the case).

[12] Executions occur pursuant to Rule 5.33(e).

[13] Unlike the simple order drill-through protection mechanism, the complex order drill-through protection mechanism permits users to establish a buffer amount different than the Exchange-determined default buffer amount. *See* Rule 5.34(b)(6)(A). A description of COAs is located in Rule 5.33(d).

[14] *See* current Rule 5.34(b)(6)(B)(i) and (ii). As set forth in current subparagraph (iv), if the complex order's limit price is reached during the application of the drill-through mechanism, the order will rest in the COB at its limit price.

[15] The Exchange will continue to determine on a class-by-class basis the length of the time periods in milliseconds, which may continue to not exceed three seconds.

[16] Proposed clause (c) is applicable today and located in current subparagraph (iv). As described below, the proposed rule change merely moves this provision from current subparagraph (iv) to proposed subparagraph (ii).

[17] If a limit price is ''too far away'' from the market, the order will continue to be subject to the limit order fat finger protection set forth in Rule 5.34(c)(1) and thus will still be subject to protection against a potentially erroneous execution due to an order pricing error upon submission.

[18] A ''Limit-on-Close'' or ''LOC'' order is a limit order that may not execute on the Exchange until three minutes prior to market close. At that time, the System enters LOC orders into the Book in time sequence (based on the times at which the System initially received them), where they may be processed in accordance with Rule 5.32. The System cancels an LOC order (or unexecuted portion) that does not execute by the market close. Users may not designate bulk messages as LOC. *See* Rule 5.6(d) (definition of ''Limit-on-Close'' and ''LOC'' order).

amount [19] above (below) the NBO (NBB) for simple orders or the SNBO (SNBB) for complex orders, the System cancels or rejects the order.[20] Currently, the limit order fat finger check does not apply to bulk messages or stop-limit orders.[21] The Exchange proposes to also not apply the limit order fat finger check to Limit-on-Close orders. The limit order fat finger check applies to orders upon entry to the System. However, the limit price of a Limit-on-Close order is intended to relate to the price at the market close, and thus may intentionally be further away from the NBBO or SNBBO, as applicable, at the time the order is entered. This may cause the order to be inadvertently rejected pursuant to this check. The Exchange believes it is not appropriate for this limit order to be subject to the fat finger check, as the check may inadvertently cause rejections for orders with limit prices that are intentionally ''far away'' from the market at the time of order entry.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[22] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [23] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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) [24] 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 the proposed rule change to eliminate the maximum number of time periods for which a simple or complex order will rest in the Book or COB, respectively, during application of the drill-through protection mechanism will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors, because it will provide simple and complex orders with additional execution opportunities. These orders may continue to be available on the Book or COB, as applicable, for execution, at a wider range of prices, as opposed to today when such orders are cancelled after a specified number of time periods (depending on the User's instructions and if the order does not reach its limit price prior to the end of those time periods). The Exchange believes these additional execution opportunities will benefit investors that submit such orders and believes such orders will continue to receive protection against potentially erroneous executions, as the limit order fat finger check will continue to apply to them.

The Exchange believes the proposed nonsubstantive rule changes to the complex order drill-through protection mechanism will protect investors and the public interest, because these changes improve the organization of this rule's provisions by grouping all provisions that apply when a User establishes its own buffer and all provisions that apply when a User does not establish its own buffer, eliminating potential confusion.

Finally, the Exchange believes excluding Limit-on-Close orders from the limit order fat finger check will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors, because it may reduce inadvertent rejections of Limit-on-Close orders, which may be purposely priced further away from the NBBO or SNBBO, as applicable, at the time of entry, as their limit prices are intended to relate to price at the market close. Therefore, this proposed rule change may increase execution opportunities for Users that submit Limit-on-Close orders.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the amended drill-through protection mechanism (for both simple and complex orders) and limit order fat finger check will continue to apply in the same manner to orders of all Users and may lead to increased execution opportunities. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of purposes of the Act, because the proposed rule change relates solely to Exchange risk controls and how the Exchange handles orders subject to those risk controls.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 [25] and Rule 19b–4(f)(6) [26] thereunder. 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 will 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

[19] The Exchange determines a default buffer amount on a class-by-class basis; however, a User may establish a higher or lower amount than the Exchange default for a class.

[20] Rule 5.34(c)(1).

[21] Rule 5.34(c)(1)(D).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] *Id.*

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2022–017 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–C2–2022–017. This file 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 10:00 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–C2–2022–017 and should be submitted on or before November 3, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2022–22179 Filed 10–12–22; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95993; File No. SR–Phlx–2022–39]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Two Pilot Programs

October 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2022, 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 to permit the listing and trading of options based on 1/100 the value of the Nasdaq–100 Index (''Nasdaq–100'') and the Exchange's nonstandard expirations pilot program, both currently set to expire on November 4, 2022.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to extend 2 pilots, which are both set to expire on November 4, 2022. The Exchange proposes to extend (1) pilot to permit the listing and trading of options based on 1/100 the value of the Nasdaq–100 Index (''XND Pilot''), and (2) the Exchange's nonstandard expirations pilot program (''Nonstandard Pilot'').

XND Pilot

Phlx filed a rule change to permit the listing and trading of index options on the Nasdaq 100 Micro Index Options (''XND'') on a pilot basis.[3] XND options trade independently of and in addition to NDX options, and the XND options are subject to the same rules that presently govern the trading of index options based on the Nasdaq–100 Index, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, XND options are European-style and cash-settled, and have a contract multiplier of 100. The contract specifications for XND options mirror in all respects those of the NDX options contract already listed on the Exchange, except that XND options are based on 1/100th of the value of the Nasdaq–100 Index, and are p.m.-settled pursuant to Options 4A, Section 12(a)(5).

The Exchange proposes to amend Phlx Options 4A, Section 12(a)(6) to extend the current XND Pilot period to May 4, 2023. This pilot was previously extended and is currently extended through November 4, 2022.[4] The Exchange continues to have sufficient capacity to handle additional quotations and message traffic associated with the listing and trading of XND options. In addition, index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange also continues to have adequate surveillance procedures to monitor trading in XND options thereby aiding in the maintenance of a fair and orderly market. Additionally, there is continued investor interest in these products and this extension will provide additional time to collect data related to the XND

[3] *See* Securities Exchange Act Release No. 91524 (April 9, 2021), 86 FR 19909 (April 15, 2021) (SR–Phlx–2021–07) (Approval Order).

[4] *See* Securities Exchange Act Release No. 93447 (October 28, 2021), 86 FR 60719 (November 3, 2021) (SR–Phlx–2021–66); and 94631 (April 7, 2022), 87 FR 21990 (April 13, 2022) (SR–Phlx–2022–16).