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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78060; File No. SR-Phlx-2016-47]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

June 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4[2] thereunder, notice is hereby given that on June 10, 2016, 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 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 is filing with the Commission a proposal to amend Phlx Rule 1034 (Minimum Increments)[3] to extend through December 31, 2016 or the date of permanent

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

2 17 CFR 240.19b-4.

3 References herein to rules refer to rules of Phlx, unless otherwise noted.

approval, if earlier, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.[4]

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is in italics and proposed deleted language is [bracketed].

NASDAQ PHLX Rules

Options Rules

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Rule 1034. Minimum Increments

(a) Except as provided in sub-paragraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at $3.00 or higher shall have a minimum increment of $.10, and all options on stocks and index options quoting in decimals under $3.00 shall have a minimum increment of $.05.

(i)(A) No Change.

(B) For a pilot period scheduled to expire [June 30]December 31, 2016 or the date of permanent approval, if earlier (the "pilot"), certain options shall be quoted and traded on the Exchange in minimum increments of $0.01 for all series in such options with a price of less than $3.00, and in minimum increments of $0.05 for all series in such options with a price of $3.00 or higher, except that options overlying the PowerShares QQQ Trust

[4] The Penny Pilot was established in January 2007 and was last extended in 2014. See Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007)(SR-Phlx-2006-74)(notice of filing and approval order establishing Penny Pilot); and 75286 (June 24, 2015), 80 FR 37333 (June 30, 2015)(SR-Phlx-2015-54)(notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016).

("QQQQ")®, SPDR S&P 500 Exchange Traded Funds ("SPY"), and iShares Russell 2000 Index Funds ("IWM") shall be quoted and traded in minimum increments of $0.01 for all series regardless of the price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following July 1, [2015]2016[and January 1, 2016].

(C) No Change.

(ii) – (v) No Change.

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The text of the proposed rule change is available on the Exchange's Website at http://nasdaqomxphlx.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 purpose of this filing is to amend Phlx Rule 1034 to extend the Penny Pilot through December 31, 2016 or the date of permanent approval, if earlier,[5] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2016.

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2016 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2016. The replacement issues will be selected based on trading activity in the previous six months.[6]

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5 The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together "pilot programs") are currently working on a proposal for permanent approval of the respective pilot programs.

6 The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is 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 facilitating transactions in securities, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2016 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2016, will enable public customers and other market participants to express their true

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previous six months. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the July replacement, trading volume from December 1, 2015 through May 30, 2016 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (i.e., June) would not be used for purposes of the six-month analysis.

7 15 U.S.C. 78f(b).

8 15 U.S.C. 78f(b)(5).

prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b-4(f)(6) thereunder.[10] Because the proposed rule change does not: (i)

9 15 U.S.C. 78s(b)(3)(A)(iii).

10 17 CFR 240.19b-4(f)(6).

significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b-4(f)(6)(iii),[13] the Commission may 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 proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the

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11 17 CFR 240.19b-4(f)(6).

12 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this pre-filing requirement.

13 17 CFR 240.19b-4(f)(6)(iii).

Commission.[14]

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)[15] of the Act 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-2016-47 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-Phlx-2016-47. 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

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14 For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

15 15 U.S.C. 78s(b)(2)(B).

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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2016-47 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,
Deputy Secretary.

[16] 17 CFR 200.30-3(a)(12).

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