



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101776; File No. SR-Phlx-2024-63]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove Rules Related to the Nasdaq-100[®] Volatility Index

November 27, 2024.

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 21, 2024, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 remove rule text related to the listing of options on the Nasdaq-100[®] Volatility Index.

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

¹ 15 U.S.C. 78s(b)(1).

² 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

The Exchange proposes to amend various rules to remove references to the listing of options on the Nasdaq-100[®] Volatility Index.³

In 2021, Phlx received approval⁴ to list and trade options on VOLQ. Phlx subsequently received approval⁵ to amend the calculation of its final settlement price for options on VOLQ. Phlx launched VOLQ options on June 14, 2022.⁶ On May 18, 2023, Phlx delisted options on VOLQ and the Exchange does not have plans to re-list VOLQ options in the foreseeable future. There is no open interest in VOLQ at this time. The Exchange proposes to delete all references to VOLQ options to provide greater clarity to members and member organizations and the public regarding the Exchange’s offerings and Rulebook.

Specifically, the Exchange proposes to delete references to the Nasdaq-100[®] Volatility Index or “VOLQ” in Options 3, Section 1, Hours of Business; and Options 4A Rules at: Section 2, Definitions;⁷ Section 6, Position Limits; and Section 12, Terms of Index Options Contracts. The Exchange also proposes to remove pricing in Options 7, Pricing Schedule, at Section 5,

³ VOLQ is a proprietary index product. The VOLQ options index product measured “at-the-money” volatility, a precise measure of volatility used by investors. Specifically, VOLQ options measured changes in 30-day implied volatility of the Nasdaq-100 Index (commonly known as and referred to by its ticker symbol, NDX).

⁴ See Securities Exchange Act Release No. 91781 (May 5, 2021), 86 FR 25918 (May 11, 2021) (SR-Phlx-2020-41) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Options on a Nasdaq-100 Volatility Index) (“VOLQ Options Approval Order”).

⁵ See Securities Exchange Act Release No. 93628 (November 19, 2021), 86 FR 67555 (November 26, 2021) (SR-Phlx-2021-56) (Order Approving a Proposed Rule Change To Amend Options 4A, Section 12 Regarding the Calculation of the Closing Volume Weighted Average Price for Options on the Nasdaq-100 Volatility Index in Certain Circumstances) (“Amendment to VOLQ Options”).

⁶ See Options Trader Alert #2022-16 (<http://www.nasdaqtrader.com/MicroNews.aspx?id=OTA 2022-16>).

⁷ The Exchange proposes to remove a stray period after the title “Definitions.”

Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹ 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.

Phlx's proposal to remove references to the Nasdaq-100[®] Volatility Index or "VOLQ" in Phlx Rules is consistent with the Act as Phlx delisted options on VOLQ in 2023 and there is no open interest in VOLQ options at this time. Further, the Exchange does not have plans to re-list VOLQ options in the foreseeable future. The Exchange proposes to delete all references to VOLQ options to provide greater clarity to members and member organizations and the public regarding the Exchange's offerings and Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange's proposal to remove references to the Nasdaq-100[®] Volatility Index or "VOLQ" in Phlx Rules does not impose an undue burden on intra-market competition as, today, no member or member organization is able to options on VOLQ or will be able to trade options on VOLQ in the future.

The Exchange's proposal to remove references to the Nasdaq-100[®] Volatility Index or "VOLQ" in Phlx Rules does not impose an undue burden on inter-market competition as VOLQ options was a proprietary product of Nasdaq, Inc. and singly listed on Phlx. Other options

⁸ 15 U.S.C. 78f(b)

⁹ 15 U.S.C. 78f(b)(5).

markets can develop a similar index options product on their market.

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 Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

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 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

(<https://www.sec.gov/rules/sro.shtml>); or

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 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.

- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2024-63 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-2024-63. 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 (<https://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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2024-63 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.¹²

¹² 17 CFR 200.30-3(a)(12).

Stephanie J. Fouse,

Assistant Secretary.

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