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Page 1 of * 47

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2023 - * 24

Amendment No. (req. for Amendments *)

Filing by Nasdaq ISE, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)	Submit with link to Prefiling or Request for Waiver option
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Permit the Listing and Trading of XND Options

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Last Name *

Title *

E-mail *

Telephone * Fax


Signature

Pursuant to the requirements of the Securities Exchange of 1934, Nasdaq ISE, LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date (Title *)

By
(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.



Date: 2023.10.27
14:43:27 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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SR-ISE-2023-24 19b-4.doc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-ISE-2023-24 Exhibit 1.doc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-ISE-2023-24 Exhibit 5.doc

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq ISE, LLC (“ISE” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to permit the listing and trading of options based on 1/100 of the value of the Nasdaq-100 Index[®] (“Nasdaq-100”).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”). Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn
Principal Associate General Counsel
Nasdaq, Inc.
215-496-5692

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to amend the Exchange’s rules to permit the listing and trading of index options on Nasdaq 100 Micro Index Options (“XND”). The XND options contract will be the same in all respects as the current Nasdaq-100 Index options (“NDX”)³ contract listed on the Exchange, except that it will be based on 1/100 of the value of the Nasdaq-100 Index, and will be P.M.-Settled with an exercise settlement value based on the closing index value of the Nasdaq-100 Index on the day of expiration.⁴ The Exchange believes that the proposed contract will be valuable for retail and other investors that wish to trade micro options on the Nasdaq-100 Index. Finally, today, Nasdaq Phlx LLC (“Phlx”) has approval to list and trade XND options. The rules to list and trade NDX options on ISE are identical to those of Phlx.⁵

Nasdaq-100 Index

The Nasdaq-100 Index is a modified market capitalization-weighted index that includes 100 of the largest non-financial companies listed on The Nasdaq Stock Market LLC (“Nasdaq”),⁶ based on market capitalization.⁷ It does not contain securities of financial companies, including investment companies. Security types generally eligible

³ See Options 4A, Section 12(a)(5).

⁴ In addition to the current Nasdaq-100 Index value, Nasdaq will disseminate an Index value for XND that is 1/100 of the value of the Nasdaq-100 Index.

⁵ See Securities Exchange Act Release No. 98451 (September 20, 2023), 88 FR 66088 (September 26, 2023) (SR-Phlx-2023-07) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Make Permanent Certain P.M.-Settled Pilots).

⁶ Nasdaq is an affiliate of the Exchange.

⁷ The Nasdaq-100 Index is a broad-based index, as defined in Options 4A, Section 3.

for the Nasdaq-100 Index include common stocks, ordinary shares, American Depositary Receipts, and tracking stocks. Security or company types not included in the Nasdaq-100 Index are closed-end funds, convertible debentures, exchange traded funds, limited liability companies, limited partnership interests, preferred stocks, rights, shares or units of beneficial interest, warrants, units and other derivative securities.⁸

XND Options Contract

Currently, the Exchange lists and trades NDX options that are based on the full value of the Nasdaq-100 Index. In an effort to attract additional interest in index options based on the Nasdaq-100 Index, the Exchange now proposes to list and trade a new micro option contract based on this index. XND options will trade independently of and in addition to NDX options, and the XND options will be 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 will be European-style and cash-settled, and will have a contract multiplier of 100. The contract specifications for XND options will mirror in all respects those of the NDX options contract already listed on the Exchange, except that the Exchange proposes that XND options will be based on 1/100 of the value of the Nasdaq-100 Index, and will be P.M.-settled pursuant to proposed Options 4A, Section 12(a)(6). The ISE XND option contracts will trade identically to Phlx XND options.⁹ Also, similar features are available with other index options contracts listed and/or approved for trading on the Exchange such as options on NQX (a reduced value index

⁸ A description of the Nasdaq-100 Index is available on Nasdaq's website at https://indexes.nasdaqomx.com/docs/methodology_NDX.pdf.

⁹ See supra note 5. See also Phlx Options 4A, Section 12(a)(6).

based on 1/5 of the value of the Nasdaq-100 Index).¹⁰ The Exchange also proposes to amend Options 4A, Section 12(a)(5)(ii) to permit options on the Nasdaq 100 Micro Index to trade a.m.-settled.¹¹

The value of the Nasdaq-100 Index has increased significantly in recent years such that the value of the index stood at 14,717.90, as of the opening of trading on October 22, 2023. As a result of the increase in the value of the underlying Nasdaq-100 *Index*, the premium for NDX options has also increased. The Exchange believes that this has caused NDX options to trade at a level that may be uncomfortably high for certain retail and other investors. The Exchange believes that listing options at a micro value will attract a greater source of retail customer business. Further, listing options on a micro index will provide an opportunity for investors to trade and hedge the market risk associated with the Nasdaq-100 Index.

With an exercise settlement value based on 1/100 of the Nasdaq-100 Index, the Exchange believes that retail and other investors would be able to use this trading vehicle while extending a smaller outlay of capital. Furthermore, the proposed micro index will have a notional value at a level that is comparable to similar products that have been successful in the market, including the S&P 500 Mini SPX Options Index (XSP), which had an index value of (428.45) as of the opening of trading on October 2, 2023. Of note, Phlx XND options have traded at this level since 2021. The Exchange therefore believes that basing the proposed XND options contract on 1/100 of the value of the Nasdaq-100

¹⁰ See ISE Options 4A, Section 12(a)(6). NQX is P.M.-settled and a European-style and cash-settled, with a contract multiplier of 100.

¹¹ The Exchange also proposes to re-letter the internal list in Options 4A, Section 12(a)(5)(ii) as A through E.

Index should attract additional investors, and, in turn, create a more active and liquid trading environment.

XND options will also be P.M.-settled as the Exchange believes that market participants, and in particular, retail investors, who are the target audience for this product, prefer P.M.-settled index options. P.M.-settlement is preferred by retail investors as it allows market participants to hedge their exposure for the full week. A.M.-settled options by contrast are based on opening prices on the day of expiration and therefore stop trading on the day prior, leaving residual risk on the day of expiration. Feedback from Members that handle retail order flow has indicated that P.M.-settlement is needed to garner retail investor support for this product. In this regard, the Exchange notes that XND options on Phlx are P.M.-settled and recently received approval for permanency.¹²

Pursuant to Supplementary Material .07 to ISE Options 4A, Section 12, Phlx's proposal to list XND would permit XND, as a broad-based index and part of the Nonstandard Expirations Program, to open for trading Weekly Expirations on XND to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Additionally, the Exchange proposes to amend Supplementary Material .07 to ISE Options 4A, Section 12 to permit the listing and trading of XND options that expire on any Tuesday or Thursday similar to Nasdaq-100 Index options which today expire on each business day of the week. With this proposal, XND would be permitted to open for trading Weekly Expirations to expire on

¹² See Securities Exchange Act Release No. 98451 (September 20, 2023), 88 FR 66088 (September 26, 2023) (SR-Phlx-2023-07) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Make Permanent Certain P.M.-Settled Pilots).

any Monday, Tuesday, Wednesday, Thursday or Friday. Today, Phlx's rules permit XND to expire on any Monday, Tuesday, Wednesday, Thursday or Friday pursuant to Options 4A, Section 12(b)(5).

Weekly Expirations in XND would be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly Expirations shall be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration. Further, the Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that EOMs shall be P.M.-settled and new series in EOMs may be added up to and including on the expiration date for an expiring EOM.¹³ Today, XND options on Phlx are part of the Nonstandard Program.¹⁴

The Exchange does not believe that the introduction of a new P.M.-settled Nasdaq-100 Index contract will cause any market disruptions, as noted herein, Phlx XND options recently received approval for permanency.¹⁵ The Exchange will monitor for any disruptions caused by P.M.-settlement of the proposed XND options contract or the development of any factors that could cause such disruptions. P.M.-settled options predominate in the over-the-counter ("OTC") market, and the Exchange is not aware of

¹³ XND is a broad-based index.

¹⁴ See Phlx Options 4A, Section 12(b)(5).

¹⁵ See supra note 12.

any adverse effects in the OTC market attributable to the P.M.-settlement feature. The Exchange is merely proposing to offer a P.M.-settled product in an exchange environment, which offers the additional benefits of added transparency, price discovery, and stability.

Trading Hours, Minimum Increments, Expirations and Strike Prices

XND options will be available for trading during the Exchange's standard trading hours for index options, i.e., from 9:30 a.m. to 4:15 p.m. (Eastern time), except that that on the last trading day, transactions in expiring p.m.-settled broad-based index options may be effected on the Exchange between the hours of 9:30 a.m. (Eastern time) and 4:00 p.m. (Eastern time).¹⁶ The trading hours for XND options will be the same as the trading hours for options on Nasdaq-100 Index.

XND options will trade with a minimum trading increment of \$0.01 for all options series¹⁷ similar to Phlx XND options.¹⁸ ISE proposes to adopt a new Supplementary Material .04 to Options 3, Section 3 to state that for so long as Invesco QQQ Trust Series 1 ("QQQ") options participate in the Penny Interval Program, the minimum increments for XND options shall be the same as QQQ for all options series (including LEAPS), which shall be \$0.01 for options for all other series.

The Exchange proposes that XND options will have monthly expiration dates on the third Friday of each month (i.e., Expiration Friday), and the Exchange proposes to list XND options in expiration months consistent with those of other index option products

¹⁶ See Supplementary Material .07(c) to Options 4A, Section 12.

¹⁷ This is the case as long as QQQ options ("QQQ") participate in the Penny Interval Program.

¹⁸ See Phlx Supplementary Material .03 to Options 3, Section 3.

available on the Exchange.¹⁹ In addition, the Exchange may list long term index options series (“LEAPS”) that expire from twelve (12) to sixty (60) months from the date of issuance.²⁰ With the addition of XND, the Exchange proposes to amend the first sentence of Options 4A, Section 12(b)(1)(i) to provide that “Index long term options series may be based on either the full value, reduced value or micro index value of the underlying index.” There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price intervals and continuity Rules shall not apply to such options series until the time to expiration is less than twelve (12) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 4(b)(4)(i)(A). Further, the Exchange proposes to add rule text at Options 4A, Section 12(b)(3)(ii) that provides, “Micro index long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent.” XND options would also be eligible to be added to the Short Term Option Series Program (“Weeklies”) and/or Quarterly Options Series Program (“Quarterlies”) if designated by the Exchange Supplementary Material .01 and .02 to Options 4A, Section 12, respectively.²¹

Further, as noted herein, the Exchange proposes to permit XND options to be listed and traded in accordance with the Nonstandard Expirations Program, which permits

¹⁹ Options 4A, Section 12(a)(3) currently provides that the Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options and NQX options.

²⁰ See Options 4A, Section 12(b)(3).

²¹ The Exchange expects that it will add XND options to the Weeklies program.

broad-based indexes to list standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an End of Month (“EOM”) expiration), and permit XND options to separately expire on Tuesdays and Thursdays, similar to options on the Nasdaq-100 Index. Weekly Expirations would be subject to all provisions of Options 4A, Section 12 and would be treated the same as options on the same underlying index that expire on the third Friday of the expiration month. New series in Weekly Expirations could be added up to and including on the expiration date for an expiring Weekly Expiration. The maximum number of expirations that could be listed for each Weekly Expiration (i.e., a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index.²² Further, the Exchange could open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs would be subject to all provisions of Options 4A, Section 12 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOMs would be P.M.-settled and new series in

²² Weekly Expirations would not need to be for consecutive Monday, Wednesday, or Friday expirations as applicable. However, the expiration date of a non-consecutive expiration would not be permitted beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weekly Expirations that are first listed in a given class could expire up to four weeks from the actual listing date. If the last trading day of a month were a Monday, Wednesday, or Friday and the Exchange were to list EOMs and Weekly Expirations as applicable in a given class, the Exchange would list an EOM instead of a Weekly Expiration in the given class. Other expirations in the same class would not be counted as part of the maximum number of Weekly Expirations for a broad-based index class. If the Exchange were not open for business on a respective Monday, the normally Monday expiring Weekly Expirations would expire on the following business day. If the Exchange were not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations would expire on the previous business day. See Supplementary Material .07(a) to Options 4A, Section 12.

EOMs could be added up to and including on the expiration date for an expiring EOM.²³

Today, Phlx XND options trade in the Nonstandards Program.²⁴

Generally, pursuant to Options 4A, Section 12(c)(1), except as provided in Options 4A, Section 12(c)(5),²⁵ the exercise (strike) price intervals will be no less than \$5, provided that the Exchange may determine to list strike prices at no less than \$2.50 intervals for options on the following indexes (which may also be known as sector indexes). The Exchange proposes to amend Options 4A, Section 12(c)(1) to add XND options to the list of classes where strike price intervals of no less than \$2.50 are generally permitted and note, “if the strike price is less than \$200.” The Exchange proposes to adopt the same strike price intervals for XND options as are listed for XND options on Phlx²⁶ and currently approved for Reduced Value Nasdaq 100 Options within Options 4A, Section 12(c)(5). Thus, notwithstanding Options 4A, Section 12(c)(1), the interval between strike prices of series of XND options will be \$1 or greater, subject to the conditions described in Options 4A, Section 12(c)(5).²⁷ The Exchange will not list

²³ The maximum number of expirations that could be listed for EOMs in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index. EOM expirations would not need to be for consecutive end of month expirations. However, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. EOMs that are first listed in a given class could expire up to four weeks from the actual listing date. Other expirations would not be counted as part of the maximum numbers of EOM expirations for a broad-based index class. See Supplementary Material .07(a) to Options 4A, Section 12.

²⁴ See Phlx Options 4A, Section 12(b)(5).

²⁵ Proposed Options 4A, Section 12(c)(1) provides that the interval between strike prices of series of Mini-Nasdaq-100 Index (“MNX” or “Mini-NDX”), Nasdaq 100 Reduced Value Index (“NQX”) or Nasdaq 100 Micro Index Options (“XND”) options will be \$1 or greater, subject to certain conditions.

²⁶ See Phlx Options 4A, Section 12(a)(2).

²⁷ See also Phlx Supplementary Material .02 to Options 4A, Section 12 describing XND options.

LEAPS on XND options at intervals less than \$5. If the Exchange determines to add XND options to the Weeklies or Quarterlies programs such options will be listed with expirations and strike prices described in Options 4A, Section 12(c)(5).

Position and Exercise Limits; Margin

As with NDX, in determining compliance with Options 4A, Section 6, Position Limits, there will be no position limits for broad-based index option contracts in the XND class.²⁸ Although there will be no position limits for XND options, the Exchange proposes to amend Options 4A, Section 6 to include XND. Options 4A, Section 6(c) provides,

Positions in reduced-value index options shall be aggregated with positions in full-value indices. For such purposes, reduced-value contracts will be counted consistent with their value (e.g., 5 NQX reduced-value contracts equal 1 NDX full-value contract).

Since the Exchange is proposing to list a micro index contract that is based on 1/100 of the value of the Nasdaq-100 Index, Options 4A, Section 6(c) would apply. In addition, as with NDX, there would be no exercise limits for XND.²⁹ The same rules for position and exercise limits to XND options on Phlx.³⁰ Finally, the Exchange proposes to apply broad-based index margin requirements for the purchase and sale of XND options that are the same as margin requirements currently in place for NDX options.

Surveillance and Capacity

The Exchange represents that it has sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of XND

²⁸ The Exchange is amending Options 4A, Section 6(a) to reflect this proposed change.

²⁹ See Options 4A, Section 10 which provides that exercise limits for index options contracts shall be equivalent to the position limits described in Options 4A, Section 6.

³⁰ See Phlx Options 4A, Section 6, Phlx Options 4A, Section 10.

options. Further, the Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any additional traffic associated with the listing of the maximum number nonstandard expirations permitted pursuant to Supplementary Material .07 to Options 4A, Section 12.

Index options are integrated into the Exchange’s existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange represents that it has adequate surveillance procedures to monitor trading in XND options thereby aiding in the maintenance of a fair and orderly market.

The Exchange notes that it is amending Options 4A, Section 12 to include the Nasdaq 100 Micro Index Options within the Rule to conform to the amendments proposes herein.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,³¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,³² 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. Specifically, the Exchange believes that the listing and trading of a micro index P.M.-settled index option contract based on the Nasdaq-100 Index will attract order flow to the

³¹ 15 U.S.C. 78f(b).

³² 15 U.S.C. 78f(b)(5) and compete with similar products that are offered on Cboe such as SPXW and OEX.

Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors.

The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Specifically, the Exchange believes that XND options would provide additional opportunities for market participants to trade and hedge exposure to the Nasdaq-100 Index as it does today on Phlx. The proposed XND options product is identical to XND options on Phlx.³³ Additionally, the proposed XND options product is similar to NDX options that are currently listed and traded on the Exchange with two important differences: (1) XND options will be based on 1/100 the value of the Nasdaq-100 Index, and (2) XND options will be P.M.-settled. These differences are based on the Exchange's experience listing NDX options, and are designed to attract additional participation from retail and other investors.

Based on the trading of XND options on Phlx, the Exchange believes that the proposed contract specifications will be attractive to market participants, and will remove impediments to and perfect the mechanism of a free and open market and a national market system. The nonstandard expirations would expand the ability of investors to hedge risks against market movements stemming from economic releases or market events that occur during the month and at the end of the month. Accordingly, the Exchange believes that weekly expirations and EOMs should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to tailor their investment objectives more closely.

³³ See Phlx Options 4A, Section 12.

Currently, the Exchange believes that there continues to be unmet market demand for exchange-listed index options on the Nasdaq-100 Index. This unmet demand stems in part from the high value of the Nasdaq-100 Index and the consequently higher cost of purchasing NDX options. The high value of the Nasdaq-100 Index has made it more difficult for retail and other investors to comfortably purchase options on the index. The Exchange believes that a micro index option would allow additional participation from these investors. Specifically, the Exchange believes that basing the contract on a micro value of the Nasdaq-100 Index will encourage additional participation by retail and other investors due to the reduced capital outlay needed to trade these options. While the NQX product has attracted retail trading volume to a certain point given that the NQX product represents 1/5 the value of the Nasdaq-100 Index, the Exchange believes that XND options, which represent 1/100 of the Nasdaq-100 Index, may strike a more appropriate balance for other retail investors with its reduced size. This value is more similar to other competitive index option products, such as Cboe's Mini-S&P 500 Index ("XSP").

Furthermore, based on experience with XND options on Phlx, the Exchange believes that providing P.M.-settlement will make this product more attractive to market participants and help garner additional support for this new index options product. Specifically, the Exchange believes that P.M.-settlement will be attractive to retail and other investors that want to use these options to hedge an entire week of risk without leaving residual risk on the day of expiration, and without having to actively manage these positions, for example, by rolling their hedge into the next expiration. Finally, the Exchange proposes to offer such a product so that it can compete effectively with similar index option products offered by options markets such as Cboe which offers SPXW and

OEX. Recently, the Commission approved the permanency of XND as a P.M.-settled product.³⁴ Additionally, the Exchange notes that Nasdaq has an automated closing cross that facilitates orderly closings by aggregating a large pool of liquidity, across a variety of order types, in a single venue. The Exchange believes that Nasdaq's closing procedures are well-equipped to mitigate imbalance pressure at the close. Also, the Exchange believes that the proposal will provide additional trading and hedging opportunities for investors.

XND options will be 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. The Exchange therefore believes that the rules applicable to trading in XND options are consistent with the protection of investors and the public interest. Furthermore, the Exchange represents that it has sufficient systems capacity and adequate surveillance procedures to handle trading in XND options.

With respect to the Exchange's proposal to adopt new Supplementary Material .04 to Options 3, Section 3 to provide that minimum increments for bids and offers for XND options be the same as those for QQQ, regardless of the value at which the option series is quoted, may promote competition and benefit investors. This proposal aligns the minimum increments for XND options with those for QQQ options in order to allow market participants to quote in minimum increments of \$0.01 is consistent with the Act because allowing participants to quote in smaller increments may provide the opportunity for reduced spreads, thereby lowering costs to investors. In addition, because both XND

³⁴ See supra note 12.

and QQQ are based on Nasdaq-100 Index it would be reasonable for the minimum increments of bids and offers to be the same for both types of options.

4. 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. XND options would be available for trading to all market participants. The proposed rule change will facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of XND will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100 Index. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 Index and seek Commission approval to list and trade options on such an index.

5. 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.

6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section

19(b)(3)(A)(iii)³⁵ of the Act and Rule 19b-4(f)(6) thereunder³⁶ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The proposal does not significantly affect the protection of investors or the public interest, rather the listing and trading of a micro index P.M.-settled index option contract based on the Nasdaq-100 Index will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors. The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace and provide additional opportunities for market participants to trade and hedge exposure to the Nasdaq-100 Index as it does today on Phlx. The proposed XND options product is identical to XND options on Phlx.³⁷ Additionally, the proposed XND options product is similar to NDX options that are currently listed and traded on the Exchange with two important differences: (1) XND options will be based on 1/100 the value of the Nasdaq-100 Index, and (2) XND options will be P.M.-settled. These differences are based on the Exchanges experience listing NDX options, and are designed to attract additional participation from retail and other investors. The nonstandard expirations would expand the ability of

³⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ See Phlx Options 4A, Section 12.

investors to hedge risks against market movements stemming from economic releases or market events that occur during the month and at the end of the month. Accordingly, adding XND options should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to tailor their investment objectives more closely.

The proposal does not impose any significant burden on competition as XND options would be available for trading to all market participants. The proposed rule change will facilitate the listing and trading of a new option product on ISE that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of XND will enhance competition by providing investors with an additional venue to trade XND options, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100 Index. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure.

Furthermore, Rule 19b-4(f)(6)(iii)³⁸ requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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

³⁸ 17 CFR 240.19b-4(f)(6)(iii).

Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it may list and trade XND options on ISE to deepen the liquidity pool in this product, which is currently listed on Phlx, and compete with similar products that are offered on Cboe such as SPXW and OEX. The addition of XND on ISE would allow market participants to trade and hedge exposure to the Nasdaq-100 Index on ISE as it does today on Phlx.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is identical to the XND options product on Phlx.³⁹

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

³⁹ See Phlx Options 4A, Section 12.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-ISE-2023-24)

October __, 2023

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit the Listing and Trading of XND Options

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 27, 2023, Nasdaq ISE, LLC (“ISE” 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 permit the listing and trading of options based on 1/100 of the value of the Nasdaq-100 Index[®] (“Nasdaq-100”).

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/ise/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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the proposed rule change is to amend the Exchange's rules to permit the listing and trading of index options on Nasdaq 100 Micro Index Options ("XND"). The XND options contract will be the same in all respects as the current Nasdaq-100 Index options ("NDX")³ contract listed on the Exchange, except that it will be based on 1/100 of the value of the Nasdaq-100 Index, and will be P.M.-Settled with an exercise settlement value based on the closing index value of the Nasdaq-100 Index on the day of expiration.⁴ The Exchange believes that the proposed contract will be valuable for retail and other investors that wish to trade micro options on the Nasdaq-100 Index. Finally, today, Nasdaq Phlx LLC ("Phlx") has approval to list and trade XND options. The rules to list and trade NDX options on ISE are identical to those of Phlx.⁵

Nasdaq-100 Index

The Nasdaq-100 Index is a modified market capitalization-weighted index that includes 100 of the largest non-financial companies listed on The Nasdaq Stock Market

³ See Options 4A, Section 12(a)(5).

⁴ In addition to the current Nasdaq-100 Index value, Nasdaq will disseminate an Index value for XND that is 1/100 of the value of the Nasdaq-100 Index.

⁵ See Securities Exchange Act Release No. 98451 (September 20, 2023), 88 FR 66088 (September 26, 2023) (SR-Phlx-2023-07) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Make Permanent Certain P.M.-Settled Pilots).

LLC (“Nasdaq”),⁶ based on market capitalization.⁷ It does not contain securities of financial companies, including investment companies. Security types generally eligible for the Nasdaq-100 Index include common stocks, ordinary shares, American Depositary Receipts, and tracking stocks. Security or company types not included in the Nasdaq-100 Index are closed-end funds, convertible debentures, exchange traded funds, limited liability companies, limited partnership interests, preferred stocks, rights, shares or units of beneficial interest, warrants, units and other derivative securities.⁸

XND Options Contract

Currently, the Exchange lists and trades NDX options that are based on the full value of the Nasdaq-100 Index. In an effort to attract additional interest in index options based on the Nasdaq-100 Index, the Exchange now proposes to list and trade a new micro option contract based on this index. XND options will trade independently of and in addition to NDX options, and the XND options will be 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 will be European-style and cash-settled, and will have a contract multiplier of 100. The contract specifications for XND options will mirror in all respects those of the NDX options contract already listed on the Exchange, except that the Exchange proposes that XND options will be based on 1/100 of the value of the Nasdaq-100 Index, and will be P.M.-settled pursuant to proposed Options 4A, Section

⁶ Nasdaq is an affiliate of the Exchange.

⁷ The Nasdaq-100 Index is a broad-based index, as defined in Options 4A, Section 3.

⁸ A description of the Nasdaq-100 Index is available on Nasdaq’s website at https://indexes.nasdaqomx.com/docs/methodology_NDX.pdf.

12(a)(6). The ISE XND option contracts will trade identically to Phlx XND options.⁹ Also, similar features are available with other index options contracts listed and/or approved for trading on the Exchange such as options on NQX (a reduced value index based on 1/5 of the value of the Nasdaq-100 Index).¹⁰ The Exchange also proposes to amend Options 4A, Section 12(a)(5)(ii) to permit options on the Nasdaq 100 Micro Index to trade a.m.-settled.¹¹

The value of the Nasdaq-100 Index has increased significantly in recent years such that the value of the index stood at 14,717.90, as of the opening of trading on October 22, 2023. As a result of the increase in the value of the underlying Nasdaq-100 *Index*, the premium for NDX options has also increased. The Exchange believes that this has caused NDX options to trade at a level that may be uncomfortably high for certain retail and other investors. The Exchange believes that listing options at a micro value will attract a greater source of retail customer business. Further, listing options on a micro index will provide an opportunity for investors to trade and hedge the market risk associated with the Nasdaq-100 Index.

With an exercise settlement value based on 1/100 of the Nasdaq-100 Index, the Exchange believes that retail and other investors would be able to use this trading vehicle while extending a smaller outlay of capital. Furthermore, the proposed micro index will have a notional value at a level that is comparable to similar products that have been successful in the market, including the S&P 500 Mini SPX Options Index (XSP), which

⁹ See *supra* note 5. See also Phlx Options 4A, Section 12(a)(6).

¹⁰ See ISE Options 4A, Section 12(a)(6). NQX is P.M.-settled and a European-style and cash-settled, with a contract multiplier of 100.

¹¹ The Exchange also proposes to re-letter the internal list in Options 4A, Section 12(a)(5)(ii) as A through E.

had an index value of (428.45) as of the opening of trading on October 2, 2023. Of note, Phlx XND options have traded at this level since 2021. The Exchange therefore believes that basing the proposed XND options contract on 1/100 of the value of the Nasdaq-100 Index should attract additional investors, and, in turn, create a more active and liquid trading environment.

XND options will also be P.M.-settled as the Exchange believes that market participants, and in particular, retail investors, who are the target audience for this product, prefer P.M.-settled index options. P.M.-settlement is preferred by retail investors as it allows market participants to hedge their exposure for the full week. A.M.-settled options by contrast are based on opening prices on the day of expiration and therefore stop trading on the day prior, leaving residual risk on the day of expiration. Feedback from Members that handle retail order flow has indicated that P.M.-settlement is needed to garner retail investor support for this product. In this regard, the Exchange notes that XND options on Phlx are P.M.-settled and recently received approval for permanency.¹²

Pursuant to Supplementary Material .07 to ISE Options 4A, Section 12, Phlx's proposal to list XND would permit XND, as a broad-based index and part of the Nonstandard Expirations Program, to open for trading Weekly Expirations on XND to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Additionally, the Exchange proposes to amend Supplementary Material .07 to ISE Options 4A, Section 12 to permit the listing

¹² See Securities Exchange Act Release No. 98451 (September 20, 2023), 88 FR 66088 (September 26, 2023) (SR-Phlx-2023-07) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Make Permanent Certain P.M.-Settled Pilots).

and trading of XND options that expire on any Tuesday or Thursday similar to Nasdaq-100 Index options which today expire on each business day of the week. With this proposal, XND would be permitted to open for trading Weekly Expirations to expire on any Monday, Tuesday, Wednesday, Thursday or Friday. Today, Phlx's rules permit XND to expire on any Monday, Tuesday, Wednesday, Thursday or Friday pursuant to Options 4A, Section 12(b)(5).

Weekly Expirations in XND would be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly Expirations shall be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration. Further, the Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that EOMs shall be P.M.-settled and new series in EOMs may be added up to and including on the expiration date for an expiring EOM.¹³ Today, XND options on Phlx are part of the Nonstandard Program.¹⁴

The Exchange does not believe that the introduction of a new P.M.-settled Nasdaq-100 Index contract will cause any market disruptions, as noted herein, Phlx XND options recently received approval for permanency.¹⁵ The Exchange will monitor for any

¹³ XND is a broad-based index.

¹⁴ See Phlx Options 4A, Section 12(b)(5).

¹⁵ See supra note 12.

disruptions caused by P.M.-settlement of the proposed XND options contract or the development of any factors that could cause such disruptions. P.M.-settled options predominate in the over-the-counter (“OTC”) market, and the Exchange is not aware of any adverse effects in the OTC market attributable to the P.M.-settlement feature. The Exchange is merely proposing to offer a P.M.-settled product in an exchange environment, which offers the additional benefits of added transparency, price discovery, and stability.

Trading Hours, Minimum Increments, Expirations and Strike Prices

XND options will be available for trading during the Exchange’s standard trading hours for index options, i.e., from 9:30 a.m. to 4:15 p.m. (Eastern time), except that that on the last trading day, transactions in expiring p.m.-settled broad-based index options may be effected on the Exchange between the hours of 9:30 a.m. (Eastern time) and 4:00 p.m. (Eastern time).¹⁶ The trading hours for XND options will be the same as the trading hours for options on Nasdaq-100 Index.

XND options will trade with a minimum trading increment of \$0.01 for all options series¹⁷ similar to Phlx XND options.¹⁸ ISE proposes to adopt a new Supplementary Material .04 to Options 3, Section 3 to state that for so long as Invesco QQQ Trust Series 1 (“QQQ”) options participate in the Penny Interval Program, the minimum increments for XND options shall be the same as QQQ for all options series (including LEAPS), which shall be \$0.01 for options for all other series.

¹⁶ See Supplementary Material .07(c) to Options 4A, Section 12.

¹⁷ This is the case as long as QQQ options (“QQQ”) participate in the Penny Interval Program.

¹⁸ See Phlx Supplementary Material .03 to Options 3, Section 3.

The Exchange proposes that XND options will have monthly expiration dates on the third Friday of each month (i.e., Expiration Friday), and the Exchange proposes to list XND options in expiration months consistent with those of other index option products available on the Exchange.¹⁹ In addition, the Exchange may list long term index options series (“LEAPS”) that expire from twelve (12) to sixty (60) months from the date of issuance.²⁰ With the addition of XND, the Exchange proposes to amend the first sentence of Options 4A, Section 12(b)(1)(i) to provide that “Index long term options series may be based on either the full value, reduced value or micro index value of the underlying index.” There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price intervals and continuity Rules shall not apply to such options series until the time to expiration is less than twelve (12) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 4(b)(4)(i)(A). Further, the Exchange proposes to add rule text at Options 4A, Section 12(b)(3)(ii) that provides, “Micro index long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent.” XND options would also be eligible to be added to the Short Term Option Series Program (“Weeklies”) and/or

¹⁹ Options 4A, Section 12(a)(3) currently provides that the Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options and NQX options.

²⁰ See Options 4A, Section 12(b)(3).

Quarterly Options Series Program (“Quarterlies”) if designated by the Exchange Supplementary Material .01 and .02 to Options 4A, Section 12, respectively.²¹

Further, as noted herein, the Exchange proposes to permit XND options to be listed and traded in accordance with the Nonstandard Expirations Program, which permits broad-based indexes to list standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an End of Month (“EOM”) expiration), and permit XND options to separately expire on Tuesdays and Thursdays, similar to options on the Nasdaq-100 Index. Weekly Expirations would be subject to all provisions of Options 4A, Section 12 and would be treated the same as options on the same underlying index that expire on the third Friday of the expiration month. New series in Weekly Expirations could be added up to and including on the expiration date for an expiring Weekly Expiration. The maximum number of expirations that could be listed for each Weekly Expiration (i.e., a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index.²² Further, the Exchange could open for trading EOMs on

²¹ The Exchange expects that it will add XND options to the Weeklies program.

²² Weekly Expirations would not need to be for consecutive Monday, Wednesday, or Friday expirations as applicable. However, the expiration date of a non-consecutive expiration would not be permitted beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weekly Expirations that are first listed in a given class could expire up to four weeks from the actual listing date. If the last trading day of a month were a Monday, Wednesday, or Friday and the Exchange were to list EOMs and Weekly Expirations as applicable in a given class, the Exchange would list an EOM instead of a Weekly Expiration in the given class. Other expirations in the same class would not be counted as part of the maximum number of Weekly Expirations for a broad-based index class. If the Exchange were not open for business on a respective Monday, the normally Monday expiring Weekly Expirations would expire on the following business day. If the Exchange were not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations would expire on the previous business day. See Supplementary Material .07(a) to Options 4A, Section 12.

any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs would be subject to all provisions of Options 4A, Section 12 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOMs would be P.M.-settled and new series in EOMs could be added up to and including on the expiration date for an expiring EOM.²³ Today, Phlx XND options trade in the Nonstandards Program.²⁴

Generally, pursuant to Options 4A, Section 12(c)(1), except as provided in Options 4A, Section 12(c)(5),²⁵ the exercise (strike) price intervals will be no less than \$5, provided that the Exchange may determine to list strike prices at no less than \$2.50 intervals for options on the following indexes (which may also be known as sector indexes). The Exchange proposes to amend Options 4A, Section 12(c)(1) to add XND options to the list of classes where strike price intervals of no less than \$2.50 are generally permitted and note, “if the strike price is less than \$200.” The Exchange proposes to adopt the same strike price intervals for XND options as are listed for XND options on Phlx²⁶ and currently approved for Reduced Value Nasdaq 100 Options within

²³ The maximum number of expirations that could be listed for EOMs in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index. EOM expirations would not need to be for consecutive end of month expirations. However, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. EOMs that are first listed in a given class could expire up to four weeks from the actual listing date. Other expirations would not be counted as part of the maximum numbers of EOM expirations for a broad-based index class. See Supplementary Material .07(a) to Options 4A, Section 12.

²⁴ See Phlx Options 4A, Section 12(b)(5).

²⁵ Proposed Options 4A, Section 12(c)(1) provides that the interval between strike prices of series of Mini-Nasdaq-100 Index (“MNX” or “Mini-NDX”), Nasdaq 100 Reduced Value Index (“NQX”) or Nasdaq 100 Micro Index Options (“XND”) options will be \$1 or greater, subject to certain conditions.

²⁶ See Phlx Options 4A, Section 12(a)(2).

Options 4A, Section 12(c)(5). Thus, notwithstanding Options 4A, Section 12(c)(1), the interval between strike prices of series of XND options will be \$1 or greater, subject to the conditions described in Options 4A, Section 12(c)(5).²⁷ The Exchange will not list LEAPS on XND options at intervals less than \$5. If the Exchange determines to add XND options to the Weeklies or Quarterlies programs such options will be listed with expirations and strike prices described in Options 4A, Section 12(c)(5).

Position and Exercise Limits; Margin

As with NDX, in determining compliance with Options 4A, Section 6, Position Limits, there will be no position limits for broad-based index option contracts in the XND class.²⁸ Although there will be no position limits for XND options, the Exchange proposes to amend Options 4A, Section 6 to include XND. Options 4A, Section 6(c) provides,

Positions in reduced-value index options shall be aggregated with positions in full-value indices. For such purposes, reduced-value contracts will be counted consistent with their value (e.g., 5 NQX reduced-value contracts equal 1 NDX full-value contract).

Since the Exchange is proposing to list a micro index contract that is based on 1/100 of the value of the Nasdaq-100 Index, Options 4A, Section 6(c) would apply. In addition, as with NDX, there would be no exercise limits for XND.²⁹ The same rules for position and exercise limits to XND options on Phlx.³⁰ Finally, the Exchange proposes to apply

²⁷ See also Phlx Supplementary Material .02 to Options 4A, Section 12 describing XND options.

²⁸ The Exchange is amending Options 4A, Section 6(a) to reflect this proposed change.

²⁹ See Options 4A, Section 10 which provides that exercise limits for index options contracts shall be equivalent to the position limits described in Options 4A, Section 6.

³⁰ See Phlx Options 4A, Section 6, Phlx Options 4A, Section 10.

broad-based index margin requirements for the purchase and sale of XND options that are the same as margin requirements currently in place for NDX options.

Surveillance and Capacity

The Exchange represents that it has sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of XND options. Further, the Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any additional traffic associated with the listing of the maximum number nonstandard expirations permitted pursuant to Supplementary Material .07 to Options 4A, Section 12.

Index options are integrated into the Exchange’s existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange represents that it has adequate surveillance procedures to monitor trading in XND options thereby aiding in the maintenance of a fair and orderly market.

The Exchange notes that it is amending Options 4A, Section 12 to include the Nasdaq 100 Micro Index Options within the Rule to conform to the amendments proposes herein.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,³¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,³² in particular, in that it is designed to promote just and equitable principles of trade, to

³¹ 15 U.S.C. 78f(b).

³² 15 U.S.C. 78f(b)(5) and compete with similar products that are offered on Cboe such as SPXW and OEX.

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. Specifically, the Exchange believes that the listing and trading of a micro index P.M.-settled index option contract based on the Nasdaq-100 Index will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors.

The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Specifically, the Exchange believes that XND options would provide additional opportunities for market participants to trade and hedge exposure to the Nasdaq-100 Index as it does today on Phlx. The proposed XND options product is identical to XND options on Phlx.³³ Additionally, the proposed XND options product is similar to NDX options that are currently listed and traded on the Exchange with two important differences: (1) XND options will be based on 1/100 the value of the Nasdaq-100 Index, and (2) XND options will be P.M.-settled. These differences are based on the Exchanges experience listing NDX options, and are designed to attract additional participation from retail and other investors.

Based on the trading of XND options on Phlx, the Exchange believes that the proposed contract specifications will be attractive to market participants, and will remove impediments to and perfect the mechanism of a free and open market and a national market system. The nonstandard expirations would expand the ability of investors to hedge risks against market movements stemming from economic releases or market

³³ See Phlx Options 4A, Section 12.

events that occur during the month and at the end of the month. Accordingly, the Exchange believes that weekly expirations and EOMs should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to tailor their investment objectives more closely.

Currently, the Exchange believes that there continues to be unmet market demand for exchange-listed index options on the Nasdaq-100 Index. This unmet demand stems in part from the high value of the Nasdaq-100 Index and the consequently higher cost of purchasing NDX options. The high value of the Nasdaq-100 Index has made it more difficult for retail and other investors to comfortably purchase options on the index. The Exchange believes that a micro index option would allow additional participation from these investors. Specifically, the Exchange believes that basing the contract on a micro value of the Nasdaq-100 Index will encourage additional participation by retail and other investors due to the reduced capital outlay needed to trade these options. While the NQX product has attracted retail trading volume to a certain point given that the NQX product represents 1/5 the value of the Nasdaq-100 Index, the Exchange believes that XND options, which represent 1/100 of the Nasdaq-100 Index, may strike a more appropriate balance for other retail investors with its reduced size. This value is more similar to other competitive index option products, such as Cboe's Mini-S&P 500 Index ("XSP").

Furthermore, based on experience with XND options on Phlx, the Exchange believes that providing P.M.-settlement will make this product more attractive to market participants and help garner additional support for this new index options product. Specifically, the Exchange believes that P.M.-settlement will be attractive to retail and other investors that want to use these options to hedge an entire week of risk without

leaving residual risk on the day of expiration, and without having to actively manage these positions, for example, by rolling their hedge into the next expiration. Finally, the Exchange proposes to offer such a product so that it can compete effectively with similar index option products offered by options markets such as Cboe which offers SPXW and OEX. Recently, the Commission approved the permanency of XND as a P.M.-settled product.³⁴ Additionally, the Exchange notes that Nasdaq has an automated closing cross that facilitates orderly closings by aggregating a large pool of liquidity, across a variety of order types, in a single venue. The Exchange believes that Nasdaq's closing procedures are well-equipped to mitigate imbalance pressure at the close. Also, the Exchange believes that the proposal will provide additional trading and hedging opportunities for investors.

XND options will be 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. The Exchange therefore believes that the rules applicable to trading in XND options are consistent with the protection of investors and the public interest. Furthermore, the Exchange represents that it has sufficient systems capacity and adequate surveillance procedures to handle trading in XND options.

With respect to the Exchange's proposal to adopt new Supplementary Material .04 to Options 3, Section 3 to provide that minimum increments for bids and offers for XND options be the same as those for QQQ, regardless of the value at which the option series is quoted, may promote competition and benefit investors. This proposal aligns the

³⁴ See supra note 12.

minimum increments for XND options with those for QQQ options in order to allow market participants to quote in minimum increments of \$0.01 is consistent with the Act because allowing participants to quote in smaller increments may provide the opportunity for reduced spreads, thereby lowering costs to investors. In addition, because both XND and QQQ are based on Nasdaq-100 Index it would be reasonable for the minimum increments of bids and offers to be the same for both types of options.

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. XND options would be available for trading to all market participants. The proposed rule change will facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of XND will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100 Index. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 Index and seek Commission approval to list and trade options on such an index.

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 Act³⁵ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁶

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

³⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁶ 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-ISE-2023-24 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-ISE-2023-24. 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-ISE-2023-24 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.³⁷

Sherry R. Haywood,

Assistant Secretary.

³⁷ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq ISE, LLC Rules

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Options Rules

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Options 3 Options Trading Rules

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Section 3. Minimum Trading Increments

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Supplementary Material to Options 3, Section 3

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.03 Notwithstanding any other provision of this Rule, complex strategies may be traded in the increments described in Options 3, Section 14(c)(1).

.04 Options on the Nasdaq 100 Micro Index (XND) (as long as QQQ options (“QQQ”) participate in the Penny Interval Program) shall have a minimum increment of \$.01.

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Options 4A Options Index Rules

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Section 6. Position Limits for Broad-Based Index Options

(a) Options 9, Section 13 generally shall govern position limits for broad-based index options, as modified by this Options 4A, Section 6. There may be no position limit for certain Specified (as provided in Options 4A, Section 1) broad-based index options contracts. Except as otherwise indicated below, the position limit for a broad-based index option shall be 25,000 contracts on the same side of the market. Reduced-value or micro index value options on broad-based security indexes for which full-value options have no position and exercise limits will similarly have no position and exercise limits. All other broad-based index options contracts shall be subject to a contract limitation fixed by the Exchange, which shall not be larger than the limits provided in the chart below.

Broad-Based Underlying Index	Standard Limit (on the same side of the market)	Restrictions
Nasdaq 100 Index	None	None
Mini Nasdaq 100 Index	None	None

Nations VolDex Index	None	None
Nasdaq 100 Reduced Value Index	None	None
<u>Nasdaq 100 Micro Index Options</u>	<u>None</u>	<u>None</u>

* * * * *

(c) Positions in reduced-value or micro index value index options shall be aggregated with positions in full-value indices. For such purposes, reduced-value contracts or micro index value will be counted consistent with their value (e.g., 5 NQX reduced-value contracts equal 1 NDX full-value contract and one hundred XND micro index value contracts equal 1 NDX full-value contract).

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Section 12. Terms of Index Options Contracts

(a) *General.*

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(3) *Expiration Months and Weeks.* Index options contracts may expire at three (3)-month intervals or in consecutive weeks or months. The Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options, [and]NQX options, and XND options.

(4) “*European-Style Exercise.*” European-style index options, some of which may be A.M.-settled as provided in paragraph (a)(5) or P.M.-settled as provided for in paragraph (a)(6), are approved for trading on the Exchange on the following indexes:

- (i) Full-size Nasdaq 100 Index;
- (ii) Nasdaq 100 Reduced Value Index;
- (iii) Nasdaq 100 Micro Index;
- (i[ii]v) Mini Nasdaq 100 Index;
- ([i]v) KBW Bank Index; and
- (vi) Nations VolDex Index.

(5) *A.M.-Settled Index Options*. The last day of trading for A.M.-settled index options shall be the business day preceding the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the business day preceding the last day of trading in the underlying securities prior to the expiration date. The current index value at the expiration of an A.M.-settled index option shall be determined, for all purposes under these Rules and the Rules of the Clearing Corporation, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, except that:

* * * * *

(ii) In the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security.

The A.M.-settled index options that are approved for trading on the Exchange on the following indexes:

(i) A) Full-size Nasdaq 100 Index;

(B) Nasdaq 100 Micro Index;

(ii) C) Mini Nasdaq 100 Index;

(iii) D) KBW Bank Index; and

(iv) E) Nations VolDex Index.

(6) *P.M. - Settled Index Options*. The last day of trading for P.M.-settled index options shall be the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day before its expiration date. The current index value at expiration of the index is determined by the last reported sale price of each component security. In the event that the primary market for an underlying security does not open for trading on the expiration date, the price of that security shall be the last reported sale price prior to the expiration date. The following P.M.-settled index options are approved for trading on ISE:

(i) In addition to A.M.-settled Nasdaq-100 Index options approved for trading on the Exchange pursuant to Options 4A, Section 12(a)(5), the Exchange may also list options on the Nasdaq 100 Reduced Value Index (“NQX”) whose exercise settlement value is derived from closing prices on the expiration day (“P.M.-settled”); and

(ii) In addition to A.M.-settled Nasdaq-100 Index options approved for trading on the Exchange pursuant to Options 4A, Section 12(a)(5), the Exchange may also list options on the Nasdaq 100 Micro Index (“XND”) whose exercise settlement value is derived from closing prices on the expiration day (“P.M.-settled”).

(b) Long-Term Index Options Series.

(1) Notwithstanding the provisions of paragraph (a)(3), above, the Exchange may list long-term index options series that expire from twelve (12) to sixty (60) months from the date of issuance.

(i) Index long term options series may be based on either the full value, [or] reduced value, or micro index value of the underlying index. There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price intervals and continuity Rules shall not apply to such options series until the time to expiration is less than twelve (12) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 4(b)(4)(i)(A).

(ii) When a new Index long term options series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

(2) Reduced-Value Long Term Options Series.

(i) Reduced-value long term options series on the following stock indices are approved for trading on the Exchange:

(A) Nasdaq 100 Index

(ii) Expiration Months. Reduced-value long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent.

(3) Micro Index Long Term Options Series.

(i) Micro index long term options series on the following stock indices are approved for trading on the Exchange:

(A) Nasdaq 100 Index

(ii) Expiration Months. Micro index long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or

bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent.

(c) Procedures for Adding and Deleting Strike Prices.

The procedures for adding and deleting strike prices for index options are provided in Options 4, Section 5, as amended by the following:

(1) The interval between strike prices will be no less than \$5.00; provided, that in the case of the following classes of index options, the interval between strike prices will be no less than \$2.50:

(i) Full-size Nasdaq 100 Index, if the strike price is less than \$200.00;

(ii) Nasdaq 100 Reduced Value Index, if the strike price is less than \$200.00;

(iii) Nasdaq 100 Micro Index, if the strike price is less than \$200;

(i[~~ii~~]v) Mini Nasdaq 100 Index, if the strike price is less than \$200.00;

(i[~~ii~~]v) KBW Bank Index, if the strike price is less than \$200.00; and

(vi) Nations VolDex Index, if the strike price is less than \$200.00.

* * * * *

(5) Notwithstanding Options 4A, Section 12(c)(1), the interval between strike prices of series of Mini-Nasdaq-100 Index (“MNX” or “Mini-NDX”)[or], Nasdaq 100 Reduced Value Index (“NQX”), or Nasdaq 100 Micro Index (“XND”) options will be \$1 or greater, subject to following conditions:

(i) Initial Series. The Exchange may list series at \$1 or greater strike price intervals for Mini-NDX[or], NQX, or XND options, and will list at least two strike prices above and two strike prices below the current value of MNX[or], NQX, or XND at about the time a series is opened for trading on the Exchange. The Exchange shall list strike prices for Mini-NDX [or], NQX, or XND options that are within 5 points from the closing value of MNX[or], NQX, or XND on the preceding day.

(ii) Additional Series. Additional series of the same class of Mini-NDX[or], NQX, or XND options may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the underlying MNX, [or]NQX, or XND moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within

thirty percent (30%) above or below the closing value of MNX₂ [or]NQX₂ or XND. The Exchange may also open additional strike prices that are more than 30% above or below the current MNX₂ [or]NQX₂ or XND value provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each series in Mini-NDX[or], NQX₂ or XND options.

(iii) The Exchange shall not list LEAPS on Mini-NDX[or], NQX₂ or XND options at intervals less than \$5.

(iv)

(A) Delisting Policy. With respect to Mini-NDX[or], NQX₂ or XND options added pursuant to the above paragraphs, the Exchange will, on a monthly basis, review series that are outside a range of five (5) strikes above and five (5) strikes below the current value of MNX₂ [or]NQX₂ or XND, and delist series with no open interest in both the put and the call series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

(B) Notwithstanding the above referenced delisting policy, Customer requests to add strikes and/or maintain strikes in Mini-NDX[or], NQX₂ or XND option series eligible for delisting shall be granted.

(C) In connection with the above referenced delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for delisting, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Mini-NDX[or], NQX₂ or XND options.

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Supplementary Material to Options 4A, Section 12

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.07 Nonstandard Expirations Program

(a) Weekly Expirations. The Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). In addition, the Exchange may also open for

trading Weekly Expirations on Nasdaq-100 Index options or Nasdaq 100 Micro Index options to expire on any Tuesday or Thursday (other than days that coincide with the third Friday-of-the-month or an EOM expiration). Weekly Expirations shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly Expirations shall be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration.

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