19(b)(3)(A)(iii) of the Act [6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) [8] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSECHX–2023–19 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–NYSECHX–2023–19. 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–NYSECHX–2023–19 and should be submitted on or before December 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25205 Filed 11–14–23; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 15 U.S.C. 78s(b)(2)(B).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98886; File No. SR–ISE–2023–24]

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

November 8, 2023.

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 (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to 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 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

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

[2] 17 CFR 240.19b–4.

[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.

LLC (''Phlx'') has approval to list and trade XND options. The rules to list and trade NDX [sic] 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 for the Nasdaq-100 Index include common stocks, ordinary shares, American Depository 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 based on ⅕ 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 22,023. 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 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 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

[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.

[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).

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

[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).

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 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 series [17] 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 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 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 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

[13] XND is a broad-based index.

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

[15] *See supra* note 12.

[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.

[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.

[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.

[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).

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 Phlx [26] 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 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 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 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 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

[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.

[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.

[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.

[33] *See* Phlx Options 4A, Section 12.

⅕ 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 and QQQ are based on the 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

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[35] and Rule 19b–4(f)(6) thereunder.[36] 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 Act[37] and subparagraph (f)(6) of Rule 19b–4 thereunder.[38]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[39] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[40] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that it may immediately list and trade XND options on the Exchange, which are currently listed on Phlx. Further, according to the Exchange, the rules to list and trade XND options on ISE are identical to those of Phlx.[41] The Exchange has stated that waiver of the operative delay would deepen the liquidity pool for XND options and allow ISE to compete with similar products that are offered on other exchanges. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[42]

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.

[34] *See supra* note 12.

[35] 15 U.S.C. 78s(b)(3)(A)(iii).

[36] 17 CFR 240.19b–4(f)(6).

[37] 15 U.S.C. 78s(b)(3)(A)(iii).

[38] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[39] 17 CFR 240.19b–4(f)(6).

[40] 17 CFR 240.19b–4(f)(6)(iii).

[41] *See* Phlx Options 4A, Section 12.

[42] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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
- 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 December 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25108 Filed 11–14–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98901; File No. SR–NYSECHX–2023–21]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.31

November 9, 2023.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 31, 2023, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 amend Rule 7.31 to provide for the use of ALO Reserve Orders. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those 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 parts of such statements.

[43] 17 CFR 200.30–3(a)(12), (59).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange proposes to amend Rule 7.31 to provide for the use of ALO Reserve Orders.

ALO Orders

Rule 7.31(e)(2) defines an ALO Order as a Non-Routable Limit Order that, unless it receives price improvement, will not remove liquidity from the Exchange Book. An ALO Order can be designated to be cancelled if it would be displayed at a price other than its limit price for any reason. An ALO Order can be designated as non-displayed.

As described in Rule 7.31(e)(2)(A), an Aggressing ALO Order to buy (sell) will trade if its limit price crosses the working price of any displayed or non-displayed orders to sell (buy) on the Exchange Book priced equal to or below (above) the PBO (PBB) of an Away Market, in which case it will trade as the liquidity taker with such orders.

As noted above, Rule 7.31(e)(2) provides that an ALO Order may be designated to cancel if it would be displayed at a price other than its limit price. If an ALO Order is not so designated, any untraded quantity of such order to buy (sell) is processed as follows (Rules 7.31(e)(2)(B)(i) and (ii)):

- If the limit price of the ALO Order locks the display price of any order to sell (buy) ranked Priority 2—Display Orders on the Exchange Book, it will have a working price and display price (if designated to display) one MPV below (above) the price of the displayed order on the Exchange Book.
- If the limit price of the ALO Order locks or crosses the PBO (PBB) of an Away Market, it will have a working price equal to the PBO (PBB) of the Away Market and a display price (if designated to display) one MPV below (above) the PBO (PBB) of the Away Market.

Rule 7.31(e)(2)(C) provides that any untraded quantity of an ALO Order to buy (sell) will have a working price and display price (if designated to display) equal to its limit price if it locks non-displayed orders to sell (buy) on the Exchange Book. Rule 7.31(e)(2)(D) provides that an ALO Order to buy (sell) will not be assigned a working price or display price above (below) the limit price of such order.

Once resting on the Exchange Book, ALO Orders may be re-priced or trade, or both, as described in Rule 7.31(e)(2)(E):