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Page 1 of \* 19

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

File No. \* SR 2022 - \* 42

Amendment No. (req. for Amendments \*)

Filing by Nasdaq PHLX 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)	

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 \*).

Proposal to Amend the Standard Monthly Expirations for XND

**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 \* Angela Last Name \* Dunn

Title \* Principal Associate General Counsel

E-mail \* angela.dunn@nasdaq.com

Telephone \* (215) 496-5692 Fax

**Signature**

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

Date 10/19/2022


(Title \*)

By John Zecca

EVP and Chief Legal Officer

(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: 2022.10.19 13:34:59 -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 EFFS website.

**Form 19b-4 Information \***

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SR-Phlx-2022-42 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-Phlx-2022-42 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-Phlx-2022-42 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 PHLX LLC (“Phlx” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to permit Phlx to list up to 12 standard monthly expirations for Nasdaq 100 Micro Index Options (“XND”).

A notice of the proposed rule change for publication in the Federal Register is attached 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 of the Exchange (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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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

Phlx proposes to amend its index listing rules at Options 4A, Section 12(a)(4) to allow it to list up to 12 standard monthly expirations for Nasdaq 100 Micro Index Options (“XND”).

Currently, Options 4A, Section 12(a)(4) 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.<sup>3</sup> Today, the maximum number of monthly expirations permitted by Options 4A, Section 12(a)(4) for XND options is six (6) standard monthly expirations.

At this time, like Nasdaq-100 Index<sup>®</sup> options (“NDX”), the Exchange proposes to permit up to 12 standard (monthly) expirations in XND options. This would permit the Exchange to list the same number of monthly expirations (up to 12) for XND options as currently permitted for options on the corresponding full-value index, Nasdaq-100 Index.

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<sup>3</sup> Options 4A, Section 12(a)(4) states, “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.”

Today, XND options trade independently of and in addition to NDX options, and the XND options are subject to the same rules that presently govern the trading of NDX options, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Like NDX, XND options are European-style and cash-settled, and have a contract multiplier of 100. The contract specifications for XND options mirror in all respects those of the NDX options contract already listed on the Exchange, except that XND options are based on 1/100<sup>th</sup> of the value of the Nasdaq-100 Index, and are P.M.-settled pursuant to Options 4A, Section 12(a)(5).<sup>4</sup>

Market participants may use XND options as a hedging vehicle to meet their investment needs in connection with the Nasdaq-100 Index. Since both products are used to hedge exposure to the Nasdaq-100 Index, the Exchange believes it is appropriate to permit the Exchange to be able to list the same number of monthly expirations for XND options as it does today for NDX options.

The Exchange notes that Cboe Exchange, Inc.'s ("Cboe") rules permit it to list up to 12 standard monthly expirations for Mini-Russell 2000 Index ("Mini-RUT" or "MRUT") and Mini S&P 500 Index ("Mini-SPX" or "XSP").<sup>5</sup> Mini-SPX is p.m.-settled and subject to a pilot program similar to XND.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in

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<sup>4</sup> The Exchange notes that NDX options are both a.m.-settled and p.m.-settled while XND options are only p.m.-settled.

<sup>5</sup> See Cboe Rule 4.13(a)(2).

<sup>6</sup> 15 U.S.C. 78f(b).

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.

Allowing Phlx to list up to 12 standard monthly expirations for XND options will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors, because it will allow the Exchange to be able to list the same number of expirations for options on a micro index (XND) as it currently lists for NDX options , which are options on the corresponding full-value index, Nasdaq-100 Index. The Exchange notes that because the same components comprise XND as the Nasdaq-100 Index, market participants may use XND options as a hedging vehicle to meet their investment needs in connection with the corresponding full-value index-related product. Therefore, by allowing the Exchange to be able to list a consistent number of expirations between options on the full-value and micro index, the proposed rule change will benefit investors by assisting them in more effectively using options that track the same index to meet their investment needs.

The Exchange notes that today, Cboe rules permit it to list up to 12 standard monthly expirations for Mini-Russell 2000 Index (“Mini-RUT” or “MRUT”) and Mini S&P 500 Index (“Mini-SPX” or “XSP”).<sup>8</sup>

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<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See Cboe Rule 4.13(a)(2).

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 not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act as all monthly expirations listed for XND options will be equally available, or continue to be equally available, to all market participants who trade such options. Also, the proposed number of expirations will apply, or continue to apply, in the same manner to all XND options. The proposed rule change makes it possible for the same expirations to be listed for options on the micro index (XND) that are currently available for XND options, which are options on the full-value index, Nasdaq-100 Index.

The Exchange does not believe that the proposed rule change regarding the number of standard monthly expirations permissible for XND options will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because XND is a proprietary Exchange product. To the extent that allowing up to 12 standard monthly expirations for XND options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on Phlx. As noted above, the Exchange believes that being able to list a consistent number of monthly expirations of options on both the full-value and micro index may permit investors to more effectively use options that track the same index to meet their investment needs.

This proposal enhances intermarket competition because it permits Phlx's

proprietary product, XND, the same flexibility to trade, and hedge, with 12 standard monthly expirations as certain Cboe proprietary products.

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) of the Act and Rule 19b-4(f)(6) thereunder 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 Exchange therefore believes that the proposed rule change qualifies for immediate effectiveness as a “non-controversial” rule change.

The proposal does not significantly affect the protection of investors because the same components comprise XND as the Nasdaq-100 Index, market participants may use XND options as a hedging vehicle to meet their investment needs in connection with the corresponding full-value index-related product. Therefore, by allowing the Exchange to be able to list a consistent number of expirations between options on the full-value and micro index, the proposed rule change will benefit investors by assisting them in more effectively using options that track the same index to meet their investment needs. The



proposal does not impose any significant burden on intermarket competition because XND is a proprietary Exchange product. Also, the proposal does not impose a burden on intramarket competition because all monthly expirations listed for XND options will be equally available, or continue to be equally available, to all market participants who trade such options. Also, the proposed number of expirations will apply, or continue to apply, in the same manner to all XND options.

Furthermore, Rule 19b-4(f)(6)(iii) 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 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 respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The Exchange believes waiver of the operative delay will protect investors because it will allow the Exchange to be able to list

consistent expirations for these related XND options and assist market participants in more effectively utilizing both the full-value index and micro option as hedging vehicles to meet their investment needs in connection with the Nasdaq-100 Index product as soon as feasible. The Exchange believes there is investor demand to be able to transact in the same number of expirations for XND options as the Exchange currently lists for NDX options (that is, 12 standard monthly expirations). The Exchange notes that XND options are designed to provide additional, relatively low-notional opportunities for investors, particularly retail investors, to hedge or speculate on the market risk and meet their investment needs associated with the corresponding full-value index. Finally, the Exchange believes this proposal would allow it to compete with other options exchanges offering similar proprietary products such Cboe's MRUT and XSP.

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

Not applicable.

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.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2022-42)

October \_\_, 2022

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Standard Monthly Expirations for XND

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 19, 2022, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, 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 Phlx to list up to 12 standard monthly expirations for Nasdaq 100 Micro Index Options (“XND”).

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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

Phlx proposes to amend its index listing rules at Options 4A, Section 12(a)(4) to allow it to list up to 12 standard monthly expirations for Nasdaq 100 Micro Index Options ("XND").

Currently, Options 4A, Section 12(a)(4) 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.<sup>3</sup> Today, the maximum number of monthly expirations permitted by Options 4A, Section 12(a)(4) for XND options is six (6) standard monthly expirations.

At this time, like Nasdaq-100 Index<sup>®</sup> options ("NDX"), the Exchange proposes to permit up to 12 standard (monthly) expirations in XND options. This would permit the

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<sup>3</sup> Options 4A, Section 12(a)(4) states, "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."

Exchange to list the same number of monthly expirations (up to 12) for XND options as currently permitted for options on the corresponding full-value index, Nasdaq-100 Index.

Today, XND options trade independently of and in addition to NDX options, and the XND options are subject to the same rules that presently govern the trading of NDX options, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Like NDX, XND options are European-style and cash-settled, and have a contract multiplier of 100. The contract specifications for XND options mirror in all respects those of the NDX options contract already listed on the Exchange, except that XND options are based on 1/100<sup>th</sup> of the value of the Nasdaq-100 Index, and are P.M.-settled pursuant to Options 4A, Section 12(a)(5).<sup>4</sup>

Market participants may use XND options as a hedging vehicle to meet their investment needs in connection with the Nasdaq-100 Index. Since both products are used to hedge exposure to the Nasdaq-100 Index, the Exchange believes it is appropriate to permit the Exchange to be able to list the same number of monthly expirations for XND options as it does today for NDX options.

The Exchange notes that Cboe Exchange, Inc.'s ("Cboe") rules permit it to list up to 12 standard monthly expirations for Mini-Russell 2000 Index ("Mini-RUT" or "MRUT") and Mini S&P 500 Index ("Mini-SPX" or "XSP").<sup>5</sup> Mini-SPX is p.m.-settled and subject to a pilot program similar to XND.

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<sup>4</sup> The Exchange notes that NDX options are both a.m.-settled and p.m.-settled while XND options are only p.m.-settled.

<sup>5</sup> See Cboe Rule 4.13(a)(2).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> 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.

Allowing Phlx to list up to 12 standard monthly expirations for XND options will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors, because it will allow the Exchange to be able to list the same number of expirations for options on a micro index (XND) as it currently lists for NDX options, which are options on the corresponding full-value index, Nasdaq-100 Index. The Exchange notes that because the same components comprise XND as the Nasdaq-100 Index, market participants may use XND options as a hedging vehicle to meet their investment needs in connection with the corresponding full-value index-related product. Therefore, by allowing the Exchange to be able to list a consistent number of expirations between options on the full-value and micro index, the proposed rule change will benefit investors by assisting them in more effectively using options that track the same index to meet their investment needs.

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

The Exchange notes that today, Cboe rules permit it to list up to 12 standard monthly expirations for Mini-Russell 2000 Index (“Mini-RUT” or “MRUT”) and Mini S&P 500 Index (“Mini-SPX” or “XSP”).<sup>8</sup>

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

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

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act as all monthly expirations listed for XND options will be equally available, or continue to be equally available, to all market participants who trade such options. Also, the proposed number of expirations will apply, or continue to apply, in the same manner to all XND options. The proposed rule change makes it possible for the same expirations to be listed for options on the micro index (XND) that are currently available for XND options, which are options on the full-value index, Nasdaq-100 Index.

The Exchange does not believe that the proposed rule change regarding the number of standard monthly expirations permissible for XND options will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because XND is a proprietary Exchange product. To the extent that allowing up to 12 standard monthly expirations for XND options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market

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<sup>8</sup> See Cboe Rule 4.13(a)(2).

participants on Phlx. As noted above, the Exchange believes that being able to list a consistent number of monthly expirations of options on both the full-value and micro index may permit investors to more effectively use options that track the same index to meet their investment needs.

This proposal enhances intermarket competition because it permits Phlx's proprietary product, XND, the same flexibility to trade, and hedge, with 12 standard monthly expirations as certain Cboe proprietary products.

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 Act<sup>9</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup>

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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 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.



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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2022-42 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2022-42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any

person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2022-42 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined.*

**Nasdaq PHLX LLC Rules**

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**Options Rules**

\* \* \* \* \*

**Options 4A Options Index Rules**

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**Section 12. Terms of Index Options Contracts**

(a) General.

\* \* \* \* \*

(4) 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 XND options.

\* \* \* \* \*