Laura G. Dickman
Lead Counsel
Phone: [redacted]

May 30, 2017

Via Electronic Submission
Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090
Rule-comments@sec.gov

Re: Release No. 34-80581; File No. SR-Phlx-2017-04

Dear Mr. Fields:

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") appreciates the opportunity to comment in response to the Securities and Exchange Commission's ("SEC" or "Commission") order instituting proceedings to determine whether to approve or disapprove a proposed rule change to permit the listing and trading of P.M.-settled NASDAQ-100 Index ("NASDAQ-100") options on a pilot basis (the "Proposal").[1] As discussed below, CBOE supports the Proposal and believes the Commission should approve it.

On January 18, 2017, NASDAQ PHLX LLC ("Phlx") filed with the Commission a proposed rule change to permit the listing and trading, on a 12-month pilot basis, of NASDAQ-100 options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value of the NASDAQ-100 on the expiration day ("P.M.-settled"). The proposed contracts are referred to as "NDXPM" options. NDXPM options will be similar to Full Value NASDAQ-100 options ("NDX"), which are already listed and trading on Phlx, except NDXPM options will be P.M.-settled. Pursuant to the Proposal, Phlx would submit to the Commission annual and interim reports, which would contain an analysis of volume, open interest and trading patterns and other information, as well as related data.

As referenced in the Proposal, CBOE currently lists and trades S&P 500 Index ("SPX") options that are P.M.-settled with third-Friday-of-the-month expiration dates ("SPXPM"). The Commission approved the listing and trading of SPXPM options on a pilot basis in 2011, and CBOE has extended the SPXPM pilot annually since that time.[2] Pursuant to the SPXPM pilot, CBOE has submitted to the Commission annual and interim reports containing the same

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1 See Securities Exchange Act Release No. 80581 (May 3, 2017), 82 FR 21587 (May 9, 2017) (SR-Phlx-2017-04).

2 See Securities Exchange Act Release No. 65256 (September 2, 2011), 76 FR 55969 (September 9, 2011) (SR-C2-2011-008). The Exchange notes SPXPM options were initially approved to trade on C2 Options Exchange, Incorporated ("C2"), an affiliated exchange of CBOE.

information with respect to SPXPM options as Phlx proposes to submit to the Commission in connection with the Proposal.

The Exchange believes the proposed NDXPM options do not present any novel issues that were not considered in connection with SPXPM options and thus should be approved on the same pilot basis as SPXPM options. As noted in the rule filing proposing SPXPM options[3] and various comment letters from C2 to the Commission responding to comments in connection with the SPXPM pilot when it was proposed,[4] the concerns that existed at the time the industry moved from P.M.-settlement to A.M.-settlement have been largely mitigated or debunked, and the Exchange believes that continues to be true today. Many stock markets, notably The NASDAQ Stock Market LLC and the New York Stock Exchange, continue to utilize automated closing cross procedures and have closing order types that facilitate order closings, which have demonstrated they are well-equipped to mitigate imbalance pressure at the close. After-hours trading also continues to provide market participants with an alternative to help offset market-on-close imbalances. Stock order flow is predominantly electronic, and the ability to smooth out openings and closings is greatly enhanced. Additionally, as P.M.-settled options continue to trade in the over-the-counter ("OTC") market, CBOE believes the availability of listed P.M.-settled options could benefit investors to the extent it attracts trading in P.M.-settled options from the opaque OTC market to an exchange-listed market, which provides transparency, price discovery and stability.

The SPXPM Rule Filing and Comment Letters described various P.M.-settled options listed and traded on an exchange that revealed, and continue to reveal, no evidence that P.M.-settled options is likely to have a disruptive effect on volatility at the close. The data and analyses in CBOE's annual and interim SPXPM pilot reports have demonstrated to the Commission P.M.-settlement of SPX options has had no adverse effects or impact upon market volatility and the operation of fair and orderly markets on the underlying cash market at or near the close of trading.[5] Additionally, CBOE lists P.M.-settled End-of-Week SPX options, which currently account for over half of SPX options volume, and the Exchange has observed no market disruptions resulting from the P.M.-settlement feature of these high-volume options.[6] As P.M.-settled options listed

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3 See Securities Exchange Act Release No. 64011 (March 2, 2011), 76 FR 12775 (March 8, 2011) (SR-C2-2011-008) ("SPXPM Rule Filing").

4 See Letter dated April 20, 2011 from Joanne Moffic-Silver, Secretary, C2 Options Exchange, Incorporated, to Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission; Letter dated July 11, 2011 from William J. Brodsky, Chairman, C2 Options Exchange, Incorporated, to Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission; and Letter dated July 25, 2011 from William J. Brodsky, Chairman, C2 Options Exchange, Incorporated, to Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission ("SPXPM Comment Letters").

5 Pursuant to the SPXPM pilot program, the Exchange submits the annual and interim pilot reports to the Commission on a confidential basis.

6 At the time SPXPM options were proposed, End-of-Week p.m.-settled options constituted approximately 7% of SPX options trading volume, prompting the Commission to indicate it was difficult to draw any conclusions about the potential impact of SPXPM options on the market for the underlying component stocks. See supra note 2. During the period from January 1 to May 22, 2017, P.M.-settled SPX options represented over 55% of total SPX options trading.

and traded on CBOE have not caused the adverse effects of P.M.-settlement about which the Commission has expressed concerns, the Exchange supports listing and trading of additional P.M.-settled options, which provide investors with added flexibility through additional products that may be better tailored to meet their particular investment, hedging, and trading needs. Therefore, CBOE believes the Commission should approve NDXPM options on a pilot basis.

With respect to the approval of products on a pilot basis in general, CBOE encourages the Commission to reconsider the length of these pilot programs. The SPXPM pilot is currently in its sixth year, and the End-of-Week pilot is currently in its seventh year. CBOE requests renewal of these pilots annually, and has submitted to the Commission data and analysis in accordance with the terms of the pilots during that time. CBOE proposes the Commission approve pilot programs for a set period of time, such as three years, after which the pilot may become permanent (or end if the Commission finds the pilot resulted in adverse effects to the market. While CBOE appreciates pilot programs provide the Commission with an opportunity to monitor and assess the potential for adverse market effects caused by new products, including through the evaluation of data and analysis, CBOE believes more certainly with respect to the length of pilots would benefit investors, as pilots that require continuous renewal bring uncertainty regarding whether the product or trading functionality subject to the pilot will be available on a permanent basis.

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We appreciate the opportunity to comment. If you have any questions, please contact me at [redacted].

Sincerely,

Laura G. Dickman