

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101120; File No. SR-CBOE-2024-043)

September 20, 2024

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Exchange's Rules to Permit the Listing and Trading of Options Based on 1/100 of the Value of the Nasdaq-100 Index® ("Nasdaq-100")

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 September 18, 2024, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend the Exchange's rules 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 provided in Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, 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 this proposed rule change is to amend certain rules to permit the Exchange to list and trade index options on Nasdaq 100 Micro Index Options ("XND"). The XND options contract is the same in all respects as the current Nasdaq-100 Index options ("NDX")⁵ contract listed on the Exchange, except that it is 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.⁶ 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.

⁵ See Rule 4.13(a)(3).

⁶ In addition to the current Nasdaq-100 Index value, Nasdaq disseminates an index value for XND that is 1/100 of the value of the Nasdaq-100 Index.

Today, Nasdaq Phlx LLC (“Phlx”)⁷ and Nasdaq ISE, LLC (“ISE”)⁸ have approval to list and trade XND options. The proposed rules to list and trade XND options on the Exchange are substantially similar to those of Phlx and ISE.

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”), based on market capitalization.⁹ 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.¹⁰

XND Options Contract

Currently, the Exchange is permitted to list NDX options that are based on the full value of the Nasdaq-100 Index. The Exchange now proposes to amend its Rules to permit the listing of 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,

⁷ 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).

⁸ See Securities Exchange Act Release No. 98886 (November 8, 2023), 88 FR 78417 (November 15, 2023) (SR-ISE-2023-24) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing and Trading of XND Options).

⁹ The Nasdaq-100 Index is a broad-based index. See Rule 4.10.

¹⁰ A description of the Nasdaq-100 Index is available on Nasdaq’s website at https://indexes.nasdaqomx.com/docs/methodology_NDX.pdf.

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 permitted to be 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 Rule 4.13, Interpretation and Policy .14. The Exchange also proposes to amend Rule 4.13(a)(4) to permit options on the Nasdaq 100 Micro Index to trade a.m.-settled.

Pursuant to Rule 4.13(e), the Exchange would be permitted to open for trading Weekly Expirations on XND, as a broad-based index and part of the Nonstandard Expirations Program, to expire on any Monday, Tuesday, Wednesday, Thursday or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). ISE's rules similarly permit XND to expire on any Monday, Tuesday, Wednesday, Thursday or Friday.¹¹ Weekly Expirations in XND would be subject to all provisions of Rule 4.13 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. The maximum number of expirations that may be listed for each Weekly Expiration (i.e., a Monday expiration, Tuesday expiration, Wednesday expiration, Thursday expiration, or Friday expiration, as applicable) in a given class is the same as the maximum number of expirations permitted in Rule 4.13(a)(2) for standard options on the same broad-based index.

Further, the Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOMs shall be subject to all

¹¹ See ISE Rules, Options 4A, Section 12, Supplementary Material .07.

provisions of Rule 4.13 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.¹² Today, XND options on Phlx¹³ and ISE¹⁴ are part of the Nonstandard Program.

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, because the proposed rule change is substantially similar in all material respects to a proposal submitted by Phlx¹⁵ that was previously approved by the Commission, as well as a proposal submitted by ISE¹⁶ that was subject to Commission review. 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.

Additionally, the Exchange proposes to amend Rule 4.12(c) to add the Nasdaq 100 Mirco [*sic*] Index to the table regarding reporting authorities for indexes. The Exchange notes the Nasdaq 100 Index currently has the same reporting authority, i.e., Nasdaq, Inc.

¹² XND is a broad-based index.

¹³ See Phlx Options 4A, Section 12(b)(5).

¹⁴ See ISE Rules, Options 4A, Section 12, Supplementary Material .07.

¹⁵ 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).

¹⁶ See Securities Exchange Act Release No. 98886 (November 8, 2023), 88 FR 78417 (November 15, 2023) (SR-ISE-2023-24) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing and Trading of XND Options).

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),¹⁷ 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).¹⁸ The trading hours for XND options will be the same as the trading hours for options on Nasdaq-100 Index.

XND options will be permitted to trade with a minimum trading increment of \$0.01 for all options series¹⁹ similar to Phlx²⁰ and ISE.²¹ The Exchange proposes to amend Rule 5.4(a) 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.²² In addition, the Exchange may list long-term index options series ("LEAPS") that expire from twelve (12) to one-hundred eighty (180) months from the date of issuance.²³ There may be up to ten (10) expiration months, none further out than one-hundred eighty (180) months. Continuity Rules

¹⁷ See Rule 5.1(b)(2).

¹⁸ See Rule 4.13(e)(3).

¹⁹ This is the case as long as QQQ options ("QQQ") participate in the Penny Interval Program.

²⁰ See Phlx Supplementary Material .03 to Options 3, Section 3.

²¹ See ISE Rules, Options 3, Section 3.

²² See Rule 4.13(a)(2).

²³ See Rule 4.13(b).

shall not apply to such options series until the time to expiration is less than 270 days.²⁴ Further, the Exchange proposes to add “Nasdaq 100 Micro Index” to the list of stock indices for which reduced-value LEAPS are approved for trading on the Exchange, set forth in Rule 4.13(b)(2)(A). Pursuant to Rule 4.13(b)(2)(B), reduced-value LEAPS 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 10 to 15%. 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 Rules 4.13(a)(2)(A) and (a)(2)(B), respectively.

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, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations would be subject to all provisions of Rule 4.13 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, Tuesday expiration, Wednesday expiration, Thursday 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.²⁵ Further, the

²⁴ See Rule 5.52(d)(2).

²⁵ Weekly Expirations need not be for consecutive Monday, Tuesday, Wednesday, Thursday, or Friday expirations as applicable; 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. Weekly Expirations that are first listed in a given class may expire up to four weeks from the actual listing date. If the Exchange lists EOMs and Weekly Expirations as applicable in a given class, 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 Rule 4.13 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.²⁶ Today, XND options on Phlx²⁷ and ISE²⁸ are part of the Nonstandard Program of each of those exchanges.

Generally, pursuant to Rule 4.13, Interpretation and Policy .01, except as provided in Rule 4.13, Interpretation and Policy .01(h), the exercise (strike) price intervals will be no less than \$5, provided that, in the case of certain classes of index options noted in Rule 4.13, Interpretation and Policy .01(a), the Exchange may determine to list strike prices at no less than \$2.50 intervals. The Exchange proposes to amend Rule 4.13, Interpretation and Policy .01(a) 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.”²⁹ Further, the Exchange proposes to amend Rule 4.13, Interpretation

Exchange will list an EOM instead of a Weekly Expiration that expires on the same day in the given class. Other expirations in the same class are not counted as part of the maximum number of Weekly Expirations for an applicable broad-based index class. If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Tuesday, Wednesday, Thursday, or Friday, the normally Tuesday, Wednesday, Thursday, or Friday expiring Weekly Expirations will expire on the previous business day. If two different Weekly Expirations would expire on the same day because the Exchange is not open for business on a certain weekday, the Exchange will list only one of such Weekly Expirations. See Rule 4.13(e)(1).

²⁶ The maximum number of expirations that may be listed for EOMs in a given class is the same as the maximum number of expirations permitted in Rule 4.13(a)(2) for standard options on the same broad-based index. EOM expirations need not 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 may expire up to four weeks from the actual listing date. Other expirations in the same class are not counted as part of the maximum numbers of EOM expirations for a broad-based index class. See Rule 4.13(e)(2).

²⁷ See Phlx Options 4A, Section 12(b)(5).

²⁸ See ISE Rules, Options 4A, Section 12, Supplementary Material .07.

²⁹ Reduced-value Nasdaq 100 Index options are currently included in the list of classes where strike price intervals of no less than \$2.50 are generally permitted. As part of the proposed changes, the Exchange also proposes to add the same “if the strike price is less than \$200” language to the Reduced-value Nasdaq 100

and Policy .01(h) which currently provides that the Exchange may also list series at \$1 strike intervals for Mini-Nasdaq-100 Index (“MNX” or “Mini-NDX”). Specifically, the Exchange proposes to amend Rule 4.13, Interpretation and Policy .01(h) to adopt the same strike price intervals for XND options as are listed for XND options on ISE³⁰ and currently approved for MNX options within Rule 4.13, Interpretation and Policy .01(h). Thus, notwithstanding 4.13, Interpretation and Policy .01(a), the interval between strike prices of series of XND options may be \$1 (or greater), subject to the conditions described in Rule 4.13, Interpretation and Policy .01(h). The Exchange will not list LEAPS on XND options at intervals less than \$2.50. 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 Rule 4.13, Interpretation and Policy .01(h).

Position and Exercise Limits; Margin

The Exchange proposes to amend Rule 8.31(a). As with NDX, in determining compliance with Rule 8.31 (Position Limits for Broad-Based Index Options), there will be no position limits for broad-based index option contracts in the XND class.³¹ 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, Rule 8.31(f) would apply. 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.

Further, the Exchange proposes to amend Rule 8.35(b) to add XND to the list of broad-based FLEX index options for which there are no position limits.

Index, as this language was inadvertently omitted.

³⁰ See ISE Rules, Options 4A, Section 12(c)(5).

³¹ See proposed changes to Rule 8.31(a).

In addition, there would be no exercise limits for XND. As such, the Exchange proposes to amend Rule 8.42(b) to include XND in the list of broad-based index options for which there are no exercise limits and Rule 8.42(g) to include XND in the list broad-based FLEX index options for which there are no exercise limits. The same rules for position and exercise limits to XND options on ISE.³²

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 Rule 4.13(e).

Index options are integrated into the Exchange’s existing surveillance system architecture, as well as the Financial Industry Regulatory Authority’s (FINRA”) (which performs certain regulatory services for the Exchange pursuant to a regulatory services agreement), 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 Rule 4.13 to include the Nasdaq 100 Micro Index Options within the Rule to conform to the amendments proposed herein.

³² See ISE Rules, Options 4A, Section 6 (Position Limits) and Section 10 (Exercise Limits).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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 ISE and Phlx. The proposed XND options product is identical to XND options on ISE and Phlx. Additionally, the proposed XND options product is similar to NDX options that are currently permitted to be 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 (in addition to being A.M.-

³³ 15 U.S.C. 78f(b).

³⁴ 15 U.S.C. 78f(b)(5).

³⁵ Id.

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 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.

The Exchange believes that a micro index option would allow additional participation from 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.

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 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, two other exchanges currently list the same product for trading in accordance with substantially similar rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

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 Act³⁶ and Rule 19b-4(f)(6) thereunder.³⁷ 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 Act³⁸ and Rule 19b-4(f)(6)(iii) thereunder.³⁹

A proposed rule change filed under Rule 19b-4(f)(6)⁴⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁴¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. As discussed above, the Exchange states that this proposed rule change is substantially similar to a proposal submitted by Phlx⁴² that was previously approved by the Commission, as

³⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁷ 17 CFR 240.19b-4(f)(6).

³⁸ 15 U.S.C. 78s(b)(3)(A).

³⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

⁴⁰ 17 CFR 240.19b-4(f)(6).

⁴¹ 17 CFR 240.19b-4(f)(6)(iii).

⁴² 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).

well as a proposal submitted by ISE⁴³ that was subject to Commission review. The Exchange also stated that the two other exchanges currently list the same product for trading in accordance with substantially similar rules. The Exchange believes that the waiver of the operative delay will protect investors by allowing the Exchange to implement the proposal expeditiously, and it will promote competition by providing an additional venue upon which to trade this product. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will permit the Exchange to remain competitive with other exchanges and provide immediate choice to market participants to readily direct order flow to competing venues who offer similar functionality. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.⁴⁴

At any time within 60 days of the filing of this 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)⁴⁵ 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

⁴³ See Securities Exchange Act Release No. 98886 (November 8, 2023), 88 FR 78417 (November 15, 2023) (SR-ISE-2023-24) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing and Trading of XND Options).

⁴⁴ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁵ 15 U.S.C. 78s(b)(2)(B).

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-CBOE-2024-043 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-CBOE-2024-043. 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-CBOE-2024-043 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.⁴⁶

Vanessa A. Countryman,

Secretary.

⁴⁶ 17 CFR 200.30-3(a)(12).