

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-92454; File No. SR-NYSEAMER-2021-33)

July 20, 2021

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM Series (“QQQ”) ETF Trust

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on July 12, 2021, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II 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 903 to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program on the Invesco QQQ TrustSM Series (“QQQ”) ETF Trust. 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

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

1. Purpose

The purpose of this filing is to amend Rule 903, Series of Options Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program ("Program") on QQQ.

A Short Term Options Series is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.⁴ The Exchange is proposing to amend Rule 903 Commentary .10 (f) to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Rule 903 Commentary .10, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire ("Monday QQQ

⁴ See NYSE American Rule 900.2NY 50. Short Term Option Series.

Expirations”), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.⁵

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Rule 903 Commentary .10, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (“Wednesday QQQ Expirations”). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.⁶ Specifically, the Monday and Wednesday QQQ Expirations will have a \$0.50 strike interval minimum.⁷ As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expirations series will be P.M. settled.

⁵ The Exchange proposes to make a clarifying change to Rule 903 Commentary .10(f) to make clear that the Exchange may have no more than a total of five each of Wednesday SPY Expirations and Wednesday QQQ Expirations and a total of five each of Monday SPY Expirations and Monday QQQ Expirations. The Exchange also proposes to make a non-substantive change to add the word “business” before “day” in the first sentence of Rule 903 Commentary .10(f).

⁶ See NYSE American Rule 903 Commentary .10(f).

⁷ See NYSE American Rule 903 Commentary .10(d).

Pursuant to Rule 900.2NY,⁸ with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Rule 900.2NY⁹ a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, e.g., Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, e.g., the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Nasdaq PHLX LLC (“Phlx”) uses the same procedure for QQQ with Monday and Wednesday expirations.¹⁰ Nasdaq Phlx¹¹ and Nasdaq ISE, LLC (“ISE”)¹² also use the same procedure for options on the Nasdaq-100® (“NDX”) with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively. Cboe Exchange, Inc. (“Cboe”) uses the same procedure for options on the S&P500 index (“SPX”) with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.¹³

⁸ Rule 900.2NY 50. Definition of “Short Term Option Series.”

⁹ Id.

¹⁰ See Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR-Phlx-2021-10).

¹¹ See Phlx Options 4A, Section 12(b)(5).

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

¹³ See Cboe Rule 4.13(e)(1) “...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 Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.”

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹⁴ The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term options rules; the Exchange may list these additional series that are listed by other exchanges.¹⁵ This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Rule 903(h), which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Options Series on the same class.¹⁶ As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations

¹⁴ See NYSE American Rule 903 Commentary .10.

¹⁵ Id.

¹⁶ See NYSE American Rule 903(h).

for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. The Exchange currently has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of Monday and Wednesday QQQ Expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ Expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁸ in particular, in that it is 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 facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a

¹⁷ 15 U.S.C. 78f(b)

¹⁸ 15 U.S.C. 78f(b)(5).

free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY Expirations.¹⁹ Also, Cboe²⁰ currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx²¹ and ISE²² currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ Expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat

¹⁹ Supra note 14.

²⁰ Supra note 13.

²¹ Supra note 11.

²² Supra note 12.

Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are currently treated in this manner.²³ Cboe²⁴ uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx²⁵ and ISE²⁶ for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in NYSE American Rule 903 Commentary .10 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend NYSE Arca Rule 903(h) to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday

²³ Supra note 14.

²⁴ Supra note 13.

²⁵ Supra note 11.

²⁶ Supra note 12.

QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ Expirations.

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. The Exchange notes that having Monday and Wednesday QQQ Expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on the Exchange.²⁷ Cboe²⁸ uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx²⁹ and ISE³⁰ for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

²⁷ Supra note 14.

²⁸ Supra note 13.

²⁹ Supra note 11.

³⁰ Supra note 12.

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

No written comments were solicited or received with respect to the proposed rule change.

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) of the Act³¹ and Rule 19b-4(f)(6) thereunder.³²

A proposed rule change filed under Rule 19b-4(f)(6)³³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁴ the Commission may 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 the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx’s substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.³⁵ The Exchange has stated that waiver of the operative delay is consistent with the protection of investors and the

³¹ 15 U.S.C. 78s(b)(3)(A).

³² 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.

³³ 17 CFR 240.19b-4(f)(6).

³⁴ 17 CFR 240.19b-4(f)(6)(iii).

³⁵ See Securities Exchange Act Release No. 91614 (April 20, 2021), 86 FR 22082 (April 26, 2021) (SR-Phlx-2021-10).

public interest as it would encourage fair competition among exchanges by allowing the Exchange to compete effectively with Phlx by having the ability to list and trade the same Monday and Wednesday QQQ Expirations that Phlx is able to list and trade. For these reasons, 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, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.³⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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 (<http://www.sec.gov/rules/sro.shtml>); or

³⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2021-33 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-NYSEAMER-2021-33. 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 website (<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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NYSEAMER-2021-33, 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.³⁷

J. Matthew DeLesDernier
Assistant Secretary

³⁷ 17 CFR 200.30-3(a)(12).