

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100321; File No. SR-Phlx-2024-24)

June 12, 2024

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Delay Implementation of Certain Exchange Options 8 Rules and Amend Options 8, Section 34(b)

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 May 30, 2024, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to delay the implementation of SR-Phlx-2023-22³ and amend Options 8, Section 34(b), FLEX Trading (order types), which is also being delayed.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 97658 (June 7, 2023), 88 FR 38562 (June 13, 2023) (SR-Phlx-2023-22) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Options 8 Rules). See also Securities Exchange Act Release No. 98919 (November 13, 2024), 88 FR 80363 (November 17, 2023) (SR-Phlx-2023-48) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of the FLEX and Cabinet Automation) (“SR-Phlx-2023-22”).

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 Exchange proposes to delay the implementation of SR-Phlx-2023-22 and amend Options 8, Section 34(b), FLEX Trading (order types), which is also being delayed. These rules are currently effective, but not operative. Each change is described below.

Delay of Implementation

As noted herein, Phlx filed SR-Phlx-2023-22 to amend several Phlx Options 8 rules related to Phlx's trading floor and stated that the rule change would be implemented on or before March 29, 2024.⁴ Thereafter, the Exchange delayed the implementation of SR-Phlx-2023-22 to permit the Exchange additional time to code and test the functionality.⁵ These rules are currently effective, but not operative

By way of background, with respect to FLEX Orders, SR-Phlx-2023-22 amended FLEX Orders in 3 ways. First, the Exchange amended the rules to require FLEX Orders to be reported

⁴ See Securities Exchange Act Release No. 97658 (June 7, 2023), 88 FR 38562 (June 13, 2023) (SR-Phlx-2023-22) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Options 8 Rules) ("SR-Phlx-2023-22").

⁵ See Securities Exchange Act Release No. 98919 (November 13, 2024), 88 FR 80363 (November 17, 2023) (SR-Phlx-2023-48) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of the FLEX and Cabinet Automation).

into Phlx’s Options Floor Based Management System or “FBMS,” thereby further automating the execution and reporting of FLEX Options. All executed FLEX contracts will be reported to OPRA and sent to the OCC for clearing, similar to all other equity, equity index and U.S. dollar-settled foreign currency options orders executed on the Exchange’s trading floor. Second, the Exchange removed its RFQ process including the BBO Improvement Interval Process, with the rule change. Third, the Exchange reorganized Options 8, Section 34 to restructure the rule to include additional information which describes current FLEX trading on Phlx. With respect to Cabinet Orders, SR-Phlx-2023-22 amended Options 8, Section 33 to require Cabinet Orders to be reported into FBMS. With this change, members and member organizations will be required to record all Cabinet Orders represented in the trading crowd into FBMS. All executed contracts will be reported to OPRA and sent to OCC for clearing similar to all other equity, equity index and U.S. dollar-settled foreign currency options orders executed on the Exchange’s trading floor.

At this time, the Exchange proposes to delay the implementation of SR-Phlx-2023-22 so that it may also implement the other rule changes proposed herein at the same time and complete an OCC industry rule change prior to implementation as well as a Phlx technology migration. The Exchange proposes to implement SR-Phlx-2023-22 and the proposed changes noted in this proposal prior to the end of Q4 2025. The Exchange would issue an Options Trader Alert announcing the exact implementation date to members and member organizations at least thirty days prior to implementation.

Options 8, Section 34(b)(3)

Phlx proposes to correct a drafting error in Options 8, Section 34(b)(3) to remove one clause.⁶ Options 8, Section 34(b)(3) currently states, “...for a FLEX Index Option, may have a

⁶ This rule text was copied from Cboe Exchange Inc.’s Rule 5.70(b). The copied rule text included a clause related to Asian-settled or Cliquet-settled options. This clause is not applicable to Phlx which does not

different settlement type (a.m.-settled or p.m.- settled), except each leg must have the same settlement type.” At this time, Phlx proposes to delete the clause “...except each leg must have the same settlement type” in Options 8, Section 34(b)(3) to correct a drafting error. The rule text does not apply as Phlx does not support Asian-settled or Cliquet-settled options.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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.

Delay of Implementation

The Exchange’s proposal to delay the implementation of SR-Phlx-2023 prior to the end of Q4 2025 is consistent with the Act because it will allow Phlx time to implement the other rule changes proposed herein at the same time and complete an OCC industry rule change as well as a Phlx technology migration prior to implementation.

Options 8, Section 34(b)(3)

Phlx’s proposal to amend rule text at Options 8, Section 34(b)(3) that was adopted in SR-Phlx-2023-22 is consistent with the Act because it merely corrects a drafting error.

utilize these settlement styles. However, part of the clause related to the Asian-settled or Cliquet-settled options was inadvertently copied with respect to its application to complex orders. This clause is being removed as it is inapplicable to Phlx.

⁷ 15 U.S.C. 78f(b)

⁸ 15 U.S.C. 78f(b)(5).

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

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

Delay of Implementation

The Exchange's proposal to delay the implementation of SR-Phlx-2023 prior to the end of Q4 2025 does not impose an undue burden on competition because it will allow Phlx time to implement the other rule changes proposed herein at the same time and complete an OCC industry rule change as well as a Phlx technology migration prior to implementation.

Options 8, Section 34(b)(3)

Phlx's proposal to amend rule text at Options 8, Section 34(b)(3) that was adopted in SR-Phlx-2023-22 does not impose an undue burden on competition because it merely corrects a drafting error.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹²

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.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2024-24 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 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.

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-2024-24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or

withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2024-24 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.¹³

Sherry R. Haywood,

Assistant Secretary.

¹³ 17 CFR 200.30-3(a)(12).