

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101115; File No. SR-Phlx-2024-15)

September 20, 2024

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change to Amend the Exchange's Fees for Top of PHLX Options (TOPO), PHLX Orders, and TOPO Plus Orders

On March 20, 2024, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change (File Number SR-Phlx-2024-15) to increase fees for certain market data products (“Proposal”). The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.³ The proposed rule change was published for comment in the Federal Register on March 28, 2024.⁴ On May 16, 2024, the Commission issued an order temporarily suspending the proposed rule change pursuant to Section 19(b)(3)(C) of the Act⁵ and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change (“Order Instituting Proceedings”).⁷

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as “establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.” 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ See Securities Exchange Act Release No. 99841 (March 22, 2024), 89 FR 21648 (“Notice”).

⁵ 15 U.S.C. 78s(b)(3)(C).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 100160, 89 FR 45036 (May 22, 2024). The Commission has received one comment letter on the proposed rule change, as well as a response from the Exchange to the Order Instituting Proceedings. Comments received on the Proposal are available at: <https://www.sec.gov/comments/sr-phlx-2024-15/srphlx202415.htm>.

Section 19(b)(2) of the Act⁸ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on March 28, 2024.⁹ September 24, 2024 is 180 days from that date, and November 23, 2024 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and its comments. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates November 23, 2024 as the date by which the

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Notice, supra note 4.

¹⁰ 15 U.S.C. 78s(b)(2).

Commission shall either approve or disapprove the proposed rule change (File No. SR-Phlx-2024-15).

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

Vanessa A. Countryman,

Secretary.

¹¹ 17 CFR 200.30-3(a)(57).