

with those of the Affiliated Exchanges and to make the Exchange's Rulebook easier to read and more accessible to its Members. The Exchange believes that the adoption and harmonization of the arbitration rules and cross-reference updates are of a non-substantive nature.

#### *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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they are (i) of a non-substantive nature, (ii) intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

#### *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**

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)(iii) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup>

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MRX-2018-32 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-MRX-2018-32. 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 (<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 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. 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-MRX-2018-32 and should be submitted on or before November 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-84480; File No. SR-CboeBZX-2018-066]

### **Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis**

October 24, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 11, 2018, Cboe BZX Exchange, Inc. filed with the Securities and Exchange Commission (the "Commission" or "SEC") the proposed rule change as described in Items I, II, and III 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**

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX Options") proposes to permit the listing and trading of P.M.-settled series on certain broad-based index options on a pilot basis.

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The proposed rule change permits the listing and trading of P.M.-settled series on certain broad-based index options on a pilot basis.<sup>3</sup> First, the proposed rule change would permit the listing and trading of XSP options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value on the expiration day ("P.M.-settled") for an initial period of twelve months (the "XSPPM Pilot Program") from the date of approval of this proposed rule change. Second, the proposed rule change would permit the listing and trading of P.M.-settled options on broad-based indexes with weekly expirations ("Weeklys") and end-of-month expirations ("EOMs") for an initial period of 12 months (the "Nonstandard Expirations Pilot Program") from the date of approval of this proposed rule change.

XSPPM Pilot Program

Proposed Rule 29.11(a)(6) permits the listing and trading, in addition to A.M.-settled XSP options, of P.M.-settled XSP options with third-Friday-of-the-month expiration dates on a pilot basis for an initial period of 12 months from the date of approval of this proposed rule change. XSP options are A.M.-settled pursuant to the generic listing criteria in Rule 29.11(a)(5). The Exchange believes permitting the trading of XSP options on a P.M.-settled basis will encourage greater trading in XSP options.

Other than settlement and closing time on the last trading day (as discussed below), contract terms for P.M.-settled XSP options will be the same as the A.M.-settled XSP options. The proposed contract would use a \$100 multiplier. The minimum trading increments, strike price intervals, and expirations would be the same as the A.M.-settled XSP option series. P.M.-settled XSP options would have European-style exercise. The Exchange will also have flexibility to open for

trading additional series in response to customer demand.

The proposed rule change amends Rule 29.10(a) to state that, on their last trading day, transactions in P.M.-settled XSP options may be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. Eastern time (as opposed to the normal trading hours for non-expiring P.M.-settled XSP options, which are from 9:30 a.m. to 4:15 p.m. Eastern time). XSP options are typically priced in the market based on corresponding futures values. The primary listing markets for the component securities that comprise the S&P 500 Index close trading in those securities at 4:00 p.m. The primary listing exchanges for the component securities disseminate closing prices of the component securities, which are used to calculate the exercise settlement value of the S&P 500 Index. The Exchange believes that, under normal trading circumstances, the primary listing markets have sufficient bandwidth to prevent any data queuing that would cause any trades that are executed prior to the closing time from being reported after 4:00 p.m. Despite the fact that the exercise settlement value will be fixed at or soon after 4:00 p.m., if the Exchange did not close trading in expiring P.M.-settled XSP options at 4:00 p.m. on their last trading day, trading in expiring P.M.-settled XSP options would continue for an additional fifteen minutes until 4:15 p.m. and would not be able to be priced on corresponding futures values, but rather the known cash value. At the same time, the prices of non-expiring P.M.-settled XSP option series would continue to move and be priced in response to changes in corresponding futures prices.

A potential pricing divergence could occur between 4:00 p.m. and 4:15 p.m. on the final trading day in expiring P.M.-settled XSP options (e.g. switch from pricing off of futures to cash). Further, the switch from pricing off of futures to cash can be a difficult and risky switchover for liquidity providers. As a result, without closing expiring contracts at 4:00 p.m., it is foreseeable that Market-Makers could react by widening spreads in order to compensate for the additional risk. Therefore, the Exchange believes that, in order to mitigate potential investor confusion and the potential for increased costs to investors, it is appropriate to cease trading in the expiring P.M.-settled XSP contracts at 4:00 p.m. The Exchange does not believe the proposed change will impact volatility on the underlying cash market at the close on third Fridays. Further,

other options exchanges close trading in certain options on the last trading day for certain classes.<sup>4</sup>

If the Exchange were to propose an extension of the XSPPM Pilot Program or should the Exchange propose to make the XSPPM Pilot Program permanent, the Exchange would submit a filing proposing such amendments to the XSPPM Pilot Program. Further, any positions established under the XSPPM Pilot Program would not be impacted by the expiration of the XSPPM Pilot Program. For example, if the Exchange lists a P.M.-settled XSP option that expires after the XSPPM Pilot Program expires (and is not extended), then those positions would continue to exist. If the pilot were not extended, then the positions could continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the XSPPM Pilot Program, the Exchange will submit a pilot report to the Commission at least two months prior to the expiration date of the pilot. This annual report will contain an analysis of volume, open interest, and trading patterns. The analysis would examine trading in the proposed option product as well as trading in the securities that comprise the S&P 500 Index. In addition, for series that exceed certain minimum open interest parameters, the annual report will provide analysis of index price volatility and, if needed, share trading activity.

The annual report will contain the following volume and open interest data:

- (1) Monthly volume aggregated for all trades;
- (2) monthly volume aggregated by expiration date;
- (3) monthly volume for each individual series;
- (4) month-end open interest aggregated for all series;
- (5) month-end open interest aggregated by expiration date; and
- (6) month-end open interest for each individual series.

The annual report will also contain the information noted above for expiration Friday A.M.-settled XSP option series, if applicable, for the period covered in the annual report. In addition to the annual report, the Exchange will provide the Commission with interim reports of the information listed in (1) through (6) above.

<sup>4</sup> See Cboe Options Rule 24.6, Interpretations and Policies .01 (options with Quarterly Index Expirations), .03 (Cboe S&P 500 A.M./P.M. Basis options), .04 (P.M.-settled SPX options with third Friday-of-the-month expiration and P.M.-settled XSP options), and .05 (MSCI EAFE Index options).

<sup>3</sup> The Exchange is authorized to list for trading options that overlie the Mini-SPX Index ("XSP") and the Russell 2000 Index ("RUT"). See Rule 29.11(a).

In the annual report, the annual report would contain the following analysis of trading patterns in expiration Friday, P.M.-settled XSP option series in the XSPPM Pilot Program:

- (1) A time series analysis of open interest; and
- (2) an analysis of the distribution of trade sizes.

Also, for series that exceed certain minimum parameters, the annual report will also contain the following analysis related to index price changes and, if needed, underlying share trading volume at the close on expiration Fridays:

- (1) A comparison of index price changes at the close of trading on a given expiration Friday with comparable price changes from a control sample. The data will include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by an appropriate index as agreed by the Commission and the Exchange, would be provided; and

- (2) a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. The data, if needed, will include a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods would be determined by the Exchange and the Commission.

Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the XSPPM Pilot Program is consistent with the Exchange Act. The Exchange will make public all data and analyses it submits to the Commission under the XSPPM Pilot Program.

Other exchanges currently have pilots that permit P.M.-settled index options.<sup>5</sup>

Nonstandard Expirations Pilot Program

The proposed rule change permits the listing and trading, on a pilot basis, of P.M.-settled options on broad-based indexes with nonstandard expiration

dates for an initial period of 12 months from the date of approval of this proposed rule change. The Nonstandard Expirations Pilot Program will permit both Weeklys and EOMs as discussed below. Contract terms for the Weekly and EOM expirations will be similar to those of the A.M.-settled broad-based index options, except that the Weekly and EOM expirations will be P.M.-settled.

Proposed Rule 29.11(j)(1) permits the Exchange to open for trading Weeklys on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM). Weeklys will be subject to all provisions of Rule 29.11 and will be treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, Weeklys will be P.M.-settled, and new Weekly series may be added up to and including on the expiration date for an expiring Weekly.

The maximum number of expirations that may be listed for each Weekly (*i.e.*, a Monday expiration, a Wednesday expiration, or Friday expiration, as applicable) in a given class will be the same as the maximum number of expirations permitted in Rule 29.11(a)(3) for standard options on the same broad-based index.<sup>6</sup> Weeklys would not need to be for consecutive Monday, Wednesday, or Friday expirations, as applicable. However, the expiration date of a non-consecutive expiration would not be permitted beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weeklys that are first listed in a given class could expire up to four weeks from the actual listing date. If the last trading day of a month is a Monday, Wednesday, or Friday and the Exchange lists EOMs and Weeklys, as applicable, in a given class, the Exchange will list an EOM instead of a Weekly in the given class. Other expirations in the same class are not counted as part of the maximum number of Weeklys for a broad-based index class. If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weeklys would 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 will expire on the previous business day.

Proposed Rule 29.11(a)(2) [sic] permits the Exchange to 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 will be subject to all provisions of Rule 29.11 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, EOMs will be P.M.-settled, and new series of EOMs may be added up to and including on the expiration date for an expiring EOM.

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 29.11(a)(3) for standard options on the same broad-based index.<sup>7</sup> EOMs 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 number of EOMs for a broad-based index class.

The proposed rule change amends Rule 29.11(c)(5)(C) to provide that the lowest strike interval for series of XSP options listed under the Nonstandard Expirations Pilot Program will be \$0.50. With respect to XSP, this is consistent with the minimum strike interval for XSP options listed under the Short Term Series Program.<sup>8</sup> Additionally, this is consistent with the minimum strike interval for options on the Standard & Poor's Depository Receipts Trust (SPY), which is an ETF that like XSP tracks the performance of 1/10th the value of the S&P 500 Index, with weekly expirations.<sup>9</sup>

Weeklys and EOMs will be subject to the same rules that currently govern the trading of standard monthly broad-based index options, including sales practice rules, margin requirements, and floor trading procedures. Contract terms for Weeklys and EOMs will be the same as those for standard monthly broad-based index options. Since Weeklys and EOMs will be new types of series, and not a new class, the Exchange proposes that Weeklys and EOMs will be aggregated for any applicable reporting

<sup>6</sup> Pursuant to Rule 29.11(a)(3), the Exchange may list up to six expiration months at any one time. Therefore, pursuant to the proposed rule change, the Exchange may list a maximum of six Weekly expirations under the Nonstandard Expirations Pilot Program.

<sup>7</sup> *Id.*

<sup>8</sup> See Rule 29.11(c)(5)(C).

<sup>9</sup> See Rule 19.6, Interpretation and Policy .05(f).

<sup>5</sup> See Cboe Options Rule 24.9, Interpretation and Policy .14 and Phlx Rule 1101A, Commentary .05.

and other requirements.<sup>10</sup> Pursuant to new proposed Rule 29.11(j)(4), transactions in expiring Weeklys and EOMs may be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. (Eastern time).

As stated above, this proposed rule change establishes a Nonstandard Expirations Pilot Program for broad-based index options on a pilot basis, for an initial period of 12 months from the date of approval of this proposed rule change. If the Exchange were to propose an extension of the Nonstandard Expirations Pilot Program or should the Exchange propose to make it permanent, the Exchange would submit a filing proposing such amendments. Further, any positions established under the Nonstandard Expirations Pilot Program would not be impacted by the expiration of the pilot. For example, if the Exchange lists a Weekly or EOM that expires after the Nonstandard Expirations Pilot Program expires (and is not extended), then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the Nonstandard Expirations Pilot Program, the Exchange will submit a pilot report to the Commission at least two months prior to the expiration date of the pilot (the "annual report"). The annual report will contain an analysis of volume, open interest, and trading patterns. In addition, for series that exceed certain minimum open interest parameters, the annual report will provide analysis of the index price volatility, and, if needed, share trading activity.

For all Weekly and EOM series, the annual report will contain the following volume and open interest data for each broad-based index overlying Weekly and EOM options:

(1) Monthly volume aggregated for all Weekly and EOM series;

<sup>10</sup> Rule 29.5(a) requires Options Members to comply with the applicable rules of Cboe Options with respect to position limits for broad-based index options for options traded on Cboe Options. Cboe Options Rule 24.4, Interpretation and Policy .03 sets forth the reporting requirements for certain market indexes that do not have position limits, including XSP and RUT, and would apply to XSP and RUT options traded on the Exchange pursuant to Rule 29.5(a); *see also* Cboe Options Rule 24.4(b), which provides that Weeklys and EOMs will be aggregated with option contracts on the same broad-based index and will be subject to the overall position limit, and would apply to Weeklys/EOMs traded on the Exchange pursuant to Rule 29.5(a). The Exchange notes that the proposed aggregation is consistent with the aggregation requirements or other types of option series (*e.g.*, quarterly expiring options) that may be listed on the Exchange and that do not expire on the customary "third Friday" (*see* Cboe Options Rule 24.4(e)).

(2) Volume in Weekly and EOM series aggregated by expiration date;

(3) Month-end open interest aggregated for all Weekly and EOM series;

(4) Month-end open interest for EOM series aggregated by expiration date and open interest for Weekly series aggregated by expiration date;

(5) Ratio of monthly aggregate volume in Weekly and EOM series to total monthly class volume; and

(6) Ratio of month-end open interest in EOM series to total month-end class open interest and ratio of open interest in each Weekly series to total class open interest.

In addition, the annual report will contain the information noted above for standard expiration Friday, A.M.-settled series, if applicable, for the period covered in the annual report as well as for the six-month period prior to the initiation of the pilot.

Upon request by the SEC, the Exchange will provide a data file containing:

(1) Weekly and EOM option volume data aggregated by series, and

(2) Weekly open interest for each expiring series and EOM month-end open interest for expiring series.

In the annual report, the Exchange also proposes to identify Weekly and EOM trading patterns by undertaking a time series analysis of open interest in Weekly and EOM series aggregated by expiration date compared to open interest in near-term standard expiration Friday A.M.-settled series in order to determine whether users are shifting positions from standard series to Weekly and EOM series. In addition, to the extent that data on other weekly or monthly P.M.-settled products from other exchanges is publicly available, the report will also compare open interest with these options in order to determine whether users are shifting positions from other weekly or monthly P.M.-settled products to the Weekly and EOM series. Declining open interest in standard series or the weekly or monthly P.M.-settled products of other exchanges accompanied by rising open interest in Weekly and EOM series would suggest that users are shifting positions.

For each Weekly and EOM expiration that has open interest that exceeds certain minimum thresholds, the annual report will contain the following analysis related to index price changes and, if needed, underlying share trading volume at the close on expiration dates:

(1) A comparison of index price changes at the close of trading on a given expiration date with comparable price changes from a control sample.

The data will include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by an appropriate index agreed to by the Commission and the Exchange, will be provided; and

(2) If needed, a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money Weekly and EOM series. The data, if needed, will include a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for selecting the component securities, and sample periods will be determined by the Exchange and the Commission.

Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Nonstandard Expirations Pilot Program is consistent with the Exchange Act. The Exchange will make public all data and analyses it submits to the Commission under the Nonstandard Expirations Pilot Program. Other exchanges currently have pilots that have weekly and end-of-month expirations.<sup>11</sup>

#### Additional Information

Precedent exists for P.M.-settled broad-based index options, as other options exchanges list P.M.-settled broad-based index options.<sup>12</sup> The Exchange does not believe that any market disruptions will be encountered with the introduction of listing P.M.-settled options on the Exchange. The Exchange will monitor for any such disruptions or the development of any factors that would cause such disruptions.

The Exchange notes that P.M.-settled options predominate in the over-the-counter ("OTC") market, and the Exchange is not aware of any adverse effects in the stock market attributable to the P.M.-settlement feature. The

<sup>11</sup> *See* Cboe Options Rule 24.9(e); and Phlx Rule 1101A(b)(vii).

<sup>12</sup> *See, e.g.*, Cboe Options Rule 24.9(a)(4) (OEX not listed as A.M.-settled) and Interpretation and Policy .14 (permits listing of P.M.-settled SPX and XSP options); and Phlx Rule 1101A, Commentary .05 (permits listing of P.M.-settled NDX options).

Exchange is merely proposing to offer a P.M.-settled product in an exchange environment that offers the benefit of added transparency, price discovery, and stability. In response to any potential concerns that disruptive trading conduct could occur as a result of the concurrent listing and trading of two index option products based on the same index but for which different settlement methodologies exist (*i.e.*, one is A.M.-settled and one is P.M.-settled), the Exchange notes that Cboe Options lists and trades both A.M.-settled and P.M.-settled SPX options, and Phlx lists and trades both A.M.-settled and P.M.-settled NDX options. The Exchange is not aware of any market disruptions occurring as a result of these exchanges offering both products.

The adoption of P.M.-settled options on an exchange that lists A.M.-settled options in the same class would provide greater spread opportunities. This manner of trading in different products allows a market participant to take advantage of the different expiration times, providing expanded trading opportunities. In the options market currently, market participants regularly trade similar or related products in conjunction with each other, which contributes to overall market liquidity.

The Exchange represents it has an adequate surveillance program in place for index options. The Exchange is a member of the Intermarket Surveillance Group (“ISG”), which is comprised of an international group of exchanges, market centers, and market regulators. The purpose of ISG is to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses. ISG plays a crucial role in information sharing among markets that trade securities, options on securities, security futures products, and futures and options on broad-based security indexes. A list of identifying current ISG members is available at <https://www.isgportal.org/isgPortal/public/members.htm>.

The Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of P.M.-settled XSP and Weekly/EOM option series up to the proposed number of possible expirations and strike prices. The Exchange believes any additional traffic that would be generated from the introduction of P.M.-settled XSP and Weekly/EOM options series will be manageable. The

Exchange believes its Members will not have a capacity issue as a result of this proposed rule change. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity. The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange’s automated systems.

P.M.-settled options would be subject to all provisions of Rule 29.11. P.M.-settled options would be subject to the same rules that govern the trading of A.M.-settled options overlying the same indexes, including sales practice rules, margin requirements, and floor trading procedures. P.M.-settled options will be subject to the margin requirements set forth in Chapter 28 and the position limits set forth in Rule 29.5. Chapter 28 imposes the margin requirements of either Cboe Options or the New York Stock Exchange on Exchange Options Members. Similarly, Rule 29.5 imposes position (and exercise) limits for broad-based index options of Cboe Options on Exchange Options Members. Since P.M.-settled options will be a new type of series, and not a new class, the Exchange proposes that the P.M.-settled options will be aggregated for any applicable reporting and other requirements.<sup>13</sup> Currently, there are no position limits on RUT and XSP options.<sup>14</sup> Therefore, there will be no position limits on P.M.-settled RUT and XSP options. P.M.-settled XSP options and Weekly/EOM broad-based index options are currently authorized for listing on Cboe Options,<sup>15</sup> and thus the same margin requirements and position and exercise limits that apply to these

products as listed and traded on Cboe Options will apply to these products when listed and traded on the Exchange. The proposed rule change will also result in similar regulatory treatment for similar option products.

## 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.<sup>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</sup> 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.

The Exchange believes the proposed rule change will attract order flow to the Exchange, increase the variety of listed options to investors, and provide a valuable hedge tool to investors. The Exchange believes the proposed rule change will also remove impediments to and perfect the mechanism of a free and open market, and in general protect investors by expanding 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 P.M.-settled options will create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives.

The Commission has previously stated that when cash-settled index options were first introduced in the 1980s, they generally utilized closing-price settlement procedures (*i.e.*, P.M. settlement). The Commission stated it became concerned about the impact of P.M. settlement on cash-settled index options on the markets for the underlying stocks at the close on expiration Fridays, especially during the quarterly expirations of the third Friday of March, June, September, and December when options, index futures,

<sup>13</sup> See Rule 29.5(a), which requires Options Members to comply with the applicable rules of Cboe Options with respect to position limits for broad-based index options for options traded on Cboe Options. Cboe Options Rule 24.4(b), which applies to index options traded on the Exchange pursuant to Rule 29.5(a), provides that Nonstandard Expirations will be aggregated with option contracts on the same broad-based index and subject to the overall position limit. Additionally, Cboe Options Rule 24.4(d), which applies to index options traded on the Exchange pursuant to Rule 29.5(a), positions in reduced-value index options will be aggregated with positions in full-value indices. The Exchange notes that the proposed aggregation is consistent with the aggregation requirements for other types of option series (*e.g.* quarterly expiring options) that are listed on the Exchange and that do not expire on the customary “third Friday.” See Cboe Options Rule 24.4 (which applies to the Exchange pursuant to Rule 29.5(a)).

<sup>14</sup> See Cboe Options Rule 24.4(a) (which applies to the Exchange pursuant to Rule 29.5(a)).

<sup>15</sup> Similarly, pursuant to Cboe Options Chapter 12, Cboe Options Trading Permit Holders may request to have New York Stock Exchange margin requirements apply to their trading.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

and options on index futures all expire simultaneously. The Commission expressed concerns that P.M. settlement was believed to have contributed to above-average volume and added market volatility on those days, which sometimes led to sharp price movements during the last hour of trading, as a consequence of which the close of trading on the quarterly expiration Friday became known as the "triple witching hour." The Commission observed that besides contributing to investor anxiety, heightened volatility during the expiration periods created the opportunity for manipulation and other abusive trading practices in anticipation of the liquidity constraints.<sup>18</sup>

However, the Exchange believes that the above concerns that have led to the transition to A.M. settlement for index derivatives have been largely mitigated. It believes that expiration pressure in the underlying cash markets at the close has been greatly reduced with the advent of multiple primary listing and unlisted trading privilege markets, and that trading is now widely dispersed among many market centers. Additionally, the Exchange notes that opening procedures in the 1990s were deemed acceptable to mitigate one-sided order flow driven by index option expiration and that the New York Stock Exchange and Nasdaq Stock Market, LLC each use an automated closing cross procedures and has a closing order type that facilitates orderly closings. These closing procedures on the exchanges on which the components of the S&P 500 Index trade are well-equipped to mitigate imbalance pressure at the close. In addition, after-hours trading now provides market participants with an alternative to help offset market-on-close imbalances.<sup>19</sup>

Other exchanges currently have pilots that permit P.M.-settled index options<sup>20</sup> and Weekly/EOM options.<sup>21</sup>

The proposed rule change to permit transactions on the Exchange in P.M.-settled XSP and Weekly/EOM options on their last trading day between the hours of 9:30 a.m. and 4:00 p.m. Eastern time (as opposed to the normal trading hours for non-expiring P.M.-settled XSP and Weekly/EOM options, which are

from 9:30 a.m. to 4:15 p.m. Eastern time) will prevent potential pricing divergence that could occur between 4:00 p.m. and 4:15 p.m. on the final trading day in expiring P.M.-settled XSP options. Without closing expiring contracts at 4:00 p.m., it is foreseeable that Market-Makers would react by widening spreads in order to compensate for the additional risk. Therefore, the Exchange believes that, in order to mitigate potential investor confusion and the potential for increased costs to investors, it is appropriate to cease trading in the expiring P.M.-settled XSP and Weekly/EOM contracts at 4:00 p.m. The Exchange does not believe the proposed change will impact volatility on the underlying cash market at the close on third Fridays. Further, the other options exchanges close trading in certain options on the last trading day for certain classes.<sup>22</sup>

The Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of P.M.-settled options. The Exchange believes any additional traffic that may be generated from the introduction of P.M.-settled options will be manageable. The Exchange represents that it has in place adequate surveillance procedures to monitor trading in these options thereby helping to ensure the maintenance of a fair and orderly market.

#### *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. P.M.-settled options would be available for trading on the Exchange to all market participants. The Exchange believes the proposed rule change will increase the variety of listed options to investors, and provide valuable hedge tools to investors. The listing of P.M.-settled options will enhance competition by providing investors with an additional investment vehicle, through which investors can gain and hedge exposure to the stocks that compose the applicable broad-based indexes.

Additionally, markets participants are welcome to become Members and trade at the Exchange if they determine this

proposed rule change has made the Exchange more attractive or favorable. Further, this product could offer a competitive alternative to other existing investment products that seek to allow Members to gain broad market exposure. Finally, all options exchanges are free to compete by listing and trading index options that are P.M.-settled. Other exchanges currently have pilots that permit P.M.-settled index options<sup>23</sup> or Weeklys/EOMs.<sup>24</sup>

The proposed rule change to permit transactions on the Exchange in P.M.-settled XSP and Weekly/EOM options on their last trading day between the hours of 9:30 a.m. and 4:00 p.m. Eastern time (as opposed to the normal trading hours for non-expiring P.M.-settled XSP and Weekly/EOM options, which are from 9:30 a.m. to 4:15 p.m. Eastern time) will prevent potential pricing divergence that could occur between 4:00 p.m. and 4:15 p.m. on the final trading day in expiring P.M.-settled XSP and Weekly/EOM options. Without closing expiring contracts at 4:00 p.m., it is foreseeable that Market-Makers would react by widening spreads in order to compensate for the additional risk. Therefore, the Exchange believes that, in order to mitigate potential investor confusion and the potential for increased costs to investors, it is appropriate to cease trading in the expiring P.M.-settled XSP and Weekly/EOM contracts at 4:00 p.m. The Exchange does not believe the proposed change will impact volatility on the underlying cash market at the close on third Fridays. Further, the other options exchanges close trading in certain options on the last trading day for certain classes.<sup>25</sup>

The Exchange believes that the proposed rule change will relieve any burden on, or otherwise promote, competition, as the rules are substantially the same as those of other options exchanges, as noted above.

#### *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.

<sup>18</sup> See Securities Exchange Act Release No. 65256 (September 2, 2011), 76 FR 55569 (September 9, 2011) (SR-C2-2011-008) (order approving listing of SPXPM options on C2); see also Securities Exchange Act Release No. 81293 (August 2, 2017), 82 FR 151 (August 8, 2017) (SR-Phlx-2017-04) (or approving listing of NDXPM options on Phlx).

<sup>19</sup> See *id.*

<sup>20</sup> See Cboe Options Rule 24.9, Interpretation and Policy .14; and Phlx Rule 1101A, Commentary .05.

<sup>21</sup> See Cboe Options Rule 24.9(e); and Phlx Rule 1101A(b)(vii).

<sup>22</sup> See Cboe Options Rule 24.6, Interpretations and Policies .01 (options with Quarterly Index Expirations), .03 (Cboe S&P 500 AM/PM Basis options), .04 (P.M.-settled SPX options with third Friday-of-the-month expiration and P.M.-settled XSP options), and .05 (MSCI EAFE Index options).

<sup>23</sup> See Cboe Options Rule 24.9, Interpretation and Policy .14 and Phlx Rule 1101A, Interpretation and Policy .05.

<sup>24</sup> See Cboe Options Rule 24.9(e); and Phlx Rule 1101A(b)(vii).

<sup>25</sup> See Cboe Options Rule 24.6, Interpretations and Policies .01 (options with Quarterly Index Expirations), .03 (Cboe S&P 500 AM/PM Basis options), .04 (P.M.-settled SPX options with third Friday-of-the-month expiration and P.M.-settled XSP options), and .05 (MSCI EAFE Index options).

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2018-066 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-CboeBZX-2018-066. 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 (<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-CboeBZX-2018-066, and should be submitted on or before November 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-23624 Filed 10-29-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84477; File No. SR-Phlx-2018-62]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Current Rules on Arbitration

October 24, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 9, 2018, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, 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 delete the current rules on arbitration ("Current Arbitration Rules"), under Rule 950, and incorporate by reference The Nasdaq Stock Market LLC's ("Nasdaq") rules on arbitration at General 6 ("Proposed Arbitration Rules"), into General 6 of the Exchange's rulebook's ("Rulebook") shell structure.<sup>3</sup>

<sup>26</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.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 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 delete the rules on arbitration, currently under Rule 950, and incorporate by reference the Nasdaq rules on arbitration at General 6 of Nasdaq's rulebook into General 6 of the Exchange's Rulebook.

The Exchange adopted the Current Arbitration Rules to ensure a fair and efficient manner in which to handle any dispute, claim or controversy arising out of, or in connection with, the business of any Member of the Exchange. To help administer the process of dispute resolution, the Exchange and FINRA are parties to a Regulatory Contract, pursuant to which FINRA has agreed to perform certain functions and provide access to certain services, including: Member regulation and registration; non-real time market surveillance; examinations and investigations; and dispute resolution. FINRA currently operates the largest securities dispute resolution forum in the United States,<sup>4</sup> and has given the Exchange access to these services. Under the Current Arbitration Rules, Members and associated persons of a Member are subject to the FINRA Code of Arbitration Procedure.

Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC ("Affiliated Exchanges"). The shell structure currently contains eight (8) Chapters which, once complete, will apply a common set of rules to the Affiliated Exchanges. See Securities Exchange Act Release No. 82169 (November 29, 2017), 82 FR 57508 (December 5, 2017) (SR-PHLX-2017-97).

<sup>4</sup> <http://www.finra.org/arbitration-and-mediation>.