

restrictions, as there is a more active trading market for CDOs and CLOs than for Private Funds and there is more consistency and transparency in valuing them.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The purpose of the proposal is to enhance competition by providing a listing market for Funds that wish to have the ability to invest in Private Funds, while appropriately restricting Funds in pursuing that strategy to protect investors. The proposed amendment would not impose any burden on competition between newly-listed Funds and those that are already listed, as currently-listed Funds that are in good standing would be eligible to invest in Private Funds on the same terms as newly-listed Funds. Other listing venues can adopt similar rules if they so desire. As such, the Exchange does not believe that the proposal imposes any burden on competition.

#### *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**

Within 45 days of the date of publication of this notice in the **Federal Register** or 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 self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the 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-NYSE-2021-20 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-NYSE-2021-20. 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-NYSE-2021-20 and should be submitted on or before May 17, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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<sup>7</sup> 17 CFR 200.30-3(a)(12).

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-91614; File No. SR-Phlx-2021-10]

### **Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Approving a Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Options Program on the Invesco QQQ Trust<sup>SM</sup> Series ETF Trust**

April 20, 2021.

#### **I. Introduction**

On February 22, 2021, 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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Phlx Options 4, Section 5 at Commentary .11 to allow Monday and Wednesday expirations for options listed pursuant to the Exchange's short term option series program ("Short Term Option Series Program") on the Invesco QQQ Trust<sup>SM</sup> Series ("QQQ") ETF Trust. The proposed rule change was published for comment in the **Federal Register** on March 8, 2021.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### **II. Description of the Proposal**

Under the terms of the current Short Term Option Series Program, after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on each of the next five consecutive Fridays that are business days,<sup>4</sup> provided that such Friday does not occur in the same week in which monthly options series on the same class expire or is not a Friday on which Quarterly Options Series on the same class expire.<sup>5</sup> If the Exchange is not open for business on the Friday of the following business week, the series will expire on the first business day immediately prior to that Friday.<sup>6</sup> In addition, the Exchange may open for

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

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

<sup>3</sup> See Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 ("Notice").

<sup>4</sup> See Commentary .11 to Phlx Options 4, Section 5.

<sup>5</sup> See Commentary .11(b) to Phlx Options 4, Section 5.

<sup>6</sup> See Commentary .11 to Phlx Options 4, Section 5.

trading on any Friday or Monday that is a business day series of options on the SPDR S&P 500 ETF Trust (“SPY”) to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire, provided that expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration.<sup>7</sup> The Exchange also may open for trading on any Tuesday or Wednesday that is a business day series of options on SPY to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire.<sup>8</sup>

The Exchange proposes to expand the Short Term Option Series Program to permit Phlx to open for trading, on any Monday or Friday that is a business day, series of options on QQQ that 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 Expirations”). In the case of a series that is listed on a Friday and expires on a Monday, it must be listed at least one business week and one business day prior to that Monday expiration. If the Monday QQQ Expiration falls on a Monday that is not a business day, the series shall expire on the first business day immediately following that Monday.

Similarly, the Exchange also proposes to expand the Short Term Option Series Program to permit Phlx to 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”). If the Wednesday QQQ Expiration falls on a Wednesday that is not a business day, the series shall expire on the first business day immediately prior to that Wednesday.

In addition, the Exchange proposes to amend Commentary .11 to Options 4, Section 5, to state that it may list up to five consecutive Monday QQQ Expirations at one time and up to five consecutive Wednesday QQQ Expirations at one time, and that there may be no more than a total of five Monday QQQ Expirations and no more than a total of five Wednesday QQQ Expirations. The Exchange also proposes to amend Commentary .11(b) to Options 4, Section 5 to permit Monday QQQ Expirations and Wednesday QQQ Expirations to expire

in the same week in which monthly options series on the same class expire. Otherwise, Monday QQQ Expirations and Wednesday QQQ Expirations will be subject to the same rules as standard Short Term Option Series.<sup>9</sup>

### III. Discussion and Commission’s Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Commission finds that the proposal is consistent with the requirements of Sections 6(b)(5) of the Act,<sup>11</sup> which requires, among other things, that a national securities exchange have rules 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 Commission believes that the proposed rule change may 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 addition, the Commission notes that the Exchange has similar rules permitting the listing and trading of Monday and Wednesday expirations on SPY.<sup>12</sup>

In approving the proposal, the Commission notes that the Exchange has represented that it has an adequate surveillance program in place to detect manipulative trading in Monday QQQ Expirations and Wednesday QQQ Expirations.<sup>13</sup> The Exchange further states that it has the necessary systems

<sup>9</sup> For example, the Monday QQQ Expirations and Wednesday QQQ Expirations would be subject to the same series limitations and strike interval rules as standard Short Term Option Series. See Notice, *supra* note 3, at 13404–5.

<sup>10</sup> 15 U.S.C. 78f. In approving this proposed rule change, the Commission has considered the proposed rule change’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> See Commentary .11 to Phlx Options 4, Section 5.

<sup>13</sup> See Notice, *supra* note 3, at 13406.

capacity to support the new options series.<sup>14</sup>

### IV. Conclusion

*It is therefore ordered that* pursuant to Section 19(b)(2) of the Act<sup>15</sup> that the proposed rule change (SR-Phlx-2021-10) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Thursday, April 29, 2021.

**PLACE:** The meeting will be held via remote means and/or at the Commission’s headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission’s website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the

<sup>14</sup> *Id.*

<sup>15</sup> 15 U.S.C. 78s(b)(2).

<sup>16</sup> 17 CFR 200.300-3(a)(12).

<sup>7</sup> See *id.*

<sup>8</sup> See *id.*