

considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all Users. The existence of alternatives to BZX Depth, including existing similar feeds by other exchanges, consolidated data, and proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

The Exchange believes the adoption of the fee for Non-Display Usage for BZX Depth would increase competition amongst the exchanges that offer depth-of-book products. In addition, the proposed Non-Display Usage fee is less than similar fees currently charged by the NYSE and NYSE Arca for their depth-of-book data.¹⁸

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁹ and paragraph (f) of Rule 19b-4 thereunder.²⁰ 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.

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. Please include File Number SR-CboeBZX-2017-018 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 CboeBZX-2017-018. 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 CboeBZX-2017-018 and should be submitted on or before February 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-00532 Filed 1-12-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82474; File No. SR-Phlx-2017-75]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Granting Approval of a Proposed Rule Change To Amend Rule 1009 To Modify the Criteria for Listing an Option on an Underlying Covered Security

January 9, 2018.

I. Introduction

On September 27, 2017, 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 to amend the criteria for listing an option on an underlying covered security in Phlx Rule 1009, Commentary .01. The proposed rule change was published for comment in the **Federal Register** on October 11, 2017.³ On November 15, 2017 the Exchange submitted a comment letter on the proposed rule change.⁴ The Commission received no other comment letters. On November 22, 2017, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.⁶ This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Phlx Rule 1009, Commentary .01 to modify the criteria for listing options on an underlying security as defined in Section 18(b)(1)(A) of the Securities Act of 1933 (hereinafter "covered security"). In particular, the Exchange proposes to modify Phlx Rule 1009, Commentary .01(4)(i) which currently requires that to list an option, the underlying covered security has to have a market price of at least \$3.00 per share for the previous

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81814 (Oct. 4, 2017), 82 FR 47254 ("Notice").

⁴ See Letter to Brett J. Fields, Secretary, Commission, from Sun Kim, Assistant General Counsel, Exchange, dated November 15, 2017 ("Exchange Letter").

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 82147, 82 FR 47254 (November 25, 2017). The Commission designated January 9, 2017, as the date by which it should approve, disapprove, or institute proceedings to determine whether the proposed rule change should be disapproved.

¹⁸ See *supra* note 17.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f).

²¹ 17 CFR 200.30-3(a)(12).

five consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation (“OCC”) for listing and trading. The Proposal would shorten the current “look back” period of five consecutive business days to three consecutive business days. The Exchange does not propose to amend any other criteria in Phlx Rule 1009 and the accompanying Commentary to list an option on the Exchange.

III. Discussion and Commission’s Findings

After careful review of the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.⁷ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which requires that the rules of a national securities exchange be designed, among other things, 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 to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted above, although the Exchange proposes to shorten the look back period for listing options on the Exchange found in Phlx Rule 1009, Commentary .01(4)(i) from five consecutive business days⁹ to three consecutive business days, it does not propose to change any other listing provision found in Phlx Rule 1009 and the accompanying Commentary, including the requirement of Phlx Rule 1009, Commentary .01(2) that the Exchange verify the number of

shareholders of a security underlying an option. The Exchange states that the proposed look back period of three consecutive business days is intended to correspond to the securities industry’s recent shortening of the settlement period from T+3 to the current T+2.¹⁰ The Exchange represents that stock trades would clear within T+2 of their trade date (*i.e.*, within three consecutive business days) and therefore the number of shareholders could be verified within three consecutive business days.¹¹ This would facilitate options trading within four business days of an IPO (three consecutive business days plus the day the listing certificate is submitted to OCC).

The Exchange also represents that its surveillance technologies and procedures concerning manipulation provide adequate prevention or detection of rule or securities law violations in relation to the proposed shortened time frame, and specifically, that its existing trading surveillances are adequate to monitor the trading in the underlying security and subsequent trading of options.¹² The Commission notes the limited nature of the proposal to shorten the look back period of Phlx Rule 1009, Commentary .01(4)(i) from the current five consecutive business days to the proposed three consecutive business days. In addition, the Exchange represents that its surveillance program is comprehensive and adequate to monitor for manipulation of the underlying security and overlying option. The Commission also notes that it has not received any comments on the proposal, aside from the Exchange Letter.

The Commission finds that the proposal, coupled with the recent move to T+2 settlement, would facilitate transactions in securities, while providing customers safeguards comparable to those provided under the current five consecutive business day look back period. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act, specifically the requirements that the rules of an

Exchange be designed to prevent fraudulent and manipulative acts and practices.

IV. Conclusion

It is therefore ordered that, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-Phlx-2017-75), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-104, OMB Control No. 3235-0119]

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Extension:

Rule 12g3-2

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 12g3-2 (17 CFR 240.12g3-2) under the Securities Exchange Act of 1934 (the “Exchange Act”) provides an exemption from Section 12(g) of the Exchange Act (15 U.S.C. 78l(g)) for foreign private issuers. Rule 12g3-2 is designed to provide investors in foreign securities with information about such securities and the foreign issuer. The information filed under Rule 12g3-2 must be filed with the Commission and is publicly available. We estimate that it takes 8.95 hours per response to prepare and is filed by approximately 1,386 respondents. Each respondent files an estimated 12 times submissions pursuant to Rule 12g3-2 per year for a total of 16,632 respondents. We estimate that 25% of 8.95 hours per response (2.237 hours per response) to provide the information required under Rule

⁷ In approving this rule change, the Commission has considered the rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See Securities Exchange Act Release Nos. 47190 (January 15, 2003), 68 FR 3072 (January 22, 2003) (SR-CBOE-2002-62) (Order approving CBOE’s proposal to, among other things, shorten the look back period from the majority of business days during the preceding three calendar months to the current five consecutive business days); 47794 (May 5, 2003), 68 FR 25076 (May 9, 2003) (SR-Phlx-2003-27) (Notice and immediate effectiveness of the Exchange’s filing adopting the same changes to its options listing standards).

¹⁰ See Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (Securities Transaction Settlement Cycle) (File No. S7-22-16).

¹¹ In addition to confirming through large clearing agencies such as the Depository Trust and Clearing Corporation, the Exchange also represents that it can verify the shareholder count with various brokerage firms that have a large retail customer clientele, and that it has confirmed with some of these brokerage firms who provide shareholder numbers to the Exchange that they are able to provide these numbers within T+2 after an IPO.

¹² See Notice, *supra* note 3 at 47255-256; Exchange Letter, *supra* note 4 at 2-3.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).