SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, December 21, 2023.

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 her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(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 scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: December 14, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–27848 Filed 12–14–23; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99141; File No. SR-Phlx-2023–55]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fees for Options on the Nasdaq 100 Index in the Exchange's Pricing Schedule at Options 7

December 12, 2023.

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 November 30, 2023, 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 amend the fees for Nasdaq 100 Index options in the Exchange's Pricing Schedule at Options 7, Section 5A. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on December 1, 2023.

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.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the fees for NDX [3] and NDXP.[4] As set forth in Options 7, Section 5A, the Exchange currently charges all Non-Customer [5] orders in NDX and NDXP a $0.75 per contract transaction fee. Customer [6] orders receive free executions in NDX and NDXP today. These transaction fees apply to electronic simple and complex executions as well as floor transactions.

The Exchange now proposes to begin assessing Customer NDX and NDXP orders a $0.25 per contract transaction fee. The Exchange notes that the proposed fee amount is in line with customer transaction fees assessed on other index products.[7] The Exchange also proposes to assess a surcharge of $0.50 per contract to all Non-Customer complex executions in NDX and NDXP, and a surcharge of 0.25 per contract to all Customer complex executions in NDX and NDXP.[8] The Exchange notes that the proposed surcharge amounts are within the range of various surcharges assessed at another options exchange.[9]

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[10] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5)

[3] NDX represents A.M.-settled options on the full value of the Nasdaq 100 Index traded under the symbol NDX.

[4] NDXP represents P.M.-settled options on the full value of the Nasdaq 100 Index traded under the symbol NDXP.

[5] The term ''Non-Customer'' applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs.

[6] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(b)(45)).

[7] For example, Cboe Options (''Cboe'') currently assesses a $0.25 per contract customer transaction fee for MXEA and MXEF options, $0.35 per contract for OEX and XEO options, and $0.36 per contract (if premium < $1.00) or $0.45 per contract (if premium >= $1.00) for SPX and SPESG options. *See* Cboe Fees Schedule.

[8] *See* proposed notes 5 and 6 of Options 7, Section 5.A.

[9] For example, Cboe currently assesses customers a $0.25 per contract exotic surcharge and a $0.21 per contract execution surcharge in SPX and SPESG options. Cboe also assesses non-customers a $0.45 per contract license surcharge in RUT, and LEAPS surcharge fees in SPX ranging from $1.00 to $2.50 per contract, according to time-to-expiration. *See* Cboe Fees Schedule.

[10] 15 U.S.C. 78f(b).

of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to begin assessing a $0.25 per contract transaction fee to all Customer orders in NDX and NDXP, a $0.25 per contract complex surcharge to Customer complex orders in NDX and NDXP, and a $0.50 per contract complex surcharge to Non-Customer complex orders in NDX and NDXP because the proposed pricing reflects the proprietary nature of this product. Similar to other proprietary products like options overlying the Nasdaq 100 Micro Index (''XND''), the Exchange seeks to recoup the operational costs of listing proprietary products.[12] Also, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. Other options exchanges price by symbol.[13] Further, the Exchange notes that market participants are offered different ways to gain exposure to the Nasdaq 100 Index, whether through the Exchange's proprietary products like options overlying NDX, NDPX, or XND, or separately through multi-listed options overlying Invesco QQQ Trust (''QQQ'').[14] Offering such products provides market participants with a variety of choices in selecting the product they desire to utilize in order to gain exposure to the Nasdaq 100 Index. When exchanges are able to recoup costs associated with offering proprietary products, it incentivizes growth and competition for the innovation of additional products.

The Exchange further believes that the proposed pricing described above is reasonable because the proposal is designed to update fees for the Exchange's services to reflect their current value—rather than their value when the Exchange last updated NDX and NDXP pricing five years ago [15]—based on the Exchange's ability to deliver value to its customers by offering proprietary products on its market like NDX and NDXP.

While NDX and NDXP pricing is increasing for all market participants under this proposal, the Exchange believes that the proposal is reasonable and would continue to incentivize market participants to transact in NDX and NDXP, and especially in Customer NDX and NDXP orders because Customers would continue to be charged at a lower rate for NDX and NDXP than Non-Customers. As a result, the Exchange believes that the proposed pricing is structured in a way that continues to encourage market participants, especially Customers, to transact in NDX and NDXP on Phlx. An increase in Customer order flow would benefit all market participants through quality of order interaction and increased trading opportunities. As noted above, the proposed fee and surcharge amounts are in line with fees and surcharges assessed on other products at another options exchange.[16]

The Exchange's proposal to assess a $0.25 per contract transaction fee to Customer orders in NDX and NDXP is equitable and not unfairly discriminatory it will apply uniformly to all similarly situated market participants. The Exchange believes it is equitable and not unfairly discriminatory to continue charging Customers a lower transaction fee for NDX and NDXP orders because Customer orders bring valuable liquidity to the market by providing more trading opportunities, which, in turn, attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow to the benefit of all market participants.

The Exchange also believes that it is equitable and not unfairly discriminatory to assess the $0.25 per contract surcharge to Customer complex orders in NDX and NDXP and the $0.50 per contract surcharge to Non-Customer complex orders in NDX and NDXP because the proposed surcharges will apply uniformly to all similarly situated participants. The Exchange believes it is equitable and not unfairly discriminatory to assess a lower complex surcharge to Customers than Non-Customers as the Exchange has historically provided more favorable pricing to Customers in its Pricing Schedule.[17] In addition, Customer orders bring valuable liquidity to the market by providing more trading opportunities. This, in turn, attracts Market Maker activity, which facilitates tighter spreads, which may cause an additional corresponding increase in order flow to the benefit of all market participants.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. As noted above, market participants are offered an opportunity to transact in NDX, NDXP, or XND, or separately execute options overlying QQQ. Offering these products provides market participants with a variety of choices in selecting the product they desire to use to gain exposure to the Nasdaq 100 Index. Furthermore, the proposed fee amounts are in line with customer transaction fees and surcharges assessed on other products at another options exchange.[18]

Further, the Exchange does not believe that the proposed changes will impose an undue burden on intra-market competition because Customers will continue to be assessed lower fees in NDX and NDXP than Non-Customers, which is in line with how the Exchange historically assessed fees. As discussed above, Customer order flow enhances liquidity on the Exchange for the benefit of all market participants.

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 foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act.[19]

At any time within 60 days of the filing of the proposed rule change, the

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] By way of example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a multiply listed option as compared to a proprietary product, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

[13] *See supra* note 7.

[14] QQQ is an exchange-traded fund based on the same Nasdaq 100 Index as NDX, NDXP, and XND.

[15] The Exchange has not amended NDX and NDXP transaction fees since 2018, so the fees have remained at $0.75 per contract for Non-Customers and $0.00 for Priority Customers during this time. *See* Securities Exchange Act Release No. 82499 (January 12, 2018), 83 FR 2834 (January 19, 2018) (SR–Phlx–2018–02).

[16] *See supra* notes 7 and 9.

[17] For example, the Exchange offers a Customer Rebate Program in Options 7, Section 2.

[18] *See supra* notes 7 and 9.

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–2023–55 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–Phlx–2023–55. 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–2023–55 and should be submitted on or before January 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27676 Filed 12–15–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99142; File No. SR–ISE–2023–35]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend ISE Options 7

December 12, 2023.

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 December 1, 2023, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the 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 amend the Exchange's Pricing Schedule at Options 7.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* 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 purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Options 7 to: (i) decrease the Fees for Crossing Orders,[3] except Price Improvement Mechanism or ''PIM'' Orders,[4] in Sections 3 and 4, (ii) eliminate the Crossing Fee Cap in Section 6.H and reserve certain footnotes related to the cap, (iii) increase the Facilitation[5] and Solicitation[6] Break-Up Rebates in Sections 3 and 4, (iv) eliminate the Fees for Crossing Orders applicable to Professional Customers[7] for Qualified Contingent Cross or ''QCC'' Orders[8] and SOM Orders in Sections 3 and 4, (v) amend the Solicitation Rebate in Section 6.A, and (vi) amend the QCC

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism (''SOM''), Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross (''QCC'') order. For purposes of the Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders. *See* Options 7, Section 1(c).

[4] The PIM is a process by which an Electronic Access Member can provide price improvement opportunities for a transaction wherein the Electronic Access Member seeks to facilitate an order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against an order it represents as agent. *See* Options 3, Section 13.

[5] The Facilitation Mechanism is a process by which an Electronic Access Member can execute a transaction wherein the Electronic Access Member seeks to facilitate a block-size order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against a block-size order it represents as agent. Electronic Access Members must be willing to execute the entire size of orders entered into the Facilitation Mechanism. *See* Options 3, Section 11(b). Complex Facilitation is described in Options 3, Section 11(c).

[6] The Solicited Order Mechanism or ''SOM'' is a process by which an Electronic Access Member can attempt to execute orders of 500 or more contracts it represents as agent (the ''Agency Order'') against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none. *See* Options 3, Section 11(d). The Complex Solicited Order Mechanism is described in Options 3, Section 11(e).

[7] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer. *See* Options 7, Section 1(c).

[8] A QCC Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Supplementary Material .01 to Options 3, Section 7, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Options 3, Section 7(j).