Filing by Nasdaq PHLX LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

<table>
<thead>
<tr>
<th>Initial</th>
<th>Amendment</th>
<th>Withdrawal</th>
<th>Section 19(b)(2)</th>
<th>Section 19(b)(3)(A)</th>
<th>Section 19(b)(3)(B)</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
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</table>

Pilot | Extension of Time Period for Commission Action | Date Expires

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 806(e)(1) | Section 806(e)(2)

Exhibit 2 Sent As Paper Document
Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to extend the pilot related to the market-wide circuit breaker in Rule 133

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Sun
Last Name * Kim
Title * Associate General Counsel
E-mail * Sun.Kim@nasdaq.com
Telephone * (212) 231-5106 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 09/26/2019
By Edward S. Knight

Global Chief Legal and Policy Officer

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.
If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.
1. **Text of the Proposed Rule Change**

   (a) Nasdaq PHLX LLC (“Phlx” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)\(^1\) and Rule 19b-4 thereunder,\(^2\) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to extend the pilot related to the market-wide circuit breaker in Rule 133.

   A notice of the proposed rule change for publication in the **Federal Register** is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

   (b) Not applicable.

   (c) Not applicable.

2. **Procedures of the Self-Regulatory Organization**

   The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”) on September 26, 2018. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

   Questions and comments on the proposed rule change may be directed to:

   Sun Kim  
   Associate General Counsel  
   Nasdaq, Inc.  
   (212) 231-5106

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3. **Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

   a. **Purpose**

   Rule 133 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (i.e., market-wide circuit breakers). The market-wide circuit breaker (“MWCB”) mechanism under Rule 133 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the “LULD Plan”),\(^3\) including any extensions to the pilot period for the LULD Plan.\(^4\) The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.\(^5\) In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 133 to untie the pilot’s effectiveness from that of the LULD Plan and to extend the pilot’s effectiveness to the close of business on October 18, 2019.\(^6\)

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The Exchange now proposes to amend Rule 133 to extend the pilot to the close of business on October 18, 2020. This filing does not propose any substantive or additional changes to Rule 133. The Exchange will use the extension period to develop with the other SROs rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, with industry member participation in such testing. The extension will also permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

The market-wide circuit breaker under Rule 133 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 ("MWCB Rules"), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity. Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 133, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day’s closing price of that

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Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading until the primary listing market opens the next trading day.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,8 in general, and furthers the objectives of Section 6(b)(5) of the Act,9 in particular, in that it is designed to promote just and equitable principles of trade, 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 market-wide circuit breaker mechanism under Rule 133 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange, with the other SROs, consider and develop rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, which would include industry member participation in such testing. The extension will also

permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 133 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

4. **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 because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange, in conjunction with the other SROs, consider and develop rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism. Furthermore, as noted above, the extension will permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.
5. **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.

6. **Extension of Time Period for Commission Action**

Not applicable.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)\(^{10}\) of the Act and Rule 19b-4(f)(6) thereunder\(^{11}\) in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The market-wide circuit breaker mechanism under Rule 133 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. This proposed rule change will not significantly affect the protection of investors or the public interest because as noted above, it seeks to extend the protections provided by this pilot without any changes while the Exchange, in conjunction with the other SROs, consider and develop rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, as well as enhancements to the


MWCB processes. This proposed rule change will also not impose any significant burden on competition because the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot, thereby ensuring consistency across market centers without implicating any competitive issues.

Furthermore, Rule 19b-4(f)(6)(iii)\(^1\) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange respectfully requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the Exchange may amend its rules in a timely manner before the current MWCB pilot period expires on October 18, 2019. Waiver of the operative delay is consistent with the protection of investors and the public interest because it seeks to extend the protections provided by this pilot without any changes while the Exchange, in conjunction with the

other SROs, consider and develop rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, as well as enhancements to the MWCB processes.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**
   
   Not applicable.

9. **Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**
   
   Not applicable.

10. **Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**
   
   Not applicable.

11. **Exhibits**

    5. Text of the proposed rule change.
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 September 26, 2019, 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 extend the pilot related to the market-wide circuit breaker in Rule 133.

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

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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

Rule 133 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (i.e., market-wide circuit breakers). The market-wide circuit breaker (“MWCB”) mechanism under Rule 133 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the “LULD Plan”), including any extensions to the pilot period for the LULD Plan. The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis. In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 133 to untie the pilot’s effectiveness

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from that of the LULD Plan and to extend the pilot’s effectiveness to the close of business on October 18, 2019.⁶

The Exchange now proposes to amend Rule 133 to extend the pilot to the close of business on October 18, 2020. This filing does not propose any substantive or additional changes to Rule 133. The Exchange will use the extension period to develop with the other SROs rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, with industry member participation in such testing. The extension will also permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

The market-wide circuit breaker under Rule 133 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (“MWCB Rules”), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.⁷

Market-wide circuit breakers provide for trading halts in all equities and options markets

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during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 133, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day’s closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading until the primary listing market opens the next trading day.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,\(^8\) in general, and furthers the objectives of Section 6(b)(5) of the Act,\(^9\) in particular, in that it is designed to promote just and equitable principles of trade, 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 market-wide circuit breaker mechanism under Rule 133 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued,


uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange, with the other SROs, consider and develop rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, which would include industry member participation in such testing. The extension will also permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 133 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange, in conjunction with the other SROs, consider and develop rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism. Furthermore, as noted above, the extension will permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit
breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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\(^\text{10}\) and subparagraph (f)(6) of Rule 19b-4 thereunder.\(^\text{11}\)

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.


\(^{11}\) 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.
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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2019-40 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-2019-40. This file number should be included on the subject line if e-mail 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 Web site (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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2019-40 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\(^\text{12}\)

Eduardo A. Aleman
Assistant Secretary

\(^\text{12}\) 17 CFR 200.30-3(a)(12).
Deleted text is [bracketed]. New text is underlined.

**Rules of the Exchange**

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**Rule 133. Trading Halts Due to Extraordinary Market Volatility**
This Rule shall be in effect during a pilot period that expires at the close of business on October 18, 2020[19]. If the pilot is not either extended or approved permanently at the end of the pilot period, the prior version of Rule 133 shall be in effect.

(a) – (d) No change.

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