

that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

18. The Affiliated Proprietary Accounts will not be permitted to invest in a Potential Co-Investment Transaction except to the extent the aggregate demand from the Regulated Funds and the other Affiliated Investors is less than the total investment opportunity.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87643; File No. SR-Phlx-2019-50]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Phlx Rule 507

December 2, 2019.

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 18, 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 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 Phlx Rule 507, titled "Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options."

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 amend Phlx Rule 507, titled "Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options." Specifically, the Exchange proposes to delete Commentaries .02 (Maximum Number of Quoters ("MNQ") in Equity Options), .03 (Increasing the MNQ in Exceptional Circumstances), and .04 (Announcing Regarding, or Changes to MNQs) to Rule 507. The term "MNQ" refers to the maximum number of participants that may be assigned in a particular equity option at any one time. The MNQ level for options trading on the Exchange is 30 for all equity options listed for trading on the Exchange.³ The Exchange believes that its proposal will promote liquidity on Phlx.

Background

In 2006, the Exchange filed an amendment to Phlx Rule 507 to enable the Exchange to manage its quotation traffic and bandwidth capacity by limiting the number of streaming quote market participants that may be assigned to a particular option at a given point in time.³ Specifically, the rule change established: (i) A maximum number of quoters ("MNQ") equity options based on each option's monthly trading volume; (ii) a process for recalculating the MNQ based upon changes in an option's monthly trading volume; (iii) an increase to the MNQ due to exceptional circumstances; (iv) the process by which the Exchange will notify market participants of changes to

³ See Securities Exchange Act Release No. 55114 (January 17, 2007), 72 FR 3185 (January 24, 2007) (SR-Phlx-2006-81) (Order Granting Approval to Proposed Rule Change Relating to the Establishment of a Maximum Number of Quoting Participants Permitted in a Particular Option on the Exchange).

the MNQ; and (v) additional criteria relating to the process by which the Exchange will assign Streaming Quote Traders ("SQTs")⁴ and/or Remote Streaming Quote Trader ("RSQT")⁵ applicants in options in the event that there are more applicants for assignment in a particular option than there are positions.⁶ The Exchange's filing also noted the manner in which the MNQ would be recalculated within the first five days of each month based on the previous month's trading volume ("new MNQ") as well as the process by which the Exchange will administer a decrease in the previous month's MNQ.⁷ The rule change also permitted the Exchange to increase the MNQ in exceptional circumstances.⁸

Since the adoption of this provision the Exchange has amended Phlx Rule 507⁹ to provide additional liquidity in equity options on the Exchange by increasing the MNQ in all equity options. Currently, the MNQ level is set to 30 for all equity options listed for trading on the Exchange.

The Chicago Board Options Exchange, Incorporated ("Cboe") also had a similar limit that it imposed on its market making participants within its former Rule 8.3A, which limited the number of market participants that could quote

⁴ A "Streaming Quote Trader" or "SQT" is an Registered Options Trader who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the trading floor of the Exchange. An SQT may only submit quotes in classes of options in which the SQT is assigned. See Phlx Rule 1000(b)(59).

⁵ A "Remote Streaming Quote Trader" or "RSQT" is an Registered Options Trader that is a member affiliated with an Remote Streaming Quote Trader Organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. An RSQT is also known as a Remote Market Maker ("RMM") pursuant to Rule 501. A Remote Streaming Quote Organization ("RSQTO") or Remote Market Maker Organization ("RMO") are Exchange member organizations that have qualified pursuant to Rule 507. See Phlx Rule 1000(b)(60).

⁶ See note 3 above.

⁷ See note 3 above.

⁸ See note 3 above.

⁹ See Securities Exchange Act Release Nos. 56261 (August 15, 2007), 72 FR 47112 (August 22, 2007) (SR-Phlx-2007-51); 58906 (November 6, 2008), 73 FR 67239 (November 13, 2008) (SR-Phlx-2008-76); 60688 (September 18, 2009), 74 FR 49058 (September 25, 2009) (SR-Phlx-2009-82); 65373 (September 21, 2011), 76 FR 59764 (September 27, 2011) (SR-Phlx-2011-127) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Maximum Number of Quoters ("MNQ") Permitted To Be Assigned in Equity Options).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

electronically on Cboe.¹⁰ Cboe recently filed a non-controversial rule change to update defined terms in its Rules, delete obsolete and redundant language, and make other non-substantive changes.¹¹ Within that rule change Cboe eliminated its CQL limit.¹²

After careful analysis, the Exchange no longer desires to limit the number of quoters on Phlx. The Exchange believes that allowing additional market making firms to be assigned to quote in options series would foster competition. With this proposal there would be no limit on the amount of SQTs and RSQTs that would be permitted to submit quotations into Phlx. The Exchange believes that allowing any SQT or RSQT that is eligible pursuant to Rule 507 to submit quotations would increase the available liquidity on Phlx. Similar to Cboe, Phlx represents that it has capacity to handle any additional quoters due to the elimination of the MNQ. Phlx monitors System capacity in other ways, making a MNQ no longer necessary.¹³

In conjunction with the elimination of Commentary .02 to Rule 507, the Exchange proposes to eliminate Commentaries .03 and .04 of Phlx Rule 507 as these provisions, which relate to increasing the MNQ and announcing the changes to the MNQ, would be rendered irrelevant with the removal of the limit. The Exchange also proposes to amend Rule 507(b)(iii) to remove rule text which references a limitation on the number of positions available while retaining the criteria in Rule 507(b)(iii) for consideration of new applicants.

The Exchange notes that this proposal would be immediately effective. The Exchange would issue an Options Trader Alert to members noting that the Exchange is removing the limitation on the maximum number of quoters. SQTs and RSQTs would be able to apply to make markets in any options series. All new applicants for trading privileges will be subject to the process for assignment described in Rule 507. The Exchange considers all applicants for assignment in options using the

objective criteria set forth in Exchange Rule 507(b). The objective criteria are used by the Exchange in determining the most beneficial assignment of options for the Exchange and the public.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁵ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest because the Exchange's elimination of the MNQ limitation will support the addition of depth and liquidity to Phlx.

Allowing additional market making firms to be assigned to quote in options series would foster competition. Removing the MNQ limitation for all equity options traded on the Exchange, is pro-competitive, because it adds depth and liquidity to the Exchange's markets by permitting additional participants to compete on the Exchange. With this proposal there would be no limit on the amount of SQTs and RSQTs that would be permitted to submit quotations into Phlx. The Exchange believes that allowing any SQT or RSQT that is eligible pursuant to Rule 507 to submit quotations would increase the available liquidity on Phlx. Finally, Phlx represents that it has capacity to handle any additional quoters due to the elimination of the MNQ. Phlx monitors System capacity in other ways, making a MNQ no longer necessary.¹⁶

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 Exchange's proposal does not impose a burden on intra-market competition because removing the MNQ limitation for all equity options traded on the Exchange, is pro-competitive, because it adds depth and liquidity to the Exchange's markets by permitting additional participants to compete on the Exchange. The Exchange's proposal does not impose a burden on inter-market competition because there would be no limit on the amount of SQTs and RSQTs that would be permitted to submit quotations into Phlx. The Exchange believes that allowing any SQT or RSQT that is

eligible pursuant to Rule 507 to submit quotations would increase the available liquidity on Phlx to the benefit of all market participants. Phlx represents that it has capacity to handle any additional quoters due to the elimination of the MNQ. Phlx monitors System capacity in other ways, making a MNQ no longer necessary.¹⁷

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) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may immediately eliminate the maximum number of quoting participants that may apply to all options listed for trading on the Exchange. According to the Exchange, the proposed rule change will promote liquidity on the Exchange. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and

¹⁰ Cboe established class quoting limits ("CQL") for each class traded on Cboe's system. A CQL is the maximum number of quoters that may quote electronically in a given product and Rule 8.3A.

¹¹ See Securities Exchange Act Release No. 85657 (April 16, 2019), 84 FR 16701 (April 22, 2019) (SR-Cboe-2019-017).

¹² Id.

¹³ Regulation SCI requires the Exchange to establish written policies and procedures reasonably designed to ensure that its System has levels of capacity, integrity, resiliency, availability, and security adequate to maintain its operational capability and promote the maintenance of fair and orderly markets, and that it operates in a manner that complies with the Exchange Act. See 17 CFR 242.1001.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ See note 13 above.

¹⁷ See note 13 above.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

designates the proposed rule change operative upon filing.²²

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 change 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. Please include File Number SR-Phlx-2019-50 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-2019-50. 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

²² For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-Phlx-2019-50, and should be submitted on or before December 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87645; File No. SR-NYSE-2019-65]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 71

December 2, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on November 18, 2019, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 Rule 71 to remove the preamble that such rule is not applicable to trading on the Pillar trading platform. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 self-regulatory organization 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 those 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 parts 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 Exchange proposes to amend Rule 71 (Precedence of Highest Bid and Lowest Offer) to remove the preamble that such rule is not applicable to trading on the Pillar trading platform.

Rule 71 is applicable only to manual trading on the Trading Floor⁴ and governs bids and offers verbally represented by Floor brokers at the point of sale. Paragraph (a) of that rule provides that all bids made and accepted, and all offers made and accepted, in accordance with Exchange Rules shall be binding. Accordingly, if a Floor broker bids or offers at the point of sale and another member accepts that bid or offer, the original bid or offer is binding. With respect to the close of trading, because bids and offers represented orally by a Floor broker must be represented at the point of sale by the end of Core Trading Hours,⁵ in accordance with Exchange rules, the last representation of verbal interest by the end of Core Trading Hours is binding on a Floor broker and cannot be modified or cancelled after the end of Core Trading Hours.⁶

In 2017, in anticipation of the transition to the Pillar trading platform, the Exchange amended Rule 71 to include a preamble that it was not applicable to trading UTP Securities⁷

⁴ "Trading Floor" is defined as the restricted-access physical areas designated by the Exchange for the trading of securities. See Rule 6A.

⁵ See Rule 7.34(a)(2)(B).

⁶ Rule 7.35B(a)(1)(C) provides an exception to this requirement because, subject to Floor Official approval, electronically-entered Floor Broker Interest can be cancelled in full to correct a Legitimate Error.

⁷ The term "UTP Securities" means a security that is listed on a national securities exchange other