

### 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 Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. Waiver of the operative delay would allow the Exchange to immediately delay the implementation of the new LULD closing cross functionalities and provide the Exchange additional time to test and implement these functionalities. The Commission believes that waiving 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 designates the proposed rule change operative upon filing.<sup>11</sup>

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.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 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.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> 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).

### 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-NASDAQ-2021-077 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-NASDAQ-2021-077. 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-NASDAQ-2021-077 and should be submitted on or before October 29, 2021.

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93251; File No. SR-MIAX-2021-47]

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the iShares Russell 2000 ETF ("IWM")

October 4, 2021.

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> notice is hereby given that on October 1, 2021, Miami International Securities Exchange, LLC ("MIAX Options" or the "Exchange") filed with the Securities and Exchange Commission ("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 Policy .02 (Short Term Option Series Program) of Exchange Rule 404, Series of Option Contracts Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program ("Program") on the iShares Russell 2000 ETF ("IWM").

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options' principal office, 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

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

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

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 Policy .02 (Short Term Option Series Program) of Exchange Rule 404, Series of Option Contracts Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program ("Program") on the iShares Russell 2000 ETF ("IWM"). This is a competitive filing that is based on a proposal recently submitted by Nasdaq Phlx LLC ("Phlx") and approved by the Securities and Exchange Commission ("Commission").<sup>3</sup>

A Short Term Option Series means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.<sup>4</sup> The Exchange proposes to amend Policy .02 of Exchange Rule 404 to permit the listing of option series that expire on Mondays and Wednesdays in IWM.

<sup>3</sup> See Securities Exchange Act Release No. 93157 (September 28, 2021) (Approving SR-PHLX-2021-43).

<sup>4</sup> The term "Short Term Option Series" is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. See Exchange Rule 100.

Monday Expirations

As proposed, with respect to Monday IWM Expirations within Policy .02 of Rule 404, the Exchange may open for trading on any Friday or Monday that is a business day series of options on IWM to 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 IWM Expirations"), provided that Monday IWM Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday IWM Expirations at one time; the Exchange may have no more than a total of five Monday IWM Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday IWM Expirations within Policy .02 of Rule 404, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on IWM 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 IWM Expirations"). The Exchange may list up to five consecutive Wednesday IWM Expirations at one time; the Exchange may have no more than a total of five Wednesday IWM Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday IWM Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.<sup>5</sup> Specifically, the Monday and Wednesday IWM Expirations will have a \$0.50 strike interval minimum.<sup>6</sup> As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday IWM Expiration series will be P.M.-settled.

Pursuant to Policy .02 of Rule 404, with respect to this Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Policy .02 of Rule 404 a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, e.g., Tuesday of that week, if the Wednesday is not a business day. For purposes of IWM, however, the

<sup>5</sup> See Policy .02(e) of Exchange Rule 404.

<sup>6</sup> *Id.*

Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day (e.g., the previous Friday), since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Monday SPY and QQQ expirations<sup>7</sup> are treated in this manner today. Cboe Exchange, Inc. ("Cboe") uses the same procedure for options on the S&P 500 index ("SPX"), Mini-SPX Index Options ("XSP"), Russell 2000 Index ("RUT") and Mini-Russell 2000 Index Options ("MRUT") and with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program that are scheduled to expire on a holiday.<sup>8</sup> Also, Phlx<sup>9</sup> and Nasdaq ISE, LLC ("ISE")<sup>10</sup> use the same procedure for options on the Nasdaq-100<sup>®</sup> ("NDX") with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively.

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.<sup>11</sup> The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.<sup>12</sup> This thirty (30) series restriction would apply to Monday and Wednesday IWM Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list IWM options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Policy .02(b) of Rule 404 which addresses the listing of Short Term Option Series that expire in the same week as monthly or quarterly options series. Currently, the rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY and QQQ Expirations) or, in the case of Quarterly Options Series, no Short Term Option series may expire on the same day as an expiration of Quarterly Options Series in the same

<sup>7</sup> See Policy .02 of Exchange Rule 404.

<sup>8</sup> See Cboe Rule 4.13(e)(1).

<sup>9</sup> See Phlx Options 4A, Section 12(b)(5).

<sup>10</sup> See ISE Supplementary Material .07 to Options 4A, Section 12.

<sup>11</sup> See Policy .02(c) of Exchange Rule 404.

<sup>12</sup> See Exchange Rule 404A(b)(6).

class.<sup>13</sup> As with Monday and Wednesday SPY and QQQ Expirations, the Exchange proposes to permit Monday and Wednesday IWM Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday IWM Expirations because Monday and Wednesday IWM Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday IWM Expirations for one week every month because there was a monthly IWM expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday IWM Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday IWM Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and QQQ and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY and QQQ.

Similar to SPY and QQQ, the introduction of IWM Monday and Wednesday Expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday IWM Expirations will allow market participants to purchase IWM based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> in particular, in that it is 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in IWM options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday IWM Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday IWM Expirations should create greater trading and hedging opportunities, as well as flexibility that will provide Members with the ability to tailor their investment objectives more effectively.

The Exchange currently lists Monday and Wednesday SPY and QQQ Expirations.<sup>16</sup> Also, Cboe currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on SPX, XSP, RUT, and MRUT pursuant to its Nonstandard Expirations Pilot Program.<sup>17</sup> Phlx<sup>18</sup> and ISE<sup>19</sup> currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to their Nonstandard Expirations Pilot Programs.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday IWM Expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY and QQQ

expirations are treated in this manner today.<sup>20</sup> Cboe<sup>21</sup> uses the same procedure for SPX, XSP, RUT, and MRUT options with Monday expirations that are scheduled to expire on a holiday, as do Phlx<sup>22</sup> and ISE<sup>23</sup> for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY and QQQ Expirations and the proposed Monday and Wednesday IWM Expirations, the Exchange believes that applying the provisions in Policy .02(b) of Rule 404, which currently apply to Monday and Wednesday SPY and QQQ Expirations, to Monday and Wednesday IWM Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday IWM Expirations and monthly IWM expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday IWM Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Policy .02(b) of Rule 404 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Options Series on the same class, same as SPY and QQQ.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday IWM Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY and QQQ Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday IWM Expirations.

## 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 that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a

<sup>13</sup> See Policy .02(b) of Exchange Rule 404.

<sup>14</sup> 15 U.S.C. 78f(b).

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

<sup>16</sup> See Policy .02 of Exchange Rule 404.

<sup>17</sup> *Supra* note 8.

<sup>18</sup> *Supra* note 9.

<sup>19</sup> *Supra* note 10.

<sup>20</sup> See Policy .02(b) of Exchange Rule 404.

<sup>21</sup> *Supra* note 8.

<sup>22</sup> *Supra* note 9.

<sup>23</sup> *Supra* note 10.

filing submitted by Phlx.<sup>24</sup> The Exchange also notes that having Monday and Wednesday IWM Expirations is not a novel proposal, as Monday and Wednesday SPY and QQQ Expirations are currently listed on the Exchange.<sup>25</sup> Cboe uses the same procedure for SPX, XSP, RUT, and MRUT options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday,<sup>26</sup> as do Phlx<sup>27</sup> and ISE<sup>28</sup> for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

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

Written comments were neither solicited nor 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 Act<sup>29</sup> and Rule 19b-4(f)(6) thereunder.<sup>30</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing.

However, Rule 19b-4(f)(6)(iii)<sup>31</sup> 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 proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday IWM Expirations and Wednesday IWM Expirations.<sup>32</sup> The Exchange stated that waiver of the operative delay is consistent with the protection of investors and the public interest as it would encourage fair competition among exchanges by allowing MIAX Options to compete effectively with Phlx by having the ability to list and trade the same Monday and Wednesday IWM Expirations that Phlx is able to list and trade. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>33</sup>

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.

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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

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- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2021-47 on the subject line.

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- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>34</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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<sup>24</sup> *Supra* note 3.

<sup>25</sup> See Policy .02 of Rule 404.

<sup>26</sup> *Supra* note 8.

<sup>27</sup> *Supra* note 9.

<sup>28</sup> *Supra* note 10.

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>30</sup> 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.

<sup>31</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>32</sup> See *supra* note 3.

<sup>33</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>34</sup> 17 CFR 200.30-3(a)(12).