This document is scheduled to be published in the
Federal Register on 12/22/2011 and available online at
http://federalregister.gov/a/2011-32749, and on FDsys.gov

8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65986; File No. SR-Phlx-2011-175)

December 16, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Regarding Strike Price Intervals for SLV and USO Options

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 7, 2011, NASDAQ OMX 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 is filing with the Commission a proposal to amend Commentary .05 of Rule 1012 (Series of Options Open for Trading) to allow trading of options on iShares® Silver Trust[3] and United States Oil Fund at $0.50 strike price intervals where the strike price is less than $75.

The text of the proposed rule change is available on the Exchange's website at http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/, at the principal office of the Exchange, at the Commission's website at www.sec.gov, and at the Commission's Public Reference Room.

---

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

[2] 17 CFR 240.19b-4.

[3] See e-mail from Jurij Trypupenko, Associate General Counsel, the NASDAQ OMX Group, Inc., to Drew J. Zimmerman, confirming that "iShares®" is a registered trademark of BlackRock Institutional Trust Company, N.A.

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 this filing is to amend Commentary .05 of Rule 1012 to allow trading of options on iShares® Silver Trust ("SLV" or "SLV Trust") and United States Oil Fund ("USO" or "USO Fund") at $0.50 strike price intervals where the strike price is less than $75.

The Underlying ETFs

Two popular exchange traded funds ("ETFs"), which are known on the Exchange as Exchange-Traded Fund Shares, underlie SLV and USO options.[4] SLV and USO options are currently traded on several exchanges.[5]

The iShares® Silver Trust is a grantor trust that is designed to provide a vehicle for investors to own interests in silver. The purpose of the SLV Trust is to own silver transferred to

4 As of July 31, 2011, the average daily volume ("ADV") over the previous three calendar months was 60,087,539 for SLV and 13,881,380 for USO.

5 These exchanges include, in addition to Phlx: NYSEAmex ("Amex"), NYSEArca ("Arca"), BATS Global Markets ("BATS"), Boston Options Exchange ("BOX"), Chicago Board Options Exchange ("CBOE"), C2 Options Exchange ("C2"), International Securities Exchange ("ISE"), and NASDAQ Options Exchange ("NOM").

the trust in exchange for shares that are issued by the trust. Each of such shares represents a fractional undivided beneficial interest in the net assets of the SLV Trust. The objective of the SLV Trust is for the value of the iShares® to reflect, at any given time, the price of silver owned by the trust at that time.

The United States Oil Fund is a domestic exchange traded security designed to track the movements of light, sweet crude oil that is known as West Texas Intermediate. The investment objective of the USO Fund is for the changes in percentage terms of its units' net asset value to reflect the changes in percentage terms of the spot price of light, sweet crude oil delivered to Cushing, Oklahoma, as measured by the changes in the price of the futures contract for light, sweet crude oil traded on the New York Mercantile Exchange (the "NYMEX"), less USO's expenses.

The ETFs underlying SLV and USO options, which are listed on NYSE Arca, are not affected or changed by this filing.

The Proposal

Commentary .05(a)(iv) of Rule 1012 currently states that the interval of strike prices of series of options on Exchange-Traded Fund Shares will be $1 or greater where the strike price is $200 or less and $5 or greater where the strike price is more than $200. This is similar to the applicable ETF option interval standards of other options markets.[6]

The Commission has recently approved a CBOE proposal to allow $0.50 strike price intervals for options on certain ETFs and individual equity securities on which CBOE would

[6] See, for example, CBOE Rule 5.5 Interpretation and Policy .08; and NOM Chapter IV Section 6, Supplementary Material .01 to Section 6.

calculate volatility (known as "volatility options").[7] The Exchange is, in this filing, proposing $0.50 strike price intervals for options on ETFs similarly to what CBOE proposed in respect of volatility options. The Exchange notes that its $0.50 strike price interval proposal is, however, limited in several respects. First, the proposed $0.50 intervals are limited to only one type of underlying instrument, namely Exchange-Traded Fund Shares. Second, the $0.50 intervals are proposed for two option products, namely iShares® Silver Trust and United States Oil Fund. And third, the intervals are limited to strike prices that are less than $75.

Other than options in $0.50 strike price intervals approved for CBOE as noted, options on ETFs or Exchange Trades Fund Shares trade at $1 intervals where the strike price is below $200. As demonstrated in this filing, however, this $1 strike price interval is no longer always appropriate, and in fact may be counter-productive and more costly, for ETF option traders and investors that are trying to achieve optimum trading, hedging, and investing objectives.

Traders have expressed their belief that the strike price intervals for SLV and USO options are too coarse, and have asked for the ability to trade and hedge such options in smaller intervals. The Exchange believes that reducing these strike price intervals would make excellent economic sense, would allow better tailored investing and hedging opportunities, and would potentially enable traders and investors to save money.

The number of low-priced strike interval options have [sic] increased significantly over

---

[7] See Securities Exchange Act Release No. 64189 (April 5, 2011), 76 FR 20066 (April 11, 2011)(SR-CBOE-008)(order granting approval of $0.50 and $1 strike price intervals for certain volatility options where the strike prices are less than $75 and between $75 and $150, respectively). Other Exchanges have submitted similar immediately effective proposals. See Securities Exchange Act Release Nos. 64325 (April 22, 2011), 76 FR 23632 (April 27, 2011)(SR-NYSEAmex-2011-26); 64324 (April 22, 2011), 76 FR 23849 (April 28, 2011)(SR-NYSEArca-2011-19); 64359 (April 28, 2011), 76 FR 25390 (May 4, 2011)(SR-ISE-2011-27); and 64589 (June 2, 2011), 76 FR 33387 (June 8, 2011)(SR-Phlx-2011-74).

the last decade, such that now there are approximately 935 equity options and 225 ETF options listed at $1 strike price intervals.[8]

There are also, in addition to the newly enabled CBOE $0.50 strike price options, approximately 19 options listed at $0.50 strike price intervals pursuant to the $0.50 Strike Program.[9] Clearly, however, this is no longer sufficient in the current volatile and economically challenging environment. Traders and investors are requesting more low-priced interval ETF options so that they may better tailor investing and hedging strategies and opportunities.[10]

By way of example, if an investor wants to gain exposure to the silver market or hedge his position, he may invest in options on the iShares® Silver Trust (SLV). Today an investor must choose a strike price that might lack the precision he is looking for in order to gain or reduce exposure to the silver market. Thus, an investor executing a covered call strategy may be looking to sell calls on SLV. Assume the investor's SLV cost basis is $38.35. The nearest out-of- the-money strike call is the 39.00 strike, which is 1.69 % out of the money. If the 38.50 strike were available, however, the investor could sell calls in a strike price only .39% out-of-the-money, thus offering 1.29% additional risk protection. To an investor writing covered calls on an equity position, this extra protection could be significant on an annual basis.

With United States Oil Fund (USO), a similar lack of precision exists at the current strike prices. For an investor looking to purchase out-of-the-money put protection against a USO purchase of $31.65, the investor must choose the 31.00 strike, which is 2.05% out-of-the-money.

---

8 Figures were based on July 2011 data using symbols with a 2011 expiration date.

9 The noted $0.50 intervals were established per the $0.50 Program found in Commentary .05(a)(ii) of Rule 1012. The $0.50 Program has inherent price limitations that make it unsuitable for SLV and USO options.

10 The Exchange is not aware of any material market surveillance issues arising because of the $0.50 or $1.00 the strike price intervals.

If the 31.50 strike were available, the investor could avail himself of a superior strike price that is only .47% out of the money, thus offering 1.58% additional protection. The smaller strike price offers an increased amount of downside protection to the investor at a more precisely factored cost for the hedging opportunity.

Moreover, an investor may want to execute an investment or hedging strategy whereby the investor would close one position and open another through use of a complex order. Implementing $0.50 strike intervals would, again, offer more precision and an opportunity to improve returns and/or risk protection. Thus, using the previous SLV example, the investor who purchased SLV at $38.35 and sold the $38.50 call might later wish to purchase a call to close the original position and roll into a new position as the stock moves away from the original strike price. By offering $0.50 strike prices, the investor may be able to again avail himself of a better return or hedging opportunity.

The Exchange also believes that with the increase in inter-market trading and hedging,[11] the ability to offer potentially similarly-situated products at more similar strike intervals gains importance. Thus, options on futures underlying USO and SLV are traded at $0.50 and lower strike price intervals. Options on USO futures listed for trading on the NYMEX have $0.50 strike price intervals.[12] And options on silver futures listed on NYMEX have strike price

---

[11] Particularly between options markets and futures markets that also trade options on futures.

[12] Per the NYMEX website, http://www.cmegroup.com/product-codes-listing/nymex-market.html, options on crude oil futures are listed nine years forward whereby consecutive months are listed for the current year and the next five years, and in addition, the June and December contract months are listed beyond the sixth year. Additional months will be added on an annual basis after the December contract expires, so that an additional June and December contract would be added nine years forward, and the consecutive months in the sixth calendar year will be filled in.

intervals as low as $0.05.[13] The Exchange is not, in this filing, proposing to go to sub-$0.50 strike price intervals but is proposing reasonable, requested, and needed $0.50 intervals only where the strike price of the underlying is less than $75.

By establishing $0.50 strike intervals for SLV and USO options, investors would have greater flexibility for trading and hedging the underlying ETFs or hedging market exposure[14] through establishing appropriate options positions tailored to meet their investment, trading and risk profiles.

Finally, in terms of housekeeping the Exchange is making non-substantive changes to Commentary .06 of Rule 1009 to improve its readability. The Exchange proposes language indicating that Exchange Trade Fund Shares may represent interests in several listed optionable trusts, in lieu of current language that shares may be issued by such trusts.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[15] in general, and furthers the objectives of Section 6(b)(5) of the Act[16] 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

---

13 Per the NYMEX website, http://www.cmegroup.com/product-codes-listing/nymex-market.html, options on silver futures are listed for the first three months at strike price intervals of $.05. An additional ten strike prices will be listed at $.25 increments above and below the highest and lowest five-cent increment, respectively, beginning with the strike price evenly divisible by $.25. For all other trading months, strike prices are at an interval of $.05, $.10, and $.25 per specified parameters.

14 A trader or investor may, for example, use a commodity-oriented ETF such as the SLV Trust or USO Fund to counter-balance (hedge) an equity or ETF position that tends to move inversely to the price movement of SLV or USO.

15 15 U.S.C. 78f(b).

16 15 U.S.C. 78f(b)(5).

investors and the public interest. This would be achieved by establishing $0.50 strike intervals for SLV and USO options so that traders, market participants, and investors in general may have greater flexibility for trading and hedging the underlying ETFs or hedging market exposure through establishing appropriate options positions tailored to meet their investment, trading and risk profiles.

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.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be 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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2011-175 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2011-175. 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 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; 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-2011-175 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.[17]

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2011-32749 Filed 12/21/2011 at 8:45 am; Publication Date: 12/22/2011]

[17] 17 CFR 200.30-3(a)(12).