



8011-01p
SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-72786; File No. SR-Phlx-2014-53]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Short Term Option Series Program August 7, 2014.

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 August 1, 2014, NASDAQ OMX PHLX LLC (“Phlx” or “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 the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) to conform Exchange rules pertaining to finer strike price intervals for standard expiration contracts in option classes that also have Short Term Options (“STOs”)³ listed on them (“related non-STOs”, “related non-Short Term Options”, or “non-STOs”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ STOs, also known as “weekly options” as well as “Short Term Options”, are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a 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 Thursday or Friday, respectively. STOs are listed and traded pursuant to the STO Program. For STO Program rules regarding non-index options, see Rule 1000(b)(44) and Commentary .11 to Rule 1012. For STO Program rules regarding index options, see Rule 1000A(b)(16) and Rule 1101A(b)(vi).

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqomxphlx.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 purpose of this proposed rule change is to amend Rule 1012 and Rule 1101A to conform Exchange rules pertaining to finer strike price intervals for standard expiration contracts in option classes that also have STOs listed on them.

The STO Program, which was initiated in 2010,⁴ is codified in Commentary .11 to Rule 1012 for non-index options including equity, currency, and exchange traded fund ("ETF") options, and in Rule 1101A(b)(vi) for index options. Under these rules, the Exchange may list STOs in up to fifty option classes,⁵ including up to thirty index option classes,⁶ in addition to option classes that are selected by other securities exchanges that employ a similar program

⁴ See Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR-Phlx-2010-84) (notice of filing and immediate effectiveness permanently establishing STO Program on the Exchange).

⁵ See Commentary .11(a) to Rule 1012.

⁶ See Rule 1101A(b)(vi)(A).

under their respective rules. For each of these option classes, the Exchange may list five STO expiration dates at any given time, not counting monthly or quarterly expirations.⁷ Specifically, on any Thursday or Friday that is a business day, the Exchange may list STOs in designated option classes that expire at the close of business on each of the next five consecutive Fridays that are business days.⁸ These STOs, which can be several weeks or more from expiration, may be listed in strike price intervals of \$0.50, \$1, or \$2.50, with the finer strike price intervals being offered for lower priced securities, and for options that trade in the Exchange's dollar strike program.⁹ More specifically, the Exchange may list short term options in \$0.50 intervals for strike prices less than \$75, or for option classes that trade in one dollar increments in the related non-short term option, \$1 intervals for strike prices that are between \$75 and \$150, and \$2.50 intervals for strike prices above \$150.¹⁰

The Exchange recently proposed a change to the STO Program in Commentary .11(e) to Rule 1012 regarding non-index options and Rule 1101A(b)(vi)(E) regarding index options that allows related non-STO series to be opened during the month prior to expiration of such non-STO series in the same manner and strike price intervals as permitted for STOs.¹¹ Thus, the Prior Month Filing would allow standard monthly expiration options to trade - a month prior to expiration - in the same intervals as the weekly expiration STO. The Exchange does not propose any substantive changes, but only ensures that the language within Rule 1012 and Rule 1101A,

⁷ See Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

⁸ Id.

⁹ See Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

¹⁰ Id. See Commentary .11(e) to Rule 1012; Rule 1101A(b)(vi)(E). The \$2.50 interval does not apply to indexes. See Rule 1101A(b)(vi).

¹¹ See Securities Exchange Act Release No. 72504 (July 1, 2014), 79 FR 38628 (July 8, 2014) (SR-Phlx-2014-41) (notice of filing and immediate effectiveness) (the "Prior Month Filing"). For STO strike price intervals, see supra note 10 and related text.

respectively, is in conformity in respect of the interval that STOs and non-STOs may trade in during the month prior to expiration of the non-STOs.

Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(a) now state that notwithstanding any other provision regarding strike prices in the respective rules, related non-STO series may be opened during the week prior to expiration of such non-STO series in the same manner and strike price intervals as permitted for STOs. This proposal conforms subsections Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(a). Specifically, as proposed Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(a) would state that notwithstanding any other provision regarding strike prices in this rule, non-STOs that are on a class or an index class that has been selected to participate in the STO Program (related non-STO series) shall be opened during the month prior to expiration of such related non-STO series in the same manner and intervals as permitted in Commentary .11 to Rule 1012 or Rule 1101A(b)(vi).¹² No other changes are proposed.

The Exchange is now permitted to list the standard monthly expiration contract options in these narrower STO intervals at any time during the month prior to expiration, which begins on the first trading day after the prior month's expiration date, subject to the provisions of Exchange rules. As discussed, this proposal simply conforms the language of Rules 1012 and 1101A to make each of the rules internally consistent.

The Exchange believes that continuing to introduce consistent strike price intervals for STOs and related non-STOs during the month prior to expiration benefits investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that this provides the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

¹² See Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(A).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹³ In particular, the proposal is consistent with Section 6(b)(5) of the Act,¹⁴ because it is designed to promote just and equitable principles of trade, 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.

As noted above, standard expiration options currently trade in wider intervals than their weekly counterparts, except during the week prior to expiration. This creates a situation where contracts on the same option class that expire both several weeks before and several weeks after the standard expiration are eligible to trade in strike price intervals that the standard expiration contract is not. The Prior Month Filing allowed STOs and non-STOs to be listed and traded in the same intervals pursuant to Rule 1012 (non-index options) and Rule 1101A (index options). This proposal conforms the language of each of the respective rules to reflect the monthly time period, and negates potential confusion from inconsistent language.¹⁵

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. To the contrary, the Exchange believes that the proposed technical conforming rule change continues to

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ The Exchange represents that, because of the technical conforming nature of the proposal, it will not have any impact on system capacity.

provide additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

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)¹⁶ of the Act and Rule 19b-4(f)(6)¹⁷ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) of the Act¹⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii) of the Act,¹⁹ the Commission may 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 Exchange believes that waiver of the 30-day operative delay is in

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 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 the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ 17 CFR 240.19b-4(f)(6)(iii).

the public interest and consistent with the protection of investors because the proposed rule change is designed to harmonize its rules so that its rules are internally consistent. According to the Exchange, waiver of the 30-day operative delay would allow these changes to take effect immediately and therefore would avoid any potential investor confusion.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because waiver will clarify the exchanges rules immediately, which could prevent investor confusion with respect to the rules of the Exchange. The Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.²⁰

At any time within 60 days of the filing of such 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

²⁰ 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).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2014-53 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-2014-53. 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 such filing also will be available for inspection and copying at the principal offices 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-2014-53, 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.²¹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2014-19095 Filed 08/12/2014 at 8:45 am; Publication Date: 08/13/2014]

²¹ 17 CFR 200.30-3(a)(12).