

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62234; File No. SR-Phlx-2010-78)

June 7, 2010

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trading Halts in Foreign Currency Options under Rule 133

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on June 1, 2010, NASDAQ OMX PHLX, Inc. (“Phlx” 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 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 Rule 133, Trading Halts Due to Extraordinary Market Volatility, to delete a parenthetical exception for trading in foreign currency options. The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, 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 those statements may be examined at the places specified

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Rule 133 provides that trading in securities (other than FCOs) shall halt on the Exchange and shall not reopen for the time periods described in the rule if the Dow Jones Industrial Average reaches certain levels below its closing value on the previous trading day. When the Exchange added the parenthetical exceptions regarding FCOs to Rule 133 in 1997, all FCOs trading on the Exchange were physically settled options that traded on a different system than the system on which equity and index options traded.³ The Exchange has since delisted all physical delivery FCOs.

In 2006 the Exchange began listing and trading U.S. dollar-settled FCOs.⁴ Unlike the physical delivery FCOs which the Exchange also listed at the time, the U.S. dollar-settled FCOs trade on the same platform as the Exchange's equity and equity index options. Consequently, due to trading system limitations when U.S. dollar-settled FCOs were first listed by the Exchange, it was not feasible to halt trading in equity and equity index options without also halting trading in U.S. dollar-settled FCOs. The proposing release for the U.S. dollar-settled

³ It was therefore a straightforward and simple process to halt trading in equity and index options without also being required to halt the FCOs that traded on a separate system. Due to an oversight, the text of Rule 133 was not also amended when U.S. dollar-settled FCOs were originally listed to make clear that U.S. dollar-settled FCOs, unlike physical delivery FCOs, would indeed halt if the circuit breaker provisions were triggered and equity and index options trading were halted.

⁴ See Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (approving SR-Phlx-2006-34).

FCOs therefore stated that “[i]n the event of system wide trading halts in equity and equity index options required by Exchange Rule 133 (the "circuit breaker" rule), Trading Halts Due to Extraordinary Market Volatility, trading in U.S. dollar-settled FCO also would be halted.”⁵ The Exchange is now updating Rule 133 to reflect that, consistent with the Exchange’s proposed rule change to list and trade the U.S. dollar-settled FCOs, trading U.S. dollar-settled FCOs is also halted in the event equity and index options trading is halted pursuant to Rule 133.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ 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, by clarifying in Exchange Rule 133 that trading in U.S. dollar-settled FCO also halts when trading in equity and equity index options halts pursuant to that rule.

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

⁵ See Securities Exchange Act Release No. 54652 (October 25, 2006), 71 FR 64597 (November 2, 2006), footnote 33.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

Because the foregoing proposed rule change: (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 from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹¹ 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.

The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed rule change would immediately conform Phlx Rule 133 to the Exchange's practice since 2006. As noted above, when the Exchange began listing and trading U.S. dollar-settled FCOs in 2006, it stated in its notice of the proposed rule change that the trading halts in Rule 133 would apply to U.S. dollar-settled FCOs.¹² However, at that time, the Exchange did not amend Rule 133 to make clear that

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to 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.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² See supra note 5 and accompanying text.

U.S. dollar-settled FCOs, unlike physical delivery FCOs, would halt if the circuit breaker provisions were triggered. As such, the Commission believes that the current proposed rule change raises no new regulatory issues and waiver of the operative delay will allow the Exchange to immediately clarify in its rules its current practice with regard to trading halts and FCOs. For these reasons, the Commission designates the proposal operative upon filing.¹³

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-2010-78 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.

¹³ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-Phlx-2010-78. 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 Web site 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 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-2010-78 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.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).