SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69633; File No. SR-Phlx-2013-55)

May 23, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to $0.50 and $1 Strike Price Intervals for Classes in the Short Term Option Series Program

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 May 17, 2013, NASDAQ OMX PHLX LLC (the "Exchange" or "Phlx") 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 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 give the Exchange the ability to initiate strike prices in more granular intervals for Short Term Options ("STOs") in the same manner as on other options exchanges;[3] while permitting, during the expiration week of

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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. See Rules 1000(b)(44), 1000A(b)(16), Commentary .11 to Rule 1012 and Rule 1101A(b)(vi) regarding the Short Term Option Series Program (also known as the "Program") for equity, exchange traded fund ("ETF") and index options. The Program has been operational since 2010. See Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR-Phlx-2010-84)

non-Short Term Options that are on a class that has been selected to participate in the Short Term Option Series Program (referred to as a "Related non-Short Term Option series"), for the Related non-Short Term Option series to have the same strike price interval setting parameters as STOs.[4]

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).[5]

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 Rules 1012 and 1101A to amend the strike price interval setting parameters for STOs; while permitting, during the expiration

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(notice of filing and immediate effectiveness establishing the Short Term Option Series Program on the Exchange).

4 The Related non-Short Term Option will be the same option class as the Weekly option but will have a longer expiration cycle (e.g., a SPY monthly expiration option as compared to a SPY Weekly option.)

5 17 CFR 240.19b-4(f)(6)(iii).

week of Related non-Short Term Option series, for such options to have the same strike price interval setting parameters as STOs.

The Commission recently approved the Exchange's proposal regarding $ 0.50 and $ 1 strike price intervals for certain STOs.[6] The Commission simultaneously approved an International Securities Exchange, LLC ("ISE") filing regarding $ 0.50 strike price intervals for certain STOs that used a different methodology than Phlx for STO pricing.[7] The Exchange is now proposing to integrate the ISE and Phlx methodologies, and is basing this proposal on a Chicago Board Options Exchange, Incorporated ("CBOE") filing that consolidated the Phlx and ISE methodologies for establishing strike price intervals for STOs.[8]

The ISE and Phlx filings both made changes to the strike price interval setting parameter rules for their respective Short Term Option Programs. Weekly options are not listed to expire during the same week as Related non-Short Term Options. As a result, both the Exchange and ISE in their respective filings amended their rules to permit Related non-Short Term Options on classes that participate in the Short Term Options Program to have the same strike price interval setting parameters as STOs during the week that Related non-Short Term Options expire. However, other revisions to Exchange and ISE Short Term Options Programs differ. Specifically, ISE permits $ 0.50 strike price intervals for STOs for option classes that trade in one dollar increments and are in the Short Term Option Program. Phlx permits $ 0.50 strike price intervals when the strike price is below $ 75, and $ 1 strike price intervals when the strike

6 See Securities Exchange Act Release No. and 67753 (August 29, 2012) 77 FR 54635 (September 5, 2012) (SR-Phlx-2012-78) (order approving) ("Phlx filing").

7 See Securities Exchange Act Release No. 67754 (August 29, 2012), 77 FR 54629 (September 5, 2012) (SR-ISE-2012-33) (order approving) ("ISE filing").

8 See Securities Exchange Act Release No. 68074 (October 19, 2012), 77 FR 65241 (October 25, 2012) (SR-CBOE-2012-092) (notice of filing and immediate effectiveness) ("CBOE filing").

price is between $ 75 and $ 150. Phlx also provides that Related non-Short Term Option series may be opened during the week prior to expiration week pursuant to the same strike price interval parameters that exist for STOs. Thus, a Related non-Short Term Option series may be opened in STO strike price intervals on a Thursday or a Friday that is a business day before the Related non-Short Term Option expiration week.[9] If the Exchange is not open for business on the respective Thursday or Friday, however, the Related non-Short Term Option may be opened in STO intervals on the first business day immediately prior to that respective Thursday or Friday.[10]

The Exchange is proposing to adopt both the strike price interval setting parameters that are currently in effect for the Exchange as well as for ISE in order to remain competitive. The Exchange notes that while it believes that there is substantial overlap between the two strike price interval setting parameters, the Exchange believes there are gaps that would enable the

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9 This opening timing is consistent with the principle that the Exchange may add new series of options until five business days prior to expiration. See Commentary .11 to Rule 1012 and Rule 1101A(b)(vi). The Exchange intends to submit a separate proposal that allows adding new series of options until two business days prior to expiration. See Securities Exchange Act Release Nos. 68606 (January 9, 2013), 78 FR 3065 (January 15, 2013)(SR-CBOE-2012-131)(notice of filing and immediate effectiveness to permit CBOE to list additional strike prices until the close of trading on the second business day prior to monthly expiration); and 68461 (December 18, 2012) (SR-NYSEArca-2012-94)(approval order to permit NYSE Arca to list additional strike prices until the close of trading on the second business day prior to monthly expiration).

10 The STO opening process is set forth in Commentary .11 to Rule 1012 and Rule 1101A(b)(vi): "After an index option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire on the Friday of the following business week that is a business day ("Short Term Option Expiration Date"). If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on the Friday of the following business week, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday."

Exchange to initiate a series that ISE would not be able to initiate and vice versa.[11] Since strict inter-exchange rule uniformity is not required for the Short Term Option Programs that have been adopted by the various options exchanges, the Exchange proposes to revise its strike price intervals setting parameters so that it has the ability to initiate strike prices in the same manner (i.e., intervals) as ISE. Accordingly, the Exchange proposes to adopt the rule text language of the CBOE filing [12] and in this way consolidate the ISE filing and Phlx filing approaches regarding strike price intervals for STOs.[13]

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11 The Exchange is making a distinction between initiating series and cloning series. The Exchange and the majority, if not all, of the other options exchanges that have adopted a Short Term Option Program have a rule similar to the Exchange's that permits the listing of series that are opened by other exchanges. See Commentary .11 to Rule 1012 and Rule 1101A(b)(vi). This filing is concerned with the ability to initiate series. For example, if a class is selected to participate in the Short Term Option Program and Related non-Short Term Options on that class do *not* trade in dollar increments, the Exchange would be permitted to initiate \$ 0.50 strikes on that class and ISE would not. Similarly, the strike price interval for ETF options is generally \$ 1 or greater where the strike price is \$ 200 or less. If an ETF class is selected to participate in the Short Term Option Program, the Exchange believes that ISE would be permitted to initiate \$ 0.50 strike price intervals where the strike price is between \$ 151 and \$ 200, but Phlx would not be.

12 See supra note 8, and CBOE Rules 5.5 (non-index options) and 24.9 (index options).

13 The rule language proposed by the Exchange is, in all material respects, similar to the language of CBOE Rules 5.5 and 24.9.

The proposed rule language would state, in relevant part, that notwithstanding any other provision regarding strike prices in the rules: "non-Short Term Options that are on a class [or index class] that has been selected to participate in the Short Term Option Series Program (referred to as a "Related non-Short Term Option series") shall be opened during the week prior to the week that such Related non-Short Term Option series expire in the same manner as permitted [in the Short Term Option Program rules]." See proposed Commentary .05(a)(vii) to Rule 1012 (regarding non-index options), and Rule 1101A(a) (regarding index options).

The proposed rule language would also state, in relevant part, that intervals on Short Term Option Series may be: "(i) \$0.50 or greater where the strike price is less than \$75, and \$1 or greater where the strike price is between \$75 and \$150 for all classes [or index classes] that participate in the Short Term Options Series Program; or (ii) \$0.50 for classes [or index classes] that trade in one dollar increments in Related non-Short Term Options and that participate in the Short Term Option Series Program. Related non-Short

In support of this proposal, the Exchange states that the principal reason for the proposed expansion is in response to market and customer demand to list actively traded products in more granular strike price intervals and to provide Exchange members and their customers increased trading opportunities in the Short Term Option Program, which is one of the most popular and quickly-expanding options expiration programs.[14] The Exchange has observed increased demand for STO classes and/or series, particularly when market moving events such as significant market volatility, corporate events, or large market, sector, or individual issue price swings have occurred. There are substantial benefits to market participants in the ability to trade eligible option classes at more granular strike price intervals. Furthermore, the Exchange supports the objective of responding to customer demand for harmonized listing between STO and Related non-Short Term Options and the availability of more granular strike price intervals.

The Exchange notes that the Short Term Option Series Program has been well-received by market participants, in particular by retail investors. The Exchange believes that the current proposed revisions to the Short Term Options Series Program will permit the Exchange to meet increased customer demand for more granular strike prices and the harmonization of strike prices between STOs and Related non-Short Term Options on the same classes.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle any potential additional traffic associated with this current

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Term Option series shall be opened during the week prior to the week that such Related non-Short Term Option series expire in the same manner as permitted [in the Short Term Option Program rules]." See proposed Commentary .11(e) to Rule 1012 (regarding non-index options), and Rule 1101A(b)(vi)(E) (regarding index options).

14 Since the inception of the Short Term Options Series Program, it has steadily expanded to the point that by the end of 2012, STOs represented 7% of the total options volume on the Exchange and 13% of the total options volume in the United States.

amendment to the Short Term Option Series Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange represents that it will monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.[15] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that giving it the ability to initiate strike prices in $ 0.50 and $ 1 intervals for STO options, as provided for in the proposed rule text, is reasonable because it will benefit investors by providing them with the flexibility to more closely tailor their investment and hedging decisions. The Exchange also believes that it is reasonable to harmonize strike prices between STOs and Related non-Short Term Options during expiration week for Related non-Short Term Options, because doing so will ensure conformity between STOs and Related non-Short Term Options that are on the same class. While the proposed rule change may generate additional quote traffic, the Exchange does not believe that any increased traffic will become unmanageable since the

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

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

proposal remains limited to a fixed number of classes. The Exchange also believes that the proposed rule change will ensure competition because it will allow the Exchange to initiate series in the same strike intervals as ISE, CBOE and other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not 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 the proposal is pro-competitive. The rule change is proposed as a competitive response to a recently approved ISE, and a CBOE, filing. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges regarding more granular strike price intervals for STOs.

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 significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b-4(f)(6) thereunder.[18]

The Exchange has requested that the Commission waive the 30-day operative delay. The

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17 15 U.S.C. 78s(b)(3)(A).

18 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

Commission believes that waiver of the 30-day operative delay will allow Phlx to initiate strikes prices in more granular intervals for STOs in the same manner as ISE and CBOE, and permit, during the expiration week of a Related non-Short Term option, a Related non-Short Term Option on a class that is selected to participate in the Short Term Options Series Program to have the strike price interval setting parameters as STOs. In sum, the proposed rule change presents no novel issues, and waiver will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposal operative upon filing.[19]

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 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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-55 on the subject line.

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

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-2013-55. 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-2013-55 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.[20]

Kevin M. O'Neill
Deputy Secretary

[20] 17 CFR 200.30-3(a)(12).