

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70451; File No. SR-Phlx-2013-95)

September 19, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Temporary Rule Change to Change the Expiration Date For Most Option Contracts to the Third Friday of the Expiration Month Instead of the Saturday Following the Third Friday

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 September 13, 2013, 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 Substance of the Proposed Rule Change

The Exchange proposes a temporary rule to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx>, 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

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

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

On August 21, 2013, the Exchange filed to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday.³ The changes proposed in the Expiration Date Filing became effective on filing, but will not be operative until September 20, 2013. The Options Clearing Corporation (“OCC”) and the options exchange industry have agreed to list certain Long Term Equity Options Series (“LEAPS”) contracts expiring in January 2016 on September 16, 2013. The LEAPS expiring in January 2016 will be issued with a Friday expiration date pursuant to the recently approved rule changes of OCC.⁴ In order not to disrupt the industry scheduled listing of the new LEAPS, the Exchange is proposing to adopt a temporary rule that would be immediately effective and remain operative through September 19, 2013, the proposed expiration date of the temporary rule. On September 20, 2013, the rule changes in the Expiration Date Filing would become operative.

The Exchange is proposing to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. More specifically, the Exchange is proposing to amend rule text referencing Saturday expirations. The Exchange notes, however, that this change will apply to all standard expiration contracts

³ See Securities Exchange Act Release No. 34-70259 (August 26, 2013), 78 FR 53809 (August 30, 2013)(SR-Phlx-2013-89)(“Expiration Date Filing”).

⁴ See Securities Exchange Act Release No. 34-69772 (June 17, 2013), 78 FR 37645 (June 21, 2013)(order approving SR-OCC-2013-004).

including those in which the rules are silent on the expiration date.⁵ The Exchange is making this filing to harmonize its rules in connection with a recently approved rule filing made by OCC which made substantially similar changes.⁶ The Exchange believes that the industry must remain consistent in expiration dates, and, thus, is proposing to update its rules to remain consistent with those of OCC. In addition, the Exchange understands that other exchanges have and will be filing similar rules to effect this industry-wide initiative.⁷

Most option contracts (“standard expiration contracts”) currently expire at the “expiration time” (11:59 pm Eastern Time) on the Saturday following the third Friday of the specified expiration month (the “expiration date”).⁸ With the Expiration Date Filing and this filing, the Exchange has provided advance notice to its members and member organizations that the expiration date for standard expiration contracts is changing to the third Friday of the expiration

⁵ These standard expiration contracts also include proprietary products of the Exchange such as Alpha Index option contracts (Rule 1009A(f)), U.S. Dollar-Settled Foreign Currency option contracts (Rule 1057) and PHLX FOREX option contracts (Rules 1000C-1009C). Standard expiration contracts also include the MSCI EM Index option contracts (Rule 1108A) and Full Value MSCI EAFE Index option contracts (Rule 1109A) which are listed pursuant to a license agreement with MSCI Inc. Mini Options expirations are the same as those for standard expirations and would be amended as specified in this proposal.

⁶ See note 4 supra.

⁷ See Securities Exchange Act Release Nos. 70091 (August 1, 2013), 78 FR 48212 (August 7, 2013)(SR-CBOE-2013-073); 69996 (July 17, 2013), 78 FR 44183 (July 23, 2013)(SR-MIAX-2013-32); 70373 (September 11, 2013)(SR-NYSEMKT-2013-73) and 70372 (September 11, 2013)(SR-NYSEARCA-2013-88).

⁸ Examples of options with non-standard expiration contracts include: FLEX options (Rule 1079), Quarterly Equity and Exchange-Traded Fund Shares (“ETFs”) Option Series (Rule 1012, Commentary .08), Quarterly Expiring Index Options Series (Rule 1101A(b)(iv)), Quarterly Options Index Series Program (Rule 1101A(b)(v)), Short Term Option Series (Rule 1012, Commentary .11) and Short Term Option Index Series (Rule 1101A(b)(vi)).

month.⁹ (The expiration time would continue to be 11:59 pm Eastern Time on the expiration date.) The change would apply only to standard expiration contracts expiring after February 1, 2015, and the Exchange, similar to OCC, does not propose to change the expiration date for any outstanding option contracts. The change will apply only to series of option contracts opened for trading after the effective date of the OCC rule change and having expiration dates later than February 1, 2015. Option contracts having non-standard expiration dates (“non-standard expiration contracts”) will be unaffected by this proposed rule change, except that FLEX options having expiration dates later than February 1, 2015 cannot expire on a Saturday unless they are specified by OCC as grandfathered.¹⁰

In order to provide a smooth transition to the Friday expiration OCC has begun to move the expiration exercise procedures to Friday for all standard expiration contracts even though the contracts would continue to expire on Saturday.¹¹ After February 1, 2015, virtually all standard expiration contracts will actually expire on Friday. The only standard expiration contracts that will expire on a Saturday after February 1, 2015 are certain options that were listed prior to the effectiveness of the OCC rule change, and a limited number of options that may have been listed prior to recent systems changes of the options exchanges. Phlx will not list any additional options with Saturday expiration dates falling after February 1, 2015. Phlx understands that the other exchanges are committed to the same listing schedule.¹²

⁹ The Exchange has provided notice to its members and member organizations regarding the expiration date change as it relates to the 2016 LEAP replacement schedule in a memorandum dated August 13, 2013 sent to all option members and member organizations.

¹⁰ See note 8 supra.

¹¹ See note 4 supra.

¹² See note 7 supra.

The Exchange notes that OCC, industry groups, clearing members and the other exchanges have been active participants in planning for the transition to the Friday expiration.¹³ In March 2012, OCC began to discuss moving standard contract expirations to Friday expiration dates with industry groups, including two Securities Industry and Financial Markets Association (“SIFMA”) committees, the Operations and Technology Steering Committee and the Options Committee, and at two major industry conferences, the SIFMA Operations Conference and the Options Industry Conference.¹⁴ OCC also discussed the project with the Intermarket Surveillance Group and at an OCC Operations Roundtable. In each case, there was broad support for the initiative.¹⁵

Certain option contracts have already been listed with Saturday expiration dates as distant as December 2015 (which is the furthest out expiration as of the date of this filing). For these contracts, transitioning to a Friday expiration for newly listed option contracts expiring after February 1, 2015 would create a situation under which certain options with open interest would expire on a Saturday while other options with open interest would expire on a Friday in the same expiration month.

Clearing members have expressed a clear preference to not have a mix of options with open interest that expire on different days in a single month.¹⁶ Accordingly, OCC represented in its recently approved filing that it will not issue and clear any new option contracts with a Friday expiration if existing option contracts of the same options class expire on the Saturday following the third Friday of the same month. However, Friday expiration processing will be in effect for

¹³ See note 4 supra.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

these Saturday expiration contracts. As with standard expiration options during the transition period, exercise requests received after Friday expiration processing is complete but before the Saturday contract expiration time will continue to be processed without fines or penalties.

Exchange Rule 1000(b)(21) defines “expiration date” in the case of options on stocks or Exchange-Traded Fund Shares as “11:59 p.m. Eastern Time on the Saturday immediately following the third Friday of the expiration month.” This provision effectively limits the Exchange’s ability to list monthly option contracts expiring on any day other than a Saturday prior to September 20, 2013, the operative date of the Expiration Date Filing. Thus, the Exchange is proposing to adopt a temporary rule to change the definition of “expiration date” to permit the scheduled listing of LEAPS expiring in January 2016 planned for September 16, 2013.

More specifically, this rule change proposes to amend Rule 1000(b)(21), the definition of “expiration date” for each of options on stocks or Exchange-Traded Fund Shares, on a temporary basis to be consistent with the revised OCC definition and the changes to be implemented pursuant to the Expiration Date Filing.¹⁷ On September 19, 2013, the proposed rule change would expire and the rule changes in the Expiration Date Filing would become operative on September 20, 2013, thereby permitting the continuous listing of the LEAPS series referenced above.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the

¹⁷ Id.

Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁹ requirements that the rules of an exchange be 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that keeping its rules consistent with those of the industry will protect all participants in the market by eliminating confusion. The proposed changes thus allow for a more orderly market by facilitating the industry-wide listing of LEAPS expiring in January 2016 by all options exchanges consistent with each option exchange's rules.

In addition, the proposed changes will foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in securities by aligning a pivotal part of the options processing to be consistent industry-wide in a similar timeframe. If the industry were to differ, investors would suffer from confusion and be more vulnerable to violate different exchange rules. The proposed changes do not permit unfair discrimination between any members because they are applied to all members

¹⁸ 15 U.S.C. 78f (b).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ Id.

equally. In the alternative, the Exchange believes that this proposal helps all members by keeping the Exchange consistent with OCC practices and those of other exchanges.

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

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the Exchange does not believe the proposed rule change will impose a burden on intramarket competition because it will be applied to all members equally. In addition, the Exchange does not believe the proposed rule change will impose any burden to intermarket competition because it will be applied industry-wide and apply to all market participants. The proposed rule change is structured to enhance competition because adopting a rule on a temporary basis that permits the listing of options contracts with a Friday expiration date will facilitate an industry-wide listing of a new LEAPS series. This in turn will allow Phlx to be on equal footing and compete more effectively with other exchanges making similar rule changes.

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. The Exchange notes, however, that a favorable comment was submitted to the OCC filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²¹ and Rule 19b-4(f)(6) thereunder.²² Because the proposed rule change does not: (i)

²¹ 15 U.S.C. 78s(b)(3)(A)(iii).

²² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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

significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁴ 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 so that the proposal may become operative immediately upon filing. The Commission notes that waiver of the operative delay would permit the Exchange to implement the changes proposed herein immediately.

Under the proposal, the Exchange would amend certain of its rules pertaining to the trading of options in order to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. The Exchange represents that a waiver of the 30-day operative delay is necessary and appropriate to not disrupt the industry scheduled listing of Long Term Equity Options Series (“LEAPS”) expiring in January 2016. Specifically, the Exchange notes that the Options Clearing Corporation and all national securities exchanges that trade options, including the Exchange, agreed on adding new LEAPS expiring in January 2016 on September 16, 2013, for those issues that are on the January

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.

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 17 CFR 240.19b-4(f)(6)(iii).

expiration cycle. The Exchange further represents that this date was published in 2012 and has been relied upon across the industry.

Since the Exchange's Rule 1000(b)(21) currently defines "expiration date" as the "Saturday immediately following the third Friday of the expiration month," the Exchange will not be able to list monthly option contracts expiring on any day other than a Saturday until this proposal becomes effective. As such, the Exchange represents that it will be at a significant competitive disadvantage, and it requests the waiver to facilitate and coordinate with the listing of the 2016 LEAPS on September 16, 2013. Based on the Exchange representations above, and since the proposal is based, in part, on a proposal submitted by the OCC and approved by the Commission,²⁵ the Commission waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.²⁶

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.

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

²⁵ See supra note 4.

²⁶ 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).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-95 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-2013-95. 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 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 publicly available. All submissions should refer

to File Number SR-Phlx-2013-95 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.²⁷

Kevin M. O'Neill
Deputy Secretary

²⁷ 17 CFR 200.30-3(a)(12).