SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60694; File No. SR-Phlx-2009-65)

September 18, 2009

Self-Regulatory Organizations; Order Approving Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to Strike Price Intervals of $0.50 for Options on Stocks Trading at or Below $3.00

On July 31, 2009, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b-4 thereunder,[3] a proposed rule change to permit the Exchange to list options on selected stocks trading at or below $3.00 at $0.50 intervals ("$0.50 Strike Program"). The proposed rule change was published for comment in the Federal Register on August 17, 2009.[4] There were no comments on the proposed rule change. This order approves the proposed rule change.

The Exchange proposes to amend Rule 1012, Series of Options Open for Trading, Commentary .05, in order to establish strike price intervals of $0.50, beginning at $1, for certain options classes whose underlying security closed at or below $3 in its primary market on the previous trading day. Currently, Commentary .05(a)(ii) to Phlx Rule 1012 provides that the interval of strike prices of series of options on individual stocks may be $2.50 or greater where the strike price is $25 or less. Additionally, Commentary .05(a)(i) to Phlx Rule 1012 allows the Exchange to establish $1 strike price intervals (the "$1 Strike Program") on options classes overlying no more than fifty-five individual stocks

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

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

4 See Securities Exchange Act Release No. 60466 (August 10, 2009), 74 FR 4147 ("Notice").

designated by the Exchange. To be eligible for the $1 Strike Program, an underlying stock must close below $50 in its primary market on the previous trading day.[5]

The Exchange now proposes to establish strike prices of $1, $1.50, $ 2, $2.50, $3 and $3.50 for certain stocks that trade at or under $3.00.[6] The listing of these strike prices will be limited to options classes whose underlying security closed at or below $3 in its primary market on the previous trading day, and which have national average daily volume that equals or exceeds 1000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months. The listing of $0.50 strike prices will be limited to options classes overlying no more than five individual stocks as specifically designated by the Exchange. The Exchange also will be able to list $0.50 strike prices on any other option classes if those classes were specifically designated by other securities exchanges that employ a similar $0.50 Strike Program under their respective rules.

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5 In addition, the $1 Strike Program permits the Exchange to list strike prices at $1 intervals from $1 to $50, provided that no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day. Further, the Exchange is restricted from listing any series that would result in strike prices being within $0.50 of a strike price set pursuant to Commentary .05(a)(ii) to Phlx Rule 1012 addressing $2.50 strike intervals. The Exchange may also list $1 strikes on any other option class designated by another securities exchange that employs a similar $1 Strike Program. Further, the Exchange may not list long-term option series (LEAPS) at $1 strike price intervals for any class selected for the $1 Strike Program.

6 The Exchange recently amended Exchange Rule 1010, Withdrawal of Approval of Underlying Securities or Options, to eliminate the $3 market price per share requirement for continued approval for an underlying security. The amendment eliminated the prohibition against listing additional series or options on an underlying security at any time when the price per share of such underlying security is less than $3. The Exchange explained in that proposed rule change that the market price for a large number of securities has fallen below $3 in the current volatile market environment. See Securities Exchange Act Release No. 59346 (February 3, 2009), 74 FR 6681 (February 10, 2009).

Currently, the Exchange may list options on stocks trading at $3 at strike prices of $1, $2, $3, $4, $5, $6, $7 and $8 if they are designated to participate in the $1 Strike Program. If these stocks have not been selected for the Exchange's $1 Strike Program, the Exchange may list strike prices of $2.50, $5, $7.50 and so forth as provided in Commentary .05(a), but not strike prices of $1, $2, $3, $4, $6, $7 and $8. The proposed amendments to Commentary .05 to Phlx Rule 1012 will permit the Exchange to list strike prices on options on qualifying stocks that trade at or under $3.00, which may include stocks also participating in the $1 Strike Program, in finer intervals of $0.50, beginning at $1 up to $3.50.[7] Thus, a stock trading at $3 that is selected for the $0.50 Strike Program would have option strike prices established not just at $2.50, $5.00, $7.50 and so forth (for stocks not in the Exchange's $1 Strike Program) or just at $1, $2, $3, $4, $5, $6, $7 and $8 (for stocks designated to participate in the $1 Strike Program), but rather at strike prices established at $1, $1.50, $2, $2.50 $3 and $3.50.[8]

In its filing with the Commission, the Exchange stated that the number of securities trading below $3.00 has increased dramatically recently and that the Exchange therefore believes that new strike prices for securities trading at or below $3.00 are appropriate. According to the Exchange, as the price of a stock declines below $3 or even $2, the availability of options with strike prices at intervals of $0.50 could provide investors with opportunities and strategies to minimize losses associated with owning a stock declining in price. In addition, the Exchange represented that it and the Options

[7] Current sections (ii), (iii) and (iv) will be renumbered as sections (iii), (iv) and (v) respectively.

[8] The option on the qualifying stock could also have strike prices set at $5, $7.50 and so forth at $2.50 intervals (pursuant to Commentary .05(a)(ii) to Phlx Rule 1012) or, if it has been selected for the $1 Strike Program, at $4, $5, $6, $7 and $8.

Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the additional traffic associated with the expanded number of options series proposed to be listed and traded.

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be 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.

Specifically, the Commission believes that the proposal to permit the Exchange to select a total of 5 individual underlying stocks trading at or under $3 on which option series may be listed at $0.50 strike intervals should provide investors with added flexibility in the trading of equity options and further the public interest by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Commission also believes that the proposal strikes a reasonable balance between the Exchange's desire to accommodate market participants by offering a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. The Commission expects that the Exchange will monitor the trading volume associated with the additional

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9 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

10 15 U.S.C. 78f(b).

options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's and vendors' automated systems.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR-Phlx-2009-65) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon
Deputy Secretary

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11 15 U.S.C. 78s(b)(2).

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