

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61943; File No. SR-Phlx-2010-40)

April 20, 2010

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Order Granting Accelerated Approval of Proposed Rule Change to Establish Strike Price Intervals and Trading Hours for Options on Index-Linked Securities

I. Introduction

On March 1, 2010, NASDAQ OMX PHLX, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to establish strike-price intervals for options on Index-Linked Securities and to establish trading hours for these products. The proposed rule change was published for comment in the Federal Register on March 22, 2010.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposed Rule Change

Prior to the commencement of trading options on Index-Linked Securities (also known as exchange-traded notes (“ETN”)), Phlx has proposed to establish strike price intervals and trading hours for these new products. The Commission has approved the Phlx’s and other options

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 61695 (March 12, 2010), 75 FR 13614.

exchanges proposals to enable the listing and trading of options on Index-Linked Securities.⁴

\$1 Strikes for ILS (ETN) Options

Phlx's proposal would extend the trading conventions applicable to options on exchange-traded funds ("ETFs") to options on Index-Linked Securities. Specifically, under the proposed rule change, strike price intervals of \$1 will be permitted where the strike price is less than \$200. Where the strike price is greater than \$200, \$5 strikes will be permitted. These proposed changes are reflected by the addition of Commentary .05(a)(v) to Rule 1012.

In support of its proposal, Phlx stated that it believes the marketplace and investors will be expecting ETN options to trade in a similar manner to options on ETFs. Strike prices for ETF options are permitted in \$1 or greater intervals where the strike price is \$200 or less and \$5 or greater where the strike price is greater than \$200.⁵ Accordingly, the Exchange asserts that the rationale for permitting \$1 strikes for ETF options equally applies to permitting \$1 strikes for ETN options and that investors will be better served if \$1 strike price intervals are available for ETN options (where the strike price is less than \$200).

Phlx further stated that it has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of \$1 strikes (where the strike price is less than \$200) for ETN options.

⁴ See e.g., Securities Exchange Act Release Nos. 58571 (September 17, 2008), 73 FR 55188 (September 24, 2008) (SR-Phlx-2008-60); 59923 (May 14, 2009), 74 FR 23902 (May 21, 2009) (SR-NASDAQ-2009-046); 58204 (July 22, 2008), 73 FR 43807 (July 28, 2008) (approving SR-CBOE-2008-64); 58203 (July 22, 2008), 73 FR 43812 (July 28, 2008) (approving SR-NYSEArca-2008-57); 58985 (November 10, 2008), 73 FR 72538 (November 28, 2008) (approving SR-ISE-2008-86).

⁵ See Securities Exchange Act Release No. 60872 (October 23, 2009), 74 FR 55878 (October 29, 2009) (SR-OCC-2009-14) (approval order).

Trading Hours for ILS (ETN) Options

Similar to the trading hours for ETF options, the Exchange proposes to amend Supplementary Material .01 to Rule 101 to provide that options on exchange-traded notes including Index-Linked Securities may be traded on the Exchange until 4:15 p.m. each business day.

III. Discussion and Commission's Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁷ 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.

The Commission notes that the proposed strike price intervals for options on Index-Linked Securities are consistent with the strike price intervals currently permitted for options on ETFs. Accordingly, the proposal should provide consistency and predictability for investors who may view these products as serving similar investment functions in the marketplace to ETFs and may provide investors with greater flexibility in achieving their investment objectives.

In addition, the Commission notes that Phlx has represented that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of \$1 strikes for options on Index-Linked

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

Securities.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁸ for approving the proposal prior to the thirtieth day after the date of publication of the Notice in the Federal Register. The Commission notes that it recently approved the same changes to strike price intervals and trading hours for options on Index-Linked Securities for another exchange.⁹ The Commission also notes that it has not received any comments regarding this proposal. The Commission believes that the proposed changes to strike price intervals and trading hours for options on Index-Linked Securities do not raise any novel regulatory issues and accelerating approval of this proposal should benefit investors by creating consistency and predictability for investors who may view these products as serving similar investment functions in the marketplace to ETFs and greater flexibility in achieving their investment objectives.

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Securities Exchange Act Release No. 61696 (March 12, 2010), 75 FR 13174 (March 18, 2010) (SR-CBOE-2010-005).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Phlx-2010-40) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(1).

¹¹ 17 CFR 200.30-3(a)(12).