

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63875; File No. SR-Phlx-2010-183)

February 9, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Expanding Its Short Term Option Program

I. Introduction

On December 15, 2010, NASDAQ OMX PHLX LLC (“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 expand the Short Term Option Program (“Program”) to allow the Exchange to select up to 15 option classes on which Short Term Option Series may be listed. The proposed rule change was published for comment in the Federal Register on December 28, 2010.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Currently, Rule 1101A(b)(vi)(A) and Commentary .11(a) to Rule 1012 permit the Exchange to open for trading on any Thursday or Friday that is a business day series of options on no more than five option classes that expire on the Friday of the following business week that is a business day. The Exchange has proposed to increase from five to 15 the number of option classes that may be opened pursuant to the Program.

In its filing, the Exchange stated that, because of the five-class limit imposed by the Program, on numerous occasions it has had to eliminate option classes from the Program in order

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 63594 (December 21, 2010), 75 FR 81689 (“Notice”).

to select new classes, even though demand remained for the eliminated classes. The Exchange noted that it believes an expansion of the current Program would allow the Exchange to better meet customer demand for short-term option classes.

Phlx stated that it has analyzed its capacity and represented that it believes that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program.

Finally the Exchange submitted a report to the Commission providing an analysis of the Program (the “Report”). The Report covered the period from the date of effectiveness of the Program through November 2010, and described the experience of the Exchange with the Program in respect of the options classes included by the Exchange in the Program.⁴ The Report was submitted on a confidential basis under separate cover.

III. Discussion

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.⁵ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the

⁴ The Report included the following: (1) data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Program; (3) an assessment of the impact of the Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors are available); (4) any capacity problems or other problems that arose during the operation of the Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Program.

⁵ 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).

Act,⁶ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 believes that the proposal strikes a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series. The Commission expects the Exchange to monitor the trading volume associated with the additional 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.

In approving this proposal, the Commission notes that Exchange has represented that it believes the Exchange and OPRA have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program.

⁶ 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-Phlx-2010-183) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Cathy H. Ahn
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).