

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64549; File No. SR-Phlx-2011-46)

May 26, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change to Expand the Number of Components in the PHLX Gold/Silver SectorSM known as XAUSM, on Which Options are Listed and Traded

On March 31, 2011, 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 number of components in the PHLX Gold/Silver SectorSM (the “Index” or “XAUSM”), on which options are listed and traded, and to change the Index weighting methodology.³ The proposed rule change was published for comment in the Federal Register on April 13, 2011.⁴ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Gold/Silver Index is a P.M. settled capitalization-weighted index composed of the stocks of widely held U.S. listed companies involved in the gold/silver mining industry. Options on the Index have an American-style expiration and the settlement value is based on the closing values of the component stocks on the day exercised, or on the last trading day prior to expiration.

In 1996, the Exchange received approval to apply to the Index all of the Index Options Maintenance Standards of Rule 1009A(c) except the requirement that an index option be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ PHLX Gold/Silver SectorSM may also be known as Gold/Silver Index.

⁴ See Securities Exchange Act Release No. 64244 (April 7, 2011), 76 FR 20775.

designated as A.M. settled per subsection (b)(1).⁵ Subsection (c) also requires, among other things, that the Index comply with the concentration requirements specifically set forth in 1009A(b)(6) regarding the Gold/Silver Index.⁶ The Index meets all of the subsection (c) Index Options Maintenance Standards (the A.M. settlement requirement is not applicable to the Index) for continued trading of options overlying the Index, with one exception, its proposed number of components.

The Exchange proposes to expand the number of components in the Index from sixteen to thirty. The Exchange represents that the expanded Index would continue to meet all of the index maintenance requirements in subsection (c) of Rule 1009A applicable to options on narrow-based indexes, except subsection (c)(2), which indicates that the total number of component

⁵ See Securities Exchange Act Release No. 37334 (June 19, 1996), 61 FR 33162 (June 26, 1996) (SR-Phlx-96-03) (order approving use of modified Rule 1009A(c) generic maintenance standards in respect of options on the Index).

The maintenance provisions in subsection (c) of Rule 1009A state, in part, as applicable to XAUSM: (1) The conditions stated in subparagraphs (b)(1), (3), (6), (7), (8), (9), (10), (11) and (12), must continue to be satisfied, provided that the conditions stated in subparagraph (b)(6) must be satisfied only as to the first day of January and July in each year; (2) The total number of component securities in the index may not increase or decrease by more than 33 1/3% from the number of component securities in the index at the time of its initial listing, and in no event may be less than nine component securities; (3) Trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; (4) In a capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index each have had an average monthly trading volume of at least 1,000,000 shares over the past six months.

⁶ Id. Regarding concentration requirements, subsection (b)(6)(i) states that with respect to the Gold/Silver Index, no single component shall account for more than 35% of the weight of the Index and the three highest weighted components shall not account for more than 65% of the weight of the Index; and that if the Index fails to meet this requirement, the Exchange shall reduce position limits to 8000 contracts on the Monday following expiration of the farthest-out, then trading, non-LEAP series.

securities in the index may not increase or decrease by more than 33 1/3% from the total number of securities in the index at the time of its initial listing. The Exchange also proposes to change its Index weighting methodology from capitalization-weighted to modified capitalization-weighted.⁷

After careful consideration, 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 exchange⁸ and, in particular, the requirements of Section 6 of the Act.⁹ Specifically, the Commission finds 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 prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

Index Design and Index Composition

Currently, the Index is calculated using a capitalization-weighted index methodology. The value of the Index equals the aggregate value of the Index share weights, also known as the Index shares, of each of the Index securities (components) multiplied by each such security's last sale price, and divided by the divisor of the Index. The divisor serves the purpose of scaling such aggregate index value to a lower order of magnitude which is more desirable for reporting

⁷ The Exchange has noted that both weighting methodologies are acceptable per the current generic index listing standards found in Rule 1009A(b)(2).

⁸ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).

purposes. If trading in an Index security is halted on its primary listing market, the most recent last sale price for that security is used for all index computations until trading on such market resumes. Likewise, the most recent last sale price is used if trading in a security is halted on its primary listing market before the market is open.

The modified capitalization-weighted methodology is expected to retain, in general, the economic attributes of capitalization weighting, while providing enhanced diversification.

Listing and Trading of Options on the Index

Phlx has represented that options on an expanded thirty-component Index would continue to meet the relevant Index Options Maintenance Standards in subsection (c) of Rule 1009A for listing XAUSM options, except subsection (c)(2). Subsection (c)(2) of Phlx Rule 1009A only permits a maximum increase of 33 1/3% from the total number of securities in the Index at the time of its initial listing. Additionally, the Exchange has represented that no other changes are being made to the Index as it currently exists. Based on these representations, the Commission believes that the proposed expansion to the Index is appropriate, and that Phlx should continue to be able to list and trade options on the Index.

Surveillance and Capacity

The Commission notes that the Exchange has represented that it has an adequate surveillance program in place for options traded on the Index and intends to apply those same program procedures that it applies to the Exchange's current XAUSM options and other index options. Additionally, the Exchange is a member of the Intermarket Surveillance Group (“ISG”) under the Intermarket Surveillance Group Agreement, dated June 20, 1994. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses. The Exchange has also

represented that it has the necessary systems capacity to continue to support listing and trading XAUSM options. This order is based on these representations.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-Phlx-2011-46) is hereby approved.

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

Cathy H. Ahn
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).