

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67753; File No. SR-Phlx-2012-78)

August 29, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Regarding Strike Price Intervals in the Short Term Options Program

I. Introduction

On July 2, 2012, 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 indicate that the interval between strike prices on short term options series (“STOs”) listed in accordance with its Short Term Option Series Program (“STO Program”) shall be \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150. The proposal would also provide that, during the expiration week of an option that is in the same class as an STO but has a longer expiration cycle (“Related non-STO”) the strike price interval for the STO and such Related non-STO shall be the same and that a Related non-STO shall be opened for trading in STO intervals in the same manner as the STO. The proposed rule change was published for comment in the Federal Register on July 20, 2012.³ The Commission received one comment letter on the proposal.⁴ On August 16, 2012, the Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 67446 (July 20, 2012), 77 FR 42780 (“Notice”).

⁴ See letter from Jenny L. Klebes-Golding, Senior Attorney, Legal Division, Chicago Board Options Exchange, Incorporated (“CBOE”), to Elizabeth M. Murphy, Secretary, Commission, dated August 10, 2012 (“CBOE Letter”). CBOE sought, in part, further clarification on whether the current 30 series per-class limitation set forth in the STO Program would apply to the Related non-STOs when the STO strike price intervals are added in accordance with this proposal.

filed a response to the CBOE Letter (“Phlx Response”).⁵ This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposed to amend Phlx Rules 1012 (Series of Options Open for Trading) and 1101A (Terms of Options Contracts) to indicate that the interval between strike prices on STOs shall be \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150 (“STO Intervals”). The proposal would amend Phlx’s rules to indicate that, during expiration week of a Related non-STO, the strike price intervals for the STO and Related non-STO shall be the same. Phlx also proposed to amend its rules to indicate that, during the week before the expiration week of the Related non-STO, such Related non-STO shall be opened for trading in the STO Intervals and in the same manner as the STO.

In the Notice, the Exchange stated that the principal reason for the proposed expansion is market demand for weekly options and continuing strong customer demand to use STOs to effectively execute hedging and trading strategies.⁶ Conversely, Phlx contended that inadequately narrow STO intervals can impact trading and hedging opportunities.⁷ Phlx also stated that listing Related non-STOs at the same strike prices intervals as STOs will ensure conformity and give investors and traders the ability to maximize trading and hedging opportunities and minimize associated costs.⁸

⁵ In its response, Phlx confirmed that the 30 series limitation CBOE identified applies to STOs only and would not restrict the ability to open additional series of Related non-STOs in accordance with the proposed rule change. See Phlx Response at 2-3.

⁶ See Notice, supra note 3 at 42781.

⁷ Id. at 42782-42783.

⁸ Id. at 42783.

The Exchange stated that it has analyzed its capacity, and represented that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading in STOs at \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150. In addition, Phlx stated that it believes that the proposed rule change will not raise a capacity issue with its members.⁹

III. Discussion and Commission Findings

After careful review of the proposed rule change and the CBOE Letter, 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.¹⁰ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹¹ 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.

In approving this proposal, the Commission notes that Exchange has represented that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated

⁹ Id.

¹⁰ 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).

¹¹ 15 U.S.C. 78f(b)(5).

with trading STOs and Related non-STOs at more granular strike price intervals. 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.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-Phlx-2012-78) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill
Deputy Secretary

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).