

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72504; File No. SR-Phlx-2014-41)

July 1, 2014

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Short Term Option Series Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that, on June 27, 2014, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) regarding the Short Term Option (“STO”) Program (“STO Program” or “Program”) to introduce finer strike price intervals for standard expiration contracts in option classes that also have STOs³ listed on them (“related non-STOs” or “related non-Short Term Options”).

The text of the proposed rule change is available on the Exchange’s website

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ STOs, also known as “weekly options” as well as “Short Term Options”, are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. For STO Program rules regarding non-index options, see Rule 1000(b)(44) and Commentary .11 to Rule 1012. For STO Program rules regarding index options, see Rule 1000A(b)(16) and Rule 1101A(b)(vi).

at <http://nasdaqomxphlx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rule 1012 and Rule 1101A regarding the STO Program to introduce finer strike price intervals for standard expiration contracts in option classes that also have related non-STOs listed on them. In particular, the Exchange proposes to amend its rules to permit the listing of related non-short term options during the month prior to expiration in the same strike price intervals as allowed for short term option series.

The STO Program, which was initiated in 2010,⁴ is codified in Commentary .11 to Rule 1012 for non-index options including equity, currency, and exchange traded fund ("ETF") options, and in Rule 1101A(b)(vi) for index options. Under these rules, the Exchange may list

⁴ See Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR-Phlx-2010-84) (notice of filing and immediate effectiveness permanently establishing STO Program on the Exchange).

STOs in up to fifty option classes,⁵ including up to thirty index option classes,⁶ in addition to option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each of these option classes, the Exchange may list five STO expiration dates at any given time, not counting monthly or quarterly expirations.⁷ Specifically, on any Thursday or Friday that is a business day, the Exchange may list STOs in designated option classes that expire at the close of business on each of the next five consecutive Fridays that are business days.⁸ These STOs, which can be several weeks or more from expiration, may be listed in strike price intervals of \$0.50, \$1, or \$2.50, with the finer strike price intervals being offered for lower priced securities, and for options that trade in the Exchange's dollar strike program.⁹ More specifically, the Exchange may list short term options in \$0.50 intervals for strike prices less than \$75, or for option classes that trade in one dollar increments in the related non-short term option, \$1 intervals for strike prices that are between \$75 and \$150, and \$2.50 intervals for strike prices above \$150.¹⁰

The Exchange may also list standard expiration contracts, which are listed in accordance with the regular monthly expiration cycle. These standard expiration contracts must be listed in wider strike price intervals of \$2.50, \$5, or \$10,¹¹ though the Exchange also operates strike price

⁵ See Commentary .11(a) to Rule 1012.

⁶ See Rule 1101A(b)(vi)(A).

⁷ See Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

⁸ Id.

⁹ See Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

¹⁰ Id. See Commentary .11(e) to Rule 1012; Rule 1101A(b)(vi)(E). The \$2.50 interval does not apply to indexes. See Rule 1101A(b)(vi).

¹¹ See Commentary .05(a)(iii) to Rule 1012.

programs, such as the dollar strike program mentioned above,¹² that allow the Exchange to list a limited number of option classes in finer strike price intervals. In general, the Exchange must list standard expiration contracts in \$2.50 intervals for strike prices of \$25 or less, \$5 intervals for strike prices greater than \$25, and \$10 intervals for strike prices greater than \$200.¹³ During the week prior to expiration only, the Exchange is permitted to list related non-short term option contracts in the narrower strike price intervals available for short term option series.¹⁴ Since this exception to the standard strike price intervals is available only during the week prior to expiration, however, standard expiration contracts regularly trade at significantly wider intervals than their weekly counterparts, as illustrated below.

For example, assume ABC is trading at \$56.54 and the monthly expiration contract is three weeks to expiration. Assume also that the Exchange has listed all available STO expirations and thus has STOs listed on ABC for weeks one, two, four, five, and six. Each of the five weekly ABC expiration dates can be listed with strike prices in \$0.50 intervals, including, for example, the \$56.50 at-the-money strike. Because the monthly expiration contract has three weeks to expiration, however, the near-the-money strikes must be listed in \$5 intervals unless those options are eligible for one of the Exchange's other strike price programs. In this instance, that would mean that investors would be limited to choosing, for example, between the \$55 and \$60 strike prices instead of the \$56.50 at-the-money strike available for STOs. This is the case even though contracts on the same option class that expire both several weeks before and several

¹² See Commentary .05(A)(1) [sic] to Rule 1012, which allows the Exchange to designate up to 150 option classes on individual stocks to be traded in \$1 strike price intervals where the strike price is between \$50 and \$1. See also Commentary .05(b) to Rule 1012 (\$2.50 Strike Program) and Commentary .05(a)(ii) to Rule 1012 (\$0.50 Strike Program).

¹³ See Commentary .05(a)(iii) to Rule 1012.

¹⁴ See Commentary .11(e) to Rule 1012; Rule 1101A(b)(vi)(E).

weeks after the monthly expiration are eligible for finer strike price intervals. Under the proposed rule change, the Exchange would be permitted to list the related non-short term option on ABC, which is less than a month to expiration, in the same strike price intervals as allowed for STOs. Thus, the Exchange would be able to list, and investors would be able to trade, all expirations described above with the same uniform \$0.50 strike price interval.

As proposed, the Exchange would be permitted to begin listing the monthly expiration contract in these narrower intervals at any time during the month prior to expiration, which begins on the first trading day after the prior month's expiration date, subject to the provisions of Exchange rules. For example, since the April 2014 monthly option expired on Saturday, April 19, the proposed rule change would allow the Exchange to list the May 2014 monthly option in short term option intervals starting Monday, April 21.

The Exchange believes that introducing consistent strike price intervals for STOs and related non-STOs during the month prior to expiration will benefit investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that the proposed rule change will provide the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁵ In particular, the

¹⁵ 15 U.S.C. 78f(b).

proposal is consistent with Section 6(b)(5) of the Act,¹⁶ because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

As noted above, standard expiration options currently trade in wider intervals than their weekly counterparts, except during the week prior to expiration. This creates a situation where contracts on the same option class that expire both several weeks before and several weeks after the standard expiration are eligible to trade in strike price intervals that the standard expiration contract is not. When the Exchange originally filed to list related non-STOs in the same intervals as STOs in the same option class during the week prior to expiration,¹⁷ the Exchange was limited to listing one short term option expiration date at a time. Thus, there was no inconsistency between standard expiration contracts, which traded in finer intervals in the week prior to expiration, and STOs, which were only listed on the week prior to expiration. The STO Program has since grown in response to customer demand, and the Exchange is now permitted to list up to five STO expiration dates in addition to standard expiration options.¹⁸ There is continuing strong customer demand to have the ability to execute hedging and trading strategies in the finer strike price intervals available in STOs, and the Exchange believes that the proposed rule change will increase market efficiency by harmonizing strike price intervals for contracts

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ See Securities Exchange Act Release No. 67753 (August 29, 2012), 77 FR 54635 (September 5, 2012) (SR-Phlx-2012-78) (approval order); and 67446 (July 16, 2012), 77 FR 42780 (June 20, 2012) (SR-Phlx-2012-78) (notice of filing).

¹⁸ See Securities Exchange Act Release No. 70116 (August 5, 2013), 78 FR 48754 (August 9, 2013) (SR-Phlx-2013-79) (notice of filing and immediate effectiveness).

that are close to expiration, whether those contracts happen to be listed pursuant to weekly or monthly expiration cycles.

The Exchange notes that, in addition to listing standard expiration contracts in STO intervals during the expiration week, it already operates several programs that allow for strike price intervals for standard expiration contracts that range from \$0.50 to \$2.50.¹⁹ The Exchange believes that each of these programs has been successful but notes that limitations on the number of option classes that may be selected for each of these programs means that many standard expiration contracts must still be listed in wider intervals than their short term option counterparts. For example, the \$0.50 strike price program, which offers the narrowest strike price interval, only permits the Exchange to designate up to 20 option classes to trade in \$0.50 intervals in addition to option classes selected by other exchanges that employ a similar program.²⁰ Thus, the proposed rules are necessary to fill the gap between strike price intervals allowed for STOs and related non-STOs. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by giving them more flexibility to closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes proposed by other exchanges.²¹

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as

¹⁹ See supra note 9 [sic].

²⁰ See Commentary .05(a) to Rule 1012.

²¹ See Securities Exchange Act Release No. 72098 (May 6, 2014), 79 FR 27006 (May 12, 2014) (SR-ISE-2014-23) (notice of filing).

a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that investors will benefit from the availability of strike price intervals in standard expiration contracts that match the intervals currently permitted for STOs with a similar time to expiration.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²² and Rule 19b-4(f)(6) thereunder.²³

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement would allow STOs to be traded on the Exchange in a manner similar to other markets, in a competitive manner and without interruption. For this reason, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.²⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

²⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2014-41 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2014-41. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-Phlx-2014-41 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Jill M. Peterson
Assistant Secretary

²⁵ 17 CFR 200.30-3(a)(12).