

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61695; File No. SR-Phlx-2010-40)

March 12, 2010

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 1, 2010, NASDAQ OMX PHLX, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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: Phlx Rule 1012 (Series of Options Open for Trading) to establish strike-price intervals for options on Index-Linked

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Securities;³ and Phlx Rule 101 (Hours of Business) to establish trading hours for these products.

The text of the proposed rule change is available on Phlx's Web site at

<http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, on the Commission's

Web site at <http://www.sec.gov>, at Phlx, 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 self-regulatory organization 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 those 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 parts 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 proposal is to amend Rules 1012 and 101 to establish strike price intervals and trading hours for options on Index-Linked Securities ("ILS"), also known as

³ Index-Linked Securities, also known as exchange-traded notes, are long-term notes that are the non-convertible debt of an issuer with a term of at least one year but not greater than thirty years. These exchange-traded securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or market indexes. The Exchange's listing standards for options on Index-Linked Securities were established in September 2008. See Securities Exchange Act Release No. 58571 (September 17, 2008), 73 FR 55188 (September 24, 2008) (SR-Phlx-2008-60) (notice of filing and immediate effectiveness). Other exchanges have established similar listing standards. See Securities Exchange Act Release Nos. 59923 (May 14, 2009), 74 FR 23902 (May 21, 2009) (SR-NASDAQ-2009-046) (notice of filing and immediate effectiveness); 58204 (July 22, 2008), 73 FR 43807 (July 28, 2008) (SR-CBOE-2008-64) (approval order); 58203 (July 22, 2008), 73 FR 43812 (July 28, 2008)(SR-NYSEArca-2008-57)(approval order); and 58985 (November 20, 2008), 73 FR 72538 (November 28, 2008)(SR-ISE-2008-86)(notice of filing and immediate effectiveness).

exchange-traded notes (“ETN”), prior to the Exchange proposing to list and trade these new products.

The Commission has approved the Exchange’s proposal, as well as the proposals of other options exchanges, to enable the listing and trading of options on ILS (ETN).⁴ Options trading has not commenced to date and is contingent upon the Commission's approval of The Options Clearing Corporation's ("OCC") proposed supplement to the Options Disclosure Document ("ODD") that will provide disclosure regarding options on Index-Linked Securities.⁵

\$1 Strikes for ILS (ETN) Options

Prior to the commencement of trading options on Index-Linked Securities, the Exchange is proposing to establish that 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.

The Exchange is seeking to establish \$1 strikes for ILS (ETN) options where the strike price is less than \$200 because the Exchange believes the marketplace and investors will be expecting these types of options to trade in a similar manner to options on exchange-traded funds ("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 \$200.⁶ Accordingly, the Exchange believes that the rationale for permitting \$1 strikes for ETF options equally applies to permitting \$1 strikes for ILS (ETN) options, and that investors will be better served if \$1 strike

⁴ See supra note 3.

⁵ OCC previously received Commission approval to clear options based on Index-Linked Securities. See Securities Exchange Act Release No. 60872 (October 23, 2009), 74 FR 55878 (October 29, 2009)(SR-OCC-2009-14)(approval order).

⁶ See proposed Commentary .05(a)(iv) of Rule 1012, which is renumbered for internal consistency.

price intervals are available for ILS (ETN) options where the strike price is less than \$200. The Exchange believes that \$1 strike price intervals for options on Index-Linked Securities will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives.

Trading Hours for ILS (ETN) 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. This will establish similar trading hours for ILS (ETN) options as the currently-established trading hours for ETF options.⁷

The Exchange has analyzed its capacity and believes the Exchange and the Options Price Reporting Authority (“OPRA”) 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 ILS (ETN) options.

The Exchange expects that other option exchanges that have adopted rules providing for the listing and trading of options on Index-Linked Securities will submit similar proposals.⁸

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁰ in particular, in that it is 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

⁷ See Rule 101.

⁸ See, for example, Securities Exchange Act Release No. 61466 (February 2, 2010), 75 FR 6243 (February 8, 2010)(SR-CBOE-2010-005)(notice of filing).

⁹ 15 U.S.C. 78f(b).

transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by having strike price intervals and trading hours established prior to the commencement of trading in options on Index-Linked Securities and thereby lessening the likelihood for investor confusion.

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 not necessary or appropriate in furtherance of the purposes of the Act.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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:

¹⁰ 15 U.S.C. 78f(b)(5).

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Phlx-2010-40 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2010-40. 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 Web site (<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 Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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-2010-40 and should be submitted on or before [insert date 15 days from the date of publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).