

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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's web site (http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp). 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 No. SR-OCC-2007-16 and should be submitted on or before April 28, 2008.

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

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57597; File No. SR-Phlx-2008-24]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Position and Exercise Limits on IWM Options

April 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 28, 2008, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the

Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. 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 proposes to amend Phlx Rule 1001, Position Limits, to establish increased position limits of 500,000 for options ("IMW Options") on the exchange-traded fund ("ETF") overlying the iShares Russell 2000 Index ("IWM"). The text of the rule proposal is available on the Exchange's Web site (<http://www.phlx.com>), at the offices 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 the proposed rule change is to establish in Phlx Rule 1001 increased position limits of 500,000 contracts for IWM Options, which should encourage a more liquid and competitive market environment to the benefit of customers interested in the product.

About a year ago, the IWM Options position limit was increased to 500,000 contracts pursuant to a CBOE and ISE pilot program (the "IWM Pilot").⁵ The

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The proposal that established the IWM Pilot was designated to be effective and operative upon filing. See, e.g., Securities Exchange Act Release Nos. 55176 (January 25, 2007), 72 FR 4741 (February 1, 2007) (SR-CBOE-2007-08) and 55175 (January 25, 2007), 72 FR 4753 (February 1, 2007) (SR-ISE-2007-07). The IWM Pilot was extended through

Commission recently permanently approved this position limit pilot.⁶ The Exchange now seeks to similarly increase its position limit on IWM Options to 500,000 contracts.⁷

Although position limits have lately enjoyed permanent expansion, there has been a steadfast and significant increase over the last decade in the overall volume of exchange-traded options. Part of this volume is attributable to a corresponding increase in the number of overall market participants. This growth in market participation has in turn brought about additional depth and increased liquidity in exchange-traded options.

As the anniversary of listed options trading approaches its 35th year, the Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange, at other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. These procedures include daily monitoring of market movements via automated surveillance techniques to identify unusual activities in both options and underlying stocks and ETFs.

The current financial requirements imposed by the Exchange and by the Commission should address any concerns that a member or its customer

March 1, 2008. See Securities Exchange Act Release Nos. 57141 (January 14, 2008), 73 FR 3496 (January 18, 2008) (SR-CBOE-2007-147) and 57144 (January 14, 2008), 73 FR 3785 (January 22, 2008) (SR-ISE-2008-03). The Exchange did not participate in the pilot program.

⁶ See Securities Exchange Act Release No. 57352 (February 19, 2008), 73 FR 10076 (February 25, 2008) (SR-CBOE-2008-07). Other options exchanges similarly have a 500,000 contract IWM Options position limit. See Securities Exchange Act Release Nos. 57415 (March 3, 2008), 73 FR 12479 (March 7, 2008) (SR-Amex-2008-16); 57414 (March 3, 2008), 73 FR 12481 (March 7, 2008) (SR-BSE-2008-12); 57416 (March 3, 2008), 73 FR 12489 (March 7, 2008) (SR-ISE-2008-20); and 57417 (March 3, 2008), 73 FR 12788 (March 10, 2008) (SR-NYSEArca-2008-26). Position limit increases for other option products have also been approved recently. See Securities Exchange Release No. 57418 (March 3, 2008), 73 FR 12493 (March 7, 2008) (SR-Phlx-2008-14) (QQQs position limit).

⁷ Phlx Rule 1002, which the Exchange does not propose to amend, establishes exercise limits for equity options at the same levels as the applicable position limits. Phlx Rule 1002 states in part that "no member or member organization shall exercise, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange * * * if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in that class (put or call) as set forth as the position limit in Rule 1001 * * *"

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

may try to maintain an inordinately large unhedged position in an equity option. As an example, the Exchange requires that each member or member organization that maintains a position on the same side of the market in excess of 10,000 contracts in a class of options for its own account or for the account of a customer report certain information. This data would include, but not be limited to, whether such position is hedged and if so, documentation as to how the position is hedged.⁸

The Exchange believes that its surveillance procedures and reporting procedures, in conjunction with the financial requirements and risk management review procedures already in place at the clearing firms and the Options Clearing Corporation, should serve to adequately address any concerns the Commission may have respecting account(s) engaging in manipulative schemes or assuming too high a level of risk exposure. Accordingly, the Exchange believes that its surveillance and financial requirements are adequate to effectively monitor the proposed increase in position limits for IWM Options on a going forward basis.

The Exchange expects continued options volume growth as opportunities for investors to participate in options markets increase and evolve. The Exchange believes that establishing the proposed expanded position limits for IWM Options, as currently available to other options exchanges, should allow market participants to more effectively achieve their investment and hedging objectives.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act⁹ in general, and Section 6(b)(5) of the Act¹⁰ in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; 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 proposed rule change would enable the Exchange to

⁸ Exchange market-makers may be exempt from this reporting requirement to the extent that market-maker information can be accessed through the Exchange's market surveillance systems. See Phlx Rule 1003. The rule also contains general reporting requirements for customer accounts that maintain a position in excess of 200 contracts.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

have the same position limits for IWM Options that are already available to other options exchanges.¹¹

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.

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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³ The Exchange notes that the proposed rule change is based on a similar proposal recently approved by the Commission,¹⁴ and does not raise any novel issues.

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Exchange states that waiving the operative delay will allow the proposed increase in the position and exercise limits applicable to options on IWM on Phlx to be put into effect immediately, which will align Phlx's IWM limits with the IWM limits applicable to members of other options exchanges, thereby promoting conformity and uniformity in the rules of the several options exchanges.

¹¹ See *supra* note 6.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and 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 fulfilled this requirement.

¹⁴ See Securities Exchange Act Release No. 57352, *supra* note 6.

The Commission believes that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest.¹⁵ Therefore, the Commission designates the proposal to be operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.

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
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Phlx-2008-24 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-Phlx-2008-24. 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 Commissions 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 inspection and copying in the Commission's Public Reference

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

Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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-2008-24 and should be submitted on or before April 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57599; File No. SR-NASDAQ-2008-027]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for Trading on The NASDAQ Options Market

April 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 27, 2008, The NASDAQ Stock Market LLC (“Nasdaq”) 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 substantially by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by Nasdaq under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to establish pricing for trading standardized equity and index options on The NASDAQ Options Market (“NOM”), Nasdaq’s facility for the trading of standardized equity and index options. Nasdaq will implement this rule change on March 31, 2008, the expected launch date for NOM. The text of the proposed rule change is available at <http://www.complinet.com/nasdaq>, the principal offices of the Exchange, and 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, Nasdaq 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. Nasdaq 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

Nasdaq is introducing fees and credits for the execution of options contracts within NOM. The fees are based on the pricing model currently in place for the trading of equities via the Nasdaq Market Center, with variations to reflect Nasdaq’s understanding of the different competitive conditions in the markets that trade options.

Specifically, Nasdaq will assess fees for the execution of options contracts based upon which member provides liquidity to the market and which member takes liquidity from the market. This model seeks to attract liquidity to NOM by providing credits to members that provide liquidity, and to assess a fee to the member whose order executes against an order that has provided liquidity. An order that provides liquidity is any order that is entered into NOM and is placed on the NOM book for potential execution. An order that takes liquidity is one that is entered into NOM and that executes against an order resting on the NOM book. In the case of the NOM Closing Cross, all orders entered during the continuous market or entered as Imbalance Only orders will be considered liquidity providers and

all On Close orders will be considered liquidity takers.

For all executions except the NOM Opening Cross, the fee for liquidity takers will be \$0.45 per executed contract and the rebate for liquidity providers will be \$0.30 per executed contract. For orders executed in the NOM Opening Cross, the fee will be \$0.05 per contract for each side of the transaction. Executions in the Opening Cross are not susceptible to the liquidity provider and taker analysis described above because NOM will not place orders on its book prior to the opening of the market. Instead, NOM will place orders on the book just prior to and in anticipation of the execution of the NOM Opening Cross. In light of this difference, Nasdaq has concluded that charging all members equally for the execution of their orders in the NOM Opening Cross is the fairest way to allocate fees.

Nasdaq will assess a routing fee for orders that are executed at another options market based upon the cost to Nasdaq of executing such orders at those markets. In order to reflect Nasdaq’s cost of execution at away markets, the proposed fees are separated by type of option (penny pilot, equity/non-penny pilot, ETF or HLDS/non-penny pilot, and Index) and vary depending upon whether the order is being routed for a customer, a member firm, or a registered market maker. In addition, Nasdaq will pass-through surcharges that are assessed by other markets for the execution of specific options orders on specific underlying instruments.

These options are separated into three tiers by level of surcharge and the options included in each tier are listed in an Options Trader Alert and also posted on the NasdaqTrader.com website.⁵ A copy of the posted fee schedule is attached as Exhibit 2 to Nasdaq’s rule filing. Nasdaq believes that these routing fees and surcharges are competitive, fair and reasonable, and non-discriminatory in that they approximate the cost to Nasdaq of executing routed orders at an away market. As with all fees, Nasdaq may adjust these routing fees in response to competitive conditions by filing a new proposed rule change.

⁵ See Options Trader Alert 2008-001 (March 12, 2008) (announcing SEC approval of The NASDAQ Options Market rule proposal), at <http://www.nasdaqtrader.com/TraderNews.aspx?id=OTA2008-001>; http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#nq_optionsex.

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).