

during the preceding three calendar months. The listing of \$0.50 strike prices will be limited to options classes overlying no more than five individual stocks as specifically designated by the Exchange. The Exchange also will be able to list \$0.50 strike prices on any other option classes if those classes were specifically designated by other securities exchanges that employ a similar \$0.50 Strike Program under their respective rules.

Currently, the Exchange may list options on stocks trading at \$3 at strike prices of \$1, \$2, \$3, \$4, \$5, \$6, \$7 and \$8 if they are designated to participate in the \$1 Strike Program. If these stocks have not been selected for the Exchange's \$1 Strike Program, the Exchange may list strike prices of \$2.50, \$5, \$7.50 and so forth as provided in Commentary .05(a), but not strike prices of \$1, \$2, \$3, \$4, \$6, \$7 and \$8. The proposed amendments to Commentary .05 to Phlx Rule 1012 will permit the Exchange to list strike prices on options on qualifying stocks that trade at or under \$3.00, which may include stocks also participating in the \$1 Strike Program, in finer intervals of \$0.50, beginning at \$1 up to \$3.50.<sup>7</sup> Thus, a stock trading at \$3 that is selected for the \$0.50 Strike Program would have option strike prices established not just at \$2.50, \$5.00, \$7.50 and so forth (for stocks not in the Exchange's \$1 Strike Program) or just at \$1, \$2, \$3, \$4, \$5, \$6, \$7 and \$8 (for stocks designated to participate in the \$1 Strike Program), but rather at strike prices established at \$1, \$1.50, \$2, \$2.50, \$3 and \$3.50.<sup>8</sup>

In its filing with the Commission, the Exchange stated that the number of securities trading below \$3.00 has increased dramatically recently and that the Exchange therefore believes that new strike prices for securities trading at or below \$3.00 are appropriate. According to the Exchange, as the price of a stock declines below \$3 or even \$2, the availability of options with strike prices at intervals of \$0.50 could provide investors with opportunities and strategies to minimize losses associated with owning a stock declining in price. In addition, the Exchange represented that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the additional traffic associated with the expanded number of

options series proposed to be listed and traded.

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>9</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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.

Specifically, the Commission believes that the proposal to permit the Exchange to select a total of 5 individual underlying stocks trading at or under \$3 on which option series may be listed at \$0.50 strike intervals should provide investors with added flexibility in the trading of equity options and further the public interest by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Commission also believes that the proposal strikes a reasonable balance between the Exchange's desire to accommodate market participants by offering a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. The Commission expects that the Exchange will 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.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-Phlx-2009-65) be, and it hereby is, approved.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60690; File No. SR-MSRB-2009-14]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Consisting of an Interpretive Notice Regarding MSRB Rule G-15(a), on Customer Confirmations

September 18, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 15, 2009, the Municipal Securities Rulemaking Board ("Board" or "MSRB"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Board. The MSRB has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1) thereunder,<sup>4</sup> 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

The MSRB has filed with the Commission a proposed rule change consisting of an interpretive notice regarding MSRB Rule G-15(a), on customer confirmations, concerning use of electronic confirmations produced by a clearing agency or qualified vendor to satisfy the requirements of Rule G-15(a). The text of the proposed rule change is available on the MSRB's Web site (<http://www.msrb.org/msrb1/sec.asp>), at the MSRB's principal office, 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 MSRB included statements concerning the purpose of and basis for the

<sup>7</sup> Current sections (ii), (iii) and (iv) will be renumbered as sections (iii), (iv) and (v) respectively.

<sup>8</sup> The option on the qualifying stock could also have strike prices set at \$5, \$7.50 and so forth at \$2.50 intervals (pursuant to Commentary .05(a)(ii) to Phlx Rule 1012) or, if it has been selected for the \$1 Strike Program, at \$4, \$5, \$6, \$7 and \$8.

<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

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 MSRB 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 MSRB received an interpretive request concerning the written confirmation requirements of MSRB Rule G-15(a), on customer confirmations of transactions in municipal securities transactions, in which the MSRB was asked whether dealers could rely on a confirmation sent by a Clearing Agency or Qualified Vendor, as defined in MSRB Rule G-15(d)(ii)(B), where disclosures customarily provided on the back of paper confirmations are provided electronically using a URL link to satisfy their confirmation delivery obligations to customers under MSRB Rule G-15(a). The MSRB recognizes that the speed and efficiencies offered by electronic confirmation delivery are of benefit to the municipal securities industry. Therefore, the MSRB has interpreted the requirement in Rule G-15(a) to provide a customer with a written confirmation to be satisfied by an electronic confirmation for DVP/RVP transactions sent by a Clearing Agency or Qualified Vendor, as defined in MSRB Rule G-15(d)(ii)(B), where disclosures customarily provided on the back of paper confirmations are provided electronically using a URL link when the following conditions are met: (i) the confirmation sent includes all of the information required by Rule G-15(a); and (ii) all of the requirements and conditions concerning the use of the electronic confirmation service expressed in applicable SEC no-action letters concerning Rule 10b-10 continue to be met.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,<sup>5</sup> which provides that the MSRB's rules shall:

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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal

securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because the speed and efficiencies offered by electronic confirmation delivery are of benefit to the municipal securities industry.

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

The MSRB 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, since it would apply equally to all brokers, dealers and municipal securities dealers.

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

Written comments were neither solicited nor received.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>6</sup> and Rule 19b-4(f)(1) thereunder,<sup>7</sup> in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the MSRB. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.<sup>8</sup>

**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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>7</sup> 17 CFR 240.19b-4(f)(1).

<sup>8</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

• Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2009-14 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-MSRB-2009-14. 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 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 the principal office of the MSRB. 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-MSRB-2009-14 and should be submitted on or before October 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>5</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>9</sup> 17 CFR 200.30-3(a)(12).