

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 Number SR-NYSEArca-2010-17 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-NYSEArca-2010-17. 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, 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-NYSEArca-2010-17 and

should be submitted on or before April 21, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61776; File No. SR-Phlx-2010-44]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extension of Sponsored Access Pilot Program

March 24, 2010.

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 17, 2010, NASDAQ OMX PHLX, Inc. ("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 proposes to extend its sponsored access rule for a pilot period ending on September 15, 2010. The current pilot expires on March 15, 2010.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, 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 the proposed rule change is to attract additional business by extending its sponsored access rule, which is similar to that of other exchanges. During the previous pilot program, very few member organizations availed themselves of the program, but the Exchange seeks to make it available for an additional pilot period expiring September 15, 2010.

A Sponsored Participant is a non-member of the Exchange, such as an institutional investor, that gains access to the Exchange and trades under a Sponsoring Member's execution and clearing identity pursuant to a sponsorship arrangement between such non-member and a member organization. Specifically, the Exchange proposes to permit Sponsored Participants to be sponsored by Sponsoring Member Organizations, and thereby access the Exchange, subject to certain requirements. These requirements are intended to confirm that the Sponsored Participant is required to and had procedures in place to comply with Exchange rules, and that the Sponsoring Member Organization takes responsibility for the Sponsored Participant's activity on the Exchange.

First, the Sponsored Participant and its Sponsoring Member Organization must have entered into and maintained an Access Agreement with the Exchange. The Sponsoring Member Organization must designate the Sponsored Participant by name in an addendum to the Access Agreement.

Second, there must be a Sponsored Participant Agreement between the Sponsoring Member Organization and the Sponsored Participant that contains the following sponsorship provisions, enumerated in full in Rule 1094(b)(ii):

- The orders of the Sponsored Participant are binding in all respects on the Sponsoring Member Organization;
- The Sponsoring Member Organization is responsible for the actions of the Sponsored Participant;
- In addition to the Sponsoring Member Organization being required to comply with the Exchange Certificate of Incorporation, By-laws, Rules and procedures of the Exchange, the

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Sponsored Participant shall do so as if such Sponsored Participant were an Exchange member organization;

(iv) The Sponsored Participant shall maintain, keep current and provide to the Sponsoring Member Organization a list of individuals authorized to obtain access to the Exchange on behalf of the Sponsored Participant;

(v) The Sponsored Participant shall familiarize its authorized individuals with all of the Sponsored Participant's obligations under this Rule and will assure that they receive appropriate training prior to any use or access to the Exchange;

(vi) The Sponsored Participant may not permit anyone other than authorized individuals to use or obtain access to the Exchange;³

(vii) The Sponsored Participant shall take reasonable security precautions to prevent unauthorized use or access to the Exchange, including unauthorized entry of information into the Exchange, and agrees that it is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of authorized individuals, and for the trading and other consequences thereof;

(viii) The Sponsored Participant acknowledges its responsibility to establish adequate procedures and controls that permit it to effectively monitor its employees', agents' and Participants' use and access to the Exchange for compliance with the terms of this agreement;

(ix) The Sponsored Participant shall pay when due all amounts, if any, payable to Sponsoring Member Organization, the Exchange, or any other third parties that arise from the Sponsored Participant's access to and use of the Exchange. Such amounts include, but are not limited to applicable exchange and regulatory fees.

Third, the Sponsoring Member Organization must provide the Exchange with a Sponsored Participant Addendum to its Access Agreement acknowledging its responsibility for the orders, executions and actions of its Sponsored Participant at issue.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁴ in general, and furthers the

³ If the Exchange determines that an authorized individual has caused a Member Organization to violate the Exchange's Rules, the Exchange could direct the Member Organization to suspend or withdraw the person's status as an authorized individual.

⁴ 15 U.S.C. 78f(b).

objectives of Section 6(b)(5) of the Act⁵ in particular, in that it is 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 by helping market participants seeking access to a marketplace.

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

Because the foregoing 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6)⁷ thereunder.

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.⁸ However, Rule 19b-4(f)(6)(iii)⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange filed the proposed rule change on March 17, 2010. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to extend and continue its

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. Phlx has satisfied this requirement.

⁸ 17 CFR 240.19b-4(f)(6)(iii).

⁹ *Id.*

pilot program without delay. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.¹⁰

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 Number SR-Phlx-2010-44 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-Phlx-2010-44. 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, 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

¹⁰ For the 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).

information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2010-44 and should be submitted on or before April 21, 2010.

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61766; File No. SR-NASDAQ-2010-035]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Establish Strike Price Intervals and Trading Hours for Options on Index-Linked Securities

March 23, 2010.

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 11, 2010, The NASDAQ Stock Market LLC (“NASDAQ” 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

NASDAQ is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal for the NASDAQ Options Market (“NOM” or “Exchange”) to amend: Chapter IV, Section 6 (Series of Options Contracts Open for Trading) to establish strike-price intervals for options on Index-Linked Securities;³ and Chapter VI,

Section 2 (Days and Hours of Business) to establish trading hours for these products. The text of the proposed rule change is available on NASDAQ’s Web site at <http://nasdaq.cchwallstreet.com/Filings/>, on the Commission’s Web site at <http://www.sec.gov>, at NASDAQ, 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 Chapter IV, Section 6 and Chapter VI, Section 2 to establish strike price intervals and trading hours for options on Index-Linked Securities (“ILS”), also known as 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

Act Release No. 59923 (May 14, 2009), 74 FR 23902 (May 21, 2009) (SR-NASDAQ-2009-046) (notice of filing and immediate effectiveness). Other exchanges have established similar listing standards. See Securities Exchange Act Release Nos. 58571 (September 17, 2008), 73 FR 55188 (September 24, 2008) (SR-Phlx-2008-60) (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).

⁴ See supra note 3.

⁵ OCC previously received Commission approval to clear options based on Index-Linked Securities.

\$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 Chapter IV, Section 6, Supplementary Material .01(c) to Section 6.

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”).⁶ 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 \$200.⁷ 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 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 Chapter VI, Section 2(b) to provide that options contracts on exchange-traded notes including Index-Linked Securities, as defined in Chapter IV, Section 3(l), 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.⁸

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

See Securities Exchange Act Release No. 60872 (October 23, 2009), 74 FR 55878 (October 29, 2009) (SR-OCC-2009-14) (approval order).

⁶ ETFs may also be known in the rules as Exchange Traded Funds or Fund Shares. See, for example, Chapter IV, Section 6(g) and Chapter 6, Section 2(b).

⁷ See proposed Chapter IV, Section 6, Supplementary Material .01(b) to Section 6, which, like subsection (c), is renumbered for internal consistency.

⁸ See Chapter VI, Section 2.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 May 2009. See Securities Exchange