

on equitable grounds. The Applicants contend that the Credit provisions are generally beneficial to the Contract Owner. The recapture provisions of the Current Contracts temper this benefit somewhat, but unless the Contract Owner dies, the Contract Owner retains the ability to avoid the Credit recapture in the circumstances described in the application. The Applicants state that the Credit recapture provisions are necessary for NWL to offer the Credits and avoid anti-selection against it. No CDSC would be imposed in any of the circumstances under which a Credit would be recaptured.

10. The Applicants submit that it would be inequitable to NWL to permit a Contract Owner to keep his or her Credits upon his or her exercise of the Current Contract's free look provision. Because no CDSC applies to the exercise of the free look right, the Contract Owner could obtain a quick profit in the amount of the Credit at NWL's expense by exercising that right immediately after the Credits were applied to the Current Contract.

11. Likewise, the Applicants submit that it would be inequitable to permit a Contract Owner or beneficiary to keep Credits in those situations where the annuitant dies within 12 months of applying a Credit, where Credits are applied after the Contract Owner's death, or where the Contract Owner takes a surrender or withdrawal from the Current Contract without a CDSC under the terms of the Long-Term Care/Nursing Home and Terminal Illness Waiver within 12 months of applying a Credit. In these situations, NWL would be unable to recover the cost of granting the Credits because they would be redeemed out of the Current Contract before enough time passed for NWL to recoup a sufficient portion of the associated costs through the assessment of charges, particularly the daily Mortality and Expense Risk Charge and the daily Administrative Charge. The Applicants state that NWL cannot offer the proposed Credits without the ability to recapture those Credits in the circumstances described herein.

12. The Applicants state, based on the grounds presented below, that their exemptive request meets the standards set out in section 6(c) of the act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act and that, therefore, the Commission should grant the requested order.

13. The Applicants submit that their request for an Order that is applicable

to the Contracts and Other Accounts, as well as Other Underwriters, is appropriate in the public interest. The Applicants also contend that such Order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of the Applicants' resources. The Applicants further assert that investors would not receive any benefit or additional protection by requiring the Applicants to repeatedly seek exemptive relief that would present no issue under the act that has not already been addressed in the Amended Application described herein. The Applicants submit that filing additional applications would impair their ability to effectively take advantage of business opportunities as they arise. Furthermore, the Applicants state that if they were repeatedly required to seek exemptive relief with respect to the same issues addressed in the Amended Application described herein, investors would not receive any benefit or additional protection thereby.

Conclusion

Applicants submit that based on the analysis presented above, the provisions for recapture of the Credit under the Contracts does not violate sections 2(a)(32) and 27(i)(2)(A) of the act and rule 22c-1 thereunder. Applicants further submit that there are equitable grounds for granting the requested relief and the exemptions requested meet the standards of section 6(c) of the act and respectfully request that the Commission issue an order of approval pursuant to section 6(c) of the act to exempt the Applicants with respect to: (1) The Contracts; (2) the Separate Account and Other Accounts that support the Contracts; and (3) NISC and Other Underwriters, from the provisions of sections 2(a)(32) and 27(i)(2)(A) of the act and rule 22c-1 thereunder, to the extent necessary to permit the recapture of all or a portion of the Credits in the circumstances described above.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on July 14, 2010 at 10 a.m., in the Auditorium, Room L-002.

The Commission will consider whether to issue a concept release to solicit public comment as to whether the Commission should consider revisions to its rules to promote greater efficiency and transparency in the U.S. proxy system and enhance the accuracy and integrity of the shareholder vote.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: July 7, 2010.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2010-16888 Filed 7-7-10; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62420; File No. SR-Phlx-2010-72]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Order Granting Approval of Proposed Rule Change To Expand Its \$1 Strike Program to 150 Classes

June 30, 2010.

I. Introduction

On May 7, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² a proposed rule change to expand the Exchange's \$1 Strike Price Program³ (the "\$1 Strike Program" or "Program") to allow the Exchange to select 150 individual stocks on which options may be listed at \$1 strike price intervals. The proposed rule change was published for comment in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Phlx Rule 1012, Commentary .05(a)(i).