

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 solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can trade, on a UTP basis, shares of the Fund immediately. The Exchange believes that the immediate trading of shares of the Fund will promote competition among exchange markets trading such shares. The Commission believes that waiving the 30-day operative delay to permit the Exchange to trade, on a UTP basis, shares of the Fund without delay is consistent with the protection of investors and the public interest.<sup>14</sup> The

Commission notes that the proposed amendments to NYSE Arca Equities Rule 8.500 are similar to amendments to NYSE Amex Rule 1600, previously approved by the Commission<sup>15</sup> and therefore do not raise any new regulatory issues. For these reasons, the Commission designates the proposed rule change as operative upon filing.<sup>16</sup>

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

**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](mailto:rule-comments@sec.gov). Please include File No. SR-NYSEArca-2010-91 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 No. SR-NYSEArca-2010-91. 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 NYSE Arca.<sup>17</sup> 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-NYSEArca-2010-91 and should be submitted on or before November 15, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-26806 Filed 10-22-10; 8:45 am]  
BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63132; File No. SR-Phlx-2010-118]

**Self-Regulatory Organizations; Order Approving Proposed Rule Change by NASDAQ OMX PHLX, Inc. To Expand the \$.50 Strike Price Program**

October 19, 2010.

On August 25, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to expand the Exchange's \$.50 Strike Price Program ("\$.50 Strike Program" or "Program"). The proposed rule change was published for comment in the **Federal Register** on September 8, 2010.<sup>4</sup> There were no comments on the proposed rule change. This order approves the proposed rule change.

The Exchange proposes to amend Commentary .05 to Exchange Rule 1012, Series of Options Open for Trading,

<sup>17</sup> The text of the proposed rule change is available on the Commission's Web site at [www.sec.gov](http://www.sec.gov).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 62799 (August 25, 2010), 75 FR 54662 ("Notice").

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 satisfied this requirement.

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>15</sup> See Securities Exchange Act Release No. 61807 (March 31, 2010), 75 FR 17818 (April 7, 2010) (SR-NYSE-Amex-2010-09).

<sup>16</sup> The Commission notes that this proposed rule change only permits trading of products under the proposed modifications to Exchange Rule 8.500 on and after the effective date of this filing and does not relate to any trading under such proposed rules prior to such date.

regarding the \$.50 Strike Program to: (i) Expand the permitted price range of the \$.50 Strike Program from \$1.00–\$3.50 to \$0.50–\$5.50; (ii) raise the threshold of the previous day's closing price of the underlying security from \$3.00 to \$5.00; and (iii) expand the number of options classes permitted under the Program from 5 to 20.

Currently, Commentary .05 to Exchange Rule 1012 permits strike price intervals of \$.50 or greater beginning at \$1.00 where the strike price is \$3.50 or less, but only for option classes whose underlying security closed at or below \$3.00 in its primary market on the previous trading day and which have national average daily volume that equals or exceeds 1000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months. Further, the listing of \$.50 strike prices is limited to options classes overlying no more than 5 individual stocks as specifically designated by the Exchange. The Exchange is currently restricted from listing series with \$1 intervals within \$.50 of an existing strike price in the same series, except that strike prices of \$2, \$3, and \$4 shall be permitted within \$.50 of an existing strike price for classes also selected to participate in both the \$.50 Strike Program and the \$1 Strike Program.<sup>5</sup>

The Exchange also proposes a corresponding amendment to Commentary .05(a)(i)(B) of Exchange Rule 1012 to add \$5 to the list of strike prices permitted within \$.50 of an existing strike price in the same series for classes selected for both programs.

In its filing with the Commission, the Exchange stated that the number of \$.50 strike options traded on the Exchange has continued to increase since the inception of the Program. The Exchange stated that the proposal would expand \$.50 strike offerings to market participants and thereby should enhance their ability to tailor investing and hedging strategies and opportunities in a volatile marketplace. The Exchange further stated that it believes an expansion of the \$.50 Strike Program would allow investors to better enhance returns and manage risk by providing them with significantly greater flexibility in the trading of equity options that overlie lower price stocks by allowing them to establish equity options positions that are better tailored to meet their investment, trading and risk. In addition, the Exchange represented that \$.50 strikes have had no impact on capacity.

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>6</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</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 expand the \$.50 Strike Program 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>8</sup> that the proposed rule change (SR-Phlx-2010-118) be, and it hereby is, approved.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-26827 Filed 10-22-10; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>6</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>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63130; File No. SR-NYSEAmex-2010-52]

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 of Rule 903G To Permit Certain FLEX Options To Trade Under the FLEX Trading Procedures for a Limited Time

October 19, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on October 5, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 of Rule 903G, Terms of FLEX Options, to permit certain FLEX Options to trade under the FLEX Trading Procedures for a limited time. The text of the proposed rule change is available at the Exchange's Web site at <http://www.nyse.com>, on the Commission's Web site at <http://www.sec.gov>, at the Exchange'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 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.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>5</sup> See Exchange Rule 1012, Commentary .05(a)(i)(B) referring to the \$1 Strike Program.