

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes the \$5 Strike Price Program proposal will provide the investing public and other market participants increased opportunities because a \$5 series in high priced stocks will provide market participants additional opportunities to hedge high priced securities. This will allow investors to better manage their risk exposure, and the Exchange believes the proposed \$5 Strike Price Program would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities. While the \$5 Strike Price Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal is limited to a fixed number of classes. Further, the Exchange does not believe that the proposal will result in a material proliferation of additional series because it is limited to a fixed number of classes and the Exchange does not believe that the additional price points will result in fractured liquidity.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the

Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the \$5 Strike Price Program is substantially similar to that of another exchange that is already effective and operative.⁹ Therefore, the Commission designates the proposal operative upon filing.¹⁰

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. Please include File Number SR-BATS-2011-003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 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 Commission has waived the five-day pre-filing requirement in this case.

⁹ See Securities Exchange Act Release No. 63654 (January 6, 2011), 76 FR 2182 (January 12, 2011) (SR-Phlx-2010-158) (order approving establishment of a \$5 Strike Price Program). See also Securities Exchange Act Release No. 63658 (January 6, 2011), 76 FR 2187 (January 12, 2011) (SR-Phlx-2011-02) (notice of filing and immediate effectiveness of reciprocity provision related to the \$5 Strike Price Program).

¹⁰ 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).

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BATS-2011-003. 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 the 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-BATS-2011-003 and should be submitted on or before February 28, 2011.

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

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63809; File No. SR-NASDAQ-2011-018]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The NASDAQ Stock Market LLC Regarding the Listing of Option Series with \$1 Strike Prices

February 1, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

¹¹ 17 CFR 200.30-3(a)(12).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

(“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on January 31, 2011, The NASDAQ Stock Market LLC (“NASDAQ”) 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 NASDAQ. 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 Commission a proposal for the NASDAQ Options Market (“NOM” or “Exchange”) to amend Chapter IV, Supplementary Material .02 to Section 6 (Series of Options Contracts Open for Trading) to improve the operation of the \$1 Strike Price Program (the “\$1 Strike Program” or “Program”).³

The text of the proposed rule change is available from NASDAQ’s Web site at <http://nasdaq.cchwallstreet.com/Filings/>, at NASDAQ’s principal office, on the Commission’s Web site at <http://www.sec.gov>, 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, 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

The purpose of this proposed rule change is to improve the operation of the \$1 Strike Program.

Currently, the \$1 Strike Program only allows the listing of new \$1 strikes within \$5 of the previous day’s closing price. In certain circumstances this has led to situations where there are no at-the-money \$1 strikes for a day, despite significant demand. For instance, on November 15, 2010, the underlying shares of Isilon Systems Inc. opened at \$33.83. It had closed the previous trading day at \$26.29. Options were available in \$1 intervals up to \$31, but because of the restriction to only listing within \$5 of the previous close, the following strikes were not permitted to be added during the day: \$32, \$33, \$34, \$36, \$37 and \$38.

The Exchange proposes that \$1 interval strike prices be allowed to be added immediately within \$5 of the official opening price in the primary listing market. Thus, on any day, \$1 Strike Program strikes may be added within \$5 of either the opening price or the previous day’s closing price.

On occasion, the price movement in the underlying security has been so great that listing within \$5 of either the previous day’s closing price or the day’s opening price will leave a gap in the continuity of strike prices. For instance, if an issue closes at \$14 one day, and the next day opens above \$27, the \$21 and \$22 strikes will be more than \$5 from either benchmark. The Exchange proposes that any such discontinuity be avoided by allowing the listing of all \$1 Strike Program strikes between the closing price and the opening price.

Additionally, issues that are in the \$1 Strike Program may currently have \$2.50 interval strike prices added that are more than \$5 from the underlying price or are more than a nine months to expiration (long-term options series). In such cases, the listing of a \$2.50 interval strike may lead to discontinuities in strike prices and also a lack of parallel strikes in different expiration months of the same issue. For instance, under the current rules, the Exchange may list a \$12.50 strike in a \$1 Strike Program issue where the underlying price is \$24. This allowance was provided to avoid too large of an interval between the standard strike prices of \$10 and \$15. The unintended consequence, however, is that if the underlying price should decline to \$16, the Exchange would not be able to list a \$12 or \$13 strike. If the

underlying stayed near this level at expiration, a new expiration month would have the \$12 and \$13 strike but not the \$12.50, leading to a disparity in strike intervals in different months of the same option class. This has also led to investor confusion, as they regularly request the addition of inappropriate strikes so as to roll a position from one month to another at the same strike level.

To avoid this problem, the Exchange may not list series with \$2.50 intervals (e.g., \$12.50, \$17.50) below \$50 for any issue included within the \$1 Strike Program, including long term option series. At each standard \$5 increment strike more than \$5 from the price of the underlying security, the Exchange proposes to list the strike \$2 above the standard strike for each interval above the price of the underlying security, and \$2 below the standard strike, for each interval below the price of the underlying security, provided it meets the Options Listing Procedures Plan (“OLPP”) provisions in Chapter IV, Supplementary Material .06 to Section 6.⁴ For instance, if the underlying security was trading at \$19, the Exchange could list, for each month, the following strikes: \$3, \$5, \$8, \$10, \$13, \$14, \$15, \$16, \$17, \$18, \$19, \$20, \$21, \$22, \$23, \$24, \$25, \$27, \$30, \$32, \$35, and \$37.

Instead of \$2.50 strikes for long-term options, the Exchange proposes to list one long-term \$1 Strike option series strike in the interval between each standard \$5 strike, with the \$1 Strike being \$2 above the standard strike price for each interval above the price of the underlying security, and \$2 below the standard strike price, for each interval below the price of the underlying security. In addition, the Exchange may list the long-term \$1 strike which is \$2 above the standard strike just below the underlying price at the time of listing, and may add additional long term options series strikes as the price of the underlying security moves, consistent with the OLPP. For instance, if the underlying is trading at \$21.25, long-term strikes could be listed at \$15, \$18, \$20, \$22, \$25, \$27, and \$30. If the underlying subsequently moved to \$22, the \$32 strike could be added. If the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The \$1 Strike Program was initially approved as a pilot on March 12, 2008. See Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (order approving). The program was subsequently made permanent and expanded. See Securities Exchange Act Release No. 58093 (July 3, 2008), 73 FR 39756 (July 10, 2008) (SR-NASDAQ-2008-057) (notice of filing and immediate effectiveness). The program was last expanded in 2010. See Securities Exchange Act Release No. 62451 (July 6, 2010), 75 FR 40001 (July 13, 2010) (SR-NASDAQ-2010-083) (notice of filing and immediate effectiveness). The \$1 Strike Program is in Chapter IV, Section 6.

⁴ Chapter IV, Supplementary Material .06 to Section 6 codifies the limitation on strike price ranges outlined in the OLPP, which, except in limited circumstances, prohibits options series with an exercise price more than 100% above or below the price of the underlying security if that price is \$20 or less. If the price of the underlying security is greater than \$20, the Exchange shall not list new options series with an exercise price more than 50% above or below the price of the underlying security.

underlying moved to \$19.75, the \$13, \$10, \$8, and \$5 strikes could be added.

The Exchange also proposes that additional long-term option strikes may not be listed within \$1 of an existing strike until less than nine months to expiration.

Finally, the Exchange represents that it has the necessary systems capacity to support the small increase in new options series that will result from the proposed changes to the \$1 Strike Program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ 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. In particular, the proposed rule change seeks to reduce investor confusion and address issues that have arisen in the operation of the \$1 Strike Program by providing a consistent application of strike price intervals for issues in the \$1 Strike Program.

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

NASDAQ does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.⁹ Therefore, the Commission designates the proposal operative upon filing.¹⁰

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. Please include File Number SR-NASDAQ-2011-018 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-NASDAQ-2011-018. 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

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 Commission has waived the five-day pre-filing requirement in this case.

⁹ See Securities Exchange Act Release No. 63773 (January 25, 2011) (SR-NYSEAmex-2010-109). See also Securities Exchange Act Release No. 63770 (January 25, 2011) (SR-NYSEArca-2010-106).

¹⁰ 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).

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 the 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-NASDAQ-2011-018 and should be submitted on or before February 28, 2011.

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

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011-2568 Filed 2-4-11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63810; File No. SR-Phlx-2011-14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Regarding the Listing of Option Series with \$1 Strike Prices

February 1, 2011.

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 January 31, 2011, NASDAQ OMX PHLX LLC ("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

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the