

of Amendment No. 1 to the proposed rule change and an order instituting proceedings under Section 19(b)(2)(B) of the Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1 thereto.<sup>7</sup> On September 2, 2015, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> the Commission designated a longer period within which to either approve or disapprove the proposed rule change.<sup>9</sup>

On October 13, 2015, the Exchange withdrew the proposed rule change (SR-NYSEArca-2015-02), as modified by Amendment No. 1 thereto.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76187; File No. SR-Phlx-2015-80]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Options Floor Broker Management System

October 19, 2015.

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 October 7, 2015, 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 solicit comments on the proposed rule change from interested persons.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See Securities Exchange Act Release No. 75115 (Jun. 5, 2015), 80 FR 33309.

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

<sup>9</sup> See Securities Exchange Act Release No. 75813, 80 FR 54330 (Sept. 9, 2015). The Commission designated November 5, 2015 as the date by which the Commission should either approve or disapprove the proposed rule change.

<sup>10</sup> 17 CFR 200.30-3(a)(57).

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

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

### I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the implementation rollout of its enhanced Options Floor Broker Management System, described in more detail below.

### 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

Currently and until November 3, 2015, the Exchange operates two Floor Broker Management Systems concurrently on the options trading floor: The original Floor Broker Management System operating since 2005 (“FBMS 1”); and the enhanced Floor Broker Management System (“FBMS 2”). The purpose of the proposal is to continue the concurrent operation of FBMS 1 and FBMS 2 for a temporary period ending April 1, 2016 for the reasons stated below; otherwise the Exchange’s concurrent operation of FBMS 1 and FBMS 2 would expire November 3, 2015.

FBMS 1 enables Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS 1 also establishes an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can also use FBMS 1 to submit orders to Phlx XL, rather than executing the orders in the trading crowd.

FBMS 2 was launched in March 2014. With FBMS 2, all options transactions on the Exchange involving at least one Floor Broker are required to be executed by FBMS 2. In connection with order execution, the Exchange allows FBMS 2 to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the Floor Broker has represented the orders in the trading crowd. FBMS 2 also provides

Floor Brokers with an enhanced functionality called the complex calculator that calculates and displays a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis.

The Exchange received approval to implement FBMS 2 as of June 1, 2013,<sup>3</sup> and delayed its implementation until July 2013,<sup>4</sup> until September 2013,<sup>5</sup> until December 2013,<sup>6</sup> and until March 2014.<sup>7</sup> Implementation began on March 7, 2014, with FBMS 2 operating concurrently with FBMS 1. The Exchange intended to retire FBMS 1 after a specified implementation period for FBMS 2. FBMS 2 has been fully rolled out to all Floor Brokers and in all options. Nevertheless, the Exchange delayed the retirement of FBMS 1 until September 1, 2014,<sup>8</sup> November 3, 2014,<sup>9</sup> and, most recently, until November 3, 2015,<sup>10</sup> for reasons relating to the performance of FBMS 2.<sup>11</sup>

The purpose of the delay was originally to repair FBMS 2, and then ultimately the Exchange determined to replace it with a new system. The Exchange contracted with a third-party entity to provide an alternative system (“FBMS 3”) to ultimately replace both FBMS 1 and FBMS 2. The Exchange had intended to implement FBMS 3 by November 3, 2015, but, based on recent estimates from the third-party entity, it will not be ready until March 2016. There were inadvertent delays in the construction of the new system.

During this additional time period, the Exchange will continue to permit Floor Brokers to use both FBMS 1 and FBMS 2 based on their business needs and Floor Brokers can choose whether to use one or both. Both FBMS 1 and FBMS 2 will continue to be available in

<sup>3</sup> Securities Exchange Act Release No. 69471 (April 29, 2013), 78 FR 26096 (May 3, 2013) (SR-Phlx-2013-09).

<sup>4</sup> Securities Exchange Act Release No. 69811 (June 20, 2013), 78 FR 38422 (June 26, 2013) (SR-Phlx-2013-67).

<sup>5</sup> Securities Exchange Act Release No. 70141 (August 8, 2013), 78 FR 49565 (August 14, 2013) (SR-Phlx-2013-83).

<sup>6</sup> Securities Exchange Act Release No. 70629 (October 8, 2013), 78 FR 62852 (October 22, 2013) (SR-Phlx-2013-100).

<sup>7</sup> Securities Exchange Act Release No. 71212 (December 31, 2013), 79 FR 888 (January 7, 2014) (SR-Phlx-2013-129).

<sup>8</sup> Securities Exchange Act Release No. 72135 (May 9, 2014), 79 FR 27966 (May 15, 2014) (SR-Phlx-2014-33).

<sup>9</sup> Securities Exchange Act Release No. 73246 (September 29, 2014), 79 FR 59874 (October 3, 2014) (SR-Phlx-2014-59).

<sup>10</sup> Securities Exchange Act Release No. 73586 (November 13, 2014), 79 FR 68931 (November 19, 2014) (SR-Phlx-2014-71).

<sup>11</sup> The Exchange previously described those performance issues. *Id.*

all options and to all Floor Brokers. For example, a Floor Broker will be able to use FBMS 1 for one order and FBMS 2 for the next order. Accordingly, the Exchange believes that the performance issues with FBMS 2 are less likely and should decrease because the Floor Broker also has the option to use FBMS 1.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest, by providing options Floor Brokers with two different FBMS offerings for order entry and processing. Despite its performance issues, FBMS 2 offers many beneficial features to the Floor Brokers that FBMS 1 does not, such as the complex calculator and increased automation described above, such that the Exchange has determined not to shut down FBMS 2. Having two options for order entry and processing should enable Floor Brokers to operate their businesses and comply with the relevant rules, which is consistent with the protection of investors and the public interest. Continuing to operate both FBMS 1 and FBMS 2 concurrently for a temporary period should also promote just and equitable principles of trade by providing Floor Brokers with the tools to enter and process their orders efficiently. The proposal is not unfairly discriminatory because all Floor Brokers will be able to use both FBMS 1 and FBMS 2.

### 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. The Exchange believes that permitting Floor Brokers to use both FBMS 1 and FBMS 2 for an additional period of time while the Exchange receives delivery of a new system should allow it to compete with other floor-based exchanges and help the Exchange's Floor Brokers compete with floor brokers on other options exchanges.

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

No comments were solicited. One comment letter was received by the Exchange when the Exchange communicated to the Floor Brokers that the old FBMS would be retired on September 1, 2014.<sup>14</sup> The Comment Letter requested the Commission and Phlx postpone the implementation rollout of the new FBMS from September 1, 2014 to a later date. The Comment Letter alleges that the Floor Brokers did not have proper notice of the end of the implementation period resulting in the termination of the old FBMS. This is not relevant to the proposal at hand. Also, the Comment Letter requests that the new FBMS be postponed to ensure the public outcry system is maintained. The Exchange notes that under FBMS 2, orders will continue to be represented in the trading crowd; order exposure has not been eliminated. The Exchange is merely modernizing how orders are executed and reported to support enhancements to the maintenance of an accurate audit trail.

### 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 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)(iii) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup> A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing.<sup>17</sup> Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.<sup>18</sup>

<sup>14</sup> See letter from various Phlx Floor Brokers to Mary Jo White, Chairwoman of the Securities and Exchange Commission, dated August 28, 2014 ("Comment Letter").

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

<sup>16</sup> 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. The Exchange has satisfied this requirement.

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

<sup>18</sup> *Id.*

The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange has indicated that it has experienced performance issues with FBMS 2 and that it needs additional time to implement the new FBMS 3. Until FBMS 3 becomes available, the Exchange represents that it will continue to operate FBMS 1 and FBMS 2 concurrently and that all Floor Brokers may use either FBMS. Based on the foregoing, the Commission has determined to waive the 30-day operative date so that the proposal may take effect upon filing.<sup>19</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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.<sup>20</sup> If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.<sup>21</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
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2015-80 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-Phlx-2015-80. This file number should be included on the subject line if email 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

<sup>19</sup> 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).

<sup>20</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>21</sup> *Id.*

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-Phlx-2015-80, and should be submitted on or before November 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76191; File No. SR-PHLX-2015-82]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Mini Options

October 19, 2015.

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 October 13, 2015, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("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 amend Commentary .13 to Rule 1012 (Series of Options Open for Trading), entitled "Mini Options Contracts." Specifically, the Exchange proposes to replace the name "Google Inc." with "Alphabet Inc."

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>3</sup>

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/>, 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 Exchange proposes to amend Commentary .13 to Rule 1012, regarding Mini Options traded on Phlx, to replace the name "Google Inc." with "Alphabet Inc." Google Inc. ("Google") recently announced plans to reorganize and create a new public holding company, which will be called Alphabet Inc. ("Alphabet"). As a result of the holding company reorganization, each share of Class A Common Stock ("GOOGL"), which the Exchange has listed as a Mini Option, will automatically convert into an equivalent corresponding share of Alphabet Inc. stock.<sup>4</sup> The symbol "GOOGL" remains unchanged.

The Exchange is proposing to make this change to Commentary .13 to Rule 1012 to enable the continued trading of

Mini Options on Google's, now Alphabet's Class A shares. The Exchange is proposing to make this change because, on October 5, 2015 Google reorganized and as a result underwent a name change.

The purpose of this change is to ensure that Commentary .13 to Rule 1012 properly reflects the intention and practice of the Exchange to trade Mini Options on only an exhaustive list of underlying securities outlined in Commentary .13 to Rule 1012. This change is meant to continue the inclusion of Class A shares of Google in the current list of underlying securities that Mini Options can be traded on, while continuing to make clear that class C shares of Google are not part of that list as that class of options has not been approved for Mini Options trading. As a result, the proposed change will help avoid confusion.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> requirements that the rules of an exchange 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 securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change to change the name Google to Alphabet to reflect the new ownership structure is consistent with the Act because the proposed change is merely updating the current name associated with the stock symbol GOOGL to allow for continued mini option trading on Google's class A shares. The proposed change will allow for continued benefit

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>4</sup> The Class C Capital Stock ("GOOG") which is also impacted by the reorganization are not eligible to be listed as Mini Options on the Exchange, only the Class A Common Stock.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> *Id.*

<sup>22</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.