

The Exchange has requested that the Commission waive the 30-day operative delay to permit the Exchange to compete with other exchanges whose rules permit the listing of similar short term options series.¹⁸ 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 a rule of another exchange that has been approved by the Commission.¹⁹ Therefore, the Commission designates the proposal operative upon filing.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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-2010-073 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-2010-073. 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-NASDAQ-2010-073 and should be submitted on or before July 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010-14966 Filed 6-18-10; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62295; File No. SR-NASDAQ-2010-070]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ Stock Market LLC To List Options on Trust Issued Receipts in \$1 Strike Intervals

June 15, 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 June 10, 2010 The NASDAQ Stock Market LLC ("NASDAQ" 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 NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The NASDAQ Stock Market LLC proposes to amend Chapter IV, Securities Traded on NOM, Section 6, Series of Options Contracts Open for Trading, to allow the Exchange to list options on Trust Issued Receipts in \$1 strike price intervals.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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, the Exchange included statements concerning the purpose of and basis for 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 amend Chapter IV, Securities Traded on NOM, Section 6, Series of Options Contracts Open for Trading, by adding additional text to Section 6(d)(v) to allow the Exchange to list options on the Trust Issued Receipts ("TIRs"), including HOLDING Company Depository Receipts ("HOLDERS"), as defined in Supplementary Material to Section 6 at .01(b), in \$1 or greater strike price intervals, where the strike price is \$200 or less and \$5 or greater where the strike price is greater than \$200.³

Currently, the strike price intervals for options on TIRs are as follows: (1) \$2.50 or greater where the strike price is \$25.00 or less; (2) \$5.00 or greater where the strike price is greater than \$25.00; and (3) \$10.00 or greater where the strike price is greater than \$200.⁴

³ HOLDERS are a type of Trust Issued Receipt and the current proposal would permit \$1 strikes for options on HOLDERS (where the strike price is less than \$200).

⁴ See Chapter IV, Section 6(d). See also Securities Exchange Act Release No. 61347 (January 13, 2010), 75 FR 3513 (January 21, 2010) (SR-NASDAQ-2010-003).

¹⁸ See *supra* notes 4-5 and accompanying text.

¹⁹ See Securities Exchange Act Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018).

²⁰ 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).

The Exchange is seeking to permit \$1 strikes for options on TIRs (where the strike price is less than \$200) because TIRs have characteristics similar to exchange-traded funds ("ETFs"). Specifically, TIRs are exchange-listed securities representing beneficial ownership of the specific deposited securities represented by the receipts. They are negotiable receipts issued by a trust representing securities of issuers that have been deposited and held on behalf of the holders of the TIRs. TIRs, which trade in round-lots of 100, and multiples thereof, may be issued after their initial offering through a deposit with the trustee of the required number of shares of common stock of the underlying issuers. This characteristic of TIRs is similar to that of ETFs which also may be created on any business day upon receipt of the requisite securities or other investment assets comprising a creation unit. The trust only issues receipts upon the deposit of the shares of the underlying securities that are represented by a round-lot of 100 receipts. Likewise, the trust will cancel, and an investor may obtain, hold, trade or surrender TIRs in a round-lot and round-lot multiples of 100 receipts.

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 is greater than \$200.⁵ Accordingly, the Exchange believes that the rationale for permitting \$1 strikes for ETF options equally applies to permitting \$1 strikes for options on TIRs.

The Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary system capacity to handle the additional traffic associated with the listing and trading of \$1 strikes, where the strike price is less than \$200, for options on TIRs.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ 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 allowing the Exchange to list options on

TIRs at \$1 strike price intervals. The Exchange believes that the marketplace and investors expect options on TIRs to trade in a similar manner to ETF options and this filing would allow the marketplace and investors the ability to trade options on TIRs. The Exchange further believes that investors will be better served if \$1 strike price intervals are available for options on TIRs, where the strike price is less than \$200.

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 Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

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 a rule of another exchange that has been approved by the Commission.¹⁰ Therefore, the Commission designates the proposal operative upon filing.¹¹

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its 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.

¹⁰ See Securities Exchange Release No. 34-62141 (May 20, 2010), 75 FR 29787 (May 27, 2010) (SR-CBOE-2010-036).

¹¹ For purposes only of waiving the 30-day operative delay, the Commission has considered the

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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-2010-070 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-2010-070. 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

proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ See Chapter IV, Supplementary Material to Section 6 at .01(b), (permitting \$1 strikes for options on Units covered under Section 6(d) also known as ETF options).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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–2010–070 and should be submitted on or before July 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010–14964 Filed 6–18–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62296; File No. SR–Phlx–2010–84]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by NASDAQ OMX PHLX, Inc. To Establish a Short Term Option Program

June 15, 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 June 14, 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 is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) in order to list option series that expire one week after being opened for trading; to add the definition of Short Term Option Series to Rule 1000 (Applicability, Definitions and References) and Rule 1000A (Applicability and Definitions); and to make non-substantive changes to the language of Rule 1012 and Rule 1101A.

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

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, 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, 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 this proposal is to amend Rules 1012 and 1101A to establish a short term option program on the Exchange (“STO Program” or “Short Term Option Program”) by proposing to add new Commentary .11 to Rule 1012 and new subsection (b)(vi) to Rule 1101A in order to list option series that expire one week after being opened for trading (“Short Term Option Series” or “STO”). The Exchange also proposes to add the definition of Short Term Option Series to Rule 1000 and Rule 1000A;⁴ and to make non-substantive changes to conform the language of Rule 1012 and Rule 1101A and delete unnecessary language.

The Commission approved the Short Term Option Program on a pilot basis in 2005 and approved permanent establishment of the Short Term Option Program in 2009 on behalf of Chicago Board Options Exchange (“CBOE”) in its Rules 5.5 and 24.9.⁵ Thereafter, CBOE

⁴ Short Term Option Series is defined as: A series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Thursday or Friday that is a business day and that expires on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. Proposed Rules 1000(b)(44) and 1000A(b)(16).

⁵ CBOE refers to its short term option program as the “Weeklys Program.” See Securities Exchange Act Release Nos. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR–CBOE–2004–63) (approval order

amended Rules 5.5 and 24.9 to permit opening Short Term Option Series not just on Friday but also on Thursday).⁶ The Exchange’s proposal is based directly on the short term option program (Weeklys Program) in CBOE Rules 5.5 and 24.9.

Specifically, the Exchange proposes to establish a Short Term Option Program for non-index options (e.g., equity options and ETF options) in new Commentary .11 to Rule 1012; and for index options in new subsection (b)(vi) to Rule 1001A. The Short Term Option Program allows the Exchange to list and trade Short Term Option Series. Thus, after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (“Short Term Option Opening Date”) series of options on that class that expire on the Friday of the following business week that is a business day (“Short Term Option Expiration Date”). If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on the Friday of the following business week, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.⁷

Under the STO Program, the Exchange may select up to five approved option classes on which Short Term Option Series could be opened. The Exchange also may list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules.⁸

establishing Weeklys Pilot Program) and 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR–CBOE–2009–018) (approval order permanently establishing Weeklys Program).

Other options exchanges have also established short term option series pilots (but have not made them permanent). See Securities Exchange Act Release Nos. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (SR–ISE–2005–17) (approval order establishing short term option series pilot); 52013 (July 12, 2005), 70 FR 41471 (July 19, 2005) (SR–PCX–2005–32) (approval order establishing short term option series pilot); 52014 (July 12, 2005), 70 FR 41244 (July 18, 2005) (SR–AMEX–2005–035) (approval order establishing short term option series pilot).

⁶ See Securities Exchange Act Release No. 62170 (May 25, 2010), 75 FR 30889 (June 2, 2010) (SR–CBOE–2010–048) (notice of filing and immediate effectiveness allowing opening Short Term Option Series on any Thursday or Friday).

⁷ See proposed Commentary .11 to Rule 1012 and Rule 1101A(b)(6).

⁸ See proposed Commentary .11(a) to Rule 1012 and Rule 1101A(b)(6)(A).

¹² 17 CFR 200.30–3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 17 CFR 240.19b–4(f)(6)(iii).