

each case, be determined in accordance with the Fund's valuation policies.

The Commission further believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer that the NAV per Share will be calculated daily and made available to all market participants at the same time.<sup>15</sup> The Manager has represented to the Exchange that the NAV will be disseminated to all market participants at the same time.<sup>16</sup> Additionally, if the Exchange becomes aware that the portfolio holdings and net asset value per share are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the portfolio holdings or net asset value per share occurs. If the interruption to the dissemination of the portfolio holdings or net asset value per share persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.<sup>17</sup>

In addition, each of the Manager, the Commodity Broker, and the Commodity Sub-Advisor have represented to the Exchange that they have erected and maintain firewalls within their respective institutions to prevent the flow of non-public information regarding the portfolio of underlying securities from the personnel involved in the development and implementation of the investment strategy to others such as sales and trading personnel.

The Exchange has represented that the Shares are equity securities subject to the Exchange's rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Amex Rule 1602.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares and to deter and detect violations of Exchange rules and applicable Federal securities laws.

(3) The Exchange will distribute an Information Circular to its members in connection with the trading of the Shares. The Circular will discuss the special characteristics and risks of trading this type of security.

Specifically, the Circular, among other things, will discuss what the Shares are, the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction during the initial public offering, applicable NYSE Amex rules, and trading information and applicable suitability rules. The Circular will also explain that the Fund is subject to various fees and expenses described in the Registration Statement. The Circular will also reference the fact that there is no regulated source of last sale information regarding physical commodities and note the respective jurisdictions of the Commission and CFTC. The Circular will advise members of their suitability obligations with respect to recommended transactions to customers in the Shares.

(4) The Fund will be in compliance with Rule 10A-3 under the Act. This approval order is based on the Exchange's representations.

In addition, the Commission finds that the proposed changes to NYSE Amex Rule 1600 *et seq.* to amend the definition of Trust Units to remove the master/feeder structure requirement and to modify and update the rules to make them consistent with the Exchange's recent rule book changes are consistent with the Act.

For the foregoing reasons, 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.

### III. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-NYSEAmex-2010-09), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-7836 Filed 4-6-10; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61812; File No. SR-Phlx-2010-49]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by NASDAQ OMX PHLX, Inc. To Establish \$2.50 Strike Price Intervals for Options on the NASDAQ Internet Index<sup>SM</sup>

March 31, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on March 29, 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, II, and III, 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: Phlx Rule 1101A (Terms of Options Contracts) regarding listing options on the NASDAQ Internet Index<sup>SM</sup> trading under the symbol QNET at \$2.50 strike-price intervals below \$200; and Phlx Rule 1107A (NASDAQ OMX Group, Inc. Indexes) regarding disclaimer of express or implied warranties in respect of NASDAQ OMX Group, Inc. ("NASDAQ") indexes.

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/NASDAQOMXPHLX/Filings/>, 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

<sup>15</sup> See NYSE Amex Rule 1602 (a)(ii).

<sup>16</sup> See Notice, *supra*, note 3.

<sup>17</sup> See NYSE Amex Rule 1602(b)(ii).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</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.

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

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 proposal is to amend Rule 1101A regarding listing options on the NASDAQ Internet Index<sup>SM</sup> trading under the symbol QNET (the "Index") at \$2.50 strike-price intervals below \$200; and to amend Rule 1107A regarding disclaimer of express or implied warranties in respect of NASDAQ Indexes.

The NASDAQ Internet Index<sup>SM</sup> has been listed and maintained by NASDAQ OMX continuously since November 27, 2007.<sup>4</sup> The Index is designed to track the performance of the largest and most liquid U.S.-listed companies engaged in internet-related businesses that are listed on a U.S. stock exchange. The Index includes companies engaged in a broad range of internet-related services including, but not limited to internet software, internet access providers, internet search engines, web hosting, Web site design, and internet retail commerce. The Exchange intends to list options on the Index per subsection (b) of Rule 1009A (Designation of the Index).<sup>5</sup>

Phlx Rule 1101A currently indicates in subsection (a) that the Exchange shall determine fixed point strike price intervals for index options at no less than \$5.00, provided that for indexes that are listed in Rule 1101A, the Exchange may determine to list strike prices at no less than \$2.50 intervals if the strike price is less than \$200. The rule provides also that such options may be listed at no less than \$2.50 strike price intervals on indexes delineated in this rule, and in response to

demonstrated customer interest or specialist request. Demonstrated customer interest includes institutional (firm) corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by a Registered Options Trader ("ROT") with respect to trading for the ROT's own account.<sup>6</sup>

The proposed rule change adds the NASDAQ Internet Index<sup>SM</sup> to the list of indexes in Rule 1101A upon which the Exchange may list options at \$2.50 strike price intervals.<sup>7</sup>

Phlx Rule 1107A currently provides that NASDAQ does not guarantee the accuracy and/or uninterrupted calculation of the NASDAQ-100 Index® (the "index") or any data included therein; makes no warranty, express or implied, as to results to be obtained by the Exchange, owners of the options on the index, or any other person or entity from the use of the index or any data included therein; and makes no express or implied warranties, and expressly disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to the index or any data included therein. The rule also provides, without limiting any of the foregoing, that in no event shall NASDAQ have any liability for any lost profits or special, incidental, punitive, indirect, or consequential damages, even if notified of the possibility of such damages. In proposing adoption of Rule 1107A, the Exchange stated that Rule 1107A, being similar in concept to current Rules 1104A, 1105A, and 1106A, as well as rules of other options exchanges, should put NASDAQ on similar footing with other licensors of options on indexes to the Exchange.<sup>8</sup>

The proposed rule change expands the coverage of Rule 1107A to include the NASDAQ Internet Index<sup>SM</sup>.

<sup>6</sup> Subsection (b) of Rule 1014 states that a ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account, and includes a Streaming Quote Trader and a Remote Streaming Quote Trader as defined in Rule 1014.

<sup>7</sup> For recent rule change proposals wherein the Exchange similarly added other indexes to Rule 1101A, see Securities Exchange Act Release Nos. 57899 (June 2, 2008), 73 FR 32379 (June 6, 2008) (SR-Phlx-2008-40) (notice of filing and immediate effectiveness); and 57515 (March 18, 2008), 73 FR 15554 (March 24, 2008) (SR-Phlx-2008-21) (notice of filing and immediate effectiveness).

<sup>8</sup> See Securities Exchange Act Release No. 58194 (July 18, 2008), 73 FR 43275 (July 24, 2008) (SR-Phlx-2008-21) (notice of filing and immediate effectiveness regarding adoption of Rule 1107A). See also disclaimers and limitation of liability at NYSE Amex (formerly "AMEX") Rule 902C and at CBOE Rule 24.14.

The Exchange believes that its proposal to modify Rules 1101A and 1107A should encourage listing and trading options on the NASDAQ Internet Index<sup>SM</sup> at appropriate strike price intervals and should encourage maintenance of the index so that overlying options may be available for listing and trading, thereby expanding investment and hedging opportunities for investors and other market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> in particular, in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by encouraging listing options on the NASDAQ Internet Index<sup>SM</sup> at appropriate strike price intervals and encouraging maintenance of the index so that options overlying the index may be available for trading and hedging.

*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.

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

No written comments were either solicited or received.

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

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and Rule 19b-4(f)(6)(iii) thereunder<sup>12</sup> 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

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>4</sup> For a description of the Index, Index Methodology, and Index pricing, see <https://indexes.nasdaqomx.com/>. An Exchange-Traded Fund denominated The PowerShares Nasdaq Internet Portfolio (PNQI), which is based on the Index, was initiated last year.

<sup>5</sup> No options are currently traded on the Index. Rule 1009A establishes generic listing standards for options on narrow-based and broad-based indexes pursuant to Rule 19b-4(e) of the Act. See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998). The listing standards in Rule 1009A are similar to those of other options exchanges such as, for example, Chicago Board Options Exchange, Incorporated ("CBOE"); International Stock Exchange LLC ("ISE"); and The NASDAQ Stock Market LLC ("NASDAQ Market").

operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-49 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-Phlx-2010-49. 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-Phlx-2010-49 and should be submitted on or before April 28, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-7781 Filed 4-6-10; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF STATE

### [Public Notice 6943]

#### Designation and Determination Pursuant to the Foreign Missions Act

Concerning the Designation of entities in the United States that are substantially owned or effectively controlled by the Government of Vietnam as Foreign Missions and the Determination that property transactions on the part of such entities are subject to Foreign Mission Act regulation:

In order to adjust for costs and procedures of obtaining benefits for the mission of the United States in Vietnam and to protect the interests of the United States in that context, pursuant to the authority vested in me by the Foreign Missions Act, 22 U.S.C. 4301 *et seq.* ("the Act"), and Department of State Delegation of Authority No. 214, Section 14, dated September 20, 1994, I hereby designate the Vietnam News Agency, an entity engaged in activities in the United States that is effectively controlled by the Government of Vietnam, and all entities in the United States that are designated by the Department of State as Miscellaneous Foreign Government Offices of the Government of Vietnam now or in the future, including the Vietnam Trade Promotion Center, as well as any other entity in the United States which is substantially owned or effectively controlled by the Government of Vietnam, to be "foreign missions" within the meaning of Section 4302(a)(3) of the Act and determine that the provisions of Section 4305 of the Act apply to the acquisition, proposed sale or disposition of real property by or on behalf of such entities.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

Dated: March 30, 2010.

**Eric J. Boswell,**

*Director, Office of Foreign Missions.*

[FR Doc. 2010-7905 Filed 4-6-10; 8:45 am]

**BILLING CODE 4710-43-P**

## DEPARTMENT OF STATE

### [Public Notice 6946]

#### Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 a.m. on Tuesday, April 20, 2010, in Room 1422 of the United States Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593-0001. The primary purpose of the meeting is to prepare for the International Maritime Organization (IMO) Diplomatic Conference to Revise the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention) to be held at the IMO Headquarters, United Kingdom, from April 26 to April 30, 2010.

The primary matters to be considered include:

- Election of the President
- Adoption of the agenda
- Adoption of the Rules of Procedure
- Election of the Vice-Presidents and other officers of the Conference
- Appointment of the Credentials Committee
- Organization of the work of the Conference, including the establishment of other committees, as necessary
- Consideration of a draft protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 and any draft Conference resolutions
- Consideration of the reports of the credentials committee and other committees
- Adoption of the Final Act and any instruments, recommendations and resolutions resulting from the work of the Conference
- Signature of the Final Act

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, those who plan to attend should contact the meeting coordinator, Ms. Bronwyn G. Douglass, by e-mail at [bronwyn.douglass@uscg.mil](mailto:bronwyn.douglass@uscg.mil), by phone at (202) 372-3792, by fax at (202) 372-3972, or in writing at Commandant (CG-