

modernizes the affiliation provision in recognition of the transition of the Exchange from a mutual to a demutualized organization.

Furthermore, the Commission notes that the Exchange represented in its proposal, as described above, that the Exchange would continue to have access to information on an affiliation necessary to carry out its regulatory responsibility with respect to the member organizations and their affiliated persons. Further, an affiliation would not excuse a person from any of the Exchange's By-Laws and rules governing membership. Notably, both the permit holder and the affiliated member organizations must comply with all applicable registration, qualification, examination, and other membership requirements, and the permit holder must continue to obtain and maintain all necessary qualifications (including examinations) and registrations. Further, the Series A-1 permit holder must disclose to the Exchange the individuals at each member organization (both the primary and secondary member organization) that are responsible for supervising the Series A-1 permit holder. The Commission believes that these provisions are designed to ensure compliance with applicable membership rules and should assure the Exchange's oversight of any affiliation.

In addition, the Commission believes that the Exchange's proposed conforming changes to OFPA F-9, F-11, and Regulation 3 appropriately reflect the proposed deletion of Rule 793 and the new provision in Rule 908(b)(i). Separately, the Commission believes that the proposal to amend the language in Rule 908(h) should provide Exchange members with clarity as to the transfer of permits.

Finally, the Commission believes that requiring applicants for Phlx membership to respond to requests for documentation or additional information within a 90 calendar day period, absent a showing of good cause, is reasonable and should provide the Exchange's Membership Department up-to-date information that it can utilize to make decisions concerning membership applications. The 90-day response period and subsequent lapse of an application for non-response should encourage prompt replies by applicants to Exchange requests for information and documentation and should assure that the Exchange has reliable and current information on which to base membership decisions.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-Phlx-2010-148) be, and hereby is, approved.

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

**Elizabeth M. Murphy**,  
*Secretary*.

[FR Doc. 2011-435 Filed 1-11-11; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63654; File No. SR-Phlx-2010-158]

#### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Establishing a \$5 Strike Price Program

January 6, 2011.

#### I. Introduction

On November 12, 2010, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to allow the Exchange to list and trade option series with strike price intervals of \$5 or greater where the strike price is more than \$200 in up to five option classes on individual stocks. The proposed rule change, as amended, was published for comment in the **Federal Register** on November 24, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

Phlx has proposed to modify Commentary .05 to Exchange Rule 1012 to allow the Exchange to list and trade series in intervals of \$5 or greater where the strike price is more than \$200 in up to five option classes on individual stocks ("\$5 Strike Price Program"). Currently, Exchange Rule 1012 at Commentary .05 permits strike price intervals of \$10 or greater where the strike price is \$200 or more.<sup>4</sup> The

proposal would allow the Exchange to list series in intervals of \$5 or greater where the strike price is more than \$200 in up to five option classes on individual stocks.

In support of its proposal, Phlx stated that it believes the proposed \$5 Strike Price Program would provide investors increased opportunities to improve returns and manage risk in the trading of equity options that overlie high priced stocks. In addition, the Exchange believes the proposed \$5 Strike Price Program would allow investors to establish equity options positions that are better tailored to meet their investment, trading, and risk management requirements.

Phlx further stated that it has analyzed its capacity and represented that the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of new series associated with the \$5 Strike Price Program.

#### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</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 prevent fraudulent and manipulative acts, 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.

As the Exchange notes, the proposal should provide investors with added flexibility in the trading of options on high-priced securities and allow investors to establish options positions that are more precisely tailored to meet their investment objectives. The Commission 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

greater than \$25 but less than \$200; and \$2.50 or greater where the strike price is \$25 or less.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<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> Securities Exchange Act Release No. 63339 (November 18, 2010), 75 FR 71771 ("Notice").

<sup>4</sup> Commentary .05 also permits strike price intervals of \$5 or greater where the strike price is

corresponding increase in quotes and market fragmentation. The Commission expects the Exchange to 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.

In addition, the Commission notes that Phlx has represented that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the newly permitted listings.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-Phlx-2010-158) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Elizabeth M. Murphy,  
Secretary.

[FR Doc. 2011-441 Filed 1-11-11; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63660; File No. SR-NYSEArca-2010-124]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Arca Options Rule 6.62(h) to Define Stock/Complex Orders, Amending NYSE Arca Options Rule 6.75(g) to Update and Clarify the Priority of Complex Orders, and Amending NYSE Arca Options Rule 6.91 to Establish a Complex Order Auction

January 6, 2011.

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 December 30, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 NYSE Arca. NYSE Arca has submitted the proposed rule change under Section 19(b)(3)(A) of the Act<sup>3</sup>

and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 NYSE Arca Options Rule 6.62(h) to define Stock/Complex Orders, amend NYSE Arca Options Rule 6.75(g) to update and clarify the priority of Complex Orders, and amend NYSE Arca Options Rule 6.91 to establish a Complex Order Auction.

A copy of this filing is available on the Exchange's Internet Web site at <http://www.nyse.com>, on the Commission's Internet Web site at <http://www.sec.gov>, at the Exchange's principal office, and at the Commission.

#### 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 III 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 filing is to update and streamline the rules governing open outcry trading of Complex Orders, including the definition of a Stock/Complex Order, and to adopt new rules to provide for a Complex Order Auction ("COA") in the Electronic Complex Order rules, based on rules recently approved for NYSE Amex LLC ("Amex").<sup>5</sup> The filing also clarifies the minimum trading and quoting increment permissible for Complex Orders.

###### Stock/Complex Orders

NYSE Arca proposes to amend Rule 6.62(h) to define Stock/Complex Orders

as orders for the purchase or sale of a Complex Order coupled with an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock ("convertible security") representing either (A) the same number of units of the underlying stock or convertible security as are represented by the options leg of the Complex Order with the least number of contracts, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than 8 options contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation, as represented by the options leg of the Complex Order with the least number of options contracts.

###### Revision to Complex Order Open Outcry Rules

NYSE Arca proposes to amend Rule 6.75 and Commentary .01 to Rule 6.75. The Exchange proposes to adopt a provision based on NYSE Amex LLC ("Amex") Rule 963NY(d) to describe the priority of Complex Orders in open outcry. The new language does not change the process of executing a Complex Order or alter the priority of quotes and orders; rather, it streamlines and updates the rule text.

Currently, when executing a Complex Order, contra sided complex trading interest in the Trading Crowd has priority over individual orders and quotes in the leg markets at the same net debit or credit price, except when individual Customer orders in the Consolidated Book are present in all of the leg markets. When there are Customer orders present in all legs at the same net debit or credit price, the Complex Order must first trade with the individual Customer orders, and may then trade against complex trading interest in the crowd. Complex Orders trading against contra side complex trading interest in the Trading Crowd must otherwise trade at least one leg at a price that is at least one minimum price variation better than individual Customer orders in the Consolidated Book.<sup>6</sup>

The proposed rule change will not alter these procedures or priorities.

In addition, the Exchange is clarifying that Stock/Complex Orders (involving two or more options legs and a stock leg) may be executed at a net debit or credit price with another OTP Holder

<sup>6</sup> Stock/options orders may not trade at the same price as a Customer order in the option leg, unless satisfying the Customer order first, even though the Customer order cannot satisfy all the terms of the Stock/option order.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</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> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> See Securities Exchange Act Release No. 63558 (December 16, 2010), 75 FR 80553 (December 22, 2010) (Order approving SR-NYSEAmex-2010-100).