

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74540; File No. SR-NYSEMKT-2015-16]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Rules Governing the Short Term Option Series Program To Extend Current \$0.50 Strike Price Intervals in Non-Index Options to Short Term Options With Strike Prices Less Than \$100

March 19, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on March 12, 2015, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 its rules governing the Short Term Option Series program to extend current \$0.50 strike price intervals in non-index options to Short Term Options with strike prices less than \$100. The text of the proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 parts 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 its rules governing the Short Term Option Series program (“STOS Program”) to introduce finer strike price intervals for certain short term options. In particular, the Exchange proposes to amend Commentary .10(d) to Rule 903 to extend current \$0.50 strike price intervals in non-index options to short term options with strike prices less than \$100 instead of the current \$75. This proposed change is intended to eliminate gapped strikes between \$75 and \$100 that result from conflicting strike price parameters under the STOS and \$2.50 Strike Price Programs as described in more detail below. The Exchange believes that the proposed rule change would increase market efficiency as it would align the Exchange’s rules with recently approved changes to the rules governing short term options series programs of other options exchanges,<sup>4</sup> which would enable the Exchange to compete equally and fairly with other options exchanges in satisfying strong customer demand to have the ability to execute hedging and trading strategies in finer strike price intervals.

Pursuant to Commentary .10(a) to Rule 903, the Exchange may list short term options in up to fifty option classes, in addition to option classes that are selected by other securities exchanges that employ a similar program under their respective rules.<sup>5</sup> For each of these option classes, the Exchange may list five short term option expiration dates at any given time, not counting monthly or quarterly

expirations.<sup>6</sup> Specifically, on any Thursday or Friday that is a business day, the Exchange currently may list short term options that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly or quarterly options expire.<sup>7</sup> These short term option series may be listed in strike price intervals of \$0.50, \$1, or \$2.50, with the finer strike price intervals being offered for lower priced securities<sup>8</sup>, and for options that trade in dollar increments in the related monthly expiration.<sup>9</sup> More specifically, per current Commentary .10(d) to Rule 903, the strike price interval for STOS may be \$0.50 or greater for option classes that both trade in \$1 strike price intervals and are in the STOS Program. If the class does not trade in \$1 strike price intervals, the Exchange may list STOS in \$0.50 intervals for strike prices less than \$75; in \$1 intervals for strike prices that are between \$75 and \$150; and in \$2.50 intervals for strike prices greater than \$150.<sup>10</sup>

The Exchange also operates a \$2.50 Strike Price Program that permits the Exchange to select up to sixty options classes on individual stocks to trade in \$2.50 strike price intervals, in addition to option classes selected by other securities exchanges that employ a similar program under their respective rules.<sup>11</sup> Monthly expiration options in classes admitted to the \$2.50 Strike Price Program trade in \$2.50 intervals where the strike price is (1) greater than \$25 but less than \$50; or (2) between \$50 and \$100 if the strikes are no more than \$10 from the closing price of the underlying stock in its primary market on the preceding day.<sup>12</sup> In certain instances, these strike price parameters conflict with strike prices allowed for short term options as dollar strikes between \$75 and \$100 otherwise allowed under the STOS Program may be within \$0.50 of strikes listed pursuant to the \$2.50 Strike Price Program.

To remedy this conflict, the Exchange proposes to extend the \$0.50 strike price intervals, currently allowed for short term options with strike prices less than \$75, to short term options with strike

<sup>4</sup> See Securities and Exchange Act Release No. 73999 (January 6, 2015), 80 FR 1599 [sic] (January 12, 2015) (SR-ISE-2014-52) (order granting approval of proposed rule change regarding short term option series program). Following approval of filing by the International Securities Exchange, LLC, several other option exchanges submitted “copycat” filings for immediate effectiveness. See, e.g., Securities and Exchange Act Release Nos. 74016 (January 8, 2015), 80 FR 1976 (January 14, 2015) (SR-BOX-2015-01); 74144 (January 27, 2015), 80 FR 5602 (February 2, 2015) (SR-CBOE-2015-09 [sic]); 74145 (January 27, 2015), 80 FR 5600 (February 2, 2015) (SR-Phlx-2015-09); 74146 (January 27, 2015), 80 FR 5595 (February 2, 2015) (SR-NASDAQ-2015-005); 74147 (January 27, 2015), 80 FR 5604 (February 2, 2015) (SR-BX-2015-006).

<sup>5</sup> The Exchange notes that the number of option classes that may participate in the STOS Program is aggregated between equity options and index options and is not apportioned between equity options and index options. For STOS Program rules regarding index options, see Rule 903C; Rule 900C(b)(27).

<sup>6</sup> See Rule 903(h).

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

<sup>8</sup> See Commentary .10(d) to Rule 903.

<sup>9</sup> See Commentary .06 to Rule 903 (allows the Exchange to designate up to 150 options classes on individual stocks to be traded in \$1 strike price intervals where the strike price is between \$50 and \$1).

<sup>10</sup> See Commentary .10(d) to Rule 903.

<sup>11</sup> See Commentary .07(a) to Rule 903.

<sup>12</sup> *Id.* The term “primary market” is defined in Rule 900.2NY(62) as the principal market in which an underlying security is traded.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

prices less than \$100. With this proposed change, short term options in non-index option classes would trade in: (1) \$0.50 or greater intervals for strike prices less than \$100, or for option classes that trade in one dollar increments in the related monthly expiration option; (2) \$1 or greater intervals for strike prices that are between \$100 and \$150; and (3) \$2.50 or greater intervals for strike prices above \$150.<sup>13</sup> The Exchange believes that this proposed change would eliminate gapped strikes between \$75 and \$100. The Exchange also believes that the proposed rule change would provide the investing public and other markets with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure. In addition, as noted above, the Exchange believes the proposed rule change would harmonize the Exchange's rules with recently approved rules on competing options exchanges, which consistency across markets would benefit investors.<sup>14</sup>

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its ATP Holders would not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion would cause fragmentation of liquidity.

## 2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>16</sup> 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed change would result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions, thus allowing them to better manage their risk exposure. Under the Exchange's current rules, during the month prior to expiration, the Exchange is permitted to list related monthly

option contracts in the narrower strike price intervals available for short term option series.<sup>17</sup> After transitioning to short term strike price intervals, however, monthly options that trade in \$2.50 intervals between \$50 and \$100 under the \$2.50 Strike Price Program, trade with dollar strikes between \$75 and \$150. Due [sic] the overlap of \$1 and \$2.50 intervals, the Exchange cannot list certain dollar strikes between \$75 and \$100 that conflict with the prior \$2.50 strikes. For example, if the Exchange initially listed monthly options on ABC with \$75, \$77.50, and \$80 strikes, the Exchange could list the \$76 and \$79 strikes when these monthly options transition to short term intervals. The Exchange would not be permitted to list the \$77 and \$78 strikes, however, as these are \$0.50 away from the \$77.50 strike already listed on the Exchange. This creates gapped strikes between \$75 and \$100, where investors are not able to trade otherwise allowable dollar strikes on the Exchange.

Similarly, these conflicting strike price parameters create issues for investors who want to roll their positions from monthly to weekly expirations. In the example above, for instance, an investor that purchased a monthly ABC option with a \$77.50 strike price would not be able to roll that position into a later short term expiration with the same strike price as that strike is unavailable under current STOS Program rules. Thus, the Exchange believes that permitting \$0.50 intervals for short term options up to \$100 would remedy both of these issues as strikes allowed under the \$2.50 Strike Price Program would not conflict with the finer \$0.50 strike price interval. The STOS Program has been well-received by market participants and the Exchange believes that introducing finer strike price intervals for short term options with strike prices between \$75 and \$100, and thereby eliminating the gapped strikes described above, would benefit these market participants by giving them more flexibility to closely tailor their investment and hedging decisions.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its ATP Holders would not have a capacity issue as a result of this proposal. The Exchange also represents that it does not

believe this expansion would cause fragmentation of liquidity.

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

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change would result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. In addition, as noted above, the Exchange believes the proposed rule change is pro-competitive and would allow the Exchange to compete more effectively with other options exchanges that have already adopted changes to their short term option series programs that are substantially identical to the changes proposed by this filing.<sup>18</sup>

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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will enable the Exchange to, as soon as possible, have the ability to compete with option exchanges that have incorporated the

<sup>18</sup> See *supra* n. 4.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

<sup>13</sup> See proposed Commentary .10(d) to Rule 903.

<sup>14</sup> See *supra* n. 4.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> See Commentary .10(d) to Rule 903 (regarding Related Non-Short Term option series).

proposed rule change to their short term option series programs. For this reason, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>21</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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### 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-NYSEMKT-2015-16 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-NYSEMKT-2015-16. 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 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

<sup>21</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 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-NYSEMKT-2015-16 and should be submitted on or before April 15, 2015.

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

**Brent J. Fields,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74531; File No. SR-Phlx-2015-25]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Pricing Schedule's Preface and Sections I, II and IV

March 19, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 11, 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, 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 the Substance of the Proposed Rule Change

The Exchange proposes to modify the Phlx Pricing Schedule ("Pricing Schedule"). Specifically, the Exchange proposes to amend: (1) The Preface to

the Pricing Schedule to include a reference to a Non-Customer; (2) amend the Customer<sup>3</sup> Simple Order Fee for Removing Liquidity in Section I, entitled "Rebates and Fees for Adding and Removing Liquidity in SPY" as well as certain PIXL<sup>4</sup> executions in options overlying SPY;<sup>5</sup> (3) amend a Firm<sup>6</sup> fee in Section II, entitled "Multiply Listed Options Fees,"<sup>7</sup> as well as certain pricing applicable to Specialists<sup>8</sup> and Market Makers;<sup>9</sup> (4) amend PIXL pricing in Section IV, Part A entitled "PIXL Pricing," and FLEX pricing in Section IV, Part B, entitled "FLEX Transaction Fees" of the Pricing Schedule.

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.

<sup>3</sup> The term "Customer" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "professional" (as that term is defined in Rule 1000(b)(14)).

<sup>4</sup> PIXL<sup>SM</sup> is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. See Rule 1080(n).

<sup>5</sup> Options overlying Standard and Poor's Depository Receipts/SPDRs ("SPY") are based on the SPDR exchange-traded fund, which is designed to track the performance of the S&P 500 Index.

<sup>6</sup> The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

<sup>7</sup> This includes options overlying equities, exchange traded funds ("ETFs"), exchange traded notes ("ETNs") and indexes which are Multiply Listed.

<sup>8</sup> A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

<sup>9</sup> A "Market Maker" includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (see Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (see Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

<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.