

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62060; File No. SR-Phlx-2010-68]

### Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to One Cent Strike Price Intervals of Foreign Currency Options

May 7, 2010.

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 April 29, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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 is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) by adding a provision that permits the Exchange to list, in addition to strike prices that are currently permitted, a single strike price of one cent (\$0.01) for each expiration month for U.S. dollar-settled foreign currency options ("FCOs") opened for trading on the Exchange.<sup>3</sup>

The text of the proposed rule change is available on Phlx's Web site at <http://www.nasdaqtrader.com>, 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 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 Rule 1012 to list a single strike price of one cent (\$0.01) for each expiration month for U.S. dollar-settled FCOs opened for trading on the Exchange. The proposed one cent strike would be in addition to the strike prices listed by the Exchange pursuant to Rule 1012.

##### Background

In January 2007, the Exchange listed and began trading U.S. dollar-settled FCOs on the British pound and the Euro.<sup>4</sup> In July 2007, the Exchange listed and began trading U.S. dollar-settled FCOs on the Australian dollar, Canadian dollar, Swiss franc, and Japanese yen.<sup>5</sup> Through the spring of 2007 the Exchange traded, through open outcry, physical delivery options on foreign currencies that are so named because settlement could involve delivery of the underlying currency (as opposed to cash for U.S. dollar-settled FCOs); these products are no longer listed and traded on the Exchange nor is there any remaining open interest. Within the last year, the Exchange listed and began trading U.S. dollar-settled FCOs on the Mexican peso, the New Zealand dollar, the South African rand, the Swedish krona, and the Norwegian krone (all of the listed U.S. dollar-settled options are together known as the "FCO Products" or "WCO Products").<sup>6</sup> Eleven FCO Products continue being traded electronically over the Exchange's options trading platform, now known as Phlx XL II.<sup>7</sup>

Currently, pursuant to Rule 1012(a)(iii)(U.S. Dollar-Settled Foreign Currency Options), after a class of options contracts on any underlying currency has been approved for listing and trading, the Exchange may open for trading series of FCO Products that expire in consecutive monthly

intervals,<sup>8</sup> in three or "cycle" month intervals,<sup>9</sup> or that have up to thirty-six months to expiration.<sup>10</sup> For example, pursuant to Rule 1012(a)(iii)(A), with respect to each class of FCOs, the Exchange may open for trading series of options having up to four consecutive expiration months, with the shortest term series initially having no more than two months to expiration. The Exchange may also open additional consecutive month series of the same class for trading at or about the time a prior consecutive month series expires, and the expiration month of each such new series shall normally be the month immediately succeeding the expiration month of the then outstanding consecutive month series of the same class of options having the longest remaining time to expiration.

##### The Proposal

Pursuant to proposed new subsection (a)(iii)(D) of Rule 1012, for each month that a foreign currency options is listed for trading per Rule 1012(a)(iii), the Exchange would list an additional strike price of one cent.

The Exchange notes that adding a one cent strike for FCOs will result in a single deep-in-the-money option to provide investors with exposure similar to that of a spot currency transaction.<sup>11</sup> The Exchange believes creating such exposure provides an opportunity to attract a broader range of market participants by offering a product that, in particular, accommodates retail spot foreign currency traders.

The Exchange also believes that a one cent strike price would enable certain trading strategies that were previously unavailable to investors. Specifically, investors would be able to engage in strategies that offer similar exposure to a tied-to-spot trade, such as a buy-write trade. The proposed new strike should also appeal to securities brokers that do not currently offer spot foreign currency trading. The Exchange believes that certain online securities brokers have not offered spot foreign currency trading to their customers because, unlike options, spot foreign currency is not a listed and centrally-cleared product. The Exchange's proposed rule change offers such brokers an opportunity to expand their offerings and retain customer assets that may otherwise go to spot foreign currency trading venues

<sup>4</sup> See Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-Phlx-2006-34).

<sup>5</sup> See Securities Exchange Act Release No. 56034 (July 10, 2007), 72 FR 38853 (July 16, 2007) (SR-Phlx-2007-34).

<sup>6</sup> See Securities Exchange Act Release No. 60169 (June 24, 2009), 74 FR 31782 (July 2, 2009) (SR-Phlx-2009-40) (approval order).

<sup>7</sup> See Securities Exchange Act Release Nos. 49832 (June 8, 2004), 69 FR 33442 (June 15, 2004) (SR-Phlx-2003-59) (order approving Phlx XL); and 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32) (order approving Phlx XL II).

<sup>8</sup> Rule 1012(a)(iii)(A).

<sup>9</sup> Rule 1012(a)(iii)(B).

<sup>10</sup> Rule 1012(a)(iii)(C).

<sup>11</sup> The spot currency market may also be known as the "cash market" or "physical market" because prices are settled in cash on the spot at current market prices.

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

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

<sup>3</sup> FCOs are also known as World Currency Options ("WCOs"). Eleven FCOs or WCOs are currently listed and traded on the Exchange.

that operate outside of U.S. regulatory jurisdiction.<sup>12</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</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 allowing the Exchange to list a single one cent strike for each expiration month of foreign currency options opened for trading and thereby provide investors with the ability to engage in previously unavailable spot foreign currency trading strategies.

### 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

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) 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, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section

<sup>12</sup> The Exchange believes that, as borne out in the current economic crisis, market participants benefit from being able to trade options in an exchange environment in several ways, including, but not limited to, the following: (1) Regulatory oversight of the options exchanges/markets; (2) increased market transparency; and (3) heightened counterparty creditworthiness due to the role of The Options Clearing Corporation ("OCC") as issuer and guarantor of options including FCO Products.

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

<sup>14</sup> 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

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-2010-68 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-2010-68. 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 on official business

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

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

days between the hours of 10 a.m. and 3 p.m. Copies of such 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-2010-68 and should be submitted on or before June 7, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Elizabeth M. Murphy,**

*Secretary.*

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62064; File No. SR-FINRA-2010-020]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Trade Reporting Facility Limited Liability Company Agreements

May 10, 2010.

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 April 27, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) 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 FINRA. FINRA has designated the proposed rule change as being concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>17</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)(iii).

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