

required customers to produce all insurance information received from an insurance sales agent or securities broker relating to such insurance.<sup>83</sup> FINRA has amended the proposed item to clarify its intended scope by deleting the reference to “insurance” before “information.”<sup>84</sup>

### III. Commission’s Findings

After careful review of the proposed rule change, the comment letters and the FINRA Response Letter, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.<sup>85</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>86</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the revisions to the Discovery Guide will help reduce the number and limit the scope of disputes involving document production and other matters, thereby improving the arbitration process for the benefit of the public investors, broker-dealer firms, and associated persons who use the process. The revisions to the Discovery Guide are the result of over six years of consultation by FINRA with its constituents. The Commission also expects that further improvement of the process should be possible through the Discovery Task Force’s consideration of discovery issues as they arise.<sup>87</sup>

### IV. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,<sup>88</sup> for approving the proposed rule change, as modified by Amendment No. 1 thereto, prior to the 30th day after publication of notice of the filing of Amendment No. 1 in the **Federal Register**. The proposed rule change was informed by FINRA’s consideration of, and the incorporation of many suggestions made in, extensive

comments on a 2008 proposal to update the Discovery Guide, and Amendment No. 1’s modifications to the proposed rule change add clarity to the Discovery Guide and provide additional guidance to parties and arbitrators.

Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

### V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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-FINRA-2010-035 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-FINRA-2010-035. 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 such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2010-035 and should be submitted on or before April 27, 2011.

### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>89</sup> that the proposed rule change (SR-FINRA-2010-035), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>90</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011-8200 Filed 4-5-11; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64163; File No. SR-NYSEAmex-2011-22]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC To Expand the \$2.50 Strike Price Program

March 31, 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 March 29, 2011, NYSE Amex LLC (“NYSE Amex” or “Exchange”) 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 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 proposes to amend Commentary .07 to NYSE Amex Rule 903 to expand the \$2.50 Strike Price Program. The text of the proposed rule change is available at the principal office of Exchange, the Commission’s Public Reference Room, on the Commission’s Web site at <http://www.sec.gov>, and <http://www.nyse.com>.

<sup>89</sup> 15 U.S.C. 78s(b)(2).

<sup>90</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>83</sup> See note 3 *supra*.

<sup>84</sup> Response Letter.

<sup>85</sup> In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>86</sup> 15 U.S.C. 78o-3(b)(6).

<sup>87</sup> Cf. Response Letter (describing plans for further consideration of issues by the Discovery Task Force).

<sup>88</sup> 15 U.S.C. 78s(b)(2).

## 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 purpose of this proposed rule change is to expand the current \$2.50 Strike Price Program ("Program")<sup>3</sup> to permit the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$100, provided the \$2.50 strike price intervals are no more than \$10 from the closing price of the underlying stock in the primary market.<sup>4</sup> Additionally, the Exchange proposes to increase the number of option classes on individual stocks for which the intervals of strike prices will be \$2.50 to 60 options classes.

Currently, Exchange Rule 903 at Commentary .07 permits the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$75. Specifically, the Exchange proposes to amend Commentary .07 to Exchange Rule 903 to amend the current text.

For example, consider a hypothetical where Caterpillar, Inc. ("CAT") was trading at \$81. With approximately one month remaining until expiration, and with a front month at-the-money put option (the 80 strike) trading at approximately \$1.30, the investor would be able to purchase a \$77.50 strike put at an estimated \$.60 per contract. Today, the next available strike of a one month

put option is the 75 strike. While the 75 strike put would certainly trade at a lesser price than the 80 strike put,<sup>5</sup> the protection offered would only take effect with a 7.40% decline in the market as opposed to a 4.30% decline in the market. The additional choice would provide the investor an additional opportunity to hedge exposure (the opportunity to hedge with a reduced outlay) and thereby minimize risk if there were a decline in the stock price of CAT.

Another example would be if an investor desired to sell call options to hedge the exposure of an underlying stock position and enhance yield. Consider a hypothetical where CAT was trading at \$81 and the second month (two months remaining) of a recently out-of-the-money call option (the 85 strike) was trading at approximately \$2.35. If the investor were to sell the 85 call against an existing stock position, the investor could yield a return of approximately 2.90% over a two month period or an annualized return of 17.4%. By providing an additional \$2.50 strike interval above \$75, the investor would have the opportunity to sell the 82.50 strike instead of the 85 strike. If the 85 strike call were trading at \$2.35, the 82.50 strike call would trade at approximately 3.30. By selling the 82.50 strike call at 3.30 against an existing stock position, the investor could yield a 4.07% return over a two month period or an annualized 24.40% return. Therefore, an additional choice of a \$2.50 strike interval could afford varying yields to the investor.

The Exchange believes that the Program has to date created additional trading opportunities for investors, thereby benefiting the marketplace. The existence of \$2.50 strike prices with strike intervals above \$75 affords investors the ability to more closely tailor investment strategies to the precise movement of the underlying security and meet their investment, trading and risk management requirements.

The Exchange is also proposing to make a non-substantive amendment to the rule text to remove language referring to the original SEC approval of the Program.

The Exchange is also proposing to increase the number of option classes on individual stocks for which the intervals of strike prices will be \$2.50 to 60 options classes. Currently, the Exchange may select up to 51 options classes on individual stocks for which the intervals

of strike prices will be \$2.50. Initially adopted in 1995 as a pilot program, the options exchanges at that time were permitted to list options with \$2.50 strike price intervals up to \$50 on a total of up to 100 option classes. In 1998, the pilot program was expanded and permanently approved to allow the options exchanges collectively to select up to 200 option classes on which to list options with \$2.50 strike price intervals up to \$50. Of these 200 options classes eligible for the Program, 51 classes were allocated to the Exchange pursuant to a formula approved by the Commission as part of the permanent approval of the Program.<sup>6</sup> In addition, each options exchange is permitted to list options with \$2.50 strike price intervals on any option class that another options exchange selects under its program.

Since 1998, the 200 options classes have not been expanded, although increasingly more companies have completed initial public offerings from 1998 through 2010. Additionally, significantly more options classes are trading in 2010 as compared to 1998. The Exchange proposes to increase its allocation from 51 to 60<sup>7</sup> options classes to accommodate investor requests for \$2.50 strikes in certain options classes. The Exchange believes that offering additional options classes would benefit investors.

Furthermore, the Exchange does not believe that this proposal would have a negative impact on the marketplace. The Exchange would compare this proposal with the \$1 Strike Price expansion, wherein the Exchange expanded its \$1 Strike Price Program from 55 individual stocks to 150 individual stocks on which an option series may be listed at \$1 strike price intervals.<sup>8</sup> The Exchange believes that this proposal, wherein the Exchange is proposing to increase its allocation from 51 to 60 options classes is substantially less than the \$1 Strike Price Program increase and therefore would have less impact than that program, which has not had any negative impact on the market in terms of proliferation of quote volume or fragmentation.

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 have the necessary system capacity to handle the potential

<sup>3</sup> See Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (approving File Nos. SR—Phlx—95—08, SR—Amex—95—12, SR—PSE—95—07, SR—CBOE—95—19, and SR—NYSE—95—12). See also Exchange Act Release No. 52893 (December 5, 2005) 70 FR 73488 (December 12, 2005) (a rule change to allow the listing of options with \$2.50 strike price intervals for strike prices between \$50 and \$75).

<sup>4</sup> The term "primary market" is defined in NYSE Amex Rule 900.2NY(62), in respect of an underlying stock or Exchange-Traded Fund Share, as the principal market in which the underlying stock or Exchange-Traded Fund Share is traded.

<sup>5</sup> The 75 strike put would trade at \$.30 in this example.

<sup>6</sup> See Securities Exchange Act Release No. 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (approving File Nos. SR—Amex—98—21, SR—CBOE—98—29, SR—PCX—98—31, and SR Phlx—98—26).

<sup>7</sup> Currently, the Chicago Board Options Exchange ("CBOE") has an allocation of 60 options.

<sup>8</sup> See Securities Exchange Act Release No. 62452 (July 6, 2010) 75 FR 40011 (July 13, 2010).

additional traffic associated with the listing and trading of classes on individual stocks in the \$2.50 Strike Price Program.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934<sup>9</sup> (the "Act") 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 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. The Exchange believes that the effect of the proposed expansion on the marketplace would not result in a material proliferation of quote volume or concerns with fragmentation. In addition, the Exchange believes that it has the necessary system capacity to handle the potential additional traffic associated with the listing and trading of additional series.

Rather, the Exchange believes the \$2.50 Strike Price Program proposal would provide the investing public and other market participants increased opportunities to better manage their risk exposure. Accordingly, the Exchange believes that the proposal to expand the number of classes in the Program and to allow the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$100 should further benefit investors and the market by providing greater trading opportunities for those underlying stocks that have low volatility and thus trade in a narrow range.

### 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 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

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 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 Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

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 that of another exchange that has been approved by the Commission.<sup>13</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>14</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.

## 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-NYSEAmex-2011-22 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

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

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

<sup>13</sup> See Securities Exchange Act Release No. 64157 (March 31, 2011) (SR-Phlx-2011-15) (order approving expansion of \$2.50 Strike Price Program).

<sup>14</sup> 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).

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEAmex-2011-22. 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-NYSEAmex-2011-22 and should be submitted on or before April 27, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Cathy H. Ahn,**  
Deputy Secretary.

[FR Doc. 2011-8141 Filed 4-5-11; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64161; File No. SR-BX-2011-017]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Rules To Expand the \$2.50 Strike Price Program

March 31, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

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