

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71978; File No. SR-NASDAQ-2014-039]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing PHLX Proprietary Products

April 21, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 10, 2014, The NASDAQ Stock Market LLC (“NASDAQ” 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 NASDAQ. 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

NASDAQ proposes to amend certain rules in order to permit the trading of options overlying NASDAQ OMX PHLX LLC (“Phlx”) proprietary indexes and Phlx U.S. Dollar-Settled Foreign Currencies on The NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options. The Exchange is proposing to amend the following NOM Rules: Chapter I, Section 1 (Definitions), Chapter III, Section 7 (Position Limits), Section 9 (Exercise Limits), Chapter IV, Section 3 (Criteria for Underlying Securities), Section 6 (Series of Options Contracts Open for Trading), Section 9 (U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value), Chapter VI, Section 4 (Meaning of Premium Quotes and Orders), Chapter VIII, Section 3 (Delivery and Payment), Chapter XIV, Section 5 (Position Limits for Broad-Based Index Options), Section 7 (Position Limits for Industry and Micro-Narrow Based Index Options) and Section 11 (Terms of Index Options Contracts).

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaq.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.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend NOM’s Rules to include provisions to permit the trading of options overlying Phlx proprietary indexes on NOM³ and Phlx U.S. Dollar-Settled Foreign Currencies.⁴ Today, Phlx has various rules which pertain to the listing of options overlying Phlx proprietary indexes and U.S. Dollar-Settled Foreign Currencies. The Exchange proposes to list these Phlx proprietary products on the Exchange in the same manner and with the same terms as these options are traded on Phlx.

Phlx Proprietary Indexes

Position Limits

The Exchange is proposing to amend various NOM Rules to permit the listing of Phlx proprietary indexes. The Exchange is proposing to amend Chapter XIV, which pertains to indexes, specifically at Section 5 regarding position limits. The Exchange is proposing to add the phrase “or any PHLX proprietary product” to Section 5(a)(2) to provide that Options Participants must comply with Phlx position limit rules relating to broad-based index options when transacting options overlying Phlx proprietary products. The Exchange is proposing a similar amendment to Section 7 relating to micro-narrow based indexes. Options

Participants would be required to comply with Phlx position limits relating to micro-narrow index options when transacting options overlying Phlx proprietary products. Exemptions from position limits would continue to be available to Options Participants pursuant to Chapter XIV, Section 8 pertaining to exemptions from position limits to replicate relevant Phlx rules which grant its members certain exemptions.

Definition

The Exchange is also proposing to amend Chapter I, Section 1 which contains definitions to include the definition of closing index value. Specifically, the Exchange is adding the following definition for closing index value: “the [term ‘closing index value’ in respect of a particular index means the current index value calculated at the close of business on the day of exercise, or, if the day of exercise is not a trading day, on the last trading day before exercise (P.M.-settled), unless the settlement value of the index is based on the opening price of each component issue on the primary market (A.M.-settled).” This definition is the same definition that appears in Phlx Rules.⁵

Listing of Long-Term Index Options

Finally, the Exchange proposes to amend Chapter XIV, Section 11 to amend the Terms of Index Options Contracts to amend the text related to Long Term Index Options Series. Today, NOM may list long-term index options series that expire from twelve to sixty months from the date of issuance. The Exchange proposes to amend this timeframe to mirror the timeframe for Phlx index options which is nine to sixty months at Chapter XIV, Section 11(b)(1).⁶ In addition, the Exchange proposes to amend Chapter XIV, Section 11(b)(1)(i) to state that “Strike price interval, bid/ask differential and continuity rules shall not apply to such options series until the time to expiration is less than *nine (9)* months.” Today, the timeframe is twelve months. The Exchange is conforming this text to the amendment in Section 11(b)(1).

Phlx U.S. Dollar-Settled Foreign Currencies

Position Limits

The Exchange is proposing to amend various NOM Rules to permit the listing of Phlx proprietary U.S. Dollar-Settled Foreign Currencies. The Exchange is proposing to amend Chapter III, which pertain to indexes, specifically at

³ Today, Phlx lists the following proprietary indexes on its market: SIG Oil Exploration & Production Index™ (EPXSM); PHLX Semiconductor SectorSM (SOXSM); PHLX Housing Sector™ (HGXSSM); PHLX Oil Service SectorSM (OSXSSM); Phlx Utility SectorSM (UTYSSM); and PHLX Gold/Silver SectorSM (XAUSM).

⁴ Today, Phlx lists the following proprietary U.S. Dollar-Settled Foreign Currencies: XDA (Australian Dollar); XDB (British Pound); XDC (Canadian Dollar); XDE (Euro); XDN (Japanese Yen); XDS (Swiss Franc); and XDZ (New Zealand Dollar).

⁵ See Phlx Rule 1000A(a)(8).

⁶ See Phlx Rule 1101A.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Section 7 regarding position limits. The Exchange is proposing to amend the rule to provide that no Options Participant shall make, for any account in which it has an interest or for the account of any Customer, an opening transaction on any exchange if the Options Participant has reason to believe that as a result of such transaction the Options Participant or its Customer would, acting alone or in concert with others, directly or indirectly exceed the applicable position limit fixed from time to time by Phlx with respect to U.S. Dollar-Settled Foreign Currency Options.⁷ The Exchange is proposing a similar amendment to Section 9 related to Exercise Limits.⁸ These amendments would permit the Exchange to list these U.S. Dollar-Settled Foreign Currencies with the same position and exercise limits as exist on Phlx today.

Listing Criteria

The Exchange is proposing to amend Chapter IV, Section 3(n) to list the criteria for underlying securities for U.S. Dollar-Settled Foreign Currency Options. This criteria is the same as the criteria for listing proprietary currencies on Phlx.⁹ Specifically, the Exchange proposes to add the following criteria: the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the U.S. dollar, the Mexican peso, the Euro, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona may be approved as underlying foreign currencies for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. In the event that any of the sovereign governments or the European Economic Community's European Monetary System issuing any of the above-mentioned currencies should issue a new currency intended to replace one of the above-mentioned currencies as the standard unit of the official medium of exchange of such government, such new currency also may be approved as an underlying foreign currency for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the

interests of maintaining a fair and orderly market or for the protection of investors. Options trading in such new currency may occur simultaneously with options trading in any of the above-mentioned currencies; provided, however, that the Exchange shall withdraw its approval of options transactions in the currency which is intended to be replaced by such new currency as expeditiously as it deems consistent with the maintenance of a fair and orderly market or the protection of investors. The Exchange may determine to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event that the Exchange effects such a withdrawal, the Exchange shall not open for trading any additional series of options of the class covering that underlying foreign currency.

The Exchange proposes to amend the Supplementary Material to Chapter IV, Section 6 by adding new Supplementary Material .09 with listing qualifications for U.S. Dollar-Settled Foreign Currency options which are identical to those listing criteria on Phlx.¹⁰ Specifically, within each class of approved U.S. Dollar-Settled Foreign Currency options, the Exchange may open for trading series of options expiring in consecutive calendar months ("consecutive month series") and series of options expiring at three-month intervals ("cycle month series"), as provided in Supplementary Material at .09. Prior to the opening of trading in any series of U.S. Dollar-Settled Foreign Currency Options, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series.

The Supplementary Material to proposed Chapter IV, Section 6(A) [sic] states, with respect to each class of U.S. Dollar-Settled Foreign Currency options, series of options having up to four consecutive expiration months may be opened for trading simultaneously, with the shortest-term series initially having no more than two months to expiration. Additional consecutive month series of the same class may be opened for trading on the Exchange 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.

Supplementary Material to proposed Chapter IV, Section 6(B) [sic] states, the

Exchange may designate one expiration cycle for each class of U.S. Dollar-Settled Foreign Currency option. An expiration cycle shall consist of four calendar months ("cycle months") occurring at three-month intervals. With respect to any particular class of U.S. Dollar-Settled Foreign Currency option, series of options expiring in the four cycle months designated by the Exchange for that class may be opened for trading simultaneously, with the shortest-term series initially having approximately three months to expiration. Additional cycle month series of the same class may be opened for trading on the Exchange at or about the time a prior cycle month series expires, and the expiration month of each such new series shall normally be approximately three months after the expiration month of the then outstanding cycle month series of the same class of options having the longest remaining time to expiration.

The Supplementary Material to proposed Chapter IV, Section 6(C) [sic] states, the Exchange may list, with respect to any U.S. Dollar-Settled Foreign Currency, options having up to three years from the time they are listed until expiration. There may be up to ten options series, options having up to thirty-six months from the time they are listed until expiration. There may be up to six additional expiration months. Strike price interval, bid/ask differential and continuity Rules shall not apply to such options series until the time to expiration is less than nine months. For each expiration month opened for trading of U.S. Dollar-Settled Foreign Currency options, in addition to the strike prices listed by the Exchange pursuant to Supplementary Material .09 to proposed Chapter IV, Section 6, the Exchange shall also list a single strike price of \$0.01. Additional series of options of the same class may be opened for trading on the Exchange as the market price of the underlying foreign currency moves substantially from the initial exercise price or prices. The opening of a new series of options on the Exchange shall not affect any other series of options of the same class previously opened.

The Exchange may initially list exercise strike prices for each expiration of U.S. Dollar-Settled Foreign Currency options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. Thus, if the Exchange Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the

⁷ See proposed Rule at Chapter III, Section 7(a)(iv).

⁸ See proposed Rule at Chapter III, Section 9(a)(iv).

⁹ See Phlx Rules 1009(c) and 1010 at Commentary .06.

¹⁰ See Rule 1012(a)(iii) and Commentary .06 and .07 to Rule 1012. See also Rule 1000(b)(16).

Exchange Spot Price for U.S. Dollar-Settled Foreign Currency options moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00. The exercise price of each series of U.S. Dollar-Settled Foreign Currency options opened for trading on the Exchange normally shall be fixed at a price per unit which is reasonably close to the current Exchange Spot Price per unit of the underlying foreign currency in the foreign exchange market at or before the time such series of options is first opened for trading on the Exchange, as determined by finding the arithmetic mean of Exchange Spot Prices.

The Exchange defines the term "Exchange Spot Price" similar to the Phlx Rule 1000(b)(16), "in respect of an option contract on a foreign currency means the cash market spot price, for the sale of one foreign currency for another, quoted by various foreign exchange participants for the sale of a single unit of such foreign currency for immediate delivery that is calculated from the foreign currency price quotation reported by the foreign currency price dissemination system selected by the Exchange, to which an appropriate multiplier is applied. The multiplier(s) will be: 100 for the British pound, the Euro, the Swiss franc, the Canadian dollar, the Australian dollar, the Brazilian real, and the New Zealand dollar; 1,000 for the Chinese yuan, the Danish krone, the Mexican peso, the Norwegian krone, the South African rand, and the Swedish krona; 10,000 for the Japanese yen and the Russian ruble; and 100,000 for the South Korean won."

Closing Settlement Value

The Exchange proposes to add a new Chapter IV, Section 9 to address Closing Settlement Value. The Exchange is proposing to add language similar to that contained in a Phlx Rule.¹¹ Specifically, the Exchange is adding language which states, U.S. Dollar-Settled Foreign Currency options are settled in U.S. dollars. The closing settlement value for the U.S. Dollar-Settled Foreign Currency options on the Australian dollar, the Euro, the British

pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to the expiration date unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. Neither the Exchange, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying currencies or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange. The Exchange shall post the closing settlement value on its Web site or disseminate it through one or more major market data vendors.

Minimum Increments

The Exchange also proposes to amend Chapter VI, Section 4 to add a new section (c) and (d) to add rule text similar to that of Phlx¹² to address minimum increments for quoting and bids and offers. Specifically, all options on foreign currencies where the underlying foreign currency is not the U.S. dollar shall have a minimum increment of \$.01. In the case of options on foreign currencies, all bids or offers shall be expressed in terms of U.S. dollars per unit of the underlying foreign currency. E.g., a bid of "3.25" for a premium on a \$170 strike price option on the British pound shall represent a bid to pay \$325 per option contract.

Delivery and Payment

The Exchange proposes to amend Chapter VIII, Section 3 to add a new section (d) to address delivery and

payment similar to a Phlx Rule.¹³ Specifically, in accordance with the applicable rules of The Options Clearing Corporation ("OCC"), upon exercise of an in-the-money U.S. Dollar-Settled Foreign Currency option structured as a call, the holder receives, from OCC, U.S. dollars representing the difference between the exercise strike price and the closing settlement value of the U.S. Dollar-Settled Foreign Currency options contract multiplied by the number of units of currency covered by the contract. For a U.S. Dollar-Settled Foreign Currency option structured as a put, the holder receives U.S. dollars representing the excess of the exercise price over the closing settlement value of the U.S. Dollar-Settled Foreign Currency option contract multiplied by the number of units of foreign currency covered by the contract.

Definition

The Exchange also proposes to add a new definition to Chapter I, Section 1 for foreign currency. This definition is the same definition that appears in Phlx Rules.¹⁴ The Exchange proposes to define foreign currency to mean means the standard unit of the official medium of exchange of a sovereign government including the United States Government (e.g., the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, the Swedish krona, or the United States dollar) or the Euro.

Surveillance and Capacity

The Exchange represents that it has the necessary systems capacity to support listing these proprietary Phlx products on the Exchange. The Exchange represents that it has an adequate surveillance program in place. The Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement, which was modernized in 2008, and may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. ISG members include all of the U.S. registered stock and options markets and work together to coordinate surveillance and investigative information sharing in the stock and options markets. In addition,

¹³ See Phlx Rule 1044. NASDAQ Rules at Chapter VIII, Section 3 contain a Delivery and Payment rule which would be supplemented with the above-described rule text.

¹⁴ See Phlx Rule 1000(b)(13).

¹¹ See Phlx Rule 1057.

¹² See Phlx Rules 1033(b)(ii) and 1034(a)(ii).

the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.

Incorporation of Phlx Rules

NOM proposes herein to incorporate by reference as NOM Options Rules certain Phlx such that NOM members will comply with a NOM rule by complying with the Phlx rule referenced. In connection with its proposal to incorporate Phlx rules by reference, NOM will file a request, pursuant to Rule 240.0–12,¹⁵ an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those NOM Options Rules that are effected solely by virtue of a change to a cross-referenced Phlx rule. NOM agrees to provide written notice to Options Participants of any amendments to Phlx rules that are incorporated by reference.¹⁶ NOM will notify Participants whenever Phlx proposes to change a rule that has been incorporated by reference into the NOM Options Rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁸ 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, 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 proposal would allow Phlx proprietary indexes and U.S. Dollar-Settled Foreign Currency options to be traded on NOM, in addition to Phlx. Investors would have an additional venue in which to trade these proprietary products. The Exchange seeks to list and trade these proprietary products utilizing the same terms and conditions as Phlx. The proposed rules mirror the terms and conditions of Phlx

proprietary products as they are listed and traded on Phlx. The Exchange believes that this will serve to minimize investor confusion as the products would be traded in the same manner with the same position limits, increments and listing conditions.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange intends to list and trade options on Phlx proprietary products on NOM in the same manner that these products are traded on Phlx.

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 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, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁹ and subparagraph (f)(6) of Rule 19b–4 thereunder.²⁰

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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. The Exchange has provided 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.

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. Please include File Number SR–NASDAQ–2014–039 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–NASDAQ–2014–039. 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 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–NASDAQ–2014–039 and should be submitted on or before May 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Kevin M. O'Neill,
Deputy Secretary.

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¹⁵ 17 CFR 240.0–12.

¹⁶ NOM will provide such notice through a posting on the same Web site location where NOM posts its own rule filings pursuant to Rule 19b–4(1) under Act, within the timeframe required by that Rule. The Web site posting will include a link to the location on the Phlx Web site where those SROs' proposed rule changes are posted.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ 15 U.S.C. 78s(b)(3)(a)(ii).

²⁰ 17 CFR 240.19b–4(f)(6).

²¹ 17 CFR 200.30–3(a)(12).