

options on Vol Indexes.¹⁸ Further, brokers opening accounts and recommending options transactions must comply with relevant customer suitability standards.¹⁹

Options on Vol Indexes will trade as options under the trading rules of the CBOE. The Commission believes that the listing rules proposed by CBOE for options on Vol Indexes are consistent with the Act. Vol Index options will be quoted in index points and fractions and one point will equal \$100. The minimum tick size for series trading below \$3 will be 0.05 (\$5.00) and above \$3 will be 0.10 (\$10). Dollar strikes (or greater) will be permitted for Vol Index options where the strike price is \$200 or less and \$ or greater where the strike price is greater than \$200. This should provide investors with greater flexibility in the trading of options on Vol Indexes and further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. The Commission notes that CBOE will compute Vol Index levels and disseminate the values at 15-second intervals to major market data vendors.

The Commission believes that the Exchange's proposed position limits and exercise limits for options on Vol Indexes are appropriate and consistent with the Act. The Commission notes that the particular Vol Index options in this proposed rule change track liquid underlying stocks and ETFs. In addition, the Commission notes that the position limits are similar to those for options on the GVZ which the Commission previously approved. The Commission also notes that the margin requirements for equity options as specified in CBOE Rule 12.3 will also apply to options on Vol Indexes. The Commission finds this to be reasonable and consistent with the Act.

The Commission also believes that the Exchange's proposal to allow options on Vol Indexes to be eligible for trading as FLEX Options is consistent with the Act. The Commission previously approved rules relating to the listing and trading of FLEX Options on CBOE, which give investors and other market participants the ability to individually tailor, within specified limits, certain terms of those options.²⁰ The current proposal incorporates options on Vol Indexes that trade as FLEX Options into these existing rules and regulatory framework. In addition, the Commission

notes that the position and exercise limits for FLEX options on Vol Indexes will be the same as those previously approved for options on the GVZ.

The Commission believes that the hedge exemption for position limits on options on Vol Indexes in proposed Interpretations and Policies .01 to CBOE Rule 24.4C are reasonable. The exemption is limited and sets objective standards for when the exemption applies. The Commission believes that this approach ensures that position limits are not improperly circumvented but at the same time are flexible enough to accommodate hedging strategies employed by market participants.

Lastly, the Commission notes that CBOE represented that it has an adequate surveillance program to monitor trading of options on Vol Indexes and intends to apply its existing surveillance program to support the trading of these options. Finally, in approving the proposed rule change, the Commission has also relied upon the Exchange's representation that it has the necessary systems capacity to support new options series that will result from this proposal.

IV. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

Amendment No. 1 limits the universe of Vol Indexes to specific individual stock-based and ETF based volatility indexes. Amendment No. 1 does not propose any new changes but instead narrows the scope of the original proposal. The Commission notes that CBOE is required to file a rule filing under Rule 19b-4 under the Act²¹ that would require Commission approval before listing options on any additional Vol Indexes. The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,²² for approving the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-CBOE-2011-026), 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.²⁴

Cathy H. Ahn,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64549; File No. SR-Phlx-2011-46]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change To Expand the Number of Components in the PHLX Gold/Silver SectorSM Known as XAUSM, on Which Options Are Listed and Traded

May 26, 2011.

On March 31, 2011, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to expand the number of components in the PHLX Gold/Silver SectorSM (the "Index" or "XAUSM"), on which options are listed and traded, and to change the Index weighting methodology.³ The proposed rule change was published for comment in the **Federal Register** on April 13, 2011.⁴ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Gold/Silver Index is a P.M. settled capitalization-weighted index composed of the stocks of widely held U.S. listed companies involved in the gold/silver mining industry. Options on the Index have an American-style expiration and the settlement value is based on the closing values of the component stocks on the day exercised, or on the last trading day prior to expiration.

In 1996, the Exchange received approval to apply to the Index all of the Index Options Maintenance Standards of Rule 1009A(c) except the requirement that an index option be designated as A.M. settled per subsection (b)(1).⁵

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ PHLX Gold/Silver SectorSM may also be known as Gold/Silver Index.

⁴ See Securities Exchange Act Release No. 64244 (April 7, 2011), 76 FR 20775.

⁵ See Securities Exchange Act Release No. 37334 (June 19, 1996), 61 FR 33162 (June 26, 1996) (SR-Phlx-96-03) (order approving use of modified Rule 1009A(c) generic maintenance standards in respect of options on the Index).

¹⁸ See CBOE Rule 9.15.

¹⁹ See FINRA Rule 2360(b) and CBOE Rules 9.7 and 9.9.

²⁰ See Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993).

²¹ 17 CFR 240.19b-4.

²² 15 U.S.C. 78s(b)(2).

²³ 15 U.S.C. 78s(b)(2).

Subsection (c) also requires, among other things, that the Index comply with the concentration requirements specifically set forth in 1009A(b)(6) regarding the Gold/Silver Index.⁶ The Index meets all of the subsection (c) Index Options Maintenance Standards (the A.M. settlement requirement is not applicable to the Index) for continued trading of options overlying the Index, with one exception, its proposed number of components.

The Exchange proposes to expand the number of components in the Index from sixteen to thirty. The Exchange represents that the expanded Index would continue to meet all of the index maintenance requirements in subsection (c) of Rule 1009A applicable to options on narrow-based indexes, except subsection (c)(2), which indicates that the total number of component securities in the index may not increase or decrease by more than 33⅓% from the total number of securities in the index at the time of its initial listing. The Exchange also proposes to change its Index weighting methodology from capitalization-weighted to modified capitalization-weighted.⁷

After careful consideration, 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 exchange⁸ and, in particular, the requirements of Section 6 of the Act.⁹ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the rules of a national securities exchange be 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.

Index Design and Index Composition

Currently, the Index is calculated using a capitalization-weighted index methodology. The value of the Index equals the aggregate value of the Index share weights, also known as the Index shares, of each of the Index securities (components) multiplied by each such security's last sale price, and divided by the divisor of the Index. The divisor serves the purpose of scaling such aggregate index value to a lower order of magnitude which is more desirable for reporting purposes. If trading in an Index security is halted on its primary listing market, the most recent last sale price for that security is used for all index computations until trading on such market resumes. Likewise, the most recent last sale price is used if trading in a security is halted on its primary listing market before the market is open.

The modified capitalization-weighted methodology is expected to retain, in general, the economic attributes of capitalization weighting, while providing enhanced diversification.

Listing and Trading of Options on the Index

Phlx has represented that options on an expanded thirty-component Index would continue to meet the relevant Index Options Maintenance Standards in subsection (c) of Rule 1009A for listing XAUSM options, except subsection (c)(2). Subsection (c)(2) of Phlx Rule 1009A only permits a maximum increase of 33⅓% from the total number of securities in the Index at the time of its initial listing. Additionally, the Exchange has

represented that no other changes are being made to the Index as it currently exists. Based on these representations, the Commission believes that the proposed expansion to the Index is appropriate, and that Phlx should continue to be able to list and trade options on the Index.

Surveillance and Capacity

The Commission notes that the Exchange has represented that it has an adequate surveillance program in place for options traded on the Index and intends to apply those same program procedures that it applies to the Exchange's current XAUSM options and other index options. Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement, dated June 20, 1994. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses. The Exchange has also represented that it has the necessary systems capacity to continue to support listing and trading XAUSM options. This order is based on these representations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-Phlx-2011-46) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Cathy H. Ahn,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64550; File No. SR-NYSEArca-2011-11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of the Guggenheim Enhanced Core Bond ETF and Guggenheim Enhanced Ultra-Short Bond ETF

May 26, 2011.

I. Introduction

On March 24, 2011, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities

⁶ The maintenance provisions in subsection (c) of Rule 1009A state, in part, as applicable to XAUSM: (1) The conditions stated in subparagraphs (b)(1), (3), (6), (7), (8), (9), (10), (11) and (12), must continue to be satisfied, provided that the conditions stated in subparagraph (b)(6) must be satisfied only as to the first day of January and July in each year; (2) The total number of component securities in the index may not increase or decrease by more than 33⅓% from the number of component securities in the index at the time of its initial listing, and in no event may be less than nine component securities; (3) Trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; (4) In a capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index each have had an average monthly trading volume of at least 1,000,000 shares over the past six months.

⁷ *Id.* Regarding concentration requirements, subsection (b)(6)(i) states that with respect to the Gold/Silver Index, no single component shall account for more than 35% of the weight of the Index and the three highest weighted components shall not account for more than 65% of the weight of the Index; and that if the Index fails to meet this requirement, the Exchange shall reduce position limits to 8000 contracts on the Monday following expiration of the farthest-out, then trading, non-LEAP series.

⁸ The Exchange has noted that both weighting methodologies are acceptable per the current generic index listing standards found in Rule 1009A(b)(2).

⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.

¹⁰ 15 U.S.C. 78f.

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).