instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').[2] Applicants also request that the order exempt W&R and any entity, including any entity controlled by or under common control with an Adviser, that in the future acts as principal underwriter, or broker or dealer (if registered under the 1934 Act) with respect to the transactions described in the application.

3. Consistent with its fiduciary obligations under the Act, the Trust's board of trustees will review the advisory fees charged by the Fund of Funds' Adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Fund of Funds may invest.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company (''acquiring company'') may acquire securities of another investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies and companies controlled by them.

2. Section 12(d)(1)(G) of the Act provides, in part, that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquired company and acquiring company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the 1934 Act, or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (i) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (ii) securities (other than securities issued by an investment company); and (iii) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

5. Applicants state that each Funds of Funds will comply with rule 12d1–2 under the Act, except to the extent it may invest a portion of its assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Funds of Funds to invest in Other Investments while investing in Underlying Funds. Applicants assert that permitting the Funds of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

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[2] Every existing entity that currently intends to rely on the requested order is named as an applicant. Any existing or future entity that relies on the order in the future will do so only in accordance with the terms and condition in the application.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69162; File No. SR–Phlx–2013–34]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Mini Options

March 18, 2012.

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 March 18, 2013, 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to address the manner in which options contracts overlying 10 shares of a security (''Mini Options'') will trade as a Complex Order.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i).

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 provide for the manner in which Mini Options will trade as a Complex Order pursuant to Exchange Rule 1080. The Exchange previously filed to list and trade Mini Options.[4] Exchange Rule 1080 entitled ''Phlx XL and Phlx XL II'' describes the manner in which Complex Orders,[5] trade on the Exchange. The Exchange will describe below the manner in which Rule 1080 operates with respect to Mini Options.

With respect to Complex Orders, the Exchange states in Rule 1080 that Complex Orders involve the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on relative prices of the individual components. The Exchange would permit Mini Options to trade as Complex Orders provided that the order involves the simultaneous purchase and/or sale of two or more different Mini Options series in the same underlying security, priced as a net debit or credit based on relative prices of the individual components and Mini Options are only part of a Complex Order strategy that includes other Mini Options. For example, a Complex Order strategy cannot be comprised of standard options in AAPL and Mini Options in AAPL7. Also, with respect to Complex Orders, the Exchange will not permit Mini Options to trade as a stock-option order. The Exchange proposes to add rule text with respect to Mini Options trading as Complex Orders to Commentary .08 of Rule 1080.

The Exchange proposes to commence trading Mini Options on March 22, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities and Exchange Act of 1934 (''Exchange Act''),[6] in general, and with Section 6(b)(5) of the Exchange Act,[7] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, 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.

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would allow market participants to take advantage of legitimate investment strategies and execute Complex Orders in Mini Options. Additionally, the Exchange believes the proposed rule change will avoid investor confusion by providing how Mini Options will trade the same or different as compared to standard options with respect to Complex Orders.

The Exchange's proposal to permit Mini Options to trade as Complex Orders provided the strategy does not combine Mini Options and standard options serves to maintain the permissible ratios that are applicable to Complex Orders by separating the trading of standard Complex Orders and Mini Options Complex Orders. Also, the Exchange has determined to not permit Mini Option Complex Orders to trade as a stock-option order because as Mini Options are a new product, the Exchange would like to consider the impact in this area and file to amend the rule at a later date.

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. All members may transact Complex Orders on Phlx. The rule change does not permit unfair discrimination and does not impose a burden on Members with respect to trading Mini Options.

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)[8] of the Act and Rule 19b–4(f)(6)[9] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) of the Act[10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii) of the Act,[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In November 2012, the Exchange filed a proposed rule change to amend its rules to list and trade certain mini-options contracts on the Exchange, and represented in that filing that the Exchange's rules that apply to the trading of standard options contracts would apply to mini-options contracts.[12] The Exchange has represented that it intends to launch trading in mini-options contracts on March 22, 2013. The Exchange believes that waiver of the 30-day operative

[4] *See* Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR–Phlx–2012–126). The Exchange amended amend Rules 1001 (Position Limits), 1012 (Series of Options Open for Trading) and 1033 (Bids and Offers—Premium) to list and trade Mini Options overlying five (5) high-priced securities for which the standard contract overlying the same security exhibits significant liquidity. Specifically, the Exchange filed to list Mini Options on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN''). The Exchange filed a separate proposal to specify the application of Mini Options to Qualified Contingent Cross and PIXL transactions. *See* SR–Phlx–2013–32 (not yet published).

[5] *See* Commentary .08 to Exchange Rule 1080.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *See* Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR–Phlx–2012–126).

delay is consistent with the protection of investors and the public interest because such waiver would minimize confusion among market participants about how complex orders and stock-options orders involving mini-options contracts will trade.[13]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver would allow the Exchange to implement the proposed rule change prior to its launch of mini-options contracts trading on March 22, 2013, thereby mitigating potential investor confusion as to how complex orders and stock options orders involving mini-options contracts will trade. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such 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 change 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.* Please include File Number SR–Phlx–2013–34 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–2013–34. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–2013–34, and should be submitted on or before April 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

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[13] *See id.*

[14] 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).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69164; File No. SR–ISE–2013–07]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change To Amend International Securities Exchange, LLC Amended and Restated Constitution

March 18, 2013.

I. Introduction

On January 13, 2013, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') 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 amend its Amended and Restated Constitution[3] (the ''ISE Constitution'') to declassify the Non-Industry Directors of the board of directors, change the term of the Non-Industry Directors and the Former Employee Director to a one-year term, and eliminate the three-term limit for the Former Employee Director. The proposed rule change was published for comment in the **Federal Register** on February 1, 2013.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

As described more fully in the Notice, the Exchange's proposal would amend the ISE Constitution to: (i) Declassify the Non-Industry Directors (including the Public Directors) of the Board; (ii) change the term of the Non-Industry Directors (including the Public Directors) and the Former Employee Director to a one-year term, subject to re-election; and (iii) eliminate the three-term limit for the Former Employee Director.

Currently, Section 3.2(c) of the ISE Constitution requires, in part, that both Non-Industry Directors (including the Public Directors)[5] and Exchange Directors[6] be classified into two classes designated as Class I and Class II directors, and that all Directors (including the Former Employee Director)[7] serve two-year terms, subject to re-election.

ISE has proposed to amend Section 3.2(c) of the ISE Constitution to: (i) Remove any reference to Class I directors or Class II directors for Non-Industry Directors (including Public Directors); and (ii) state that the Non-Industry Directors (including the Public Directors) would hold office for a one-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amended and Restated Constitution of International Securities Exchange, LLC (last amended December 28, 2007).

[4] *See* Securities Exchange Act Release No. 68740 (January 28, 2013), 78 FR 7470 (''Notice'').

[5] Section 3.2(b)(iv) of the ISE Constitution requires that the Board be composed of eight Non-Industry Directors (at least two of which are Public Directors) elected by the Sole LLC Member.

[6] Section 3.2(b)(i)–(iii) of the ISE Constitution requires that the Board be composed of six Exchange Directors elected by the holders of Exchange Rights.

[7] Section 3.2(b)(vi) of the ISE Constitution allows the Sole LLC Member, in its sole and absolute discretion, elect one additional director who shall meet the requirements of ''Non- Industry Directors,'' except that such person was employed by the Exchange at any time during the three-year period prior to his or her initial election.