

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. Please include File Number SR-NASDAQ-2011-109 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-NASDAQ-2011-109. 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.¹³ 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-2011-109 and should be submitted on or before September 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011-20900 Filed 8-16-11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65098; File No. SR-Phlx-2011-102]

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

August 11, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on August 2, 2011, 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 Substance of the Proposed Rule Change

The Exchange proposes to list and trade options on the ETFs Gold Trust.

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.

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 certain rules to enable the listing and trading on the Exchange of options on the ETFs Gold Trust ("SGOL").³ Specifically, the Exchange proposes to amend Exchange Rule 1009, entitled "Criteria for Underlying Securities," to amend Commentary .06 (iv) to add SGOL to the list of products deemed appropriate for options trading.

Currently Exchange Rule 1009 lists the securities deemed appropriate for options trading, which includes shares or other securities ("Exchange-Traded Fund Shares" or "ETFs"), including but not limited to Partnership Units, as defined in Commentary .08, that are principally traded on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, and that (i) Represent an interest in a registered investment company organized as an open-end management investment company, a unit investment trust or a similar entity which holds securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") constituting or otherwise based on or representing an investment in an index or portfolio of securities and/or Financial Instruments and Money Market Instruments, or (ii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool ETFs") or (iii) represent interests in a trust or similar entity that holds a specified non-U.S. currency or currencies deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency or

¹³ The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The ETFs is physically-backed by gold bullion which are held in Switzerland.

currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust ("Currency Trust Shares"), or (iv) are SPDR Gold Shares or are issued by the iShares COMEX Gold Trust or the iShares Silver Trust. This rule change proposes to expand the types of ETFs that may be approved for options trading to include SGOL.

Apart from allowing SGOL to be an underlying for options traded in the Exchange as described above, the listing standards for ETFs will remain unchanged from those that apply under current Exchange Rules. ETFs on which options may be listed and traded must still be listed and traded on a national securities exchange and must satisfy other listing standards.⁴

The Exchange notes that the current continued listing standards for options on Exchange-Traded Fund Shares would also apply to options on SGOL. Specifically, under the applicable continued listing standards in Rule 1010, Commentary .08, absent exceptional circumstances, options on Exchange-Traded Fund Shares shall not be deemed to meet the Exchange's requirements for continued approval, and the exchange shall not open for trading any additional series of option contracts of the class covering such Exchange-Traded Fund Shares, whenever the Exchange-Traded Fund Shares are delisted and trading in the Shares is suspended on a national securities exchange, or the Exchange-Traded Fund Shares cease to be an "NMS stock." In addition, the exchange shall consider the suspension of opening transactions in any series of options of the class covering Exchange-Traded Fund Shares in any of the following circumstances: (1) In accordance with the terms of paragraphs 1, through 7, of Commentary .01 of Rule 1010 in the case of options covering Exchange-Traded Fund Shares when such options were approved pursuant to paragraph (a)(i) of Commentary .06 of Rule 1009; (2) following the initial twelve-month period beginning upon the commencement of trading of the Exchange-Traded Fund Shares on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there are fewer than 50 record and/or beneficial holders of Exchange-Traded Fund Shares for 30 or more consecutive trading day; (3) the value of the index, non-U.S. currency,

portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or Financial Instruments or Money Market Instruments, or portfolio of securities on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.⁵

The addition of SGOL to Exchange Rule 1009, Commentary .06 will not have any effect on the rules pertaining to position and exercise limits or margin.⁶ Further, the Exchange represents that its surveillance procedures applicable to trading in options on SGOL will be similar to those applicable to all other options on other ETFs currently traded on the Exchange. The Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG. The Exchange may also obtain trading information from various commodity futures exchanges worldwide that have entered into comprehensive surveillance sharing agreements with the Exchange. In connection with SGOL, the Exchange represents that it may obtain information from the New York Mercantile Exchange, Inc. ("NYMEX"), pursuant to a comprehensive surveillance sharing agreement, related to any financial instrument that is based, in whole or in part, upon an interest in or performance of gold. Prior to listing and trading options on SGOL, the Exchange represents that it will either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the underlying gold.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act⁸ 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, by amending its rules to accommodate the listing and trading of options on SGOL, which will benefit investors by providing them with valuable risk management tools.

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 after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can list and trade options on ETFS Gold Trust immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.¹¹ The Commission notes

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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 fulfilled this requirement.

¹¹ For purposes only of waiving the 30-day operative delay, the Commission has also

⁴ The ETFS must meet the criteria and guidelines for underlying securities as set forth in Commentary .01 to Exchange Rule 1009 and must meet other criteria specified in Commentary .06 (a) and (b) to Exchange Rule 1009.

⁵ See Exchange Rule 1010, Commentary .08.

⁶ See Exchange Rules 1001 (Position Limits), 1002 (Exercise Limits) and 721 (Proper and Adequate Margin).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

the proposal is substantively identical to proposals previously approved by the Commission, and does not raise any new regulatory issues.¹² For these reasons, the Commission designates the proposed rule change as operative upon filing.

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. Please include File Number SR-Phlx-2011-102 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-2011-102. 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

considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² See Securities Exchange Act Release Nos. 61483 (February 3, 2010), 75 FR 6753 (February 10, 2010) (SR-CBOE-2010-007, SR-ISE-2009-106, SR-NYSEAmex-2009-86, and SR-NYSEArca-2009-110), 62464 (July 7, 2010), 75 FR 40007 (July 13, 2010) (SR-BX-2010-045) (rule filings to enable the listing and trading of options on ETFS Gold Trust on CBOE, ISE, NYSE Amex, NYSE Arca and BOX).

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.¹³ 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-2011-102 and should be submitted on or before September 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2011-20899 Filed 8-16-11; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12653 and #12654]

North Dakota Disaster Number ND-00024

AGENCY: U.S. Small Business Administration.

ACTION: ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Dakota (FEMA-1981-DR), dated 06/24/2011.

Incident: Flooding.

Incident Period: 02/14/2011 through 07/20/2011.

Effective Date: 08/10/2011.

Physical Loan Application Deadline Date: 09/22/2011.

EIDL Loan Application Deadline Date: 03/21/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

¹³ The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

¹⁴ 17 CFR 200.30-3(a)(12).

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of North Dakota, dated 06/24/2011 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 09/22/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011-20924 Filed 8-16-11; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Emergence Capital Partners SBIC, L.P. License No. 09/79-0454]

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Emergence Capital Partners SBIC, L.P. proposes to provide bridge financing to TouchCommerce, Inc., 30501 Agoura Road, Suite 203, Agoura Hills, CA 91301. The financing is contemplated for working capital and general operating purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Emergence Capital Partners, L.P. and Emergence Capital Associates, L.P., Associates of Emergence Capital Partners SBIC, L.P., own more than ten percent of TouchCommerce, Inc. Therefore, TouchCommerce, Inc. is considered an Associate of Emergence Capital Partners SBIC, L.P. and this transaction is considered Financing an Associate, requiring SBA's prior approval.

Notice is hereby given that any interested person may submit written comments on the transaction within 15 days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.