

All submissions should refer to File Number SR-NASDAQ-2010-087. 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. 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-2010-087 and should be submitted on or before August 16, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62530; File No. SR-Phlx-2010-96]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to Trading Halts in Options During a Trading Pause in the Underlying Securities

July 19, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on July 14, 2010, NASDAQ OMX PHLX, Inc. ("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 is filing with the Commission a proposal to amend Phlx Rule 1047 (Trading Rotations, Halts and Suspensions) to enhance the recently-implemented options halt rule whenever trading in the underlying security has been paused by the primary listing market (the "options halt rule").<sup>3</sup>

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, 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 this proposal is to amend Rule 1047 to enhance the recently-implemented options halt rule to indicate that if trading has not been resumed on the primary listing market for the underlying security once ten minutes has passed after an underlying security was paused, the Exchange may resume options trading if trading has resumed on at least one national securities exchange; and that the Exchange will continue certain processes during the halt (maintain booked orders, accept orders, and process cancels).

On June 10, 2010, the Exchange filed an immediately effective proposal to establish the options halt rule in new subsection (e) to Rule 1047.<sup>4</sup> Subsection (e) states that trading on the Exchange in any option contract shall be halted whenever trading in the underlying security has been paused by the primary listing market. The rule states further that trading in such halted options contracts may be resumed upon a determination by the Exchange that the conditions that led to the pause are no longer present and that the interests of a fair and orderly market are best served by a resumption of trading, which in no circumstances will be before the Exchange has received notification that the underlying security has resumed trading on at least one exchange.

On the same day as the Exchange's options halt rule filing, Chicago Board Options Exchange ("CBOE") filed an options halt that is similar to the Exchange's options halt rule but has some additional elements.<sup>5</sup> The Exchange's current filing is based on the CBOE filing.

The Exchange believes that it should continue certain processes and procedures independently of an options trading halt. Specifically, the Exchange proposes to state in Rule 1047(e)(ii) that during the options halt, the Exchange will maintain existing orders on the book, accept orders, and process cancels.

Moreover, the Exchange believes that it should have the ability to resume options trading within certain parameters after an underlying halt. Specifically, the Exchange proposes to state in subsection (e)(i) that if trading has not been resumed on the primary listing market for the underlying security after ten minutes have passed

<sup>4</sup> See Securities Exchange Act Release No. 62269 (June 10, 2010), 75 FR 34491, (June 17, 2010) (Phlx-2010-82)(notice of filing and immediate effectiveness regarding options halt rule). The Exchange proposed the options halt rule after consultation with Commission staff regarding uniform market-wide trading pause standards for certain individual stocks that experience rapid price movement and for individual equity options overlying those stocks. For a similar options halt rule proposed by another options exchange, see Securities Exchange Act Release No. 62270 (June 10, 2010), 75 FR 34510, (June 17, 2010) (NASDAQ-2010-071) (notice of filing and immediate effectiveness regarding options halt rule).

<sup>5</sup> The additional elements include the following: that if trading has not been resumed on the primary listing market for the underlying security once ten minutes passed after an underlying security was paused, the Exchange may resume options trading if at least one market has resumed trading in the underlying; and that the Exchange will continue certain processes during the halt (maintain booked orders, accept orders, and process cancels). See Securities Exchange Act Release No. 62272 (June 10, 2010), 75 FR 34509, (June 17, 2010) (CBOE 2010-055).

<sup>12</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>3</sup> The options halt rule is also known as the options pause rule.

since the underlying security was paused by the primary listing market, the Exchange may resume trading in options contracts if the underlying security has resumed trading on at least one national securities exchange.<sup>6</sup>

The Exchange believes that the proposals, individually and together, enhance and strengthen the options halt rule and its application. The proposals will be immediately implemented upon effectiveness of the filing.

The Exchange believes that the options halt rule as amended ensures that the Exchange has the ability to maintain fair and orderly markets in options upon the imposition of a single stock trading pause by the listing market for the underlying security.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. Specifically, the Exchange believes that the proposal benefits customers by enhancing the current options halt rule to clarify the circumstances under which the Exchange may resume options trading, and that the Exchange will continue certain order processing and cancellation functions during a halt.

### *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.

<sup>6</sup> No changes to the Exchange's trading processes are otherwise contemplated by this proposal. For example, transactions that occur between the time the pause is imposed on the listing market and the halt is processed on PHLX may be nullified pursuant to Rule 1092(c)(iv)(B). And orders in the affected option that are received during the halt on the Exchange will be treated as pre-opening orders and will be included in the re-opening process upon the resumption of trading on the listing market for the underlying security pursuant to Rule 1017(h).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

### *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

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)<sup>9</sup> of the Act and Rule 19b-4(f)(6)(iii) thereunder<sup>10</sup> 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. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission notes that the proposed rule change clarifies certain aspects of the Exchange's rule regarding how orders will be handled during options trading halts caused by a pause in the trading of the underlying security and also clarifies when the Exchange may resume trading when a trading pause in the underlying security is prolonged for unknown reasons. The proposed rule change does not raise any new substantive issues. For these reasons, the Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>11</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>11</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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-Phlx-2010-96 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.

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**Florence E. Harmon,**  
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<sup>12</sup> 17 CFR 200.30-3(a)(12).