

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62534; File No. SR-Phlx-2010-95]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to Order Re-Entry

July 20, 2010.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 2010, NASDAQ OMX PHLX, Inc. (“Phlx” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. Phlx has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(5) under the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. 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 amend Rules 1017, Openings in Options, and 1082, Firm Quotations, to reflect a system enhancement that automatically re-enters unexecuted contracts when, after trading at the Exchange and/or routing, there are contracts remaining from the initiating order.

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 change the manner in which the PHLX XL<sup>®</sup> automated options trading system <sup>4</sup> handles unexecuted contracts following: (1) The end of the opening process; and (2) the end of the “quote exhaust” and “market exhaust” auctions. This new feature further automates the order handling process, particularly at the opening of trading, for certain member organizations routing order flow to the Exchange. The new feature is optional and is available to any Exchange member upon request.

Currently, at the end of the opening process, the PHLX XL system cancels all unexecuted order interest priced through the opening price level, and sends a cancellation notice to the member that originally submitted the order. Similarly, at the end of the quote exhaust and market exhaust auctions, the PHLX XL system cancels unexecuted order volume that initiated such auction(s), and sends a cancellation notice to the member that originally submitted the order.

The instant proposal would modify the PHLX XL system and corresponding Exchange rules such that the PHLX XL system will, upon the written instruction of the member that initially submitted the order, re-submit unexecuted contracts following the opening process and following the quote exhaust and market exhaust auctions.<sup>5</sup> A re-submitted order will be treated strictly as a new order, thus forgoing any time/price priority it may have had when initially entered by the member that originally submitted the order. Therefore, the time of receipt of the new order will be recorded as of the time it

<sup>4</sup> This proposal refers to “PHLX XL” as the Exchange’s automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as “Phlx XL II.” See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from “Phlx XL II” to “PHLX XL” for branding purposes.

<sup>5</sup> The Exchange anticipates that a member’s single written instruction to re-submit unexecuted contracts would apply to all orders in specified options following the receipt of the written instruction by the Exchange. For purposes of this proposal, an e-mail message is sufficient to satisfy the written instruction requirement. The Exchange will publish an Options Trader Alert (“OTA”) on its Web site describing where and to whom such written instruction should be made.

is re-submitted. Cancellation notices under the proposal will be stopped by the system and will not reach the member that originally submitted the order.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act <sup>6</sup> in general, and furthers the objectives of section 6 (b)(5) of the Act <sup>7</sup> 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. Specifically, the Exchange believes that the proposal benefits customers by improving market efficiency through the enhanced automation of the order entry process when a member has instructed the Exchange to automatically re-submit unexecuted contracts following routing to away markets.

#### 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

The proposed rule change effects a change in an existing order-entry or trading system of a self-regulatory organization that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. Therefore, the proposal is effective upon filing pursuant to section 19(b)(3)(A) <sup>8</sup> of the Act and subparagraph (f)(5) of Rule 19b-4 thereunder.<sup>9</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

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(5).

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-95 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-2010-95. 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, 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. 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-2010-95 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>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62496; File No. SR-NASDAQ-2010-080]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding a Clerical Change to Nasdaq Rules

July 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 30, 2010, The NASDAQ Stock Market LLC ("Nasdaq" or the "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 the Exchange. Nasdaq proposes to make a clerical correction to the Nasdaq rulebook under Rule 19b-4(f)(3) under the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. 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 make clerical corrections to the Nasdaq rulebook. Nasdaq proposes to implement the proposed rule change immediately.

The text of the proposed rule change is available on Nasdaq's Web site <http://nasdaq.cchwallstreet.com>, at Nasdaq's principal office, and at the Commission's Public Reference Room.

Proposed new language is underlined; proposed deletions are in brackets.<sup>4</sup>

\* \* \* \* \*

7052. [7051.] Nasdaq Daily Short Volume and Monthly Short Sale Transaction Files No Change.

\* \* \* \* \*

<sup>10</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> 17 CFR 240.19b-4(f)(3).

<sup>4</sup> Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at <http://nasdaq.cchwallstreet.com/>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to make a clerical correction to the Nasdaq rulebook. Specifically, Nasdaq proposes to renumber Nasdaq Rule 7051 to Nasdaq Rule 7052. Nasdaq is renumbering this rule because Nasdaq has filed another proposed rule change that necessitates a renumbering of the existing Rule 7051. Nasdaq is making no changes to Rule 7051, other than to change the rule number to 7052.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general, and with Section 6(b)(5) of the Act,<sup>6</sup> 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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 proposed rule change makes a minor clerical change to renumber an existing Nasdaq rule.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).