

broker-dealers; and (vi) Professionals.<sup>10</sup> The current per-contract transaction charge depends on the category of market participant submitting orders and/or quotes that “take,” liquidity from the Exchange.

The Exchange also currently provides certain per-contract rebates for orders or quotations that add liquidity in the Select Symbols. The amount of the rebate depends on the category of participant whose order or quote was executed as part of the Phlx Best Bid and Offer. Finally, the Exchange assesses a \$0.05 per contract fee for adding liquidity in the select Symbols for Firms and Broker-Dealers.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions settling on or after August 2, 2010.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>12</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that the addition and removal of certain options from the Rebates and Fees for Adding and Removing Liquidity in Select Symbols is both equitable and reasonable, because the Select Symbols apply to all categories of participants in the same manner. The Rebates and Fees for Adding and Removing Liquidity in Select Symbols, which are currently applicable to each market participant, will continue to apply to the Select Symbols.

### 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.

Order.” A Directed Participant has a higher quoting requirement as compared with a specialist, SQT or RSQT who is not acting as a Directed Participant. See Exchange Rule 1014.

<sup>10</sup> The Exchange defines a “professional” as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) (hereinafter “Professional”). See Exchange Rule 1000(b)(14).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

### 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>13</sup> and paragraph (f)(2) of Rule 19b-4<sup>14</sup> thereunder. At any time within 60 days of the filing of such 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 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-2010-98 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-2010-98. 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 such 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 No. SR-Phlx-2010-98 and should be submitted on or before August 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62566; File No. SR-OCC-2010-10]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend OCC's By-Laws and Rules To Change Its Method of Holding Certain Securities Pledged by Members To Satisfy Margin and Clearing Fund Obligations

July 23, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on July 1, 2010, The Options Clearing Corporation (“OCC”) 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 substantially by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

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 proposed rule change would amend OCC's By-Laws and Rules to change its method of holding certain securities pledged by Members to satisfy margin and clearing fund obligations.

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

In its filing with the Commission, OCC 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. OCC 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*

The proposed rule change would amend OCC's By-Laws and Rules to change OCC's method of holding certain securities pledged by Members to satisfy margin and clearing fund obligations. Securities issued by the United States or Canadian governments and securities issued by U.S. government-sponsored enterprises ("Government Securities") are among the securities OCC's Members may deposit to satisfy margin and clearing fund obligations. OCC currently permits Members to satisfy such obligations by means of a paper pledge agreement or an electronic pledge system of a depository approved by OCC.

Instead of continuing to use these types of Government Securities pledges, OCC proposes taking direct control of Government Securities that Members pledge to satisfy margin and clearing fund obligations. OCC would require that such pledged securities be held in an account in the name of OCC and The EDP Pledge System would be retained during a transition period designated by OCC.

OCC believes this proposed change to how margin and clearing fund deposits are held would enhance OCC's control of such securities and would allow OCC to access such securities more efficiently. OCC intends for the proposed change to relate only to the mechanism through which the securities would be held and not to

affect the respective rights of OCC or its Members in the deposited securities. The general lien granted under new paragraph (b) of Article VIII, Section 1 of OCC's By-Laws, would replace the security interests created through the pledge mechanisms where securities are held directly in OCC's name. To preserve flexibility for OCC to be able to respond to unanticipated circumstances, the amendment would allow OCC to specify a different method of accepting margin and clearing fund deposits if necessary.

The proposed change would also provide clarification regarding how OCC would credit foreign currency toward clearing fund and margin requirements. OCC does not presently accept foreign currency either as clearing fund contributions or margin deposits. However, because Canadian government securities are included in the definition of Government Securities OCC could receive and could potentially hold Canadian dollars it receives as interest on or as proceeds from those securities. When determining the U.S. dollar value of such foreign currency, OCC would conduct its valuations in the same way that it has previously valued margin deposits of assets that are denominated in a foreign currency. This involves using such exchange rates and "haircuts" as OCC deems appropriate. To reflect this policy, OCC is proposing a minor amendment to Rule 604(e) as well as adding a similar provision in Section 3 of Article VIII of the By-Laws.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(4)<sup>5</sup> thereunder because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule 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.

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

OCC does not believe that the proposed rule change would impose any burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

OCC has not solicited or received written comments relating to the proposed rule change. OCC will notify the Commission of any written comments it receives.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(4)<sup>7</sup> thereunder because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2010-10 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 No. SR-OCC-2010-10. 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

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

<sup>6</sup> 15 U.S.C. 78(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b4-(f)(4).

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 such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at <http://www.theocc.com/about/publications/bylaws.jsp>. 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 No. SR-OCC-2010-10 and should be submitted on or before August 19, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62555; File No. SR-BX-2010-051]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period for Boston Options Exchange To Receive Inbound Routes of Orders From Nasdaq Options Services

July 22, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on July 21, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission

("Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) 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

The Exchange submits this proposed rule change to extend the pilot period of the Exchange's prior approval for Boston Options Exchange ("BOX") to receive inbound routes of certain option orders from Nasdaq Options Services, LLC ("NOS") through November 17, 2010.

#### 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

Currently, NOS is the approved outbound routing facility of the NASDAQ Exchange for NOM, providing outbound routing from NOM to other market centers.<sup>4</sup> The Exchange and the

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> NOM Rule Chapter VI, Section 11(c). Under NOM Rule Chapter VI, Section 11(c): (1) NOM routes orders in options via NOS, which serves as the sole "routing facility" of NOM; (2) the sole function of the routing facility is to route orders in options to away markets pursuant to NOM rules, solely on behalf of NOM; (3) NOS is a member of an unaffiliated self-regulatory organization, which is the designated examining authority for the broker-dealer; (4) the routing facility is subject to regulation as a facility of the NASDAQ Exchange, including the requirement to file proposed rule changes under Section 19 of the Act; (5) use of NOS to route order to other market centers is optional; (6) NOM must establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and

NASDAQ Exchange have previously adopted rules to permit BOX to receive inbound routes of certain option orders by NOS in its capacity as an order routing facility of the NASDAQ Exchange for NOM.<sup>5</sup> The Exchange specifically has adopted a rule to prevent potential informational advantages resulting from the affiliation between BOX and NOS, as related to NOS's authority to route certain orders from NOM to BOX without checking the NOM book prior to routing.<sup>6</sup> NOS's authority to route these orders to BOX is subject to a pilot period ending August 16, 2010.<sup>7</sup> The Exchange hereby seeks to extend the previously approved pilot period (with the attendant obligations and conditions) for an additional 3 months, through November 17, 2010.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(5) of the Act,<sup>9</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. Specifically, the proposed rule change will allow BOX to continue receiving inbound routes of equities orders from NOS, acting in its capacity as a facility of the NASDAQ Exchange, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for three months is of sufficient length to permit both the

proprietary information between the NASDAQ Exchange and its facilities (including the routing facility), and any other entity; and (7) the books, records, premises, officers, directors, agents, and employees of the routing facility, as a facility of the NASDAQ Exchange, shall be subject at all times to inspection and copying by the NASDAQ Exchange and the Commission.

<sup>5</sup> See Securities Exchange Act Release No. 60349 (July 20, 2009), 74 FR 37071 (July 27, 2009) (SR-BX-2009-035); Securities Exchange Act Release No. 60354 (July 21, 2009), 74 FR 37074 (July 27, 2009) (SR-NASDAQ-2009-065).

<sup>6</sup> See Chapter XXXIX, Section 2(c) of the Grandfathered Rules of the Exchange.

<sup>7</sup> See Securities Exchange Act Release No. 60349 (July 20, 2009), 74 FR 37071 (July 27, 2009) (SR-BX-2009-035).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>8</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.