

utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

### Title and Purpose of Information Collection

Appeal Under the Railroad Retirement and Railroad Unemployment Insurance Act; OMB 3220-0007 Under Section 7(b)(3) of the Railroad Retirement Act (RRA), and section 5(c) of the Railroad Unemployment Insurance Act (RUIA) any person aggrieved by a decision on his or her application for an annuity or benefit under that Act has the right to appeal to the RRB. This right is prescribed in 20 CFR part 260 and 20 CFR part 320. The notification letter sent to the individual at the time of the original action on the application informs the applicant of such right. When an individual protests a decision, the concerned bureau reviews the entire file and any additional evidence submitted and sends the applicant a letter explaining the basis of the determination. The applicant is then notified that if he or she wishes to protest further, they can appeal to the RRB's Bureau of Hearings and Appeals. The procedure pertaining to the filing of such an appeal is prescribed in 20 CFR 260.5 and 260.9 and 20 CFR 320.12 and 320.38.

The form prescribed by the RRB for filing an appeal under the RRA or RUIA is form HA-1, *Appeal Under the Railroad Retirement Act or Railroad Unemployment Insurance Act*. The form asks the applicant to furnish the basis for the appeal and what additional evidence, if any, is to be submitted. Completion is voluntary, however if the information is not provided the RRB cannot process the appeal.

The RRB proposes to remove items from Form HA-1 that request the appellant to provide their social security number or RRB Claim number. No other changes are proposed. The completion time for the HA-1 is estimated at 20 minutes per response. The RRB estimates that approximately 650 Form HA-1's are completed annually. Annual burden for the collection is estimated at 217 hours.

**Additional Information or Comments:** To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363 or

send an e-mail request to [Charles.Mierzwa@RRB.GOV](mailto:Charles.Mierzwa@RRB.GOV). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or send an e-mail to [Ronald.Hodapp@RRB.GOV](mailto:Ronald.Hodapp@RRB.GOV). Written comments should be received within 60 days of this notice.

**Charles Mierzwa,**  
Clearance Officer.

[FR Doc. E8-20789 Filed 9-8-08; 8:45 am]

BILLING CODE 7905-01-P

## SECURITIES AND EXCHANGE COMMISSION

Release No. 34-58454]

### Order Granting Application for Exemption Pursuant to Section 36(a) of the Exchange Act by the Philadelphia Stock Exchange, Inc. From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

September 3, 2008.

#### I. Introduction

On June 27, 2007,<sup>1</sup> the Philadelphia Stock Exchange, Inc., n/k/a NASDAQ OMX PHLX, Inc., ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 0-12<sup>2</sup> under the Securities Exchange Act of 1934 ("Exchange Act") an application for an exemption under Section 36(a)(1) of the Exchange Act<sup>3</sup> from the rule filing requirements of Section 19(b) of the Exchange Act<sup>4</sup> with respect to certain margin rules of other self-regulatory organizations ("SROs") that the Exchange seeks to incorporate by reference.

#### II. Application for Section 36 Exemption From Section 19(b) Rule Filing Requirements for SRO Rules Incorporated by Reference

On August 11, 2008, the Commission approved a proposed rule change—SR-Phlx-2007-33—which, among other things, permits Phlx members to elect to be bound by the margin rules of either the New York Stock Exchange LLC ("NYSE") or the Chicago Board Options

Exchange, Incorporated ("CBOE").<sup>5</sup> More specifically, Phlx amended its Rule 721 to state a member organization must elect to be bound by the initial and maintenance margin requirements of either the NYSE or CBOE as the same may be in effect and amended from time to time.<sup>6</sup> Phlx Rule 721 further states that upon the filing of such election, a Phlx member shall be bound to comply with the margin rules of the NYSE or CBOE, as applicable, as though said rules were part of Phlx's margin rules. On June 26, 2007, Phlx submitted a formal request, pursuant to Rule 0-12 under the Exchange Act,<sup>7</sup> seeking an exemption under Section 36 of the Exchange Act from the rule filing procedures of Section 19(b) of the Exchange Act with respect to changes to the margin rules of either the NYSE or CBOE.<sup>8</sup>

#### III. Order Granting Section 36 Exemption

Section 36 of the Exchange Act<sup>9</sup> authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors. The Commission believes that it is appropriate to issue exemptions, subject to the conditions described below, to allow SROs to incorporate by reference the rules of other SROs without being subject to the rule filing requirements of Section 19(b) of the Exchange Act whenever the SRO's rules that are incorporated by reference change. Such exemptions promote efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.

The Commission will consider granting requests for exemption, pursuant to Section 36 of the Exchange Act, from the rule filing requirements imposed by Section 19(b) of the Exchange Act, provided that:<sup>10</sup>

<sup>5</sup> See Exchange Act Release 58340, 73 FR 48268 (August 18, 2008).

<sup>6</sup> Exchange Act Release No. 58340 (August 11, 2008); see also Exchange Act Release No. 58045 (June 26, 2008), 73 FR 38487 (July 7, 2008) (SR-Phlx-2007-33).

<sup>7</sup> See 17 CFR 240.0-12.

<sup>8</sup> See Letter from Edith H. Hallahan, Esq., Senior Vice President and Deputy General Counsel, Phlx, to Nancy M. Morris, Secretary, Commission, dated June 26, 2007.

<sup>9</sup> 15 U.S.C. 78mm.

<sup>10</sup> Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

<sup>1</sup> See Letter from Edith H. Hallahan, Esq., Senior Vice President and Deputy General Counsel, Phlx, to Nancy M. Morris, Secretary, Commission, dated June 26, 2007.

<sup>2</sup> 17 CFR 240.0-12.

<sup>3</sup> 15 U.S.C. 78mm(a)(1).

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

(1) An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SROs, together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0-12 under the Exchange Act;<sup>11</sup>

(2) an incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.*, the SRO has requested incorporation of rules such as margin, suitability, arbitration); and

(3) the incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.

The Commission believes that it is appropriate to issue an exemption, subject to the conditions described above, to allow Phlx to incorporate by reference the margin rules of the NYSE or CBOE (by allowing its members to elect to be bound by the margin rules of either the NYSE or CBOE), without being subject to the rule filing requirements of Section 19(b) of the Exchange Act whenever the SRO's margin rules that are incorporated by reference change. The Commission believes that this exemption will promote more efficient use of Commission and Phlx resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. The Commission notes in granting this exemption, that Phlx by incorporating by reference another SRO's margin rules would agree to be governed by the incorporated rules, as amended from time to time, but not be required to file a separate proposed rule change with the Commission each time either the NYSE or CBOE seeks to modify its margin rules.

Phlx is requesting to incorporate by reference the whole category of the NYSE and CBOE margin rules (*i.e.*, did not "cherry-pick" certain individual rules within a category), which are regulatory rules and not trading rules.

The Commission also has previously approved the incorporation by reference of the NYSE and CBOE margin rules for the International Securities Exchange and the Boston Options Exchange.<sup>12</sup> The Commission notes that the Exchange previously requested, and the Commission granted, a request by Phlx to incorporate by reference, the NASD Code of Arbitration Procedure, subject to certain conditions.<sup>13</sup> Consistent with the conditions attendant to its prior exemptive request, the Exchange has agreed to continue to provide written notice to its members whenever the NYSE or CBOE proposes a change to its margin rules.<sup>14</sup> This procedure will provide Phlx members with notice of a proposed rule change that affects their interests, so that they would have the opportunity to comment on it.

For the reasons discussed above, the Commission finds that the exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Accordingly, *it is ordered*, pursuant to Section 36 of the Exchange Act,<sup>15</sup> that Phlx, with respect to the margin rules of the NYSE and CBOE that Phlx proposes to incorporate by reference as specified above, and subject to the conditions described above, shall be exempt from rule filing requirements of Section 19(b) of the Exchange Act to the extent that Section 19(b) would otherwise require submission of a proposed rule change filing with the Commission.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-20809 Filed 9-8-08; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58445; File No. SR-BSE-2008-43]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Transfer of Ownership of MX U.S. 2, Inc.

August 29, 2008.

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 August 28, 2008, the Boston Stock Exchange, Inc. ("BSE" or "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 substantially prepared by the BSE.<sup>3</sup> 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 submitting the proposed rule change to the Commission to amend the proposed Sixth Amended and Restated Operating Agreement ("BOX LLC Agreement"), of the Boston Options Exchange Group LLC ("BOX LLC"), in connection with the transfer by the Montréal Exchange Inc.,<sup>4</sup> a company incorporated in Québec, Canada ("MX"), of its ownership interest in MX U.S. 2, Inc., a U.S. subsidiary of MX ("MX U.S. 2").<sup>5</sup> The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.bostonstock.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, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements

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

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

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the BOX LLC Agreement.

<sup>4</sup> The Montréal Exchange Inc. is also known in French as the Bourse de Montréal Inc.

<sup>5</sup> See Securities Exchange Act Release No. 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR-BSE-2008-25).

<sup>12</sup> Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

<sup>13</sup> See Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

<sup>14</sup> See *supra* note 1.

<sup>15</sup> 15 U.S.C. 78mm.

<sup>16</sup> 17 CFR 200.30-3(a)(76).

<sup>11</sup> See 17 CFR 240.0-12 and Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule).