

In addition, NYSE Arca Equities Rule 8.201 sets forth certain requirements for ETP Holders acting as Market Makers in the Units. Pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Units and the underlying silver, silver futures contracts, options on silver futures, or any other silver derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG.<sup>35</sup>

Finally, the Commission notes that Commentary .04 to NYSE Arca Equities Rule 6.3 requires among other things that ETP Holders acting as a registered Market Maker in products listed under NYSE Arca Equities Rule 8.201 (and their affiliates) must establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any physical asset or commodity underlying the product, related futures or options on futures, and any related derivative instruments.

In support of this proposal, the Exchange has made representations including:

(1) The Units will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.201.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Units and the underlying silver, silver futures contracts, options on silver futures, or any other silver derivative through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via ISG from other exchanges who are members of the ISG and from the Investment Industry Regulatory Organization of Canada.

(3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin

of the special characteristics and risks associated with trading the Units. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Units; (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Units; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Units may widen as a result of reduced liquidity of silver trading during the Core and Late Trading Sessions after the close of the major world silver markets; and (6) trading information.

This approval order is based on the Exchange's representations.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>36</sup> for approving the proposed rule change prior to the 30th day after publication of notice in the **Federal Register**. The Exchange's proposal to list and trade the Units does not present any novel or significant regulatory issues. Previously, the Commission approved a proposal by the Exchange to list and trade shares of a substantially similar trust that holds gold bullion pursuant to NYSE Arca Equities Rule 8.201.<sup>37</sup> Additionally, the Commission has previously approved proposals to list and trade shares of trusts that hold silver bullion pursuant to NYSE Arca Equities Rule 8.201.<sup>38</sup>

## VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>39</sup> that the proposed rule change (SR-NYSEArca-2010-84) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>40</sup>

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

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<sup>36</sup> 15 U.S.C. 78s(b)(2).

<sup>37</sup> See Securities Exchange Act Release No. 61496, *supra* note 10.

<sup>38</sup> See *supra* notes 6, 7, and 8. See also *supra* notes 9-12.

<sup>39</sup> 15 U.S.C. 78s(b)(2).

<sup>40</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63036; File No. SR-Phlx-2010-131]

### Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Rule 1014

October 4, 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 September 27, 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, II, and III 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 revise Rule 1014, Obligations and Restrictions Applicable to Specialists and Registered Options Traders, to delete provisions related to: (i) The obsolete terms AUTOM, Streaming Quote Option, electronic interface, AUTO-X, Book Sweep and Book Match; (ii) "trading on Phlx XL"; (iii) the use of trading floor tickets; and (iv) [sic] subparagraphs (g)(iii) and (iv), the New Unit/New Option Enhanced Specialist Participation and New Product Enhanced Specialist Participation, respectively. The Exchange also proposes to make corollary changes to Floor Procedure Advice B-6, Priority of Options Orders for Equity Options, Index Options and U.S. Dollar-Settled Foreign Currency Options by Account Type, as explained further below.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXfilings>, at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

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

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

<sup>35</sup> See *supra* note 26 for additional information regarding ISG.

## 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 clarify various provisions in Rule 1014. Specifically, certain terms are obsolete, given the Exchange's current use of the Phlx XL II System; these include: Streaming Quote Options, electronic interface, AUTO-X, Book Sweep and Book Match. Once the Exchange began enhancing its electronic trading systems, these provisions became outdated. For the same reason, references to "trading on Phlx XL" are both incorrect and unnecessary; all trading occurs through Phlx XL II.<sup>3</sup> The same changes are proposed to Advice B-6 as well, which is part of the Exchange's minor rule plan.<sup>4</sup>

The reference to trading floor tickets in Rule 1014(g)(i)(A)(1) and Advice B-6, Section B is being deleted, because Floor Brokers have long been required to record certain information into the Floor Broker Management System ("FBMS"), pursuant to Rule 1063.

In addition, the Exchange proposes to delete subparagraphs (g)(iii), New Unit/New Option Enhanced Specialist Participation, and (g)(iv), New Product Enhanced Specialist Participation, because these are no longer applied. All options are subject to the Specialist Enhanced Participation in Rule 1014(g)(ii), which then applies to manual trades on the trading floor by virtue of Rule 1014(g)(v) and to automatically executed trades through Phlx XL II by virtue of Rule

<sup>3</sup> The Exchange intends to separately update the use of the terms "Phlx XL" and "Phlx XL II" in various other rules in a separate proposed rule change.

<sup>4</sup> The Exchange's minor rule plan consists of options floor procedure advices ("OPFAs" or "Advices") with preset fines, pursuant to Rule 19d-1(c) under the Act. 17 CFR 240.19d-1(c). Most OPFAs have corresponding options rules.

1014(g)(v)(ii). Accordingly, references to these now-deleted sub-paragraphs (g)(iii) and (g)(iv) are also being deleted in several places in Rule 1014. In addition, in Rule 1014(g)(ii), subparagraph (A) is proposed to be deleted, because it covers how it is determined what options are subject to the enhanced specialist participation, which is no longer relevant. The same changes are proposed to Advice B-6, Sections (C), (D) and (E).

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</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, by updating an Exchange rule.

### 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 does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) 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 Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

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

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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## 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-2010-131 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-2010-131. 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

as designated by the Commission. Phlx has satisfied this requirement.

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-2010-131 and should be submitted on or before November 2, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2010-0015]

### Privacy Act of 1974, as Amended; Computer Matching Program (SSA/ Internal Revenue Service (IRS))— Match Number 1016

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a renewal of an existing computer matching program that is scheduled to expire on December 31, 2010.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with IRS.

**DATES:** IRS will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefaxing to (410) 966-0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel as shown above.

## SUPPLEMENTARY INFORMATION:

### A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal Government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

**Jonathan R. Cantor,**

*Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.*

### Notice of Computer Matching Program, SSA With the Internal Revenue Service (IRS)

#### A. PARTICIPATING AGENCIES:

SSA and IRS.

#### B. PURPOSE OF THE MATCHING PROGRAM:

The purpose of this matching program is to establish the terms under which IRS will disclose to us certain return information for use in verifying eligibility for, and/or the correct amount of, benefits provided under Title XVI of

the Social Security Act (Act) to qualified aged, blind, and disabled persons, and Federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93-66, 87 Stat. 152).

#### C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

Public Law 98-369, Deficit Reduction Act of 1984, requires agencies administering certain Federally-assisted benefit programs to use certain information to ensure proper distribution of benefit payments.

Section 6103(l)(7) of the Internal Revenue Code (I.R.C.) (26 U.S.C. 6103(l)(7)) authorizes IRS to disclose return information with respect to unearned income to Federal, State, and local agencies administering certain Federally-assisted benefit programs under the Act and the Food Stamp Act of 1977.

Section 1631(e)(1)(B) of the Act (42 U.S.C. 1383(e)(1)(B)) requires verification of Supplemental Security Income (SSI) eligibility and benefit amounts with independent or collateral sources. This section of the Act also provides that the "Commissioner of Social Security shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1986" for purposes of Federally administered supplementary payments of the type described in section 1616(a) of the Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93-66).

#### D. CATEGORIES OF RECORDS AND PERSONS COVERED BY THE MATCHING PROGRAM:

We will provide IRS with identifying information with respect to applicants for and recipients of title XVI benefits available under programs specified in this Agreement from the Supplemental Security Income Record and Special Veterans Benefit (SSR), SSA/OASSIS 60-0103, as published at 71 FR 1795 (January 11, 2006). IRS will extract return information with respect to unearned income from the Information Return Master File (IRMF), Treas/IRS 22.061, as published at 73 FR 42159 (July 25, 2006), through the Disclosure of Information to Federal, State and Local Agencies (DIFSLA) program.

#### E. INCLUSIVE DATES OF THE MATCHING PROGRAM:

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after

<sup>9</sup> 17 CFR 200.30-3(a)(12).