

necessary or appropriate in furtherance of 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 solicited or received with respect to the proposed rule change.

**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) of the Act<sup>23</sup> and subparagraph (f)(2) of Rule 19b-4<sup>24</sup> thereunder. 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.

**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-CBOE-2010-116 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-CBOE-2010-116. 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 CBOE. 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-CBOE-2010-116 and should be submitted on or before February 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2011-919 Filed 1-14-11; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63694; File No. SR-BX-2011-001]

**Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Trading Rules Regarding Voluntary Withdrawal From Trading Options Classes in Which They Are Appointed**

January 11, 2011.

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 January 7, 2011, NASDAQ OMX BX, Inc. (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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

<sup>25</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.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Chapter VI, Section 4 (Appointment of Market Makers) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to permit the Exchange and Market Makers greater flexibility in handling Market Makers' voluntary withdrawal from trading options classes in which they are appointed. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXB/Filings/>.

**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 self-regulatory organization 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 self-regulatory organization 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 Exchange proposes to amend Chapter VI, Section 4(f) of the BOX Rules (Appointment of Market Makers) to eliminate the requirement that a Market Maker provide three business days' notice if they wish to withdraw from trading an options class in which they are appointed. The proposed rule change will provide that Boston Options Exchange Regulation, LLC ("BOXR") (i) may determine an appropriate minimum amount of prior notice required for Market Makers to withdraw from trading; and (ii) has the authority to place other conditions on Market Maker withdrawal as may be appropriate in the interests of maintaining fair and orderly markets.

Chapter VI, Section 4(f) of the BOX Trading Rules currently provides that a Market Maker may voluntarily withdraw from trading an options class that is within their appointment by providing BOX with three business days' written notice of such withdrawal. The proposed rule change will eliminate

<sup>23</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>24</sup> 17 CFR 240.19b-4(f)(2).

this specific notice requirement and give BOXR the discretion to determine a minimum prior notice period required for a Market Maker's withdrawal. Additionally, the proposed rule change will permit BOXR to place other conditions on Market Maker withdrawal as may be appropriate in the interests of maintaining fair and orderly markets. BOX believes that removing the requirement of three business days' notice is appropriate because requests for withdrawal can generally be addressed within one business day. As such, three business days' notice is simply unnecessary for BOX to respond to such requests. Market Makers' requests for withdrawal from a class in which they are appointed will not be permitted intraday, but may be approved as soon as the opening of trading on the following business day.

Under the proposed rule change, BOXR will also have the authority to place conditions on Market Maker withdrawal as may be appropriate in the interests of maintaining fair and orderly markets. With this discretionary authority, BOXR can consider the impact of a Market Maker's withdrawal on the market's customers, participants, other Market Makers, and the overall marketplace, and place conditions on a Market Maker's withdrawal as appropriate and necessary. This authority allows BOXR to consider various factors, but BOXR will exercise its discretion to place conditions on Market Maker withdrawal in a non-discriminatory manner.

In particular, the proposed rule change will allow BOXR greater flexibility when addressing instances where the Market Maker requesting voluntary withdrawal is the only Market Maker appointed to such class. Chapter IV, Section 5(a) of the BOX Rules specifies that BOXR will open trading in a series of options in a class only if there is at least one Market Maker appointed for trading in that particular class. BOX believes that requiring at least one Market Maker to be appointed for trading a class provides BOX Options Participants with the greatest amount of potential liquidity. Generally, BOXR anticipates placing conditions on a Market Maker's request for withdrawal when the Market Maker is the only Market Maker appointed to a class. For example, the Market Maker may be required to continue trading in its appointed class until BOXR can appoint another Market Maker in such options class, or for one or more additional trading days, as BOXR deems appropriate in the interests of maintaining a fair and orderly market and so that BOX market participants

may continue trading without interruption, if possible. If BOXR is unable to appoint another Market Maker in the options class, then BOXR may, in accordance with the proposed rule change and the BOX Rules, approve the Market Maker withdrawal, but then be unable to open trading in that class the following day.

BOX believes that this proposed rule change eliminating the specific notice requirement for Market Makers' voluntary withdrawal from trading will provide BOX and its Market Makers greater flexibility in modifying Market Maker appointments in options classes on BOX, while retaining BOXR's ability to act in the best interests of a fair and orderly market when a Market Maker requests voluntary withdrawal. BOX believes that all of its market participants benefit from continuous open trading on BOX, and Market Makers assist in the maintenance of fair and orderly markets and provide liquidity to BOX. BOX believes that providing potential BOX Market Makers greater flexibility in handling their class appointments for trading on BOX may encourage additional market participants to act as a Market Maker on BOX and allow Market Makers to better fulfill their role on BOX to the benefit of all BOX participants. BOX believes that additional Market Makers may add liquidity and result in better markets.

Finally, Chapter VI, Section 4(f) will continue to specify that Market Makers who fail to give the required advance written notice of withdrawal may be subject to formal disciplinary action by the Exchange. The Exchange believes that this continues to be appropriate so that regulatory action might be taken against any Market Maker that fails to comply with the notice requirement, or any other conditions that BOXR may place on the Market Maker, for withdrawal.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>3</sup> in general, and Section 6(b)(5) of the Act,<sup>4</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes this proposal will

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

enhance Market Maker flexibility in decision-making about the options classes in which they are appointed and trade and benefit BOX market participants by removing impediments to and perfecting the mechanism for a free and open market and a national market system. Further, BOX believes that all of its market participants benefit from continuous open trading on BOX, and Market Makers assist in the maintenance of fair and orderly markets and provide liquidity to BOX. Moreover, BOX believes that providing potential BOX Market Makers greater flexibility in handling their class appointments for trading on BOX may encourage additional market participants to act as a Market Maker on BOX and allow Market Makers to better fulfill their role on BOX to the benefit of all BOX participants. BOX believes that additional Market Makers may add liquidity and result in better 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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

This Exchange believes that the proposed rule change is substantially similar to the rules of another self-regulatory organization that has previously been approved by the Commission.<sup>5</sup> Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Exchange Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> The Exchange believes that the proposed rule change should take effect immediately upon filing because it will effect a change that: (1) Does not significantly affect the protection of investors or the public interest, (2) does

<sup>5</sup> See Securities Exchange Act Release No. 58644 (September 25, 2008), 73 FR 57172 (October 1, 2008) (BATS-2008-005) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rulebook Chapter XI to Add Four New Rules Regarding the Registration and Obligations of Market Makers).

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

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

not impose any significant burden on competition, and (3) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. The Exchange provided the Commission with 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, or such shorter time as designated by the Commission.<sup>8</sup>

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 Exchange 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-BX-2011-001 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-BX-2011-001. 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 Number SR-BX-2011-001 and should be submitted on or before February 8, 2011.

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

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011-892 Filed 1-14-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63692; File No. SR-Phlx-2010-163]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Relating to Obvious Errors Respecting Complex Trades

January 11, 2011.

On November 17, 2010, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend Rule 1092, Obvious Errors and Catastrophic Errors, to address obvious and catastrophic errors involving complex orders. The proposed rule change was published for comment in the **Federal Register** on December 1, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The proposed rule change would amend Rule 1092, Obvious Errors and Catastrophic Errors, to address obvious and catastrophic errors involving trades of one complex order against another complex order. Specifically, the

proposal is designed to address a situation in which one component (or leg) of a complex order is deemed an obvious (or catastrophic) error, but the other component(s) are not. In such situation, the proposed rule change would permit all legs of a complex order execution to be nullified when one leg of such complex order can be nullified as an obvious or catastrophic error under Rule 1092,<sup>4</sup> provided that the execution involved a complex order executing against another complex order (such that all of the same parties are involved in the trade).<sup>5</sup> The proposed rule does not address complex orders that do not trade against other complex orders.

In addition, the proposal would make three minor corrections: (i) A reference in Rule 1092(b)(ii) to Rule 1014(c)(1)(A)(i)(a) is inverted and should instead say Rule 1014(c)(i)(A)(1)(a); (ii) the words "obvious error" in Rule 1092(e)(i)(B) are being capitalized to match the rest of the rule; and (iii) a reference to "AUTOM" in Rule 1092(e)(ii) is outdated and will be deleted, leaving reference to the "Help Desk."

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>6</sup> and, in particular, the

<sup>4</sup> Rule 1092 provides a framework for reviewing the price of a transaction to determine whether that price was an "obvious error" pursuant to objective standards. When a participant believes he/she received one or more executions at an erroneous price, a participant may notify the Options Exchange Officials ("OEOs") and request the review of a trade as a possible obvious error. An obvious error will be deemed to have occurred when the execution price of a transaction is higher or lower than the theoretical price for a series by a certain amount depending on the type of option. OEOs use one of three criteria when determining the theoretical price of an options execution, which are enumerated in Rule 1092(b). The theoretical price is then compared to an obvious/catastrophic error chart within Rule 1092(a). If the transaction price meets this threshold, the transaction may be adjusted or nullified.

<sup>5</sup> See proposed Rule 1092(c)(v)(A). This would occur when a complex order executes against another complex order, with each piece executing through the System against each other. The Notice provides the following example of such a trade. Assume a customer trades a call spread at a net price of \$0.50 by buying the January 50 calls at \$3.00 and selling the January 55 calls at \$2.50. If the January 50 calls should have been trading at \$7.00 and thus met the obvious error threshold in Rule 1092, then the entire complex trade would be nullified only if the January 50 and 55 calls traded as a complex order against another complex order, rather than as two separate trades. Currently, the trade involving the January 50 calls is nullified and the January 55 Calls trade would stand, which, according to the Exchange, likely was not intended by either party.

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's

<sup>9</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> Securities Exchange Act Release No. 63367 (November 23, 2010), 75 FR 74755 ("Notice").

<sup>8</sup> 17 CFR 240.19b-4(f)(6).