

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2014-013 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2014-013. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2014-013 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71783; File No. SR-Phlx-2014-18]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Clearly Erroneous Rule

March 24, 2014.

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 March 18, 2014, NASDAQ OMX PHLX LLC ("Phlx" 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 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 extend the pilot period of recent amendments to Rule 3312, concerning clearly erroneous transactions.

The text of the proposed rule change is available from Phlx's Web site at <http://nasdaqomxphlx.cchwallstreet.com>, at Phlx's principal office, 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 this filing is to extend the effectiveness of the Exchange's current rule applicable to clearly erroneous executions. Portions of Rule 3312, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.<sup>3</sup> The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the "Limit Up-Limit Down Plan" or the "Plan"), including any extensions to the pilot period for the Plan.<sup>4</sup>

On September 10, 2010, the Commission approved, for a pilot period, the proposed rule changes of the other national securities exchanges and the Financial Industry Regulatory Authority ("FINRA") to their respective rules concerning clearly erroneous executions to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the other markets.<sup>5</sup> The other national securities exchanges and FINRA also adopted additional changes to their respective clearly erroneous execution rules that reduced their ability to deviate from the objective standards set forth in those rules.<sup>6</sup> In connection with its resumption of trading of NMS Stocks through NASDAQ OMX PSX system, the Exchange amended Rule 3312 to conform it to the newly-adopted changes to the clearly erroneous execution rules of other national securities exchanges and FINRA, so that it could participate in the pilot program.<sup>7</sup> In 2013, the Exchange

<sup>3</sup> Securities Exchange Act Release No. 70541 (Sept. 27, 2013), 78 FR 61431 (Oct. 3, 2013) (SR-Phlx-2013-97).

<sup>4</sup> Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

<sup>5</sup> Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010).

<sup>6</sup> *Id.*

<sup>7</sup> Securities Exchange Act Release No. 63023 (Sept. 30, 2010), 75 FR 61802 (Oct. 6, 2010) (SR-Phlx-2010-125).

<sup>13</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.

adopted a provision designed to address the operation of the Plan.<sup>8</sup>

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

## 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),<sup>9</sup> which requires the rules of an exchange 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Rule 3312 should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

<sup>8</sup> Securities Exchange Act Release No. 68820 (Feb. 1, 2013), 78 FR 9436 (Feb. 8, 2013) (SR-Phlx-2013-12); see also Rule 3312(g).

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

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

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that FINRA and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, 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>10</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>11</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>12</sup>

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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 as designated by the Commission.

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has also

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2014-18 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-Phlx-2014-18. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal

considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2014-18 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2014-06892 Filed 3-27-14; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71774; File No. SR-CBOE-2014-020]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain CBOE Real-Time Data Feeds and a New Book Depth Data Feed

March 24, 2014.

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 March 11, 2014, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II 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

Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") proposes to (i) update the description of the data included in certain CBOE real-time data feeds and (ii) offer a book depth data feed for CBOE listed options. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary,

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 (i) update the description of the data included in the following CBOE real-time data feeds: BBO Data Feed, Complex Order Book ("COB") Data Feed and Flexible Exchange option ("FLEX") Data Feed, and (ii) offer a book depth data feed for CBOE listed options.

###### BBO, COB and FLEX Data Feeds

The BBO Data Feed is a real-time, low latency data feed that includes CBOE "BBO data" and last sale data.<sup>3</sup> The BBO and last sale data contained in the BBO Data Feed is identical to the data that CBOE sends to the Options Price Reporting Authority ("OPRA") for redistribution to the public.<sup>4</sup> The BBO Data Feed is made available by CBOE's affiliate Market Data Express, LLC ("MDX").

The BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, (i) totals of customer versus non-customer contracts at the BBO, (ii) All-or-None contingency

orders priced better than or equal to the BBO, (iii) BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.), (iv) BBO data and last sale data for FLEX options traded on the CBOE FLEX Hybrid Trading System, including BBO data and last sale data for FLEX complex strategies (collectively, "FLEX BBO data"), and (v) expected opening price ("EOP") and expected opening size ("EOS") information that is disseminated prior to the opening of the market and during trading rotations (collectively, "EOP/EOS data").

The COB Data Feed is a real-time data feed that includes data regarding the Exchange's Complex Order Book and related complex order information. The COB Data Feed includes BBO quotes and identifying information for all CBOE-traded complex order strategies, as well as all executed CBOE complex order trades (and identifies whether the trade was a customer trade, or whether a complex order in the COB is a customer order).<sup>5</sup> The FLEX Data Feed is a real-time data feed that includes FLEX BBO data, as described above.<sup>6</sup> The COB and FLEX Data Feeds are both made available by MDX and are subsets of the BBO Data Feed.

The Exchange, through MDX, plans to make additional data available in the BBO, COB and FLEX Data Feeds and therefore proposes to update the description of the data included in the feeds. Specifically, the Exchange proposes to add end-of-day ("EOD") summary messages and recap messages to the feeds. EOD summary messages are messages that will be disseminated after the close of a trading session that will include summary information about trading in CBOE listed options. Such information includes product name, opening price, high and low price during the trading session and last sale price. Recap messages are messages that will be disseminated during a trading session any time there is a change in the open, high, low or last sale price of a CBOE listed option. In addition to open, high, low and last sale prices, such messages will also include product name and total volume traded in the product during the trading session.

At this time, the Exchange does not intend to amend the fees for the BBO and COB Data Feeds. The FLEX Data Feed is currently made available at no charge.

<sup>3</sup> See Securities Exchange Act Release No. 70118 (August 5, 2013), 78 FR 48757 (August 9, 2013).

<sup>4</sup> See Securities Exchange Act Release No. 69438 (April 23, 2013), 78 FR 25334 (April 30, 2013).

<sup>13</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> The BBO Data Feed includes the "best bid and offer," or "BBO", consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size ("BBO data," sometimes referred to as "top-of-book data"). Data with respect to executed trades is referred to as "last sale" data. See Securities Exchange Act Release No. 69438 (April 23, 2013), 78 FR 25334 (April 30, 2013).

<sup>4</sup> The Exchange notes that MDX makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA. A "Customer" is any entity that receives the BBO Data Feed, either directly from MDX's system or through a connection to MDX provided by an approved redistributor (i.e., a market data vendor or an extranet service provider) and then distributes it externally or uses it internally.