

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 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–NASDAQ–2014–033 and should be submitted on or before May 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71906; File No. SR–Phlx–2014–20]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Emergency and Extraordinary Market Conditions

April 8, 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 27, 2014, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 amend the manner in which it authorizes action in emergency and extraordinary market conditions.

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, 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 Exchange is proposing to eliminate Rule 98, entitled “Emergency Committee,” in order to conform its process for authorizing action to make decisions in emergency and extraordinary market conditions. The Exchange proposes to utilize a By-Law to govern the process of authoring such action similar to By-Laws relied upon by The NASDAQ Stock Market LLC (“Nasdaq”) and NASDAQ OMX BX, Inc. (“BX”).<sup>3</sup>

Exchange Rule 98 provides that the Phlx Board of Directors is authorized to establish an emergency committee to determine the existence of extraordinary market conditions or other emergencies.<sup>4</sup> Further, upon a determination that such an emergency condition exists, the Committee may take any action regarding the following: (1) Operation of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility; (2) operation of, and trading on, any Exchange floor; (3) trading in any securities traded on the Exchange; and (4) the operation of members’ or member organizations’ offices or systems. Any member of the Committee may request the Committee to determine whether an emergency condition exists. If the Committee determines that such an emergency exists and takes action, the Committee shall prepare a report of this matter and submit it promptly to the Securities and Exchange Commission and submit it to

the Board of Directors at the Board’s next regular meeting.

Nasdaq and BX rely on Article IX, Section 5 of the exchanges’ respective By-Laws [sic] to authorize the Board of Directors or its designee with authority to take action under emergency or extraordinary market conditions. Phlx would similarly rely on By-Law language which was adopted in 2011<sup>5</sup> at By-Law Article VII, Section 7–5. Specifically, the Phlx By-Law states, that the Board of Directors, or such person or persons or committee as may be designated by the Board, in the event of an emergency or extraordinary market conditions, shall have the authority to take any action regarding: (a) The trading in or operation of the national securities exchange operated by the Company or any other organized securities markets that may be operated by the Company, the operation of any automated system owned or operated by the Company, and the participation in any such system or any or all persons or the trading therein of any or all securities; and (b) the operation of any or all offices or systems of members, if, in the opinion of the Board or the person or persons hereby designated, such action is necessary or appropriate for the protection of investors or the public interest or for the orderly operation of the marketplace or the system.

The Exchange is proposing to eliminate Phlx Rule 98, which provides for an Emergency Committee, and instead rely on the authority in existing By-Law Article VII, Section 7–5 to empower the Phlx Board of Directors or such person or persons or committee as designated by the Phlx Board of Directors to take action in the event of an emergency or extraordinary market condition. Specifically, regarding the trading in or operation of the national securities exchange operated by the Exchange or any other organized securities markets that may be operated by the Exchange, the operation of any automated system owned or operated by the Exchange, and the participation in any such system or any or all persons or the trading therein of any or all securities; and the operation of any or all offices or systems of members, if, in the opinion of the Board or the person or persons hereby designated, such action is necessary or appropriate for the protection of investors or the public

<sup>3</sup> See Nasdaq By-Law Article IX, Section 5 entitled “Authority to Take Action Under Emergency or Extraordinary Market Conditions.” See also BX By-Law Article XII, Section 12.5 entitled “Authority to Take Action Under Emergency or Extraordinary Market Conditions.”

<sup>4</sup> See Rule 98.

<sup>5</sup> See Securities Exchange Act Release No. 63981 (February 25, 2011), 76 FR 12180 (March 4, 2011) (SR–Phlx–2011–13) (a rule proposal to, among other things, amend the Limited Liability Company Agreement and By-Laws to substantially conform to NASDAQ Stock Market’s Second Amended Limited Liability Company Agreement and By-Laws).

<sup>14</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

interest or for the orderly operation of the marketplace or the system, similar to Nasdaq and BX. The Exchange's revised procedures would continue to report emergency matters to the Commission and Phlx Board of Directors of uses of such authority to the extent that the Board of Directors has delegated such authority to certain person(s) or committee. The Exchange believes that eliminating Rule 98 and utilizing existing By-Law Article VII, Section 7-5 to take action under emergency or extraordinary market conditions would conform the processes for handling such circumstances across the various NASDAQ OMX markets. This proposal does not impact the types of events that would be deemed "emergency" or "extraordinary market" conditions. The Exchange anticipates utilizing By-Law Article VII, Section 7-5 in the same manner and for the same types of emergency and extraordinary market events as Rule 98 is utilized for today.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</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 conforming the authority to take action under emergency or extraordinary market conditions across the NASDAQ OMX markets.

The Exchange believes that utilizing By-Law Article VII, Section 7-5 to designate authority to either the Board of Directors or its designee to take action under emergency or extraordinary market conditions instead of utilizing Rule 98, which provides for an Emergency Committee established by the Board, will conform the Exchange's process and authority pursuant to its By-Laws in these types of events to those of Nasdaq and BX. The manner in which the Exchange handles emergency or extraordinary market conditions will not otherwise be impacted, except that the Board may retain such authority or delegate the authority to a person, persons or a committee to take action in these events. The Exchange would continue to report such uses of this authority to the Commission and the Phlx Board of Directors. The Exchange believes that eliminating Rule 98 in favor of relying on Article VII, Section

7-5 will continue to ensure that the Exchange has authority to operate in times of emergency and extraordinary conditions, which will foster investor and public interest, and promote just and equitable principles of trade. Also, this proposal continues to remove possible impediments to the Exchange's market that may arise due to emergency or extraordinary market conditions, thereby perfecting the mechanism of a free and open market and a national market system.

### (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. The Exchange believes this proposed rule change will continue to benefit investors by providing the Exchange the ability to authorize action in the event of an emergency or extraordinary market conditions.

### (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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> 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 prior to 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) thereunder.<sup>11</sup>

At any time within 60 days of the filing of such 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2014-20 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-2014-20. 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 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-2014-20 and should be submitted on or before May 5, 2014.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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 as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71900; File No. SR-BX-2014-017]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Program Regarding Options Obvious and Catastrophic Errors in Response to the Regulation NMS Plan To Address Extraordinary Market Volatility

April 8, 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 April 7, 2014, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 amend BX Options Rules to extend the pilot program under Chapter V, Section 3(d)(iv), which provides for how the Exchange treats obvious and catastrophic options errors in response to 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”).<sup>3</sup> The Exchange proposes to extend the pilot period until February 20, 2015.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxbx.cchwallstreet.com/>, at the principal office of the Exchange, 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

In April 2013, the Commission approved a proposal, on a one year pilot basis, to adopt Chapter V, Section 3(d)(iv) to provide for how the Exchange will treat obvious and catastrophic options errors in response to the Plan, which is applicable to all NMS stocks, as defined in Regulation NMS Rule 600(b)(47).<sup>4</sup> The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands.<sup>5</sup> The requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

The Exchange proposes to extend the operation of Chapter V, Section 3(d)(iv), which provides that trades are not subject to an obvious error or catastrophic error review pursuant to Section 3 during a Limit State or Straddle State, for an additional pilot period ending February 20, 2015.<sup>6</sup> The Exchange believes conducting an obvious error or catastrophic error review is impracticable given the lack of a reliable National Best Bid/Offer (“NBBO”) in the options market during Limit States and Straddle States, and

that the resulting actions (*i.e.*, nullified trades or adjusted prices) may not be appropriate given market conditions. Under the pilot, limit orders that are filled during a Limit State or Straddle State have certainty of execution in a manner that promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system. Moreover, given that options prices during brief Limit States or Straddle States may deviate substantially from those available shortly following the Limit State or Straddle State, the Exchange believes giving market participants time to re-evaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit States or Straddle States. On balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit States or Straddle States outweighs any potential benefits from applying those provisions during such unusual market conditions.

The Exchange believes the benefits to market participants from the pilot program 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 and permit the industry to gain further experience operating the Plan.

The Exchange will conduct an analysis concerning the elimination of obvious and catastrophic error provisions during Limit States and Straddle States and agrees to provide the Commission with relevant data to assess the impact of this proposed rule change. As part of its analysis, the Exchange will: (1) Evaluate the options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious and catastrophic error provisions, including data relevant to assessing the various analyses noted above. By September 30, 2014, the Exchange shall provide to the Commission assessments relating to the impact of the operation of the obvious error rules during Limit and Straddle States as follows:

<sup>4</sup> The Plan was recently proposed to be extended until February 20, 2015. See Securities Exchange Act Release No. 71649 (March 8, 2014), 79 FR 13696 (March 11, 2014) (File No. 4-631). The Plan was initially approved for a one-year pilot, which began on April 8, 2013 and the pilot period is currently scheduled to end on April 8, 2014.

<sup>5</sup> Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

<sup>6</sup> The Exchange also proposes to correct paragraph (d), which provides that such provision is in effect during a pilot period to coincide with the pilot period for the Plan, except as specified in subparagraph (v) (the obvious error provision that is the subject of this proposal), to reflect that the exception applies to subparagraph (iv) rather than (v). There is no paragraph (v).

<sup>12</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 Nos. 69140 (March 15, 2013), 78 FR 17255 (March 20, 2013) and 69343 (April 8, 2013), 78 FR 21982 (April 12, 2013) (SR-BX-2013-026).