

*adams.html*. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft NUREG/CR, “Spent Fuel Transportation Package Response to the Newhall Pass Fire Scenario” is available in ADAMS under Accession No. ML15351A152.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### B. Submitting Comments

Please include Docket ID NRC–2015–0208 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Discussion

The NRC is issuing draft NUREG/CR “Spent Fuel Transportation Package Response to the Newhall Pass Fire Scenario.” This report presents analyses that were performed to examine the hypothetical effects on a spent fuel transportation package from conditions during the Newhall Pass accident in 2007. The analyses undertaken include FDS fire modeling, physical examination of material samples, and fuel performance modeling using the FRAPTRAN–1.4, FRAPCON–3.4, and DATING codes. The estimated release from the hypothetical scenario is below the prescribed limit for safety.

The purpose of this notice is to provide the public with an opportunity to review and provide comments on draft NUREG/CR–7207, “Spent Fuel Transportation Package Response to the

Newhall Pass Fire Scenario”. Any comments received will be considered in the final version or subsequent revisions of the draft NUREG/CR.

Dated at Rockville, Maryland, this 17th day of December, 2015.

For the Nuclear Regulatory Commission,  
**Christian Araguas**,  
*Chief, Containment, Structural, and Thermal Branch, Division of Spent Fuel Management, Office of Nuclear Materials Safety and Safeguards.*

[FR Doc. 2015–32513 Filed 12–23–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

### Sunshine Act Meeting Notice

**DATE:** Week of December 21, 2015.

**PLACE:** Commissioners’ Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

**Week of December 21, 2015**

*Wednesday, December 23, 2015*

10:30 a.m. Affirmation Session (Public Meeting) (Tentative)

- (a) *Aerotest Operations, Inc.*—Application for Indirect License Transfer (Tentative)
- (b) *DTE Electric Company* (Fermi Nuclear Power Plant, Unit 2), Motion to Reopen and Propose New Contention Regarding Continued Storage (Tentative)

\* \* \* \* \*

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov*.

\* \* \* \* \*

### Additional Information

By a vote of 4–0 on December 22, 2015, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission’s rules that both items in the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on December 23, 2015.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

\* \* \* \* \*

The NRC provides reasonable accommodation to individuals with

disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email

*Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov*.

Dated: December 22, 2015.

**Glenn Ellmers**,

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2015–32635 Filed 12–22–15; 4:15 pm]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76687; File No. SR–Phlx–2015–85]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Sections (e) Through (h) of Exchange Rule 1020, Registration and Functions of Options Specialists

December 18, 2015.

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 December 16, 2015, 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, II, and III, below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b–4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to

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

<sup>2</sup> 17 CFR 240.19b–4.

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

<sup>4</sup> 17 CFR 240.19b–4(f)(6)(iii).

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 delete sections (e) through (h) of Exchange Rule 1020, Registration and Functions of Options Specialists, as well as the associated "Guidelines for Exemptive Relief Under Rule 1020 for Approved Persons or Member Organizations Associated with a Specialist Member Organization" and Rule 1023, Specialist's Transactions with Listed Company.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.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**

The Exchange is proposing to adopt a principles-based approach to prohibit the misuse of material non-public information by specialists by deleting Sections (e) through (h) of Exchange Rule 1020, Registration and Functions of Options Specialists, as well as the associated "Guidelines for Exemptive Relief Under Rule 1020 for Approved Persons or Member Organizations Associated with a Specialist Member Organization," and Rule 1023, Specialist's Transactions with Listed Company (collectively, the "Specialist Restrictions"). In doing so, the Exchange would harmonize its rules governing Phlx members<sup>5</sup> and member

organizations<sup>6</sup> generally, and Phlx specialists in particular, relating to protecting against the misuse of material, non-public information. The Exchange believes that the Specialist Restrictions are no longer necessary because all specialists are subject to the Exchange's general principles-based requirements governing the protection against the misuse of material, non-public information, pursuant to Phlx Rule 761, Supervisory Procedures Relating to ITSFEA and to Prevention of Misuse of Material Nonpublic Information, which obviates the need for separately-prescribed requirements for a subset of market participants on the Exchange. Additionally, there is no separate regulatory purpose served by having separate rules for specialists. The Exchange notes that this proposed rule change will not decrease the protections against the misuse of material, non-public information; instead, it is designed to provide more flexibility to market participants. This is a competitive filing that is based on a proposal recently submitted by NYSE MKT LLC ("NYSE MKT") and approved by the Commission.<sup>7</sup>

A "specialist" is an Exchange member who is registered as an options specialist pursuant to Exchange Rule 1020(a). Specialists are subject to quoting and registration obligations set forth in Rules 1014(b), 1020 and 1080.02. Quoting obligations of other market makers known as Registered Options Traders ("ROTs") are also set forth in Rule 1014.<sup>8</sup> That rule sets forth

the main difference between specialists and ROTs, namely that specialists have a heightened quoting obligation as compared to ROTs. In addition to a heightened quoting obligation pursuant to Rule 1014, specialists are eligible to receive a greater allocation of participation rights under certain circumstances.

Importantly, all ROTs and specialists have access to the same information in the Exchange's order book. Moreover, neither ROTs nor specialists have agency obligations on the Exchange's order book. As such, the distinctions between specialists and ROTs are their quoting requirements set forth in Rule 1014.

Notwithstanding that specialists have access to the same Exchange trading information as all other market participants on the Exchange, the Exchange has specific rules governing how specialists may operate. Currently, Phlx Rule 1023 restricts specialists and various affiliates from effecting certain transactions with a company in options of which the specialist is registered.<sup>9</sup> Rule 1020(e) limits the ability of specialists' affiliates to purchase or sell options in which the specialist is registered for any account in which the affiliate is interested.<sup>10</sup> Rule 1020(f)

permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQTO, which may also be referred to as a Remote Market Making Organization ("RMO"), is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

<sup>9</sup> Specifically, Rule 1023 provides that no specialist or his member organization, or any member, limited partner, officer, employee, approved person or party approved shall directly or indirectly, effect any business transaction with a company or any officer, director or 10% stockholder of a company in which options of such company the specialist is registered, except for business transactions in goods and services on terms generally available to the public. It further provides that no specialist, his member organization or corporate subsidiary of such organization shall accept an order for the purchase or sale of any option in which he is registered as a specialist directly (i) from the company issuing such stock or (ii) from any officer, director or 10% stockholder of that company.

<sup>10</sup> Specifically, Rule 1020(e) provides that no member (other than a specialist acting pursuant to paragraphs 1020(c) or (d)), limited partner, officer, employee, approved person or party approved, who is affiliated with a specialist or specialist member organization, shall, during the period of such affiliation, purchase or sell any option in which such specialist is registered for any account in which such person or party has a direct or indirect interest. Any such person or party may, however, reduce or liquidate an existing position in an option in which such specialist is registered provided that such orders are (i) identified as being for an account in which such person or party has a direct or indirect interest; (ii) approved for execution for an Options Exchange Official; and (iii) executed by the specialist in a manner reasonably calculated to contribute to the maintenance of price continuity with reasonable depth. No order entered pursuant

<sup>6</sup> Phlx Rule 1(o) defines "Member Organization" as a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a member organization by virtue of (i) admission to membership given to it by the Membership Department pursuant to the provisions of Rules 900.1 or 900.2 or the By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 6-4 of the By-Laws.

<sup>7</sup> See Securities Exchange Act Release No. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving SR-NYSEMKT-2015-23). See also Securities Exchange Act Release No. 75792 (August 31, 2015), 80 FR 53606 (September 4, 2015) (SR-ISE-2015-26).

<sup>8</sup> A Registered Option Trader ("ROT") is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. ROTs include Streaming Quote Traders ("SQTs") and Remote Streaming Quote Traders ("RSQTs"), as well as on and off-floor ROTs. An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member affiliated with an Remote Streaming Quote Trader Organization ("RSQTO") with no physical trading floor presence who has received

<sup>5</sup> Phlx Rule 1(n) defines "Member" as a permit holder which has not been terminated in accordance with the By-Laws and Rules of the Exchange.

provides an exemption from the restrictions imposed by Rules 1023 and 1020(e), but only if the Exchange has approved procedures restricting the flow of material non-public corporate or market information between the specialist's affiliate and the specialist member organization and any member, officer or employee associated therewith. The procedures are required to comply with the "Guidelines for Exemptive Relief under Rule 1020 for Approved Persons or Member Organizations Affiliated with a Specialist Member Organization" (the "Guidelines"), which are referred to in, and set forth following, Rule 1020(f).

#### Proposed Rule Change

The Exchange believes that the Specialist Restrictions, including the Guidelines and the Exchange approval requirement, are no longer necessary and proposes to delete them. The Exchange believes that Rule 761, Supervisory Procedures Relating to ITSFEA and to Prevention of the Misuse of Material Nonpublic Information, Commentary .02 governing the misuse of material, non-public information, provides for an appropriate, principles-based approach to prevent the market abuses the Specialist Restrictions are designed to address. Specifically, Rule 761, Commentary .02 requires every member or member organization to establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of the member's business, to prevent the misuse of material non-public information by such member or persons associated with such member in violation of the Securities Exchange Act of 1934 and the rules thereunder and the Exchange's own rules. For purposes of Rule 761, Commentary .02, misuse of material non-public information means:

(a) Trading in any securities issued by a corporation, partnership, Portfolio Depository Receipts, Index Fund Shares, trust issued receipts, currency trust shares or a trust or similar entities, or in any related securities or related options or other derivative securities, or in any related commodity, related commodity futures or options on commodity futures or any other related commodity derivatives, while in possession of material nonpublic information concerning that corporation, Portfolio Depository Receipt, Index Fund Share, trust issued receipts, currency trust shares, trust or similar entity;

(b) trading in an underlying security or related options or other derivative securities, or in any related commodity, related commodity futures or options on commodity

futures or any other related commodity derivatives, while in possession of material nonpublic information concerning imminent transactions in the above; and

(c) disclosing to another person any material nonpublic information involving a corporation, partnership, Portfolio Depository Receipts, Index Fund Shares, trust issued receipts, currency trust shares or a trust or similar entities whose shares are publicly traded or an imminent transaction in an underlying security or in any related commodity, related commodity futures or options on commodity futures or any other related commodity derivatives, for the purpose of facilitating the possible misuse of such material nonpublic information.

Because members and member organizations are already subject to the requirements of Rule 761, Commentary .02, the Exchange does not believe it necessary to separately require specific limitations on specialists. Deleting the Specialist Restrictions including the Guidelines and its requirements for specific procedures would provide specialists flexibility to adapt their policies and procedures as appropriate to reflect changes to their business model, business activities, or the securities market in a manner similar to how members and member organizations on the Exchange currently operate and consistent with Exchange Rule 761, Commentary .02.

As noted above, specialists are distinguished under Exchange rules from ROTs in that specialists have heightened quoting obligations and differing participation entitlements. However, none of these heightened obligations or different entitlements provides different or greater access to non-public information than any other member or member organization on the Exchange. Accordingly, because specialists do not have any trading advantages at the Exchange due to their market role, the Exchange believes they should be subject to the same rules as other members and member organizations regarding the protection against the misuse of material non-public information, which in this case is existing Exchange Rule 761, Commentary .02.<sup>11</sup>

The Exchange is not proposing to change what is considered to be material, non-public information that an

affiliated brokerage business of a specialist could share with such specialist. In that regard, the proposed rule change will not permit affiliates of a specialist to have access to any non-public order or quote information of the specialist, including hidden or undisplayed size or price information of such orders or quotes. Affiliates of specialists would only have access to orders and quotes that are publicly available to all market participants. Members do not expect to receive any additional order or quote information as a result of this proposed rule change. The Exchange does not believe that there will be any material change to member information barriers as a result of the removal of the Exchange pre-approval requirement. The Exchange has rules prohibiting members from disadvantaging their customers or other market participants by improperly capitalizing on the member's access to or receipt of material, non-public information.<sup>12</sup>

Further, the Exchange does not believe there will be any material change to specialist information barriers as a result of removal of the Exchange's pre-approval requirements. In fact, the Exchange anticipates that eliminating the pre-approval requirement should facilitate implementation of changes to specialist information barriers as necessary to protect against the misuse of material, non-public information. The Exchange also suggests that the pre-approval requirement is unnecessary because specialists do not have agency responsibilities to orders in the book, or time and place information advantages because of their market role.

<sup>12</sup>For example, Rule 748 requires each member or member organization to establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages in and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures must reasonably be expected to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange., [sic] Additionally, Rule 1064 provides that no member organization or person associated with a member or member organization who has knowledge of the material terms and conditions of a solicited order, an order being facilitated, or orders being crossed, the execution of which are imminent, shall enter, based on such knowledge, an order to buy or sell an option for the same underlying security; an order to buy or sell the security underlying such class; or an order to buy or sell any related instrument until (i) the terms and conditions of the order and any changes in the terms of the order of which the member, member organization or person associated with a member or member organization has knowledge are disclosed to the trading crowd, or (ii) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received.

to Rule 1020(e) shall be given priority over, or parity with, any order represented in the market at the same price.

<sup>11</sup>The Exchange notes that by deleting the Specialist Restrictions, the Exchange would no longer require specific information barriers for specialists or require pre-approval of any information barriers that a specialist would erect for purposes of protecting against the misuse of material non-public information. However, the policies and procedures of specialists, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

The Exchange notes that its proposed principles-based approach to protecting against the misuse of material non-public information for all its members and member organizations is consistent with recently filed and approved rule changes for NYSE MKT, NYSE Arca Equities, Inc. ("NYSE Arca"), BATS Exchange, Inc. ("BATS"), and New York Stock Exchange LLC ("NYSE") governing cash equity market makers on those respective exchanges.<sup>13</sup> Except for prescribed rules relating to floor-based designated market makers on the NYSE, who have access to specified non-public trading information, each of these exchanges have moved to a principles-based approach to protecting against the misuse of material non-public information. In connection with approving those rule changes, the Commission found that, with adequate oversight by the exchanges of their members, eliminating prescriptive information barrier requirements should not reduce the effectiveness of exchange rules requiring members to establish and maintain systems to supervise the activities of members, including written procedures reasonably designed to ensure compliance with applicable federal securities law and regulations, and with the rules of the applicable exchange.

The Exchange believes that a principles-based rule applicable to members of options markets would be equally effective in protecting against the misuse of material non-public information.<sup>14</sup> Indeed, Exchange Rule

761, Commentary .02 is currently applicable to specialists and already requires policies and procedures reasonably designed to protect against the misuse of material non-public information, which is similar to the respective NYSE MKT, NYSE Arca Equities, BATS and NYSE rules governing cash equity market makers. The Exchange believes Exchange Rule 761, Commentary .02 provides appropriate protection against the misuse of material non-public information by specialists such that there is no further need for prescriptive information barrier requirements as set forth in the Specialist Restrictions.

The Exchange notes that even with this proposed rule change, pursuant to Exchange Rule 761, Commentary .02 a specialist would still be obligated to ensure that its policies and procedures reflect the current state of its business and continue to be reasonably designed to achieve compliance with applicable federal securities law and regulations, including Section 15(g) of the Act,<sup>15</sup> and with applicable Exchange rules, including being reasonably designed to protect against the misuse of material, non-public information. While information barriers would not specifically be required under the proposal, Rule 761, Commentary .02 already requires that a member or member organization consider its business model or business activities in structuring its policies and procedures, which may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.

The Exchange believes that the proposed reliance on principles-based Rule 761, Commentary .02 would ensure that a specialist would be required to protect against the misuse of any material non-public information. As noted above, Rule 761, Commentary .02 already requires that firms refrain from trading while in possession of material non-public information concerning imminent transactions in the security or related product. The Exchange believes that moving to a principles-based

approach rather than prescribing how and when to wall off a specialist from the rest of the firm would provide specialists with flexibility when managing risk across a firm, including integrating options positions with other positions of the firm or, as applicable, by the respective independent trading unit.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>17</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. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by adopting a principles based approach to permit a member or member organization to maintain and enforce policies and procedures to, among other things, prohibit the misuse of material non-public information and provide flexibility on how a specialist structures its operations.

The Exchange notes that the proposed rule change is based on an approved rule of the Exchange to which members and member organizations are subject—Rule 761, Commentary .02—and harmonizes the rules governing members and member organizations. Moreover, specialists would continue to be subject to federal and Exchange requirements for protecting material non-public order information.<sup>18</sup> The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market because it would harmonize the Exchange's approach to protecting against the misuse of material non-public information and no longer subject specialists to prescriptive requirements. The Exchange does not believe that the existing prescriptive requirements applicable to specialists are narrowly tailored to their roles because specialists do not have access to Exchange trading information in a manner different from any other market participant on the Exchange.

The Exchange further believes the proposal is designed to prevent fraudulent and manipulative acts and

<sup>13</sup> See Securities Exchange Act Release No. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Specialists and e-Specialists by Deleting Rule 927.3NY and Section (f) of Rule 927.5NY). See also Securities Exchange Act Release Nos. 60604 (Sept. 2, 2009), 76 FR 46272 (Sept. 8, 2009) (SR-NYSEArca-2009-78) (Order approving elimination of NYSE Arca rule that required market makers to establish and maintain specifically prescribed information barriers, including discussion of NYSE Arca and Nasdaq rules) ("Arca Approval Order"); 61574 (Feb. 23, 2010), 75 FR 9455 (Mar. 2, 2010) (SR-BATS-2010-003) (Order approving amendments to BATS Rule 5.5 to move to a principles-based approach to protecting against the misuse of material, nonpublic information, and noting that the proposed change is consistent with the approaches of NYSE Arca and Nasdaq) ("BATS Approval Order"); and 72534 (July 3, 2014), 79 FR 39440 (July 10, 2014), [sic] SR-NYSE-2014-12) (Order approving amendments to NYSE Rule 98 governing designated market makers to move to a principles-based approach to prohibit the misuse of material non-public information) ("NYSE Approval Order").

<sup>14</sup> International Securities Exchange, Inc. ("ISE") and BOX Options Exchange LLC ("BOX") have recently taken a similar approach. See Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting a Principles-Based Approach to Prohibit the Misuse of Material, Non-public Information by Market Makers by Deleting Rule

810, Securities Exchange Act Release No. 75792 (August 31, 2015), 80 FR 53606 (September 4, 2015) (SR-ISE-2015-26). See also Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a Principles-based Approach to Prohibit the Misuse of Material Nonpublic Information by Market Makers, Securities Exchange Act Release No. 75916 (September 14, 2015), 80 FR 56503 (September 18, 2015) (SR-BOX-2015-31).

<sup>15</sup> 15 U.S.C. 78o(g).

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> See 15 U.S.C. 78o(g) and Exchange Rule 761, Commentary .02.

practices and to promote just and equitable principles of trade because existing rules make clear to members and member organizations the type of conduct that is prohibited by the Exchange. While the proposal eliminates prescriptive requirements relating to the misuse of material non-public information, specialists would remain subject to existing Exchange rules requiring them to establish and maintain systems to supervise their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on the misuse of material, non-public information. Additionally, the policies and procedures of specialists, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange.

The Exchange notes that the proposed rule change would still require that specialists maintain and enforce policies and procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Even though there would no longer be pre-approval of specialist information barriers, any specialist written policies and procedures would continue to be subject to oversight by the Exchange and therefore the elimination of prescribed restrictions should not reduce the effectiveness of the Exchange rules to protect against the misuse of material non-public information. Rather, members and member organizations will be able to utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. Moreover, while specified information barriers may no longer be required, a member or member organization's business model or business activities may dictate that an information barrier or functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules. The Exchange therefore believes that the proposed rule change will maintain the existing protection of investors and the public interest that is currently applicable to specialists, while at the same time removing impediments to and perfecting a free and open market by moving to a principles-based approach to protect against the misuse of material non-public information.

#### *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. As indicated above, the rule change is being proposed as a competitive response to a filing submitted by NYSE MKT that was recently approved by the Commission. The Exchange believes that the proposal will enhance competition by allowing specialists to comply with applicable Exchange rules in a manner best suited to their business models, business activities, and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities laws and regulations and Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon specialists.

Moreover, the Exchange believes that the proposed rule change would eliminate a burden on competition for members and member organizations which currently exists as a result of disparate rule treatment between options and equities markets regarding how to protect against the misuse of material non-public information. For those members and member organizations that are also members of equity exchanges, their respective equity market maker operations are now subject to a principles-based approach to protecting against the misuse of material non-public information. The Exchange believes it would remove a burden on competition to enable members and member organizations to similarly apply a principles-based approach to protecting against the misuse of material non-public information in the options space as ISE has recently done. To this end, the Exchange notes that Exchange Rule 761, Commentary .02 still requires a specialist to evaluate its business to assure that its policies and procedures are reasonably designed to protect against the misuse of material non-public information. However, with this proposed rule change, a member or member organization that trades equities and options could look at its firm more holistically to structure its operations in a manner that provides it with better tools to manage its risks across multiple security classes, while at the same time protecting against the misuse of material non-public information.

#### *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: (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, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>19</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>20</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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-2015-85 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-PHLX-2015-85. This file

<sup>19</sup> 15 U.S.C. 78s(b)(3)(a)(iii).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

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-2015-85 and should be submitted on or before January 14, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-32383 Filed 12-23-15; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76693; File No. SR-BX-2015-079]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees and Rebates Related to BX Price Improvement Auction (PRISM)

December 18, 2015.

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 December 11, 2015, 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, 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 amend its Options Pricing at Chapter XV, Section 2, entitled "BX Options Market—Fees and Rebates," which governs pricing for BX members using the BX Options Market ("BX Options"). The Exchange proposes to adopt new subsection (5) to add fees and rebates for BX Price Improvement Auction ("PRISM"), which is a mechanism for price improvement on BX Options ("Price Improvement Mechanism").

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

The Exchange proposes to amend its Chapter XV, Section 2 to adopt new subsection (5) to add fees and rebates for PRISM.

Effective on or about November 16, 2015, BX Options is introducing PRISM, which is codified in BX Chapter VI, Section 9 (also known as the "PRISM Rule").<sup>3</sup> PRISM is a Price Improvement

Mechanism for all-electronic BX Options whereby a buy and sell order may be submitted in one order message to initiate an auction at a 'stop price' and seek potential price improvement. Options are traded electronically on BX Options, and all options participants may respond to a PRISM Auction,<sup>4</sup> the duration of which will be set at 200 milliseconds.<sup>5</sup> PRISM includes auto-match functionality in which a Participant (an "Initiating Participant") may electronically submit for execution an order it represents as agent on behalf of customer,<sup>6</sup> broker dealer, or any other entity ("PRISM Order") against principal interest or against any other order it represents as agent (an "Initiating Order") provided it submits the PRISM Order for electronic execution into the PRISM Auction pursuant to Chapter VI, Section 9.<sup>7</sup> The PRISM Rule describes the circumstances under which an Initiating Participant may initiate an Auction. A PRISM Order that is for a Non-Customer (account of a broker-dealer or any other person or entity that is not a Public Customer) is always required to improve the same side of the BX BBO even if there is no resting limit order on the book. PRISM Orders that do not comply with the requirements set forth in the PRISM Rule are not eligible to initiate an Auction and will be immediately cancelled. Also, PRISM Orders submitted at or before the opening of trading are not eligible to initiate an Auction and will be rejected. PRISM Orders submitted during the final two seconds of the trading session in the

("PRISM Filing"). In the PRISM Approval the Exchange noted that it will file a rule change separately with the Commission to remove Price Improving and Post-Only Order types from its Rules. The Exchange will not commence offering BX PRISM until such time as it has an effective and operative rule in place from the Commission to remove Price Improving and Post-Only Orders and removes the ability to submit Price Improving and Post-Only Orders into the auction. In the event the Exchange determines to amend its order types to allow the entry of non-displayed order types, e.g. Price Improving or Post-Only Orders, the Exchange will file a proposed rule change pursuant to Section 19(b)(2) with the Commission to seek approval for such rule change. *See also* Options Technical Update #2015-6.

<sup>4</sup> PRISM Auction eligibility requirements and the early conclusion of the PRISM Auction are, with certain other PRISM features, subject to a pilot program scheduled to expire July 18, 2016. *See* BX Chapter VI, Section 9.

<sup>5</sup> Other exchanges that have price improvement auctions have developed different durations. *See, e.g.,* CBOE Rule 6.74A(b)(1)(C) (CBOE's AIM auction has a duration of one second); and BOX Rule 7150(f)(1) (BOX's PIP auction has a duration of one hundred milliseconds, commencing on the dissemination of the PIP broadcast).

<sup>6</sup> The term "Customer" is defined below for purposes of this fee proposal.

<sup>7</sup> BX PRISM will only conduct an auction for simple (non-complex) Orders.

<sup>21</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> *See* Securities Exchange Act Release Nos. 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR-BX-2015-032) (approval order) ("PRISM Approval"); and 75827 (September 3, 2015), 80 FR 54601 (September 10, 2015) (SR-BX-2015-032)