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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70142; File No. SR-Phlx-2013-81)

August 8, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Rule 1015 Regarding Accommodation Claims

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on July 26, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and I, 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 adopt Rule 1015 (Accommodations) which would create a limited set of exceptions to the Exchange's existing limitation of liability rules. The text of the proposed rule change is below. Proposed additions are underlined.

NASDAQ OMX PHLX LLC Rules

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Options Rules

Rule 1015. Accommodations [Reserved]

Notwithstanding the limitations of liability set forth in Exchange Rules 652, 1102A, 1011B, and 3226, the Exchange, subject to the express limits set forth below, may compensate users of NASDAQ OMX PHLX for losses directly resulting from the actual failure of Phlx XL II, or any

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, Quote/Order, message, or other data, provided that NASDAQ OMX PHLX has acknowledged receipt of the order, Quote/Order, message, or data.

(1) For the aggregate of all claims made by all market participants related to the use of NASDAQ OMX PHLX during a single calendar month, the Exchange's liability shall not exceed the larger of $500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.

(2) In the event all of the claims arising out of the use of NASDAQ OMX PHLX cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in this Rule, then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Nothing in this rule shall obligate the Exchange to seek recovery under any applicable insurance policy

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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 proposed rule change is to adopt Rule 1015, a rule that on a voluntary basis creates an exception to the Exchange's limitation of liability rules under specified circumstances for the trading of standardized options listed and traded on the Exchange. Proposed Rule 1015, entitled "Accommodations", is substantially similar to Exchange Rule 3226, the Accommodations provision currently applicable to the trading of equities on PSX, the Exchange's equities trading facility.[3]

Proposed Rule 1015 states that the Exchange may compensate members for claims in certain circumstances notwithstanding that Exchange Rules 652, 1102A and 1011B, state that the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the actual failure of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Rules 652(c), 1102A and 1011B currently (1) limit the Exchange's liability for the trading of options and (2) establish the Exchange's ability to obtain reimbursement for the costs of defending liability actions (Rule 652), for the trading of certain index options (1102A), and for the trading of certain cash index participations (1011B). Rule 3226 contains a limitation of liability provision and an accommodations provision, but it applies only to equities trading. By placing the Accommodation Policy within the Rule 1000 Series, the Exchange makes the Accommodation rule applicable generally to the trading of all options issued by the Options Clearing Corporation and traded on the Exchange, and not applicable to the trading of equities which are governed by Exchange Rule 3226.

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[3] See Securities Exchange Act Release No. 62877 (Sept. 9, 2010), 75 FR 56633 (Sept. 14, 2010) (approving SR-PHLX-2010-79).

Subsection (1) of the proposed rule states that the Exchange may compensate members for claims made by all market participants related to the use of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Under the proposal, the aggregate of payments for all claims during a single calendar month shall not exceed the larger of $500,000, or the amount of the recovery obtained by PHLX under any applicable insurance policy.

Proposed subsection (2) specifies how accommodation funds shall be allocated in the event all of the claims submitted during a single calendar month exceed the $500,000 limit. Specifically, if claims cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in the Rule ($500,000), then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

Finally, proposed subsection (b)(3) specifies the requirements and procedures applicable to the submission of accommodation claims. Specifically, claims for compensation must be submitted in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Subsection (3) also states that nothing in the proposed rule obligates the Exchange to seek recovery under any applicable insurance policy. If the Exchange does seek recovery and does receive an insurance recovery, the amount of that recovery limits the accommodation funds available for the incident supporting the recovery.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in

[4] 15 U.S.C. 78f(b).

general, and furthers the objectives of Section 6(b)(5) of the Act[5] 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 proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to adopt Rule 1015 (Accommodations) under specified circumstances will promote fairness in the market place in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange.

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. Specifically, the Exchange believes that the proposed rule imposes no burden on competition because accommodations policies are not the subject of competition among exchanges. In other words, exchanges, PHLX included, do not compete based on the size or scope of accommodations policies. If such competition existed, the proposed rule change would actually be pro-competitive by making the accommodation process more transparent and fair.

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.

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[5] 15 U.S.C. 78f(b)(5).

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[6] and Rule 19b-4(f)(6)[7] thereunder because the proposal does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, 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.[8]

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.[9]

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. Please include File Number SR-Phlx-2013-

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6 15 U.S.C. 78s(b)(3)(A).

7 17 CFR 240.19b-4(f)(6).

8 In addition, Rule 19b-4(f)(6)(iii) 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.

9 15 U.S.C. 78s(b)(3)(C).

81 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2013-81. 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 website (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 website 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 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-Phlx-2013-81 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill
Deputy Secretary

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[10] 17 CFR 200.30–3(a)(12).