

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-2010-72 and should be submitted on or before June 18, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62155; File No. SR-Phlx-2010-67]

### Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Risk Management Interface

May 24, 2010.

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 May 17, 2010, NASDAQ OMX PHLX, Inc. (“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 effect an information-related enhancement to the current Risk Management Feed Interface in Phlx XL II. The Exchange is not proposing any rule changes.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqtrader.com/micro.aspx?id=PHLXfilings>, at the principal office of the Exchange, at the Commission’s Public Reference Room, and on the Commission’s Web site at <http://www.sec.gov>.

#### 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 propose a series of enhancements to the interface for receiving real-time clearing trade updates. A real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to the The Options Clearing Corporation.

The Exchange currently provides Exchange members with real-time clearing trade updates through a Risk Management Feed known as the “RMP”.<sup>3</sup> The updates include the members clearing trade messages on a low latency, real-time basis. The trade messages are routed to a member’s connection containing certain information.<sup>4</sup> The administrative and market event messages include, but are not limited to: System event messages to communicate operational-related events; options directory messages to relay basic option symbol and contract information for options traded on the Exchange; complex strategy messages to relay information for those strategies traded on the Exchange;<sup>5</sup> and trading action messages to inform market participants when a specific option or strategy is halted or released for trading

<sup>3</sup> The Exchange assesses its members a Real-time Risk Management Fee of \$.003 per contract for receiving this information. The Exchange is not proposing to amend this fee.

<sup>4</sup> The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or “CMTA” or The Options Clearing Corporation or “OCC” number; (ii) Exchange badge or house number; and (iii) the Exchange internal firm identifier.

<sup>5</sup> The information related to complex order strategy messages includes information that lists the legs and the leg ratios, which uniquely defines this strategy for an underlying.

on the Exchange. This existing RMP interface will be retired in September 2010.

In connection with these enhancements, the Exchange proposes to rename the RMP interface as the Clearing Trade Interface (“CTI”). This proposed interface will provide increased throughput and significantly lower latency for clearing trade updates.<sup>6</sup> In addition, the new interface will contain an indicator which will distinguish electronic<sup>7</sup> and non-electronically<sup>8</sup> delivered orders.<sup>9</sup> This information will be available to members on a real-time basis.

The Exchange is proposing to continue to provide real-time clearing trade updates, referred to as CTI, with significantly lower latency as well as additional information, such as trade detail information that distinguishes electronically and non-electronically delivered orders. This new CTI will be made available to users promptly after successful testing with the Exchange. CTI will be available to all members.<sup>10</sup> The Exchange is not proposing any rule changes.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</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 providing members more efficient real-time clearing trade updates. This proposal is not a burden on competition and serves to protect investors and the public interest, in that CTI is a tool for members to receive real-time trade details and utilize that information to

<sup>6</sup> The Exchange will post the technical specifications on its Web site and testing will be available. The Exchange intends to send an Options Technical Update to notify members of the new interface and testing availability.

<sup>7</sup> Electronically delivered orders do not include orders delivered through the Floor Broker Management System, but rather are delivered utilizing PHLX XL II.

<sup>8</sup> An order that is represented on the trading floor by a floor broker. See Exchange Rule 1063.

<sup>9</sup> Members that apply for this interface will continue to receive only their own trade data and data for their customers. Members utilizing RMP only receive their own trade data and data for their customers.

<sup>10</sup> The Exchange assesses a Real-Time Risk Management Fee of \$.003 per contract to receive this information. Currently RMP is available to all members.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<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.

capture fees on a real-time basis and also receive information on whether the orders were electronically or non-electronically delivered. This information will provide members more transparency on the fees assessed on transactions. The clearing trade updates are and will continue to be available to all members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

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: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

Phlx has requested that the Commission waive the 30-day operative delay. The Commission hereby grants that request.<sup>15</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the Exchange proposes to allow members to test the CTI immediately, and to migrate to the CTI upon successful testing. The Exchange proposes to retire the RMP in September 2010. Waiving the operative delay will thus allow the Exchange to

provide members an increased period of time to test and migrate to the CTI before the retirement of the RMP in September 2010.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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 the furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-67 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-Phlx-2010-67. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62158; File No. SR-CBOE-2008-88]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Relating to the Demutualization of Chicago Board Options Exchange, Incorporated

May 24, 2010.

#### I. Introduction

On August 21, 2008, 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> the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change in connection with its plan to demutualize and restructure from a Delaware non-stock corporation to a Delaware stock corporation that would be a wholly-owned subsidiary of CBOE Holdings, Inc. ("CBOE Holdings"), a holding company organized as a Delaware stock corporation (the "Restructuring Transaction").<sup>3</sup> To accommodate the Restructuring Transaction, CBOE proposed a Certificate of Incorporation and Bylaws for the newly formed CBOE Holdings, a new Certificate of Incorporation for CBOE, and to replace CBOE's existing Constitution with new Bylaws. Finally, CBOE proposed amendments to its rules to address, among other things, trading

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). When filing a proposed rule change pursuant to Rule 19b-4(f)(6) under the Act, an Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

<sup>15</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</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 term "Restructuring Transaction" is defined in proposed CBOE Rule 1.1(hhh) as "the restructuring of the Exchange from a non-stock corporation to a stock corporation and wholly-owned subsidiary of CBOE Holdings, Inc."