

Eastern Time on the next market day.<sup>7</sup> FINRA is retaining the exception for information that is not available by the time the report must be transmitted; in such cases, the report must be transmitted on the day that the information becomes available.

The effective date of the proposed rule change will be no later than 120 days after Commission approval.

### III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.<sup>8</sup> In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest as the changes should make FINRA's surveillance more efficient.

The proposed rule change should make FINRA's surveillance more efficient because both the existence of information barriers and the customer's instructions regarding the display of limit orders for all OATS securities will be captured in OATS, so that such transactions will not create "false positive" results that FINRA must review to ensure that the transactions do not violate the rule. This should enable FINRA to focus its resources on transactions that are not permitted under the rules. The Commission believes that codifying the time by which OATS reports must be submitted should provide greater clarity to FINRA members of their reporting obligations under the rules.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the

<sup>7</sup> Thus, for example, assuming no holidays, if an order is received at 5:00 p.m. Eastern Time on Wednesday, the order event occurs on the OATS Business Day ending Thursday at 4:00 p.m. Eastern Time. Receipt of the order (and any subsequent event(s) regarding the order until Thursday at 4:00 p.m. Eastern Time) must be reported by 8:00 a.m. on Friday. Order events occurring on market days during regular market hours (*i.e.*, before 4:00:01 p.m. Eastern Time) are reported by 8:00 a.m. Eastern Time on the following calendar day.

<sup>8</sup> In approving this rule proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-FINRA-2011-063) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2011-33218 Filed 12-27-11; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66022; File No. SR-Phlx-2011-136]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change Relating To Transfer of Exchange House Accounts

December 21, 2011.

#### I. Introduction

On October 19, 2011, NASDAQ OMX PHLX LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to codify current Exchange policy with respect to the transfer of Exchange house accounts. The proposed rule change was published in the **Federal Register** on November 8, 2011.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of Proposal

The Exchange proposes to adopt new Exchange Rule 912, Transfer of Accounts. The proposed rule would provide the process when an Exchange member or member organization transfers Exchange house accounts to another Exchange member or member organization. According to the Exchange, the house accounts are assigned by the Exchange's Membership Department and are not customer accounts. Rather, these Exchange house accounts are used by Exchange members or member organizations to transact business on the Exchange.

Specifically, the proposed rule would provide that transferor and transferee members or member organizations must notify the Exchange's Membership Department in writing of the intent to transfer Exchange house account(s) in

<sup>11</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 No. 65667 (November 2, 2011), 76 FR 69316.

accordance with the rules prescribed by the Membership Department. Further, the transferor and transferee members or member organizations must execute and provide a Letter of Indemnity to the Exchange. According to the Exchange, the Letter of Indemnity is a standard form that the Exchange requires members to complete for transfers of Exchange house accounts.

### III. Commission Findings and Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act,<sup>4</sup> and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, 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.<sup>6</sup>

The Exchange's proposal would govern how an Exchange member or member organization would transfer Exchange house accounts. The Commission believes that the proposal clarifies to members and member organizations the process required to transfer such accounts. In requiring that members or member organizations execute a Letter of Indemnity in connection with a transfer of accounts, the proposed rule also delineates which firm has responsibility for liabilities associated with those accounts. Accordingly, the Commission finds that the proposal would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market, and is consistent with the requirements of the Act.<sup>7</sup>

### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the

<sup>4</sup> 15 U.S.C. 78f.

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

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> The Commission notes, however, that this order does not approve any prior transfer of Exchange house accounts that may have been inconsistent with the approved rules of the Exchange then in effect.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-Phlx-2011-136) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

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

[FR Doc. 2011-33246 Filed 12-27-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66023; File No. SR-Phlx-2011-118]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change Relating to Transfer of Positions Off the Floor

December 21, 2011.

#### I. Introduction

On October 20, 2011, NASDAQ OMX PHLX LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to codify current Exchange policy with respect to the transfer of option positions between accounts, individuals, or entities off the floor. The proposed rule change was published in the **Federal Register** on November 8, 2011.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of Proposal

The Exchange proposes to adopt new Exchange Rule 1058, Transfer of Positions. The proposed rule would govern the process when an Exchange member or member organization transfers positions off the floor in any class of options listed on its books. The proposed rule would allow transfers in one or more of the following events: (1) The dissolution of a joint account in which the remaining member or member organization assumes the positions of the joint account; (2) the dissolution of a corporation or partnership in which a former nominee of that corporation or partnership assumes the positions; (3) positions transferred as part of a member or member organization's capital contribution to a new joint account,

partnership, or corporation; (4) the donation of positions to a not-for-profit corporation; (5) the transfer of positions to a minor under the Uniform Gifts to Minors Act; (6) a merger or acquisition resulting in a continuity of ownership or management; or (7) consolidation of accounts within a member or member organization.

The proposed rule would further require members and member organizations to notify the Exchange in writing prior to effecting an off the floor transfer. This written notification must indicate the positions to be transferred and the reason for the transfer. Finally, the proposed rule would require all positions to be transferred at the same prices that appear on the books of the transferring member or member organization, so that the positions would retain the same cost basis. The transfer must indicate the original trading date, cannot net the transferred position against another position (for example, a long position that would net against an existing offsetting short position could not be transferred), and each member or member organization that is a party to the transfer must make and retain records related to the nature of the transaction, the name of the counter-party, and any other information required by the Exchange.

#### III. Commission Findings and Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act,<sup>4</sup> and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, 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.<sup>6</sup>

The Exchange's proposal would govern when and how an Exchange member or member organization could transfer option positions off the floor. The Commission believes that the proposal would clarify to an Exchange member or member organization the

process required to transfer these positions, and the specific instances in which such a transfer is permitted. The Commission also notes that the proposed rule is substantially similar to the rules of other options exchanges.<sup>7</sup> Accordingly, the Commission finds that the proposal would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market, and is consistent with the requirements of the Act.<sup>8</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-Phlx-2011-118) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. 2011-33219 Filed 12-27-11; 8:45 am]

BILLING CODE 8011-01-P

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12940 and # 12941]

### New Mexico Disaster Number NM-00024

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Mexico (FEMA-4047-DR), dated 11/23/2011.

*Incident:* Flooding.

*Incident Period:* 08/19/2011 through 08/24/2011.

**EFFECTIVE DATE:** 12/16/2011.

*Physical Loan Application Deadline Date:* 01/23/2012.

*Economic Injury (EIDL) Loan Application Deadline Date:* 08/23/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance,

<sup>7</sup> See, e.g., Chicago Board Options Exchange, Incorporated Rule 6.49A and NYSE Arca, Inc. Rule 6.78.

<sup>8</sup> The Commission notes, however, that this order does not approve any prior transfer of option positions off the floor that may have been inconsistent with the approved rules of the Exchange then in effect.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>9</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 No. 65666 (November 2, 2011), 76 FR 69314.

<sup>4</sup> 15 U.S.C. 78f.

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

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).