June 24, 2014

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: File No. SR-Phlx-2014-28; SR-NASDAQ-2014-060; SR-BX-2014-029

Dear Ms. Murphy:

The International Securities Exchange, LLC ("ISE") appreciates the opportunity to comment on the above-referenced proposed rule filings in which the NASDAQ exchanges propose to adopt a new origin code to identify joint back office ("JBO") orders, and to offer those orders the same pricing as broker dealer orders. While not stated in the filings, a primary purpose of these proposals is to facilitate dividend trades by members of the NASDAQ exchanges despite the policy adopted by The Options Clearing Corporation ("OCC") designed to eliminate this controversial activity.[1] One of the NASDAQ exchanges, NASDAQ OMX PHLX, is currently the only exchange that still facilitates dividend trades through the use of a special dividend strategy fee cap that provides the economics necessary for members to engage in this strategy.

As announced last year, OCC is planning to implement a new policy approved by its Board of Directors that would net long and short positions in market maker accounts prior to its exercise procedures.[2] This policy change will eliminate dividend trades, which depend on the ability for market makers to remain both long and short a large number of contracts to increase the chance that the market maker remains unassigned on some of its short positions and can keep the dividend on exercised long positions.[3] In order to continue to perform this strategy, the ISE understands that some market makers intend to conduct their dividend trades in a JBO account, where netting is not currently possible. The NASDAQ filings automate the process of identifying JBO orders for

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[1] Dividend trades strategies are transacted by market makers who are trying to capture corporate dividend payments when retail customers leave deep-in-the-money call options unexercised prior to a stock's ex-dividend date.

[2] See OCC press release dated May 23, 2013, OCC to Adopt a Policy to Restrict Exercises to Net Long Positions, available at http://www.optionsclearing.com/about/newsroom/releases/2013/05_23.jsp.

[3] To capture as much of the dividend as possible, two market makers enter into an agreement to trade deep-in-the-money call options back and forth with each other on the day prior to the ex-dividend date.

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pricing purposes to make it more efficient for firms to conduct dividend trades out of those accounts. Indeed, contrary to the basis for the rule changes provided in NASDAQ filings, our members inform us that NASDAQ has marketed this change to the financial community as an "end run" around the upcoming OCC policy change.

The ISE believes that NASDAQ's proposed changes are detrimental to the protection of investors and the public interest, and impose a significant burden on competition, as dividend trading takes advantage of unsophisticated retail investors, increases the risk of catastrophic losses from clearing errors, and distorts exchange market share numbers.[4] Others in the options industry, including, for example, the Securities Industry and Financial Markets Association ("SIFMA") Listed Options Trading Committee, have expressed similar views on the negative impact that dividend trading has on the market.[5] NASDAQ should not be permitted to undermine the upcoming OCC changes, which are supported by the vast majority of those in the options trading community, in order to enrich a limited number of its members that continue to engage in this controversial activity.

At a minimum, given the significant impact of the NASDAQ changes, which were designed to undermine OCC efforts to eliminate dividend trading, NASDAQ should not be permitted to sweep this change through the rule filing process as "non-controversial" without giving the industry adequate notice and an opportunity to comment on the issues presented by the changes. As stated in the instructions to the Form 19b-4, the rule filing process is "intended to elicit information necessary for the public to provide meaningful comment on the proposed rule change." The NASDAQ filings do not provide a meaningful opportunity for public comment as they intentionally hide the fact that these changes were designed and marketed to certain members as a workaround to the OCC's dividend trade fix.

We thus respectfully ask the Commission to suspend the above-referenced proposed rule changes and initiate disapproval proceedings.

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We thank the Commission for the opportunity to comment on these proposed rule filings. If you have any additional questions, or if we can be of further assistance in this matter, please do not hesitate to contact us.

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[4] See ISE Whitepaper on Dividend Trade Strategies in the U.S. Options Industry, available at http://www.ise.com/dividendtrades, for additional details on how dividend trades are detrimental to the options market.

[5] See SIFMA comment letter to the OCC, dated December 3, 2012, available at http://www.sifma.org/issues/item.aspx?id=8589942317. In this letter SIFMA urges the OCC to take action on dividend trades, which "could pose a significant risk to members of The Options Clearing Corporation."

Sincerely,

Michael J. Simon,
Secretary and General Counsel

cc: Stephen Luparello, Director, Division of Trading and Markets
James Burns, Deputy Director, Division of Trading and Markets
Heather Seidel, Associate Director, Division of Trading and Markets