

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60084; File No. SR-Phlx-2009-37)

June 10, 2009

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Order Granting Approval of Proposed Rule Change Relating to Quoting Requirements for Streaming Quote Traders, Remote Streaming Quote Traders and Specialists

On April 21, 2009, NASDAQ OMX PHLX, Inc. (“Phlx” or “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 modify the quoting requirements for Streaming Quote Traders (“SQTs”), Remote Streaming Quote Traders (“RSQTs”), and specialists. The proposed rule change was published for comment in the Federal Register on May 6, 2009.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

The Exchange proposes to replace its continuous quoting requirement for SQTs, RSQTs, and specialists with a reference to the portion of the trading day when a quote must be available. Specifically, a market participant that is currently subject to continuous quoting obligations would, instead, be required to maintain a two-sided quote in a series for a total time equal to at least 90% (or higher, if so announced by the Exchange in advance) of the duration of the trading day. If a technical failure or limitation of a system of the Exchange prevents a participant from maintaining, or prevents a participant from communicating to the Exchange, timely and accurate quotes, the duration of such failure or limitation would not be included in any of the calculations with respect to the affected quotes. The Exchange would have the ability to consider other

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<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. 59842 (April 29, 2009), 74 FR 21037.

exceptions to the quoting requirements based on demonstrated legal or regulatory requirements or other mitigating circumstances.

The Exchange also proposes to modify the requirement applicable to Directed SQTs (“DSQTs”), Directed RSQTs (“DRSQTs”), and specialists to quote 99% of their assigned series. Specifically, the Exchange proposes to replace the 99% requirement in all of these instances with the lesser of two alternatives: 99% of the series, or 100% minus a single call-and-put “pair.” The eligible pair in this case would consist of two individual options, one call and one put, which cover the same underlying instrument and have the same expiration date and exercise price.

The Commission notes that the Exchange’s proposal would make minor adjustments to the quoting requirements of SQTs, RSQTs, DSQTs, DRSQTs, and specialists. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.<sup>4</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> 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. In addition, the Commission notes that it has approved similar quoting requirements applicable to market makers on other options exchanges.<sup>6</sup>

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<sup>4</sup> In approving this rule, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>6</sup> See, e.g., Securities Exchange Act Release Nos. 57109 (January 7, 2008), 73 FR 2295 (January 14, 2008) (SR-CBOE-2007-134); and 57186 (January 22, 2008), 73 FR 4931 (January 28, 2008) (SR-NYSEArca-2007-121).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-Phlx-2009-37) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).