SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63051; File No. SR-Phlx-2010-135)

October 6, 2010

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Collars for Unpriced Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4[2] thereunder, notice is hereby given that on September 29, 2010, NASDAQ OMX PHLX LLC ("Phlx" or the "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 amend Phlx Rule 4751 to include system functionality that will cancel any portion of an unpriced order submitted to NASDAQ OMX PSX ("PSX") that would execute at a price that is more than $0.25 or 5 percent worse than the national best bid and offer at the time the order initially reaches the Exchange, whichever is greater. The text of the proposed rule change is available from the Exchange's website at http://nasdaqomxphlx.cchwallstreet.com, at the Exchange's principal office, and at the Commission's Public Reference Room.

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. The text of these statements may be

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

2 17 CFR 240.19b-4.

examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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 protect market participants by reducing the risk that unpriced orders, also known as market orders, will execute at prices that are significantly worse than the national best bid and offer ("NBBO") at the time the Exchange receives the order.[3] The Exchange believes that most market participants expect that their order will be executed at its full size at a price reasonably related to the prevailing market. However, participants may not be aware that there is insufficient liquidity at or near the NBBO to fill the entire order, particularly for more thinly-traded securities.

Prior to the launch of trading on PSX, the Exchange is proposing to implement functionality in its trading systems that would cancel any portion of unpriced orders that would execute on PSX at a price that is the greater of $0.25 or 5 percent worse than the NBBO at the time the Exchange receives the order. Unpriced orders that would be subject to this calculation and potential cancellation are defined in Phlx Rule 3301(f)(9) as "Unpriced Orders."

The following example illustrates how the Unpriced Order process would work. A market participant submits a Market Peg order to buy 500 shares. The NBBO is $6.00 bid by $6.05 offer, with 100 shares available on each side. PSX has 100 shares available at the $6.05 to sell at the offer price and also has reserve orders to sell 100 shares at $6.32 and 400 shares at

3 It should be noted that the circumstances under which it is possible to enter a market order in PSX are limited to market peg orders that are entered when PSX has some liquidity at the NBBO on the side of the market to which the order pegs.

$6.40. No other market center is publishing offers to sell the security at prices in the range of $6.05 to $6.40.

In this example, the Unpriced Order would be executed in the following manner:

- 100 shares would be executed by PSX at the $6.05;
- 100 shares would be executed by PSX at $6.32 (more than $0.25 but less than 5 percent worse than the NBBO); and
- 200 shares, representing the remainder of the Unpriced Order, would be cancelled because the remaining liquidity available at $6.40 is more than 5 percent worse than the NBBO.

The Exchange believes that market participants who wish to trade at prices further away from the NBBO than the Unpriced Order thresholds would permit, may still accomplish their strategy by submitting a marketable limit order to the Exchange. In the example above, a market participant with such a strategy could have input a limit order with a price of $7.00, which would have executed up to its full size provided liquidity is available.

The Exchange's rule change implements a rule similar to rules already in place at The NASDAQ Stock Market LLC, BATS Exchange, Inc., and NYSE Arca, Inc.[4]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general,[5] and furthers the objectives of Section 6(b)(5) of the Act in particular,[6] 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 avoiding execution of unpriced orders on the Exchange at

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4 See NASDAQ Rule 4751(f)(13); BATS Rule 11.9; NYSE Arca Equities Rule 7.31(a).

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

6 15 U.S.C. 78(b)(5).

prices that are significantly worse than the NBBO at the time the order is initially received by the Exchange. The Exchange believes that the NBBO provides reasonable guidance of the current value of a given security and therefore that market participants should have confidence that their unpriced orders will not be executed at a significantly worse price than the NBBO.

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 that is 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

Written comments were neither solicited nor 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[7] and Rule 19b-4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b-4(f)(6)[10] permits the Commission to

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7 15 U.S.C. 78s(b)(3)(A).

8 17 CFR 240.19b-4(f)(6). In addition, Phlx has given 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 on which the Exchange filed the proposed rule change.

9 17 CFR 240.19b-4(f)(6)(iii).

10 Id.

designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission notes (i) the proposal is similar to existing thresholds on market orders adopted by The NASDAQ Stock Market LLC, BATS Exchange, Inc., and NYSE Arca, Inc; (ii) it presents no novel issues; and (iii) the functionality is voluntary, and it may provide a benefit to market participants. For these reasons, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay, and hereby grants such waiver.[11]

At any time within 60 days of the filing of such 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.

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-2010-135 on the subject line.

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11 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).

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-2010-135. 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,[12] 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 the 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

12 The text of the proposed rule change is available on Exchange's website at http://nasdaqtrader.com/micro.aspx?id=PHLXfilings, on the Commission's website at http://www.sec.gov, at Phlx, and at the Commission's Public Reference Room.

to File Number SR-Phlx-2010-135 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon
Deputy Secretary

[13] 17 CFR 200.30-3(a)(12).