

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70673; File No. SR-Phlx-2013-99)

October 11, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Clarifying Rule 1014 Regarding Daily Quoting Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4² thereunder, notice is hereby given that on October 2, 2013, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, 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 is filing with the Commission a proposal to clarify that Rule 1014 (Obligations and Restrictions Applicable to Specialists and Registered Options Traders) quoting obligations remain in effect on a daily basis even though compliance with such obligations may be determined on a monthly basis.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqomxphlx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 this proposed rule change is to clarify that Rule 1014 quoting obligations remain in effect on a daily basis even though compliance with such obligations may be determined on a monthly basis.

Background

Market makers on the Exchange include Registered Options Traders (“ROTs”),³ Streaming Quote Traders (“SQTs”),⁴ Remote Streaming Quote Traders (“RSQTs”),⁵ specialists,⁶

³ An ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Rule 1014 (b)(i).

⁴ An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. See Rule 1014(b)(ii)(A).

⁵ An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Rule 1014(b)(ii)(B).

and Remote Specialists.⁷ As set forth in Rule 1014, market makers have an obligation to make two-sided markets in options products listed on the Exchange. This rule change proposal does not negate, or attempt to change, any of the existing daily market making obligations established in Rule 1014. These Rule 1014 market making obligations continue in force. This proposal only clarifies that Rule 1014 quoting obligations remain in effect on a daily basis. This has been the case prior to the recent Exchange proposal establishing that compliance with quoting obligations may be determined on a monthly basis,⁸ and remains so without change.

The daily market making obligations of market makers on the Exchange are set forth in Rule 1014. In particular, subsection (b)(ii)(D)(1) of Rule 1014 states that SQTs and RSQTs (when they do not function as Remote Specialists) shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQTs or RSQTs are assigned; provided that, on any given day, a DRSQT or DSQT shall be responsible to quote two-sided markets in

Rule 1014 also discusses other market makers including Directed SQTs and Directed RSQTs, which receive Directed Orders as defined in Rule 1080(l)(i)(A). Specialists may likewise receive Directed Orders.

⁶ A member may not act as an options specialist (to include a Remote Specialist as defined in Rule 1020(a)(ii)) in any option unless such member is registered as an options specialist in such option by the Exchange pursuant to Rule 501 and such registration may be revoked or suspended at any time by the Exchange. See Rule 1020(a)(i).

⁷ A Remote Specialist is an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501. See Rule 1020(a)(ii).

⁸ See Securities Exchange Act Release No. 67700 (August 21, 2012) 77 FR 51835 (August 27, 2012)(SR-Phlx-2012-108)(notice of filing and immediate effectiveness)(the “monthly compliance review proposal”). In the monthly compliance review proposal, the Exchange proposed in sub-sections (b)(ii)(D)(1) and (b)(ii)(D)(2) of Rule 1014 that compliance with the quoting obligation will be determined on a monthly basis. This puts the Exchange and its members on an equal footing with other options markets such as NYSE Arca (Rule 6.37B) and NYSE MKT (Rule 925.1NY) in terms of monthly compliance with the noted quoting obligations.

the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair. The sub-section states also that whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable requirements of this subparagraph (D)(1) with respect to quoting a series, an SQT, RSQT, DSQT, or DRSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. Subsection (b)(ii)(D)(2) of Rule 1014 states that a specialist (including the RSQT functioning as a Remote Specialist in particular options) shall be responsible to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such specialist is assigned. To satisfy the requirement of subsection (b)(ii)(D)(2) with respect to quoting a series, the specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.⁹

As discussed, subsections (b)(ii)(D)(1) and (b)(ii)(D)(2) of Rule 1014 currently state that compliance with quoting obligations may be determined on a monthly basis. To make it clear that daily quoting obligations remain, however, the Exchange is adding language to these subsections to state that determining compliance with the continuous quoting requirement on a monthly basis does not relieve market makers of their obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against

⁹ For all market making obligations, see Rule 1014(b)(ii)(D).

market makers for failing to meet the continuous quoting obligation each trading day. Compliance on a monthly basis allows the Exchange to review the market makers' daily compliance in the aggregate and determine the appropriate disciplinary action for single or multiple failures to comply with the continuous quoting requirement during the month period.

This proposal clarifies that daily quoting requirements for market makers per Rule 1014 as specified remain the same and are not changed.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ 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. The Exchange would do this through a proposed rule change clarifying that daily quoting requirements pursuant to Rule 1014 are not changed by the monthly compliance review proposal, and remain the same, to the benefit of market participants.

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. The Exchange does not believe that this proposal should have any competitive impact because the Exchange's rules as noted are similar to those of other options exchanges.

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.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)¹² of the Act and Rule 19b-4(f)(6)(iii) thereunder¹³ because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 satisfied this requirement.

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-99 on the subject line.

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-2013-99. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 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 to File Number SR-Phlx-2013-99 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).