SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63692; File No. SR-Phlx-2010-163)

January 11, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Relating to Obvious Errors Respecting Complex Trades

On November 17, 2010, NASDAQ OMX PHLX LLC ("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")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Rule 1092, Obvious Errors and Catastrophic Errors, to address obvious and catastrophic errors involving complex orders. The proposed rule change was published for comment in the Federal Register on December 1, 2010.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The proposed rule change would amend Rule 1092, Obvious Errors and Catastrophic Errors, to address obvious and catastrophic errors involving trades of one complex order against another complex order. Specifically, the proposal is designed to address a situation in which one component (or leg) of a complex order is deemed an obvious (or catastrophic) error, but the other component(s) are not. In such situation, the proposed rule change would permit all legs of a complex order execution to be nullified when one leg of such complex order can be nullified as an obvious or catastrophic error under Rule 1092,[4] provided that the execution involved a

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

2 17 CFR 240.19b-4.

3 Securities Exchange Act Release No. 63367 (November 23, 2010), 75 FR 74755 ("Notice").

4 Rule 1092 provides a framework for reviewing the price of a transaction to determine whether that price was an "obvious error" pursuant to objective standards. When a participant believes he/she received one or more executions at an erroneous price, a participant may notify the Options Exchange Officials ("OEOs") and request the review

complex order executing against another complex order (such that all of the same parties are involved in the trade).[5] The proposed rule does not address complex orders that do not trade against other complex orders.

In addition, the proposal would make three minor corrections: (i) a reference in Rule 1092(b)(ii) to Rule 1014(c)(1)(A)(i)(a) is inverted and should instead say Rule 1014(c)(i)(A)(1)(a); (ii) the words "obvious error" in Rule 1092(e)(i)(B) are being capitalized to match the rest of the rule; and (iii) a reference to "AUTOM" in Rule 1092(e)(ii) is outdated and will be deleted, leaving reference to the "Help Desk."

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 exchange[6] and, in particular, the requirements of Section 6(b) of the Act[7] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with

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of a trade as a possible obvious error. An obvious error will be deemed to have occurred when the execution price of a transaction is higher or lower than the theoretical price for a series by a certain amount depending on the type of option. OEOs use one of three criteria when determining the theoretical price of an options execution, which are enumerated in Rule 1092(b). The theoretical price is then compared to an obvious/catastrophic error chart within Rule 1092(a). If the transaction price meets this threshold, the transaction may be adjusted or nullified.

5 See proposed Rule 1092(c)(v)(A). This would occur when a complex order executes against another complex order, with each piece executing through the System against each other. The Notice provides the following example of such a trade. Assume a customer trades a call spread at a net price of $0.50 by buying the January 50 calls at $3.00 and selling the January 55 calls at $2.50. If the January 50 calls should have been trading at $7.00 and thus met the obvious error threshold in Rule 1092, then the entire complex trade would be nullified only if the January 50 and 55 calls traded as a complex order against another complex order, rather than as two separate trades. Currently, the trade involving the January 50 calls is nullified and the January 55 Calls trade would stand, which, according to the Exchange, likely was not intended by either party.

6 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).

7 15 U.S.C. 78f(b).

Section 6(b)(5) of the Act,[8] in that the proposal is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that, in approving proposals relating to adjustment or nullification of trades involving obvious errors, it has stated that the determination of whether an obvious error has occurred and the process for reviewing such a determination should be based on specific and objective criteria and subject to specific and objective procedures.[9] The Commission notes that the proposed change to Rule 1092 provides specific and objective procedures for determining whether a trade should be nullified. The purpose of the new provision is to provide that obvious and catastrophic errors related to complex orders that trade against other complex orders will be nullified. The Commission also notes that the proposed rule change, by providing that obvious and catastrophic errors related to complex orders that trade against other complex orders will be nullified, is designed to mitigate the risk to both parties to a complex order trade involving two complex orders, neither or whom, according to the Exchange, intended to end up with just one piece of the complex order.[10] Therefore, the Commission believes that the proposed rule change is consistent with the Act.

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8 15 U.S.C. 78f(b)(5).

9 See, e.g., Securities Exchange Release Nos. 58778 (October 14, 2008), 73 FR 62577 (October 21, 2008) and 54228 (July 27, 2006), 71 FR 44066 (August 3, 2006) (SR-CBOE-2006-14) (approving revisions to CBOE's Obvious Error Rules).

10 See Notice, supra note 3.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR-Phlx-2010-163) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy
Secretary

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11 15 U.S.C. 78s(b)(2).

12 17 CFR 200.30-3(a)(12).