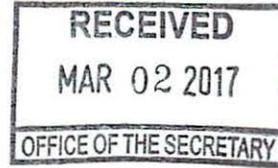


4-708

Secretary
Securities & Exchange Commission



Petition for Rule Change. Rule 1092(b)3 of PHLX Stock Exchange

The obvious error rulings of the NASD defines an erroneous buy/sell transaction. "For the purpose of this rule an error sell transaction is one in which the price received by the person selling the option is erroneously low, an erroneous buy transaction is one in which the price paid by the person is erroneous high"

The rule goes on to say that the "theoretical value" of the option shall be determined if an obvious error occurred. There is an exception to this rule in (b)3 which refers to "Wide Quotes".

(3) Wide Quotes. The Exchange will determine the Theoretical Price if the bid/ask differential of the of the NBB and NBO for the affected series just prior to the erroneous transaction was equal to or greater than the Minimum Amount set forth below and there was a bid ask differential less than the Minimum Amount during the 10 seconds prior to the transaction. If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction then the Theoretical Price of an option series is the last NBB or NBO just prior to the transaction in question, as set for in paragraph (b) above.

Since there was no change in the quotation for the 10 seconds prior to my transaction, the theoretical value of my trade was the NBO price of \$4.70 which has no correlation to reality. Please review the sequence of events that occurred that you will find in the attached document. This rule appears to protect the market maker members of the PHLX Exchange and does nothing for the interests of the public customer.

I petition the SEC to remove the wide quote section of the rule or amend it so that fairness is available to all parties.


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On November 15, 2016 I entered an order to buy 20 call options of UVXY2 28 strike which were do to expire on December 16, 2016. I had been entering the same order daily for several weeks at a limit price of \$0.01. On this day however, I inadvertently sent the order before entering the limit and the order was filled at a price of \$4.70. At the exact same time of this execution at \$4.70, the UVXY2 call with a strike price of 16 and the same expiration date was offered at \$0.10. Therefore my fill at \$4.70 was an obvious error.

I immediately alerted my broker and he sent an error report to the PHLX Exchange which they received within six minutes of the erroneous transaction. A short time later my broker received a verbal communication from the exchange stating that the trade would stand. All three market makers who filled the order refused to break the trade or adjust the execution price. To reach their decision concerning relief from this catastrophic error the exchange noted PHLX rule 1092(b) (3). This rule states that errors labeled obvious should be looked at by using the theoretical value of the option. The theoretical value of the option was approximately zero to 2 cents. However there is an exception to this rule. If the quotation for the option did not change for 10 seconds prior to the execution, the theoretical value will be the ask price (\$4.70) and not the value as otherwise defined in the rules.

Applying the rule exception in this case appears to be unjust and exclusively protects the market makers, putting the public customer at a distinct disadvantage. Common sense and logic would not let a rational person buy a call option that is higher than the underlying security.

The average price for UVXY on November 15, 2016 , adjusted for a 5-1 reverse split in July 2016 was \$2.83. No one would pay \$4.70 for the right to buy UVXY at \$28 per share with the underlying stock at \$2.83. This is a very obvious error, which was promptly reported and I am dismayed by the exchange ruling.

Indeed it seems unconscionable that market makers would be allowed to follow through on an error that no mentally competent person would enter into and that no fair and honest person would accept. The \$4.70 price was 470 times the theoretical value.

Rule 707 requires the fair and equitable practices of trade. How can something so egregious, which was promptly reported, be held against a customer? I am hopeful that you can provide some insight into how the regulations would permit market makers to benefit from such an obvious error. It seems the integrity of the exchange and the entire industry is affected when something this obvious has such an unconscionable result.

Martin Feins