

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61095; File No. SR-Phlx-2009-99)

December 2, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Regarding the Obligations of Streaming Quote Traders

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 November 25, 2009, NASDAQ OMX PHLX, Inc. (“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 amend its Rule 1014 (Obligations and Restrictions Applicable to Specialists and Registered Options Traders) to indicate that certain market makers on the Exchange, specifically Streaming Quote Traders, Remote Streaming Quote Traders, Directed Streaming Quote Traders, and Directed Remote Streaming Quote Traders, will be deemed not to be assigned in Quarterly Option Series and adjusted option series.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, 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 the proposal is to amend Rule 1014 to indicate that certain market makers on the Exchange, specifically Streaming Quote Traders, Remote Streaming Quote Traders, Directed Streaming Quote Traders, and Directed Remote Streaming Quote Traders, will [sic] deemed not to be assigned in Quarterly Option Series and adjusted option series; and to propose a definition of adjusted options series.

Rule 1014 discusses the obligations and restrictions that are applicable to specialists and Registered Option Traders (“ROT’s”). ROT’s are market makers on the Exchange that include Streaming Quote Traders (“SQT’s”);³ Remote Streaming Quote Traders (“RSQT’s”);⁴ and

³ An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in eligible 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). See also Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32)(approval order regarding enhancements to opening, linkage and routing, quoting, and order management processes in the Exchange’s electronic options order entry, trading, and execution system PHLX XL II).

⁴ 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 eligible options to which such RSQT has been

Directed Streaming Quote Traders (“DSQTs”) and Directed Remote Streaming Quote Traders⁵ (“DRSQTs”)(together the “Streaming Quote Traders”). Rule 1014 states that, in addition to other requirements, on a daily basis Streaming Quote Traders are responsible to quote two-sided markets in not less than a specified percentage of options assigned by the Exchange at the request of such Streaming Quote Traders, unless specifically exempted from such quoting responsibility.⁶ This exemption from quoting responsibilities, which is in Rule 1014(b)(ii)(D)(4), currently states that Streaming Quote Traders are deemed not to be assigned, and as such do not have quoting responsibilities, in options series with an expiration of nine months or greater (the “Exemption”).

The Exchange hereby proposes to amend the Exemption. Specifically, the Exchange proposes to incorporate into the Exemption two additional types of options series: Quarterly

assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Rule 1014(b)(ii)(B).

⁵ A DSQT is an SQT and a DRSQT is an RSQT that receives a Directed Order. Exchange Rule 1080(l)(i)(A) defines Directed Order as any customer order (other than a stop or stop-limit order as defined in Rule 1066) to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Provider and delivered to the Exchange via its electronic quoting, execution and trading system.

⁶ Rule 1014(b)(ii)(D) states in part: (1) In addition to the other requirements for ROTs set forth in this Rule 1014, except as provided in sub-paragraph (4) below, an SQT and an RSQT shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQT or RSQT is assigned, provided that, on any given day, a Directed SQT ("DSQT") or a Directed RSQT ("DRSQT") (as defined in Rule 1080(l)(i)(C)) shall be responsible to quote two-sided markets in 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, in each case in at least 60% of the options in which such DSQT or DRSQT is assigned. 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.

Option Series⁷ and adjusted option series.⁸ As a result, Streaming Quote Traders would not be assigned in and would not have quoting obligations in respect of options that are longer than [sic] nine months in length, Quarterly Option Series, and adjusted option series.

The Exchange has recently noticed a reduction in liquidity in certain options classes that include adjusted option series and Quarterly Options Series, emanating from withdrawals from assignments in these classes. Streaming Quote Traders that have withdrawn from assignments in these classes have informed the Exchange that the withdrawals were based in part on the obligation to continuously quote adjusted options series and Quarterly Option Series, whereby the quoting obligations on these often less frequently traded option series impacted the risk parameters acceptable to the Streaming Quote Traders. By withdrawing from assignments, liquidity (as well as volume) has been negatively impacted in the affected options classes listed on the Exchange. The Exchange believes that its rule change proposal will ameliorate the liquidity impact by allowing Streaming Quote Traders to continue assignment in option classes.⁹

The Exchange believes that the proposed rule change should incentivize Streaming Quote Traders to continue assignments and thereby expand liquidity in options classes listed on the Exchange to the benefit of the Exchange and its members and public customers.

2. Statutory Basis

⁷ Quarterly Options Series (“QOS”) are series in an options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and expires at the close of business on the last business day of a calendar quarter. See Rule 1000(b)43. QOS are traded pursuant to the QOS Program set forth in Commentary .08 to Rule 1012 and Rule 1101A(b)(v).

⁸ For purposes of the Exemption, an adjusted option series is defined as an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares. See Rule 1014(b)(ii)(D)(4).

⁹ In that Streaming Quote Traders would not be deemed to be assigned in QOS and adjusted options series, they also would not enjoy any benefits stemming from being assigned in these series.

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 prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the proposal to exempt Quarterly Option Series and adjusted option series from assignments will enhance liquidity in assigned option classes.

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

No written comments were either solicited or received.

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) thereunder,¹³ 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)

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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-2009-99 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-2009-99. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

¹⁴ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of 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.

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, 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 to File Number SR-Phlx-2009-99 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.¹⁵

Florence E. Harmon
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).