



## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-74627; File No. SR-Phlx-2015-30)

April 1, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Section (a)(iv) of Rule 703, Financial Responsibility and Reporting

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 23, 2015, 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 substantially 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 section (a)(iv) of Rule 703, Financial Responsibility and Reporting, as described below.<sup>3</sup>

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

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<sup>1</sup> See 15 U.S.C. 78s(b)(1).

<sup>2</sup> See 17 CFR 240.19b-4.

<sup>3</sup> A Registered Options Trader or 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 Exchange Rule 1014(b)(i).

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**Rule 703. Financial Responsibility and Reporting**

(a) Financial Responsibility Standards.—Each member organization effecting securities transactions shall comply with the capital requirements set forth below:

(i) each member organization subject to SEC rule 15c3-1 shall at all times comply with said rule and the notification provisions of SEC rule 17a-11;

(ii) each member organization exempt from SEC rule 15c3-1 shall, at the time of its admission to the Exchange, have a minimum of \$25,000 in net liquid assets;

(iii) each member organization or foreign currency options participant organization exempt from SEC Rule 15c3-1 and whose principal business is as a registered options trader on the Exchange, shall, subject to subparagraph (iv) below, at all times maintain a minimum of \$25,000 in net liquid assets;

(iv) each member organization referred to in paragraph (iii) above shall at all times maintain positive net liquid assets and, in its clearing account(s), positive equity, provided that said organization has filed with the Exchange a letter of guarantee issued on its behalf by a clearing member organization of this Exchange which is also a clearing member of the Options Clearing Corporation. In said letter the clearing member organization guarantees the financial responsibilities of said organization for all transactions and balances carried and cleared in the

clearing account(s). [Such guarantee shall remain in effect until the Exchange receives from the clearing member organization written notice of its intent to cancel its guarantee. Written notice of such cancellation received by the Exchange at least one-half hour before the normal opening of trading shall take effect on the day of receipt; written notice received less than one-half hour before the opening of trading shall take effect on the opening of the business day following Exchange receipt.] Such letter of guarantee filed with the Exchange shall remain in effect until a written notice of revocation has been filed with the Exchange by the clearing member organization. A revocation shall in no way relieve a clearing member organization of responsibility for transactions guaranteed prior to the effective date of such revocation.

(v) – (viii) No change.

(b) – (f) No change.

\* \* \* Commentary No change.

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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 II.A., II.B., and II.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 proposed rule change is to modernize the Exchange's rules regarding the termination of letters of guarantee provided by clearing member organizations which guarantee the financial responsibilities of non-clearing member organizations. The proposal would permit clearing member organizations to terminate letters of guarantee which guarantee the financial responsibilities of non-clearing member organizations on an intraday basis. The amendment would conform this aspect of Rule 703 to the Letter of Guarantee termination provisions of the NASDAQ Options Market ("NOM") and NASDAQ OMX BX, Inc. ("BX") rules.<sup>4</sup>

Currently, Rule 703(a)(iv) provides that a clearing member guarantee remains in effect until the Exchange receives from the clearing member organization written notice of its intent to cancel its guarantee. It further provides that written notice of such cancellation received by the Exchange at least one-half hour before the normal opening of trading shall take effect on the day of receipt, except that written notice received less

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<sup>4</sup> Chapter VII, Section 8(c) of the BX Rules provides in relevant part that "[a] Letter of Guarantee filed with BX Regulation shall remain in effect until a written notice of revocation has been filed with BX Regulation by the Guarantor Clearing Participant." Chapter VII, Section 8(c) of the NOM rules is nearly identical, stating that "[a] Letter of Guarantee filed with Nasdaq Regulation shall remain in effect until a written notice of revocation has been filed with Nasdaq Regulation by the Guarantor Clearing Participant." The BX and NOM rules also state, like the Phlx proposal, that a revocation shall in no way relieve the issuer of responsibility for transactions guaranteed prior to the effective date of such revocation.

than one-half hour before the opening of trading shall take effect only on the opening of the business day following Exchange receipt. Consequently, a guaranteeing clearing member organization concerned about its guaranteed member organization's credit is unable to terminate its guarantee on an intraday basis.

The proposed amendment to Rule 703(a)(iv) would enable the guaranteeing clearing member organization to terminate the guarantee during the trading day, avoiding financial responsibility for trades that would otherwise have occurred during the rest of the day for which the guaranteeing member would, under the current rule, remain financially responsible. As stated above, the change would conform the Phlx rule to the NOM and BX rules which permit revocation of a Letter of Guarantee to take effect upon filing of a written notice of revocation, which permits termination to become effective without waiting until the next trading day. The Exchange will terminate the registered options trader's access to trading as soon as it processes the withdrawn guarantee. Clearing member organizations will therefore be able to react more quickly under the amended rule to any potential rapid deterioration in the guaranteed entity's condition.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</sup> 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, by permitting clearing member

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<sup>5</sup> See 15 U.S.C. 78f(b).

<sup>6</sup> See 15 U.S.C. 78f(b)(5).

organizations to revoke letters of guarantee effective upon filing written notice of revocation with the Exchange. The proposal should encourage additional clearing member organizations to consider issuing letters of guarantee, knowing they may revoke the guarantee more quickly upon an adverse change in the guaranteed entity's circumstances than is currently permitted under Rule 703(a)(iv).

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 because the proposed change would apply to all issuers of clearing member guarantees equally and because it would also apply equally to all guaranteed entities whose guarantees are revoked under Rule 703(a)(iv).

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

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, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

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<sup>7</sup> See 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>8</sup> See 17 CFR 240.19b-4(f)(6). 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

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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2015-30 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2015-30. 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

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the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

will post all comments on the Commission's Internet website

(<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 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 to File Number SR-Phlx-2015-30 and should be submitted on or before [INSERT DATE 21 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Brent J. Fields,  
Secretary.

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<sup>9</sup> See 17 CFR 200.30-3(a)(12).