

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

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹¹ However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹² The Exchange has requested that the Commission waive the 30-day operative delay. The Commission notes that Phlx's proposal is substantially similar to the rules of other national securities exchanges and does not raise any new substantive issues. In addition, Phlx notes that other exchanges open their markets for entry of orders prior to 9 a.m.,¹³ and, in order to be competitive, the Exchange would like to extend the same opportunity to its market participants. The Exchange would like to implement this proposed rule on December 13, 2010. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposal operative upon filing.¹⁴

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 necessary or appropriate in the public interest, for the protection of investors, or 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. Please include File Number SR-Phlx-2010-172 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-2010-172. 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 Web site 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 a.m. and 3 p.m. Copies of such 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-2010-172 and should be submitted on or before January 5, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63491; File No. SR-Phlx-2010-173]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of Amendments to the Clearly Erroneous Transactions Rule

December 9, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 6, 2010, NASDAQ OMX PHLX LLC ("Exchange"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 the Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of recent amendments to Rule 3312, concerning clearly erroneous transactions, so that the pilot will now expire on April 11, 2011.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com>, at the principal office of the Exchange, at the Commission's Public Reference Room, and at <http://www.sec.gov>.

The text of the proposed rule change is below. Proposed new language is

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 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 the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² *Id.*

¹³ See The NASDAQ Stock Market LLC Rule 4617 (opens at 7 a.m. EST). See also NASDAQ OMX BX Rule 4617 (opens at 8 a.m. EST), and NYSE Arca Equities Rule 7.34 (opens at 1 a.m. Pacific Time).

¹⁴ For the purposes only of waiving the 30-day operative delay, the Commission has considered the

proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

italicized; proposed deletions are in brackets.

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Rule 3312. Clearly Erroneous Transactions

The provisions of paragraphs (a)(2)(C), (b), and (c)(1) of this Rule, as amended by SR-Phlx-2010-125, shall be in effect during a pilot period set to end on *April 11, 2011* [December 10, 2010]. If the pilot is not either extended or approved permanent by *April 11, 2011* [December 10, 2010], the prior versions of paragraphs (a)(2)(C), (b), and (c)(1) shall be in effect. (a)-(f) 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 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

On September 10, 2010, the Commission approved, for a pilot period to end December 10, 2010, a proposed rule change submitted by the BATS Exchange, Inc., NASDAQ OMX BX, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Amex LLC, NYSE Arca, Inc., and National Stock Exchange, Inc. (collectively, the "Exchanges"), to amend certain of their respective rules to set forth clearer standards and curtail discretion with respect to breaking erroneous trades.³ The changes were adopted to address concerns that the lack of clear guidelines for dealing with clearly erroneous transactions may have added to the confusion and uncertainty faced by investors on May 6, 2010. In connection with its resumption of trading of NMS Stocks through PSX, the

Exchange amended Rule 3312 to conform it to the newly-adopted changes to the Exchanges' clearly erroneous rules, so that it could participate in the pilot program.⁴

The Exchange believes that the pilot program has been successful in providing greater transparency and certainty to the process of breaking erroneous trades. The Exchange also believes that a four month extension of the pilot is warranted so that it may continue to monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),⁵ which requires the rules of an exchange 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 proposed rule change also is designed to support the principles of Section 11A(a)(1)⁶ of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to break erroneous trades.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor 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) of the Act⁷ and Rule 19b-4(f)(6)(iii) thereunder.⁸ The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the pilot program to continue uninterrupted and help ensure uniformity among the national securities exchanges and FINRA with respect to the treatment of clearly erroneous transactions.⁹ Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing with the Commission.

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 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-2010-173 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³ Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010).

⁴ Securities Exchange Act Release No. 63023 (September 30, 2010), 75 FR 61802 (October 6, 2010).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78k-1(a)(1).

100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2010–173. 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 Web site 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 a.m. and 3 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR–PHLX–2010–173 and should be submitted on or before January 5, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010–31453 Filed 12–14–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63490; File No. SR–BX–2010–086]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of Amendments to the Clearly Erroneous Transactions Rule

December 9, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on December 6, 2010, NASDAQ OMX BX, Inc. (“Exchange”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 the Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of recent amendments to Rule 11890, concerning clearly erroneous transactions, so that the pilot will now expire on April 11, 2011.

The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com>, at the Exchange's principal office, at <http://www.sec.gov>, and at the Commission's Public Reference Room.

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

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11890. Clearly Erroneous Transactions

The provisions of paragraphs (C), (c)(1), (b)(i), and (b)(ii) of this Rule, as amended on September 10, 2010, shall be in effect during a pilot period set to end on *April 11, 2011* [December 10, 2010]. If the pilot is not either extended or approved permanent by *April 11, 2011* [December 10, 2010], the prior versions of paragraphs (C), (c)(1), and (b) shall be in effect.

(a)–(f) 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 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

On September 10, 2010, the Commission approved, for a pilot period to end December 10, 2010, a proposed rule change submitted by the Exchange, together with related rule changes of the BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Amex LLC, NYSE Arca, Inc., and National Stock Exchange, Inc., to amend certain of their respective rules to set forth clearer standards and curtail discretion with respect to breaking erroneous trades.³ The changes were adopted to address concerns that the lack of clear guidelines for dealing with clearly erroneous transactions may have added to the confusion and uncertainty faced by investors on May 6, 2010.

The Exchange believes that the pilot program has been successful in providing greater transparency and certainty to the process of breaking erroneous trades. The Exchange also believes that a four month extension of the pilot is warranted so that it may continue to monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the “Act”),⁴ which requires the rules of an exchange 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 proposed rule change also is designed to support the principles of Section 11A(a)(1)⁵ of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to break erroneous trades.

³ Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78k–1(a)(1).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

¹⁰ 17 CFR 200.30–3(a)(12).