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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66880; File No. SR-ISE-2012-16]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change Relating to Procedures for Executing the Stock Leg(s) of Stock-Option Orders

April 30, 2012.

#### I. Introduction

On February 29, 2012, the International Securities Exchange, LLC ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend ISE Rule 722, "Complex Orders," to modify its procedures for executing the stock leg(s) of stock-option orders. The proposed rule change was published for comment in the *Federal Register* on March 19, 2012.<sup>3</sup> The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

#### II. Description of the Proposal

Currently, ISE Rule 722, Supplementary Material .02 allows ISE members to elect to have ISE

electronically transmit the stock leg(s) of a stock-option transaction to a designated broker-dealer for execution. To participate in this automated process, ISE members must enter into a brokerage agreement with the designated broker-dealer.<sup>4</sup> Members must enter into a brokerage agreement with ISE's designated broker-dealer to ensure that there is at least one common available broker-dealer through which the matched stock leg(s) of a stock-option transaction may be executed.<sup>5</sup>

The proposal would allow ISE members to enter into brokerage agreements with one or more additional broker-dealers to which ISE will be able to route stock orders.<sup>6</sup> ISE will automatically transmit the stock leg(s) of a stock-option trade on behalf of a member to one or more broker-dealer(s) with which the member has an agreement for execution, using routing logic that considers objective factors such as execution cost, speed of execution, and fill rates.<sup>7</sup> Members may indicate preferred execution brokers, and these preferences will determine order routing priority whenever possible.<sup>8</sup> ISE will have no financial arrangements with the brokers with respect to routing stock orders to them,<sup>9</sup> and ISE receives no fees related to the stock portion of a stock-option trade.<sup>10</sup> As is the case currently, after ISE routes the stock leg(s) of a stock-option trade to a broker-dealer for execution, the broker-dealer will be responsible for determining whether the orders may be executed in accordance with applicable rules, including the Regulation NMS trade-through rules.<sup>11</sup>

The proposal eliminates the manual process for executing the stock leg(s) of stock-option orders. ISE believes that it

<sup>4</sup> ISE members also may choose to execute the stock leg(s) of a stock-option trade manually, by transmitting the stock leg(s) to a non-ISE market for execution.

<sup>5</sup> See Notice, 77 FR at 16107. ISE is not able to execute the stock leg(s) of a stock-option transaction unless both members on the trade have a brokerage agreement with the broker-dealer to which the stock leg(s) are routed. See Notice, 77 FR at footnote 3.

<sup>6</sup> See ISE Rule 722, Supplementary Material .02.

<sup>7</sup> See *id.* ISE's routing logic will route the stock leg(s) only to a broker-dealer with which a member has a brokerage agreement. See Notice, 77 FR at 16107.

<sup>8</sup> See ISE Rule 722, Supplementary Material .02.

<sup>9</sup> See *id.*

<sup>10</sup> See Notice, 77 FR at 16107.

<sup>11</sup> See Notice, 77 FR at 16107. See also Securities Exchange Act Release No. 49251 (February 13, 2004), 69 FR 8252 (February 23, 2004) (File No. SR-ISE-2003-37) (stating that the designated broker-dealer will be responsible for determining whether the stock leg(s) of a stock-option transaction may be executed in accordance with all of the rules applicable to the execution of equity orders, including compliance with applicable short sale, trade-through, and trade reporting rules).

is fair, reasonable, and not discriminatory to eliminate the manual procedure for executing the stock leg(s) of stock option orders because, according to ISE, there is no demand from ISE members for the manual execution alternative.<sup>12</sup>

#### III. Discussion and Commission's Findings

After careful review, 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.<sup>13</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 Commission believes that the proposal should enhance the processing of stock-option orders by facilitating the automated processing of the stock component of a stock-option transaction. In addition, the Commission notes that other options exchanges have adopted similar requirements in connection with the processing of stock-option orders.<sup>15</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that the proposed rule change (SR-ISE-2012-16) is approved.

<sup>12</sup> See Notice, 77 FR at 16107.

<sup>13</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See C2 Rule 6.13, Interpretation and Policy .06(a) (requiring Permit Holders to enter into a brokerage agreement with one or more designated broker-dealers to participate in stock-option order automated processing). See also CBOE Rule 6.53C, Interpretation and Policy .06(a) (requiring Trading Permit Holders to enter into a brokerage agreement with one or more designated dealers to participate in stock-option order automated processing); and Phlx Rule 1080, Commentary .08(a)(i) (to trade Complex Orders with a stock/ETF component, members of FINRA or Nasdaq must have a Uniform Service Bureau/Executing Broker Agreement with Nasdaq Options Services LLC ("NOS"), the exchange's designated broker-dealer; firms that are not members of FINRA or Nasdaq must have a Qualified Special Representative arrangement with NOS).

<sup>16</sup> 15 U.S.C. 78s(b)(2).

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

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 66582 (March 13, 2012), 77 FR 16106 ("Notice").

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2012-10753 Filed 5-3-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66883; File No. SR-Phlx-2012-54]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Complex Order Fees for Removing Liquidity in Select Symbols

April 30, 2012.

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 April 23, 2012, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("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 proposes to replace a portion of a previously filed rule change. Specifically, PHLX is replacing SR-Phlx-2012-27,<sup>3</sup> which amended

Section I of the Exchange's Pricing Schedule titled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols," with this filing which provides additional information concerning the current Complex Order Directed Participant and Market Maker Fees for Removing Liquidity in Select Symbols. Those fees became effective on March 1, 2012 pursuant to SR-Phlx-2012-27, and they will remain in effect, unchanged by this filing.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqtrader.com/micro.aspx?id=PHLXfilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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

This rule change seeks to replace a portion of SR-Phlx-2012-27 to provide

additional information concerning the Directed Participant and Market Maker Fees for Removing Liquidity in Complex Orders.<sup>4</sup> The Exchange filed SR-Phlx-2012-27 in order to attract additional Customer Complex Orders from competing exchanges because increased order flow benefits all market participants and investors that trade on the Exchange. This filing maintains the fees adopted in SR-Phlx-2012-27 related to Directed Participants and Market Makers because the evidence (set forth below) demonstrates that while those fees have been in effect, since March 1, 2012 to the present, the Exchange has experienced increased Customer order flow. The Exchange continues to believe such Customer order flow will encourage Market Makers to compete more aggressively to trade against that order flow.

Specifically, the Exchange amended certain fees in Section I of the Exchange's Pricing Schedule, entitled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols."<sup>5</sup> The Directed Participant Complex Order Fee for Removing Liquidity was increased from \$0.30 per contract to \$0.32 per contract and the Market Maker Complex Order Fee for Removing Liquidity was increased from \$0.32 per contract to \$0.37 per contract. Today, the Complex Order Fees for Removing Liquidity are as follows:

	Customer	Directed participant	Market maker	Firm	Broker-dealer	Professional
Fee for Removing Liquidity .....	\$0.00	\$0.32	\$0.37	\$0.38	\$0.38	\$0.38

The Exchange is not amending any of these prices in this proposal. Rather, this proposal is intended to justify further the differential between the fees paid by different participants that trade Complex Orders. Specifically, the filing addresses the Directed Participant

Complex Order Fee for Removing Liquidity, which was increased from \$0.30 per contract to \$0.32 per contract, and the Market Maker Complex Order Fee for Removing Liquidity, which was increased from \$0.32 per contract to \$0.37 per contract.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it is an equitable

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

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

<sup>3</sup> See Securities Exchange Act Release No. 66551 (March 9, 2012), 77 FR 15400 (March 15, 2012) (SR-Phlx-2012-27). This rule proposal amended the Customer Complex Order Rebate to Add Liquidity, adopted a new category of Complex Order "Rebate to Remove Liquidity," amended various Complex Order Fees for Removing Liquidity and created a volume tier for certain market participants that

transact significant volumes of Complex Orders. These fees became effective on March 1, 2012. The Exchange does not intend to amend any pricing changes that became effective in SR-Phlx-2012-27.

<sup>4</sup> A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a

Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund ("ETF") coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i).

<sup>5</sup> The Select Symbols are listed in Section I of the Pricing Schedule.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).