

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62027; File No. SR-ISE-2010-28]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Stopped Orders

May 4, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 28, 2010, International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "SEC" or the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 implement the trade-through exception for stopped orders contained in ISE Rule 1901(b)(8). The text of the rule amendment is as follows (additions are in *italics*):

##### Rule 715. Types of Orders

(a) no change.

(b) Limit Orders. A limit order is an order to buy or sell a stated number of options contracts at a specified price or better.

(1) through (5) no change.

(6) *Stopped Order. A stopped order is a limit order that meets the requirements of Rule 1901(b)(8). To execute stopped orders, Members must enter them into the Facilitation Mechanism or Solicited Order Mechanism pursuant to Rule 716.*

(c) through (l) no change.

Supplementary Material to Rule 715  
.01 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 self-regulatory organization 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 self-regulatory organization 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 August 21, 2009, the Commission approved changes to the Exchange's rules related to intermarket linkage. These rules provide, among other things, that transactions not be executed at prices that are inferior to the national best bid or offer (the "trade-through rule"). ISE Rule 1901 (Order Protection) contains several exceptions to the trade-through rule, including an exception for stopped orders. A stopped order is defined as an order for which, at the time of receipt of the order, a member had guaranteed an execution at no worse than a specified price, where: (i) The stopped order was for the account of a Customer; (ii) the Customer agreed to the specified price on an order-by-order basis; and (iii) the price of the Trade-Through was, for a stopped buy order, lower than the national Best Bid in the options series at the time of execution, or, for a stopped sell order, higher than the national Best Offer in the options series at the time of execution.

In order for members to execute trades that qualify for the trade-through exception for stopped order,<sup>3</sup> they must indicate on the order that the order was stopped and enter the order into the Facilitation Mechanism or Solicited Order Mechanism pursuant to Rule 716. While stopped orders will continue to be executed at prices that are at or between the ISE BBO, such orders may receive executions that trade through prices available on other exchanges as permitted by ISE Rule 1901(b)(8).

###### 2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market

and a national market system, and in general, to protect investors and the public interest. In particular, the proposal will provide a means by which members execute orders on the ISE that qualify for the previously approved exception to the trade-through rule.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

#### 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 Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder.<sup>5</sup>

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:

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6). 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 text of the proposed rule change, or such shorter time as designated by the Commission. The Exchange provided a copy of this rule filing to the Commission at least five business days prior to the date of this filing.

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

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

<sup>3</sup> The Exchange will surveil for compliance with the terms of the exception. Members must be able to demonstrate compliance with all of the terms of the stopped-order exception. In this respect, the Exchange requests that members indicate the time that the order was stopped on the order ticket.

*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-ISE-2010-28 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-ISE-2010-28. 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 the filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2010-28 and should be submitted on or before June 1, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62009; File No. SR-Phlx-2010-64]

**Self-Regulatory Organizations;  
NASDAQ OMX PHLX, Inc.; Notice of  
Filing and Immediate Effectiveness of  
a Proposed Rule Change Relating to  
Rebates for Adding and Fees for  
Removing Liquidity**

April 30, 2010.

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 26, 2010, NASDAQ OMX PHLX, Inc. ("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. Phlx has designated this proposal as one establishing or changing a member due, fee, or other charge imposed under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 the Exchange's Fee Schedule to increase the number of options to be included in the Exchange's current schedule of transaction rebates for adding, and fees for removing, liquidity.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions settling on or after May 3, 2010.

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, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

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

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

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

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

**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 Exchange proposes to increase liquidity and to attract order flow by increasing the number of options to be included in the Exchange's current schedule of rebates for adding liquidity, and fees for removing liquidity.

Specifically, the Exchange proposes to add the following options: Brocade Communications Systems, Inc. ("BRCD"); International Business Machines Corp., ("IBM"); Nokia Corp. ("NOK"); Sirius XM Radio, Inc. ("SIRI"); and Direxion Daily Small Cap Bear 3X Shares ("TZA") collectively ("the options"). The options would be subject to the rebates for adding and fees for removing liquidity.

The Exchange currently assesses a per-contract transaction charge in various select symbols<sup>5</sup> (the "select Symbols") on six different categories of market participants that submit orders and/or quotes that remove, or "take," liquidity from the Exchange: (i) Specialists, Registered Options Traders ("ROT's"), Streaming Quote Traders ("SQT's")<sup>6</sup> and Remote Streaming Quote

<sup>5</sup> The fees and rebates for adding and removing liquidity are applicable to executions in options overlying AA, AAPL, AIG, ALL, AMD, AMR, AMZN, BAC, C, CAT, CSCO, DELL, DIA, DRY, EK, F, FAS, FAZ, GDX, GE, GLD, GS, INTC, IWM, JPM, LVS, MGM, MSFT, MU, NEM, PALM, PFE, POT, QCOM, QQQQ, RIMM, SBUX, SKF, SLV, SMH, SNDK, SPY, T, UAU, UNG, USO, UYG, VZ, WYNN, X and XLF ("Symbols").

<sup>6</sup> An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. See Exchange Rule 1014(b)(ii)(A).

<sup>6</sup> 17 CFR 200.30-3(a)(12).