

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

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64419; File No. SR-Phlx-2011-64]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Amend Rule 3100(a)(4) To Include Additional Securities in the Pilot by Which Such Rule Operates

May 6, 2011.

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 May 4, 2011, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 3100(a)(4) to include additional securities in the pilot by which such rule operates.

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

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Rule 3100. Trading Halts on PSX

(a) Authority To Initiate Trading Halts or Pauses

In circumstances in which the Exchange deems it necessary to protect investors and the public interest, and pursuant to the procedures set forth in paragraph (c):

(1)–(3) No change.

(4) If a primary listing market issues an individual stock trading pause in any of the Circuit Breaker Securities, as defined herein, the Exchange will pause trading in that security until trading has resumed on the primary listing market. If, however, trading has not resumed on the primary listing market and ten minutes have passed since

the individual stock trading pause message has been received from the responsible single plan processor, the Exchange may resume trading in such stock. The provisions of this paragraph (a)(4) shall be in effect during a pilot set to end on the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies. During the pilot, the term “Circuit Breaker Securities” shall mean *any NMS stock* [the securities included in the S&P 500® Index and the Russell 1000® Index, as well as a pilot list of Exchange Traded Products].

(b)–(c) 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

The Exchange proposes to amend Rule 3100(a)(4) to include additional securities in the pilot by which such rule operates.

On June 10, 2010, the Commission granted accelerated approval, for a pilot period to end December 10, 2010, of proposed rule changes 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 (“NASDAQ”), New York Stock Exchange LLC (“NYSE”), NYSE Amex LLC (“NYSE Amex”), NYSE Arca, Inc. (“NYSE Arca”), and National Stock Exchange, Inc. (collectively, the “Exchanges”), to pause trading during periods of extraordinary market volatility in S&P 500 stocks.³ The rules require the Listing Markets⁴ to issue five-minute trading pauses for individual securities for which they are the primary Listing Market if the

transaction price of the security moves ten percent or more from a price in the preceding five-minute period. The Listing Markets are required to notify the other Exchanges and market participants of the imposition of a trading pause by immediately disseminating a special indicator over the consolidated tape. Under the rules, once the Listing Market issues a trading pause, the other Exchanges are required to pause trading in the security on their markets. On September 10, 2010, the Commission approved the respective rule filings of the Exchanges to expand application of the pilot to securities comprising the Russell 1000® Index and specified Exchange Traded Products.⁵

In connection with its resumption of trading of NMS Stocks through the NASDAQ OMX PSX system, the Exchange adopted Rule 3100(a)(4) so that it could participate in the pilot program.⁶ On September 29, 2010, the Exchange amended Rule 3100(a)(4) to include stocks comprising the Russell 1000® Index and specified Exchange Traded Products.⁷ On December 7, 2010, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on April 11, 2011.⁸ On March 31, 2011, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on the earlier of August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.⁹

The Exchanges have continued to assess whether additional securities need to be added to the Pilot and whether the parameters of the Circuit Breaker Pilot needs to be modified to accommodate trading characteristics of different securities. In consultation with other markets and the staff of the Commission, the Exchanges are proposing to include all NMS stocks within the Pilot that are not already included therein, but to apply a wider price move percentage to the newly

⁵ See Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010).

⁶ See Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-Phlx-2010-79).

⁷ See Securities Exchange Act Release No. 63004 (September 29, 2010), 75 FR 61547 (October 5, 2010) (SR-Phlx-2010-126).

⁸ See Securities Exchange Act Release No. 63504 (December 9, 2010), 75 FR 78304 (December 15, 2010) (SR-Phlx-2010-174).

⁹ See Securities Exchange Act Release No. 64175 (April 4, 2011), 76 FR 19823 (April 8, 2011) (SR-Phlx-2011-44).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010).

⁴ The term “Listing Markets” refers collectively to NYSE, NYSE Amex, NYSE Arca, and NASDAQ.

added securities.¹⁰ Specifically, NYSE, NYSE Amex, NYSE Arca, and NASDAQ, as the listing markets, are proposing to set the price move required to trigger a trading pause for the proposed new securities to be 30% or more for such securities priced at \$1 or higher and 50% or more for such securities priced less than \$1. The listing markets believe that applying a broader percentage to securities priced less than \$1 compared to those priced above \$1 is appropriate given that lower-priced securities tend to be more volatile, and price movements of lower-priced securities equate to a higher percentage move than a similar price change for a higher-priced security. The listing markets also believe that, since the newly added securities are not currently included in the S&P 500 Index, Russell 1000 Index, or specified ETPs, they are more likely to be less liquid securities or securities with lower trading volumes. Accordingly, the Exchanges believe that broader price move percentages would be appropriate. Similarly, because leveraged ETPs trade at a ratio against the associated index, a broader price move percentage would also be appropriate for leveraged ETPs. As such, the Exchange proposes to delete language concerning the limited application of pauses in Circuit Breaker Securities from the rule's text, as the text therein would no longer be necessary, and to define Circuit Breaker Securities as all NMS stocks.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5),¹² 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 mechanism of a free and open market and a national market system. The proposed rule change also is designed to support the principles of Section 11A(a)(1)¹³ of the Act in that it seeks to ensure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements because it expands the scope of the Pilot

to cover all NMS stocks, consistent with similar proposals submitted by the other Exchanges.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be 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-2011-64 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-2011-64. 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-2011-64 and should be submitted on or before June 2, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64429; File No. SR-BYX-2011-008]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

May 6, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 29, 2011, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") 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 Exchange has designated the proposed rule change as

¹⁰ Certain of the Exchanges that have market maker requirements are modifying their market maker obligations to fit within these new Pilot price move percentages.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78k-1(a)(1).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.