

The Postal Service acknowledges that the Commission's FY 2010 ACD Order requested that the Postal Service provide "an explanation of how the proposed prices will move the Flats cost coverage toward 100 percent" (footnote omitted). *Id.* It states that given the short amount of time allowed to prepare revised rate adjustments and to obtain Governors' approval, it has not been able to assess the full impact on the revised price increase on Standard Mail Flats' projected cost coverage. *Id.* It also states that although it is complying with the Commission's directive by proposing an above-average price increase for Standard Mail Flats, it believes that the Commission has overstepped its authority by ordering such an increase. *Id.* at 5.

III. Nonprofit Discounts

In Order No. 1541, the Commission requested that the Postal Service explain why different discount levels for Commercial and Nonprofit Standard Mail are consistent with the Postal Accountability and Enhancement Act (PAEA) and not contrary to *National Easter Seal Society v. USPS*, 656 F.2d 754 (DC Cir 1981). Order No. 1541 at 51. The Postal Service maintains that *National Easter Seal Society* did not hold that phasing in nonprofit discounts would necessarily be discriminatory, but rather simply required that the Postal Service have a reasonable ground for the phased in schedule. Response at 6.

The Postal Service states that "[t]he varying presort discounts among Commercial and Nonprofit Standard Mail arise from the complex task of designing rates that comply with 39 U.S.C. 3626(a)(6)," which requires that the average revenue per piece from nonprofit products equal, as nearly as practicable, 60 percent of the average revenue per piece from the corresponding Commercial products. *Id.* The complexity of this task may "preclude[] the Postal Service from making Nonprofit presort discounts identical to Commercial presort discounts without setting the Nonprofit base rate higher than would be most efficient or preferable from a policy perspective." *Id.* at 7.

The Postal Service points out that, in both previous rate cases and the current docket, some nonprofit discounts have varied from the corresponding Commercial presort discounts. *Id.* The Postal Service also filed updated pages reflecting worksharing discounts and benchmarks for Flats, High Density and Saturation Letters, and High Density and Saturation Flats/Parcels in Attachment B to its Response. It has

shown nonprofit discounts on a separate line when they differ from Commercial discounts, along with the other discounts in the relevant category. *Id.* Attachment B. The Postal Service states that the passthroughs for nonprofit discounts are all at 100 percent or below, and can be justified the same way as the corresponding Commercial discounts.⁴ *Id.* at 8.

IV. Mail Classification Schedule Changes (MCS)

In conformance with 39 CFR 3010.14(b)(9), the Postal Service identifies changes to the Standard Mail Flats MCS. Attachment A to the Response presents price and classification changes.

V. Administrative Actions

Public comment period. The Commission's rules provide a period of 10 days from the date of the Postal Service's filing for public comment. 39 CFR 3010.13(f). The Postal Service plans to implement the planned prices on January 27, 2013. To permit the Commission to fully consider this matter and to enable the Postal Service to provide the requisite 45 day notice before implementing the planned prices, the Commission finds it appropriate to shorten the comment period. Comments by interested persons are due no later than December 4, 2012.

Interested persons are encouraged to review the Postal Service's Response and workpapers in their entirety.

Pursuant to Commission rule 3010.13(f), comments should address subjects identified in rule 3010.13(b) and may address the substance of the Postal Service's Response.

Participation and designated filing method. Interested persons are not required to file a notice of intervention prior to submitting comments. Instead, they are to submit comments electronically via the Commission's Filing Online system, unless a waiver is obtained. Instructions for obtaining an account to file documents online may be found on the Commission's Web site, (<http://www.prc.gov>), or by contacting the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846.

Persons without access to the Internet or otherwise unable to file documents electronically may request a waiver of the electronic filing requirement by filing a motion for waiver with the Commission. The motion may be filed along with any comments the person

may wish to submit in this docket. Persons requesting a waiver may file hardcopy documents with the Commission either by mailing or by hand delivery to the Office of the Secretary, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001 during regular business hours by the date specified for such filing. Any person needing assistance in requesting a waiver may contact the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846. Hardcopy documents will be scanned and posted on the Commission's Web site.

Public Representative. Kenneth E. Richardson will continue to serve as Public Representative in this proceeding.⁵

It is ordered:

1. Comments by interested persons on the planned price adjustments are due no later than December 4, 2012.

2. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Shoshana M. Grove,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68293; File No. SR-PHLX-2012-132]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to EEM Options Position Limits

November 27, 2012.

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 November 13, 2012, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

⁵ See Order No. 1501, Notice and Order on Planned Rate Adjustments and Classification Changes for Market Dominant Postal Products, October 15, 2012, at 16.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴ The Postal Service also refers to Order No. 1541 n.65 in Attachment C of its Response, regarding the High Density Plus rate category.

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 1001, titled "Position Limits" to increase the position and exercise limits for options on the iShares MSCI Emerging Markets Index Fund ("EEM") to 500,000 contracts.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, 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

Position limits for exchange-traded fund ("ETFs") options, such as EEM options, are determined pursuant to Rule 1001, Commentary .05(a) and vary according to the number of outstanding shares and trading volume during the most recent six-month trading period of an underlying stock or ETF. The largest in capitalization and most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with

adjustments for splits, re-capitalizations, etc.) on the same side of the market. The current position limit for EEM options is 250,000 contracts. The purpose of the proposed rule change is to amend Rule 1001 to increase the position and exercise limits for EEM options to 500,000 contracts.³ There is precedent for establishing position limits for options on actively-traded ETFs and these position limit levels are set forth in Rule 1001.⁴

In support of this proposed rule change, and as noted by the Chicago Board Options Exchange, Incorporated ("CBOE") in a related filing,⁵ the below trading statistics compare EEM to IWM and SPY. As shown in the table, the average daily volume in 2011 for EEM was 65 million shares compared to 64.1 million shares for IWM and 213 million shares for SPY. The total shares outstanding for EEM are 922.9 million compared to 192.6 million shares for IWM and 716.1 million shares for SPY. Further, the fund market cap for EEM is \$41.1 billion compared to \$15.5 billion for IWM and \$98.3 billion for SPY.

ETF	2011 ADV (mil. shares)	2011 ADV (option contracts)	Shares outstanding (mil.)	Fund market cap (\$bil)
EEM	65	280,000	922.9	41.1
IWM	64.1	662,500	192.6	15.5
SPY	213	2,892,000	716.1	98.3

In further support of this proposal, the Exchange represents that EEM still qualifies for the initial listing criteria set forth in Rule 1009 at Commentary .06 for ETFs holding non-U.S. component securities.⁶ EEM tracks the performance of the MSCI Emerging Markets Index, which has approximately 800 component securities.⁷ "The MSCI Emerging Markets Index is a free float-adjusted market capitalization index that is designed to measure equity market performance of emerging markets. The MSCI Emerging Markets Index consists of the following 21

emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey."⁸ The Exchange represents that more than 50% of the weight of the securities held by EEM are now subject to a comprehensive surveillance agreement ("CSA").⁹ Additionally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject

to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index.¹⁰ Finally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any two countries that are not subject to CSAs do not represent 33% of [sic] more of the weight of the MSCI Emerging Markets Index.¹¹

The Exchange believes that the liquidity in the underlying ETF and the liquidity in EEM options support its request to increase the position and exercise limits for EEM options. As to the underlying ETF, through October 17,

³ By virtue of Rule 1002, which is not being amended by this filing, the exercise limit for EEM options would be similarly increased. See Rule 1002 (Exercise Limits).

⁴ Rule 1001 lists exceptions to standard position limits which are: Put or call option contracts overlying the PowerShares QQQ Trust ("QQQQ") for which the position limit shall be 900,000 contracts on the same side of the market; the Standard and Poor's Depository Receipts ("SPDRs"); options overlying the iShares® Russell 2000® Index ("IWM"), for which the position limit shall be 500,000 contracts; options overlying the Diamonds Trust ("DIA"), for which the position

limit shall be 300,000 contracts on the same side of the market; and options overlying the Standard and Poor's Depository Receipts ("SPDRs"), which shall have no position limits.

⁵ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

⁶ The Exchange notes that the initial listing criteria for options on ETFs that hold non-U.S. component securities are more stringent than the maintenance listing criteria for those same ETF options. See Rule 1009 at Commentary .06 and Rule 1010, Commentary .08.

⁷ See http://us.ishares.com/product_info/fund/overview/EEM.htm and http://www.msci.com/products/indices/licensing/msci_emerging_markets/. Identification of the specific securities in the EEM and their individual concentrations in the EEM can [sic] be accessed at: http://us.ishares.com/product_info/fund/holdings/EEM.htm.

⁸ See <http://www.msci.com/products/indices/tools/index.html#EM>.

⁹ See Rule 1009, Commentary .06(b)(i).

¹⁰ See Rule 1009, Commentary .06(b)(ii).

¹¹ See Rule 1009, Commentary .06(b)(iii).

2012 the year-to-date average daily trading volume for EEM across all exchanges was 49.3 million shares. As to EEM options, the year-to-date average daily trading volume for EEM options across all exchanges was 250,304 contracts. The Exchange believes that increasing position limits for EEM options will lead to a more liquid and competitive market environment for EEM options that will benefit customers interested in this product.

Under the Exchange's proposal, the options reporting requirement for EEM would continue unabated. Thus, the Exchange would still require that each member and member organization that maintain [sic] a position in EEM options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the option position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. Exchange Market Makers would continue to be exempt from this reporting requirement, as Market Maker information can be accessed through the Exchange's market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain an aggregate position of 200 or more option contracts would remain at this level for EEM options.¹²

As the anniversary of listed options trading approaches its fortieth year, the Exchange believes that the existing surveillance procedures and reporting requirements at the Phlx, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of the Exchange's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.¹³

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.¹⁴ Options positions are part of any reportable positions and, thus, cannot be legally hidden. Moreover, the Exchange's requirement that members and member

organizations are to file reports with the Exchange for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of the Exchange's surveillance efforts.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or member organization or its customer may try to maintain an inordinately large un-hedged position in an option, particularly on EEM. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member or member organization must maintain for a large position held by itself or by its customer.¹⁵ In addition, the Commission's net capital rule, Rule 15c3-1¹⁶ under the Act imposes a capital charge on members and member organizations to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.¹⁷ In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the proposed rule change will benefit large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in the product), as well as retail traders, investors, and public customers, by providing them with a more effective trading and hedging vehicle. In addition, the Exchange believes that the structure of EEM options and the considerable liquidity of the market for EEM options diminish the opportunity to manipulate this product and disrupt

the underlying market that a lower position limit may protect against.

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.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6) thereunder.²⁰

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. 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. The Exchange requests that the Commission waive the 30-day operative delay so that it can increase the position and exercise limits for EEM options immediately, which will result in consistency and uniformity among the competing options exchanges as to the position and exercise limits for EEM options. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.²¹ The Commission notes the proposal is substantively identical to

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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 date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

²¹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² Reporting requirements are stated in Rule 1003(b) [sic] (Reporting of Options Positions).

¹³ These procedures have been effective for the surveillance of EEM options trading and will continue to be employed.

¹⁴ 17 CFR 240.13d-1.

¹⁵ See Rule 721 (Proper and Adequate Margin) for a description of margin requirements.

¹⁶ 17 CFR 240.15c3-1.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

a proposal that was recently approved by the Commission, and does not raise any new regulatory issues.²² For these reasons, the Commission designates the proposed rule change as operative upon filing.

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 email to rule-comments@sec.gov. Please include File Number SR-Phlx-2012-132 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-2012-132. This file number should be included on the subject line if email 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 10:00 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-2012-132 and should be submitted on or before December 24, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-29073 Filed 11-30-12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68294; File No. SR-BOX-2012-019]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rule 7110 Regarding Session Orders

November 27, 2012.

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 November 19, 2012, BOX Options Exchange LLC (the "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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to amend Rule 7110 regarding Session Orders. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://boxexchange.com>.

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

The purpose of this proposed rule change is to amend Rule 7110(e)(1)(iii)(C) to add a provision related to an exception to the manner in which certain Session Orders are handled when they have been routed to an away exchange. Specifically, the Exchange proposes to add a provision in Rule 7110(e)(1)(iii)(C)(3) to provide that any remaining quantity of a Session Order that has been routed away, if a Triggering Event occurs while the order is routed away and receives a partial execution, will be cancelled by BOX upon the return of the remainder to BOX from the away exchange.³

Exchange Rule 7110(e)(1)(iii) provides that a Session Order will remain active in the BOX trading system until a "Triggering Event" occurs that causes a BOX Participant to lose its connection to the BOX system, or causes BOX to be unable to process the Session Order.⁴ The following are "Triggering Events": (1) The connection between the Participant and BOX that was used to enter the order is interrupted; (2) there is a disconnection between internal BOX components used to process orders, causing a component to lose its connection to the Participant or the Trading Host while in possession of the Session Order; or (3) a component of the

³ Note that the Triggering Event does not need to be ongoing at the time the remainder is returned to BOX for it to be cancelled.

⁴ See Securities Exchange Act Release No. 62959 (September 21, 2010) 75 FR 59304 (September 27, 2010) (Notice of Filing and Immediate Effectiveness To Provide an Additional Order Type Which Will Give Options Participants Greater Control Over the Circumstances in Which Their Orders Are Executed) (BX-2010-065). See also BOX Informational Circular IC-2010-005 (New Order Duration Type—Session Order) available on the BOX Web site here: http://boxexchange.com/f_circulars/BOX_Informational_Circular_2010-005_Session_Order.pdf.

²² See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.