

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69810; File No. SR-NYSE-2013-41]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 1000 To Increase the Price Threshold for Those Securities Ineligible for Automatic Executions From \$1,000.00 or More to \$10,000.00 or More

June 20, 2013.

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 June 7, 2013, New York Stock Exchange LLC (the “Exchange” or “NYSE”) 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 NYSE Rule 1000 to increase the price threshold for those securities ineligible for automatic executions from \$1,000.00 or more to \$10,000.00 or more. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), 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 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 those 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 parts 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 is proposing to amend Rule 1000(a)(vi) (“Automatic Executions”) to increase the price level at which a security would be considered “high-priced” and thus ineligible for automatic execution. Rule 1000(a)(vi) prohibits automatic executions if the closing price for a security, or if the security did not trade, the closing bid price of the security on the Exchange on the immediate previous trading day, is \$1,000 or more. The Exchange is proposing to increase this price level from \$1,000 or more to \$10,000 or more.<sup>3</sup>

The Exchange is proposing to make a conforming amendment to Rule 60(d)(iii)(B)(I), which provides that the Exchange keeps Autoquote <sup>4</sup> active, even if automatic executions are suspended under Rule 1000, if an order or a cancellation of an order arrives that would not result in a locked or crossed market in a security priced at \$1,000 or more. The Exchange proposes to increase this price level to \$10,000 or more to conform the provision to the proposed amendment to Rule 1000(a)(vi).

Securities priced at \$1,000 or more are traded manually by the assigned Designated Market Maker (“DMM”). Rule 610 of Regulation NMS under the Act prohibits national securities exchanges and national securities associations from locking or crossing protected quotations,<sup>5</sup> and Rule 611 of Regulation NMS prohibits trade-throughs only of protected quotations.<sup>6</sup> Rule 600 of Regulation NMS, however, requires a protected quotation to be automated.<sup>7</sup> The Exchange's quotations in high-priced securities, therefore, are not protected quotations for purposes of Regulation NMS. The proposed rule

change would allow the affected securities to be eligible for automatic execution and auto-quoting, which would allow the Exchange to protect its quotations and remain competitive with other market centers. For the affected securities, the proposal would align the availability of automatic executions on the Exchange with the availability of such executions on other exchanges.<sup>8</sup>

The Exchange is also proposing to make a conforming amendment to Rule 1000(a)(iv)(C), which sets out value ranges used to determine liquidity replenishment points (“LRPs”). LRPs are pre-determined price points that function to moderate volatility in a particular security, improve price continuity, and foster market quality by temporarily converting the electronic market to an auction market and permitting new trading interest to add liquidity.<sup>9</sup> Pursuant to Rule 60(d)(i), Autoquote is suspended when an LRP is reached.

LRPs are calculated by adding and subtracting an LRP value to a security's last sale price. The Exchange sets and disseminates a specific LRP value from a range of potential values. That range, in turn, is based upon a security price category (e.g., \$5 to \$9.99) and the average daily volume of the security to which the value is being added. The LRP value chosen within an LRP value range is based on an examination of trading data. Because the Exchange is increasing the highest price per share at which automatic execution is available, the Exchange is making a conforming amendment to the highest security price category used to determine LRP values from \$250 to \$1000 to \$250 to \$10,000.

##### 2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Exchange believes that the proposal is consistent with (i) Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities and to remove impediments to and perfect the

<sup>3</sup> As a result of the proposed amendment, six additional securities would be eligible for automatic execution as of the date of this filing.

<sup>4</sup> Pursuant to Rule 60(d), the Exchange autoquotes the NYSE's highest bid or lowest offer to reflect interest in the Book, and when the highest bid or lowest offer has been traded with in its entirety, the Exchange will autoquote a new bid or offer reflecting the total size of orders at the next highest (in the case of a bid) or lowest (in the case of an offer) price.

<sup>5</sup> 17 CFR 240.610(d)(1)(i).

<sup>6</sup> 17 CFR 240.611(a)(1).

<sup>7</sup> 17 CFR 240.600(b)(57)(iii).

<sup>8</sup> The Exchange is not aware of any other exchange that, by rule, does not issue protected quotations for a stock on a regular basis.

<sup>9</sup> The Exchange recently amended its rules to phase out the functionality associated with LRPs to coincide with the implementation of the Limit Up—Limit Down Plan. See Securities Exchange Act Release No. 69295 (April 4, 2013), 78 FR 21457 (April 10, 2013).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>22</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.

mechanism of a free and open market and a national market system, and (ii) Section 11A(a)(1) of the Act,<sup>12</sup> in that it seeks to ensure the economically efficient execution of securities transactions, fair competition among brokers and dealers and among exchange markets, and the practicability of brokers executing investors' orders in the best market.

Specifically, the Exchange believes that increasing the dollar threshold for high-priced securities would expand the eligibility of orders for automatic executions on the Exchange, thus removing impediments to and perfecting the mechanism of a free and open market and a national market system. Further, the Exchange believes the proposed amendment will foster cooperation and coordination with persons engaged in facilitating transactions in securities because the securities that will be affected by the amendment are already eligible for automatic executions on other markets. Thus, the proposal will align the Exchange's treatment of such securities with that of other exchanges.

Additionally, the Exchange believes that the proposal will further the objectives of Section 11A(a)(1) of the Act because, by increasing the number of securities eligible for automatic execution, the proposal will ensure that quotes on the Exchange will be protected from trade-throughs and not be locked or crossed by other markets. Exchange quotes in the affected securities will be included in the protected quotations and increase competition in the market. This increased competition and requirement that brokers respect Exchange quotes in the affected securities will increase the ability of brokers to execute investors' orders in the best market. Further, the proposal will assure the fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets because the proposal will promote order interaction and ensure that the Exchange's quotes in the affected securities will not be isolated from other market centers.<sup>13</sup>

#### *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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule changes will increase competition among execution venues and encourage additional liquidity. By allowing the affected securities to be eligible for automatic execution, the Exchange's quotes in such securities will be considered protected quotes and thus away markets will be required to route to the Exchange when better prices are available on the Exchange. The proposal will therefore increase order interaction and encourage competition in the affected securities.

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

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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 Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay will allow the Exchange to align its treatment of the affected securities with that of other exchanges, thereby assuring the economically efficient execution of securities transactions and fostering efficiency in the marketplace. Therefore, the Commission designates the proposal operative upon filing.<sup>16</sup>

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</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, 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.

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>17</sup> of the Act to determine whether the proposed rule change 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2013-41 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-NYSE-2013-41. 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

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

<sup>17</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>12</sup> 15 U.S.C. 78k-1(a)(1).

<sup>13</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (Reg. NMS Adopting Release) (quoting H.R. Rep. 94-123, 94th Cong., 1st Sess. 50 (1975)) ("[W]hen Congress mandated the establishment of an NMS, it well stated this basic principle: 'Investors must be assured that they are participants in a system which maximizes the opportunities for the most willing seller to meet the most willing buyer.'").

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–NYSE–2013–41 and should be submitted on or before July 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69811; File No. SR–Phlx–2013–67]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of its New Options Floor Broker Management System

June 20, 2013.

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 June 18, 2013, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 delay the implementation of its new Options Floor Broker Management System.

#### 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 purpose of the proposal is to delay the implementation of the Exchange’s enhancements to the Options Floor Broker Management System (“FBMS”). The Exchange received approval to implement the enhancements as of June 1, 2013,<sup>3</sup> but the Exchange needs additional time to do so in order to complete the applicable technology work. Accordingly, the Exchange seeks to be able to implement the changes by the end of July 2013; the Exchange will announce the specific date in advance through an Options Trader Alert.

Today, FBMS enables Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS also establishes an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can use FBMS to submit orders to Phlx XL, rather than executing the orders in the trading crowd.

With the new FBMS, all options transactions on the Exchange involving at least one Floor Broker would be required to be executed through FBMS. In connection with order execution, the Exchange will allow FBMS to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the Floor Broker has represented the orders in the trading crowd. FBMS will also provide Floor Brokers with an enhanced functionality called the complex calculator that will calculate and display a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis.

The Exchange still intends to implement these enhancements with a trial period of two to four weeks, to be determined by the Exchange, during which the new FBMS enhancements and related rules would operate along with the existing FBMS and rules. The

Exchange will announce the beginning and end of the trial period in advance.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, in that it is designed 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, by enhancing FBMS to make the Exchange’s markets more efficient, to the benefit of the investing public. Although the Exchange needs additional time to finalize the enhancements, the delay is expected to be short and will involve advance notice to the Exchange membership.

#### 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. The Exchange continues to believe, as it stated when proposing these enhancements, that these enhancements to FBMS should result in the Exchange’s trading floor operating in a more efficient way, which should help it compete with other floor-based exchanges and help the Exchange’s Floor Brokers compete with floor brokers on other options exchanges.

#### 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 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 Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b–4 thereunder.<sup>7</sup>

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

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(a).

<sup>7</sup> 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give

<sup>18</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> Securities Exchange Act Release No. 69471 (April 29, 2013), 78 FR 26096 (May 3, 2013) (SR–Phlx–2013–09).