

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-2011-112 and should be submitted on or before September 12, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65141; File No. SR-CME-2011-01]

### Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New Rule Regarding Liens on Collateral That Relates Solely to Its Futures Clearing Operations

August 16, 2011.

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 August 5, 2011, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>4</sup> thereunder.

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

The text of the proposed rule change is below. Italicized text indicates additions; bracketed text indicates deletions.

\* \* \* \* \*

Rule 819. [Reserved] *Lien on Collateral.*

*Each Clearing Member hereby grants to the Clearing House a first priority and unencumbered lien, as security for all obligations of such Clearing Member to the Clearing House, against any*

*property and collateral deposited with the Clearing House by the Clearing Member which is the property of the Clearing Member. Clearing Members shall execute any documents required by CME to create and enforce such lien.*

#### II. Self-Regulatory Organization's Statement of 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 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

Current CME Rule 902.F provides that "[e]ach Clearing Member hereby grants to the Clearing House a first priority and unencumbered lien against all memberships required for clearing membership by the Exchange." Other CME rules in Chapters 8 and 9 of the CME rulebook address the CME Clearing House's security interest in CME clearing member's guaranty fund and performance bond deposits (perfected by possession of the collateral), but do not contain the type of express language as appears in Rule 902.F. In order to more clearly indicate CME Clearing's security interest in CME clearing member's guaranty fund and performance bond deposits, CME proposes to adopt new CME Rule 819, which states as follows:

Each Clearing Member hereby grants to the Clearing House a first priority and unencumbered lien, as security for all obligations of such Clearing Member to the Clearing House, against any property and collateral deposited with the Clearing House by the Clearing Member which is the property of the Clearing Member. Clearing Members shall execute any documents required by CME to create and enforce such lien.

The proposed rule language mirrors that of CME Rule 8F008 (Lien on Collateral), in Chapter 8F (Over-the-Counter Derivative Clearing) of the CME rule book, which states that "[e]ach OTC Clearing Member hereby grants to CME a first priority and unencumbered lien against any cash, securities or other collateral deposited with the Clearing House by the OTC Clearing Member which is the property of the OTC Clearing Member. OTC Clearing

Members shall execute any documents required by CME to create and enforce such lien."

New proposed Rule 819 only affects the futures clearing operations of CME. It does not significantly affect any securities clearing operations of CME or any related rights or obligations of CME clearing members. As discussed above, current CME Rule 8F008 currently applies to CME clearing members and is the operative rule covering the subject matter of proposed Rule 819 with respect to CME's security-based swaps clearing activities. As such, the proposed rule change effects a change in an existing service of a registered clearing agency that primarily affects the futures clearing operations of the clearing agency with respect to futures that are not security futures and does not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service.

CME also submitted a filing to the Commodity Futures Trading Commission ("CFTC") regarding proposed Rule 819 pursuant to CFTC Regulation 40.6 on July 26, 2011 with a proposed effective date of August 9, 2011 (that is, ten business days after the date of the submission).

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

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

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

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

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

The foregoing rule change has been filed pursuant to Section 19(b)(3)(A)<sup>5</sup> of the Act and paragraph (f)(4)(ii) of Rule 19b-4<sup>6</sup> thereunder and will become effective on August 9, 2011,<sup>7</sup> the same date CME's corresponding filing with

<sup>5</sup> *Supra* note 3.

<sup>6</sup> *Supra* note 4.

<sup>7</sup> The Commission notes that the proposed rule change became effective upon filing under Section 19(b)(3)(A) of the Act. CME's statement indicates that the proposed rule change, which became effective on August 5, 2011, will not become operative until August 9, 2011.

<sup>11</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> 15 U.S.C. 78s(b)(3)(A).

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

the CFTC becomes effective. At any time within sixty days of the filing of such 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 may be submitted by using 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 No. SR-CME-2011-01 on the subject line.

- Paper comments should be sent 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-CME-2011-01. 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of CME. 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-CME-2011-01 and should be submitted on or before September 12, 2011.

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

**Elizabeth M. Murphy,**

Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65140; File No. SR-Phlx-2011-116]

#### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period To Receive Inbound Routes of Orders From NASDAQ Options Services

August 16, 2011.

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 August 11, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "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

Phlx submits this proposed rule change to extend the pilot period of Phlx's prior approval to receive inbound routes of certain option orders from Nasdaq Options Services, LLC ("NOS") through November 25, 2011.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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. Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<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.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Currently, NOS is the approved outbound routing facility of The NASDAQ Stock Market LLC ("NASDAQ") for options, providing outbound routing from The NASDAQ Option Market ("NOM") to other market centers.<sup>3</sup> Phlx also has been previously approved to receive inbound routes of certain option orders by NOS in its capacity as an order routing facility of NASDAQ for NOM on a pilot basis.<sup>4</sup> The Exchange hereby seeks to extend the previously approved pilot period for such inbound routing (with the attendant obligations and conditions) for an additional 3 months through November 25, 2011.<sup>5</sup>

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of option orders from NOS acting in its capacity as a facility of NASDAQ for NOM, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for three months is of sufficient length to permit both the Exchange and the

<sup>3</sup> NOM Rule Chapter VI, Section 11; See Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004; SR-NASDAQ-2007-080).

<sup>4</sup> See Securities Exchange Act Release Nos. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR-Phlx-2008-31); 61667 (March 5, 2010), 75 FR 11964 (March 12, 2010) (SR-Phlx-2010-36); 61668 (March 5, 2010), 75 FR 12323 (March 15, 2010) (SR-NASDAQ-2010-028); 63873 (February 9, 2011), 76 FR 8798 (February 15, 2011) (SR-Phlx-2011-16).

<sup>5</sup> The Exchange has filed a separate proposal with the Commission seeking permanent approval of the Phlx and NOS routing relationship. See SR-Phlx-2011-111.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).