

## Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2014-34. 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 will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). 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-NYSEMKT-2014-34 and should be submitted on or before May 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71985; File No. SR-Phlx-2014-22]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Quoting Obligations

April 22, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 11, 2014, 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

The Exchange is filing with the Commission a proposal to amend Rule 1014 (Obligations and Restrictions Applicable to Specialists and Registered Options Traders) to indicate that quoting obligations will apply collectively to all of a Market Maker's<sup>3</sup> appointed issues, rather than on an issue-by-issue basis.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.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 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.

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

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

<sup>3</sup> Market Makers are, as discussed below, Registered Options Traders that include Registered Options Traders, Streaming Quote Trades [sic], Remote Streaming Quote Traders, specialists, and Remote Specialists.

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

#### 1. Purpose

The purpose of this proposed rule change is to amend Rule 1014 to indicate that quoting obligations will apply collectively to all of a Market Maker's appointed issues, rather than on an issue-by-issue basis.

This proposal conforms the noted Rule 1014 quoting obligations to that of BATS Rule 22.6(d)(3).<sup>4</sup>

Market Makers on the Exchange include Registered Options Traders ("ROTs"),<sup>5</sup> Streaming Quote Traders ("SQTs"),<sup>6</sup> Remote Streaming Quote Traders ("RSQTs"),<sup>7</sup> specialists,<sup>8</sup> and Remote Specialists.<sup>9</sup> As set forth in Rule 1014, Market Makers have an obligation to make two-sided markets in products listed on the Exchange. This rule change proposal does not negate, or attempt to

<sup>4</sup> See Securities Exchange Act Release No. 71129 (December 18, 2013) 78 FR 77736 (December 24, 2013) (SR-BATS-2013-062) (notice of filing and immediate effectiveness regarding quoting obligations applying to a Market Maker's appointed issues collectively). See also Exchange Act Release Nos. 69176 (March 19, 2013) 78 FR 17958 (March 25, 2013) (SR-MIAX-2013-08) (notice of filing and immediate effectiveness regarding quoting obligations applying collectively); and 61829 (April 1, 2010) 75 FR 17981 (April 8, 2010) (SR-BX-2010-023) (notice of filing and immediate effectiveness regarding quoting obligations applying collectively). Regarding quoting obligations applying collectively, see also NYSE MKT Rule 925.1NY, NYSE Arca Equity Rule 6.37B, and ISE Rule 804(e).

<sup>5</sup> An ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Rule 1014(b)(i).

<sup>6</sup> An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. See Rule 1014(b)(ii)(A).

<sup>7</sup> An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Rule 1014(b)(ii)(B).

Rule 1014 also discusses other market makers including Directed SQTs and Directed RSQTs, which receive Directed Orders as defined in Rule 1080(l)(i)(A). Specialists may likewise receive Directed Orders.

<sup>8</sup> A member may not act as an options specialist (to include a Remote Specialist as defined in Rule 1020(a)(ii)) in any option unless such member is registered as an options specialist in such option by the Exchange pursuant to Rule 501 and such registration may be revoked or suspended at any time by the Exchange. See Rule 1020(a)(i).

<sup>9</sup> A Remote Specialist is an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501. See Rule 1020(a)(ii).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

change, any of the existing daily market making obligations established in Rule 1014.<sup>10</sup> This proposal only clarifies that Rule 1014 quoting obligations apply to a Market Maker's appointed issues collectively.<sup>11</sup>

The daily market making obligations on the Exchange are set forth in Rule 1014.

Current sub-section (b)(ii)(D)(1) of Rule 1014 states that to satisfy the applicable requirements of this subparagraph (D)(1) with respect to quoting a series, an SQT, RSQT, DSQT, or DRSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. The Exchange proposes new language to state that these obligations will apply collectively to all appointed issues of an SQT, RSQT, DSQT, or DRSQT, rather than on an issue-by-issue basis. Similarly, current subsection (b)(ii)(D)(2) states that to satisfy the requirement of this subparagraph (D)(2) with respect to quoting a series, the specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. The Exchange proposes new language to state that these obligations will apply collectively to all appointed issues of the specialist, rather than on an issue-by-issue basis.<sup>12</sup>

The Exchange believes that the amendments to sub-sections (b)(ii)(D)(1) and (b)(ii)(D)(2) of Rule 1014, which would allow applying the quoting requirements for Market Makers collectively across all options classes, is a fair and more efficient way for the Exchange and market participants to evaluate compliance with the continuous quoting requirements. Applying the continuous quoting

requirement collectively across all option classes rather than on an issue-by-issue basis is beneficial to Market Makers by providing some flexibility to choose which series in their appointed classes they will continuously quote—increasing the continuous quoting obligation in the series of one class to allow for a decrease in the continuous quoting obligation in the series of another class. This flexibility does not, however, diminish the Market Maker's obligation to continuously quote a significant part of the trading day in a significant percentage of series. Flexibility is important for classes that have relatively few series and may prevent the Market Maker, in particular, from breaching the continuous quoting requirement when failing to meet the specified quote amount during the trading day (as proposed) in more than one series in an appointed class. However, this flexibility does not act to relieve the Market Maker of his continuing quoting obligations and does not, for example, relieve the Market Maker from providing liquidity in classes experiencing heightened volatility.<sup>13</sup> The Exchange believes that the balance between the benefits provided to Market Makers and the obligations imposed upon Market Makers by the proposed rule change is appropriate.

The Exchange believes that the proposal will not diminish, and in fact may increase, market making activity on the Exchange, by establishing quoting compliance standards that are reasonable and are already in place on other options exchanges. By amending Rule 1014 to state that quoting obligations apply to a Market Maker's appointed issues collectively, this proposal conforms Rule 1014 to that of other options markets (*e.g.* BATS, MIAX, BX Options) and puts the Exchange on an equal competitive footing. Moreover, as discussed the Exchange believes that the proposal may increase market making activity on the Exchange by establishing quoting compliance standards that are reasonable and already in place on other options exchanges.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</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. The Exchange would do this through [sic] a proposed rule change amending Rule 1014 to state that quoting obligations apply to a Market Maker's appointed issues collectively, rather than on an issue-by-issue basis.

The proposal supports the quality of the Exchange's market by helping to ensure that Market Makers will continue to be obligated to quote in series when necessary. Ultimately, the benefit the proposed rule change confers upon Market Makers is offset by the continued responsibilities to provide significant liquidity to the market to the benefit of market participants. While under the proposal there are quoting requirements changes, the Exchange does not believe that these changes reduce the overall obligations applicable to Market Makers.<sup>16</sup> Moreover, the Exchange believes that the proposal may increase, market making activity on the Exchange and the quality of the Exchange's market by establishing quoting compliance standards that are reasonable and already in place on other options exchanges.<sup>17</sup>

<sup>14</sup> 15 U.S.C. 78f(b).

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

<sup>16</sup> In this respect, the Exchange notes that such Market Makers are subject to many obligations, including, for example, the obligation to continuously quote series 90% of the trading day (with additional flexibility in choosing the series to quote, as noted), the obligation to maintain a fair and orderly market in their appointed classes, and the obligation to conduct the opening and enter continuous quotations in all of the series of their appointed options classes within maximum spread requirements.

<sup>17</sup> See *supra* note 4. The Exchange believes that, as discussed, applying the quoting requirements for Market Makers collectively across all options classes is generally a fair and more efficient way for the Exchange and market participants to evaluate compliance with the continuous quoting requirements. Applying the continuous quoting requirement collectively across all option classes rather than on an issue-by-issue basis is beneficial to Market Makers by providing some flexibility to choose which series in their appointed classes they will continuously quote—increasing the continuous quoting obligation in the series of one class to allow for a decrease in the continuous quoting obligation in the series of another class. This flexibility does not, however, diminish the Market Maker's obligation to continuously quote a significant part of the trading day in a significant percentage of series, and does not diminish the Market Maker's obligation to provide liquidity in classes experiencing heightened volatility. This flexibility is especially important for classes that have relatively few series and may prevent the Market Maker, in particular, from breaching the continuous quoting requirement when failing to meet the

<sup>10</sup> For all market making obligations, see Rule 1014(b)(ii)(D).

<sup>11</sup> For recent quoting-related Exchange proposals, see Securities Exchange Act Release No. 67700 (August 21, 2012) 77 FR 51835 (August 27, 2012) (SR-Phlx-2012-108) (notice of filing and immediate effectiveness regarding monthly compliance reviews regarding quoting obligations); and 70673 (October 11, 2013) 78 FR 62780 (October 22, 2013) (SR-Phlx-2013-99) (notice of filing and immediate effectiveness regarding daily quoting obligations).

<sup>12</sup> Compliance with continuous quoting requirements will be determined on a monthly basis. This does not, however, relieve an SQT, RSQT, DSQT, or specialist (including the RSQT functioning as a Remote Specialist in particular options) of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an [sic] for failing to meet the continuous quoting obligation each trading day. Rule 1014 (b)(ii)(D)(1) and (2).

<sup>13</sup> Rule 1014 states, in relevant part, that although compliance with continuous quoting requirements will be determined on a monthly basis this does not relieve the Market Maker of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet the continuous quoting obligation each trading day. Rule 1014 (b)(ii)(D)(1) and (D)(2).

The proposed rule change also protects investors and the public interest by creating more uniformity and consistency among the Exchange's rules related to Market Maker quoting obligations. Providing Market Makers with flexibility by providing the continuous quoting obligation collectively across all option classes will not diminish the Market Makers' obligation to continuously quote a significant part of the trading day in a significant percentage of series. Additionally, with respect to compliance standards, the Exchange believes that adopting the proposed standards will enhance compliance efforts by Market Makers and the Exchange, and are consistent with requirements currently in place on other exchanges (e.g. BATS Rule 22.6(d)(3)). The proposal ensures that compliance standards for continuous quoting, in particular regarding quoting obligations applying to all of a Market Maker's appointed issues collectively, will be the same on the Exchange as on other options exchanges. The Exchange believes that the proposal will not diminish and in fact may increase, market making activity on the Exchange by establishing quoting compliance standards that are reasonable and already in place on other options exchanges.

#### *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. To the contrary, the Exchange believes that because this proposal establishes quoting compliance standards that are reasonable and already in place on other options exchanges, the proposal will not diminish, and in fact may increase, market making activity on the Exchange and thereby enhance intermarket competition. Moreover, the proposed rule change will not impose any burden on intramarket competition because it will affect all Market Makers the same.

#### *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.

specified quote amount during the trading day (as proposed) in more than one series in an appointed class.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> Because the 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 prior to 30 days from the date on which it was filed, 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 Act<sup>20</sup> and Rule 19b-4(f)(6) thereunder.<sup>21</sup>

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 to determine whether the proposed rule 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-Phlx-2014-22 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

All submissions should refer to File Number SR-Phlx-2014-22. 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-2014-22, and should be submitted on or before May 19, 2014.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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<sup>22</sup> 17 CFR 200.30-3(a)(12).