

removing impediments to a free and open market consistent with the Act. Further, S&P 500 variance trades will be subject to CBOE's rules, regulations and oversight, which serve to protect investors and the public interest and provide enhanced investor protection and market surveillance.

Allowing constituent trades to be executed and reported without regard for existing bids and offers on the Exchange is consistent with the benchmark order exception in the Linkage Plan<sup>15</sup> as well as with the benchmark exception of the SEC's Order Protection Rule under Regulation NMS (Rule 611(b)(7)).<sup>16</sup> Appending the benchmark designator to these executions would alert users that the executions are not related to the prevailing bids and offers, and will therefore help remove impediments to and to perfect the mechanism for a free and open market.

Requiring permit holders to affirmatively indicate a desire to transmit S&P 500 variance trades to the Exchange before the Exchange would process such orders will help ensure that retail customers and other users that may not intend to transact in variance trades will not do so inadvertently which also helps to protect investors and the public interest.

Lastly, the Exchange believes S&P 500 variance trades will be useful to investors because they will facilitate the use of highly liquid SPX options to hedge and trade the growing number of volatility-related products currently available in both the listed and over-the-counter markets which serves to help remove impediments to and to perfect the mechanism for a free and open market.

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

CBOE 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 solicited or received with respect to the proposed rule change.

### **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 the 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. In particular, the Commission seeks comment on the following:

1. The Exchange's proposal would allow the constituent SPX option trades of a variance trade basket to be executed and reported without regard to existing bids and offers on the Exchange in SPX at the time of the transaction. The Commission requests comment on this aspect of the Exchange's proposal, including commenters' opinions on whether this would be consistent with the Exchange Act and what, if any, potential impact this proposal might have on market participants.

2. The Commission notes that the proposal seeks to use the "benchmark" indicator for informational purposes when reporting the constituent legs of a variance trade transaction, though such trades would not be benchmark trades pursuant to Section 5(b)(xi) of the Linkage Plan, which by its terms applies only to inter-market order protection. The Commission requests comment the use of the benchmark trade reporting indicator as proposed.

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 No. SR-CBOE-2011-007 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

Station Place, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2011-007. 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 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 available publicly. All submissions should refer to File Number SR-CBOE-2011-007 and should be submitted on or before December 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2011-29578 Filed 11-15-11; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-65719; File No. SR-Phlx-2011-148]**

### **Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Qualified Contingent Cross Orders**

November 9, 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>

<sup>17</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>15</sup> Section 5(b)(xi) of the Linkage Plan.

<sup>16</sup> 17 CFR 242.611(b)(7).

notice is hereby given that on November 1, 2011, 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, II, and III, 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 its Fee Schedule to adopt a rebate related to electronic Qualified Contingent Cross orders ("eQCC Orders").<sup>3</sup>

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqtrader.com/micro.aspx?id=PHLXfilings>, at the principal office of the Exchange, on the Commission's Web site at <http://www.sec.gov>, 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**

The purpose of the proposed rule change is to amend Section II of the

Exchange's Fee Schedule entitled "Equity Options Fees"<sup>4</sup> to adopt a \$0.05 per contract rebate to encourage members to submit a greater number of eQCC Orders. The proposed \$0.05 per contract rebate will be paid to members entering electronically executed eQCC Orders.<sup>5</sup> The Exchange believes that this rebate will further incentivize market participants to execute eQCC Orders on the Exchange in Multiply Listed Securities.<sup>6</sup>

The rebate will not apply to Floor Qualified Contingent Cross Orders ("Floor QCC Orders").<sup>7</sup> QCC Transaction Fees for a Specialist,<sup>8</sup> Registered Options Trader,<sup>9</sup> SQT,<sup>10</sup>

<sup>4</sup> Section II includes options overlying equities, ETFs, ETNs, indexes and HOLDRS which are Multiply Listed.

<sup>5</sup> Members will be required to contact the Exchange and obtain an "R" account in order to identify these eQCC Orders as orders entered by the member for the purposes of applying the rebate. The Exchange intends to issue an Options Trader Alert to members describing the steps that need to be taken to obtain an "R" account.

<sup>6</sup> Multiply Listed Securities include those symbols which are subject to rebates and fees in Section I, Rebates and Fees for Adding and Removing Liquidity in Select Symbols, and Section II, Equity Options Fees.

<sup>7</sup> A Floor QCC Order must: (i) Be for at least 1,000 contracts, (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption, (iii) be executed at a price at or between the National Best Bid and Offer ("NBBO"); and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. See Rule 1064(e). See also Securities Exchange Act Release No. 64688 (June 16, 2011) (SR-Phlx-2011-56).

<sup>8</sup> A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

<sup>9</sup> A Registered Options Trader ("ROT") includes a SQT, a RSQT and a Non-SQT ROT, which by definition is neither a SQT nor a RSQT. A ROT is defined in Exchange Rule 1014(b) as 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 Exchange Rule 1014(b)(i) and (ii).

<sup>10</sup> An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

RSQT,<sup>11</sup> Professional,<sup>12</sup> Firm and Broker-Dealer are \$0.20 per contract.<sup>13</sup> The Exchange also proposes to amend Section I of the Fee Schedule entitled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols" to include a reference to the proposed rebate.

##### **2. Statutory Basis**

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>15</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange also believes that there is an equitable allocation of reasonable rebates among Exchange members.

The Exchange believes that it is reasonable to incentivize members to transact eQCC Orders in Multiply Listed securities<sup>16</sup> by paying a \$0.05 per contract rebate to all members entering such orders. The Exchange believes that paying a rebate of \$0.05 will sufficiently incentivize its members to send eQCC Orders to the Exchange. Furthermore, the \$0.05 rebate is within the range of rebates paid by other exchanges and balances the Exchange's desire to incentivize its members to send order flow to the Exchange while considering the costs attributable to offering such rebates. The Exchange also believes that the \$0.05 rebate is reasonable because every eQCC Order is entitled to the rebate and therefore all members are equally eligible to receive the rebate without limitation.

The Exchange is not proposing to pay this rebate for Floor QCC Orders. A

<sup>11</sup> An RSQT is defined Exchange Rule 1014(b)(ii)(B) as 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.

<sup>12</sup> The Exchange defines a "professional" as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) (hereinafter "Professional").

<sup>13</sup> QCC Transaction Fees apply to QCC Orders, as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e). The QCC Transaction Fees, defined in Section II, are applicable to Section I entitled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols."

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

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

<sup>16</sup> The rebate does not apply to Singly Listed Securities. For purposes of this filing, a Singly Listed Option means an option that is only listed on the Exchange and is not listed by any other national securities exchange. See Section III of the Exchange's Fee Schedule entitled Singly Listed Options.

<sup>3</sup> A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. See Rule 1080(o). See also Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR-Phlx-2011-47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades ("QCTs") that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of the Regulation NMS).

member conducting a floor brokerage business has a different business model as compared to members conducting an electronic business.<sup>17</sup> The Exchange believes that it is reasonable to pay a rebate for only eQCC Orders in an attempt to incentivize members to transact eQCC Orders that are processed electronically. In addition, floor brokers, who are the only members that are eligible to enter Floor QCC Orders,<sup>18</sup> which are done through the Exchange's Floor Broker Management System ("FBMS"), are also eligible to receive an Options Floor Broker Subsidy on Floor QCC volume and other executed volume.<sup>19</sup> The Exchange believes that because any floor broker is capable of meeting the volume criteria for the subsidy offered by the Exchange, it is reasonable to offer the proposed rebate only to eQCC Orders, which are submitted electronically from off the floor.

The Exchange believes that utilizing a different rebate structure for eQCC and Floor QCC Orders is reasonable because of the different business models, described herein, that apply to a floor as compared to an electronic business. Furthermore, in assessing whether to offer rebates, the Exchange experiences different competitive pressures from other exchanges with respect to eQCC Orders. The Exchange does not experience the same competitive pressure with rebates for Floor QCC Orders. The Exchange also believes that paying a different rebate for eQCC and Floor QCC Orders is equitable and not unfairly discriminatory because other exchanges distinguish between delivery methods for certain market participants and pay different rebates depending on the method of delivery. This type of distinction is not novel and has long existed within the industry.

The Exchange believes that it is equitable and not unfairly discriminatory to pay a \$0.05 rebate for executed eQCC Orders to the executing member because all market participants, with the exception of floor brokers, as described above, that enter orders on an agency basis are uniformly eligible for the proposed rebate. Additionally, the proposed rebate is within the range of tiered rebates offered by the

International Securities Exchange, LLC ("ISE").<sup>20</sup> The Exchange believes that it is equitable and not unfairly discriminatory to pay the \$0.05 rebate for Multiply-Listed options as compared to Singly-Listed options because all market participants are eligible to transact Multiply-Listed options.

The Exchange operates in a highly competitive market comprised of nine U.S. options exchanges in which sophisticated and knowledgeable market participants readily can, and do, send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed rebate for eQCC Orders must be competitive with rebates offered on other options exchanges. The Exchange believes that this competitive marketplace impacts the rebates present on the Exchange today and influences the proposals set forth above.

#### *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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>21</sup> 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. 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-2011-148 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-2011-148. 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 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 available publicly. All submissions should refer to File Number SR-Phlx-2011-148 and should be submitted on or before December 7, 2011.

<sup>17</sup> For example, the types of orders that are handled by a floor broker may be larger in size or complex as compared to an order that is processed electronically.

<sup>18</sup> See the Exchange's Fee Schedule in Section VII for a list of eligible contracts.

<sup>19</sup> See Section VII of the Exchange's Fee Schedule entitled "Options Floor Broker Subsidy." A per contract subsidy is paid based on the contract volume on Customer-to-non-Customer as well as non-Customer-to-non-Customer transactions for that month.

<sup>20</sup> See ISE's Schedule of Fees. ISE pays members using its qualified contingent cross and/or solicitation order types a rebate according to a table based on the number of originating contract sides. Once a member reaches a certain volume threshold in qualified contingent cross and/or solicitation orders during the month, ISE pays a rebate to that member entering a qualifying order for all qualified contingent cross and/or solicitation traded contracts for that month. For example, for 0-1,999,999 originating contract sides ISE pays no rebate; for 2,000,000 to 3,499,999 originating contract sides ISE pays \$0.03 per contract; for 3,500,000 to 3,999,999 originating contract sides ISE pays \$0.05 per contract; and for 4,000,000 or more originating contract sides ISE pays \$0.07 per contract.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

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

[FR Doc. 2011-29509 Filed 11-15-11; 8:45 am]

BILLING CODE 8011-01-P

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions to OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden

estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and

recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: (202) 395-6974, Email address:

OIRA\_Submission@omb.eop.gov.

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Officer, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax No.: (410) 966-2830, Email address:

OPLM.RCO@ssa.gov.

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we

consider your comments, we must receive them no later than January 17, 2012. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at (410) 965-8783 or by writing to the above email address.

1. *Statement of Marital Relationship (by One of the Parties)—20 CFR 404.726—0960-0038.* SSA must obtain a signed statement from a spousal applicant if the applicant claims a common-law marriage to the insured, in a state in which these marriages are recognized, and no formal marriage documentation exists. SSA uses information we collect on form SSA-754-F4 to determine if an individual applying for spousal benefits meets the criteria of common-law marriage under state law. The respondents are applicants for spouse's Social Security benefits or Supplemental Security Income (SSI) payments.

*Type of Request:* Extension of an OMB-approved information collection.

Collection instrument	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-754-F4 .....	30,000	1	30	15,000

2. *Application for a Social Security Number Card, and the Social Security Number Application Process (SSNAP)—20 CFR 422.103—422.110—0960-0066.* SSA collects information on the SS-5 (used in the United States) and SS-5-FS (used outside the United States) to issue original or replacement Social Security cards. SSA also enters the application data into the Social Security Number Application Process (SSNAP) when applicants request a new or

replacement card via telephone or in person.

In addition, hospitals collect the same information on SSA's behalf for newborn children through the Enumeration-at-Birth process. In this process, parents of newborns provide hospital birth registration clerks with information required to register these newborns. Hospitals send this information to State Bureaus of Vital Statistics (BVS), and they send the information to SSA's National Computer

Center. SSA then uploads the data to the SSA mainframe along with all other enumeration data, and we assign the newborn a Social Security Number (SSN) and issue a Social Security card.

The respondents for this collection are applicants for original and replacement Social Security cards who use any of the modalities described above.

*Type of Request:* Revision of an OMB-approved information collection.

SS-5 Application scenario	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Respondents who do not have to provide parents' SSNs .....	10,500,000	1	8.5	1,487,500
Respondents whom we ask to provide parents' SSNs (when applying for original SSN cards for children under age 18) .....	400,000	1	9	60,000
Applicants age 12 or older who need to answer additional questions so SSA can determine whether we previously assigned an SSN .....	1,100,000	1	9.5	174,167
Applicants asking for a replacement SSN card beyond the new allowable limits (i.e., who must provide additional documentation to accompany the application) .....	600	1	60	600
Authorization to SSA to obtain personal information cover letter .....	500	1	15	125
Authorization to SSA to obtain personal information follow-up cover letter ....	500	1	15	125
Totals .....	12,001,600	.....	.....	1,722,517

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