

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**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>13</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>15</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange states that FINRA performs services for it under a Regulatory Services Agreement ("RSA"), including the filing and prosecution of disciplinary complaints on the Exchange's behalf. FINRA also files and prosecutes disciplinary complaints on its own behalf, sometimes on cases involving identical or similar conduct to the cases it brings on the Exchange's behalf. Without the waiver, the Exchange is concerned that FINRA might publish a complaint during the 30-day operative delay, and that the Exchange would not be permitted to publish its own complaint, prepared by FINRA, regarding the same conduct. According to the Exchange, this would supply the public with an incomplete picture of the disciplinary proceedings, the full nature of which could not be disclosed until much later when a final disciplinary decision is issued. The Exchange, therefore, believes that waiver of the operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to immediately publish any disciplinary complaints or

decisions that are filed or issued after the proposal is filed. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow BZX to publish disciplinary complaints or decisions that have been filed or issued without delay. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>16</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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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-BatsBZX-2016-73 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. All submissions should refer to File Number SR-BatsBZX-2016-73. 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

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 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-BatsBZX-2016-73 and should be submitted on or before December 14, 2016.

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

**Brent J. Fields,**  
*Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release Nos. 33-10258; 34-79350; File No. 265-27]**

**Advisory Committee on Small and Emerging Companies**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Securities and Exchange Commission Advisory Committee on Small and Emerging Companies is providing notice that it will hold an open, public telephone meeting on Wednesday, December 7, 2016, beginning at 11:00 a.m. ET. Members of the public may attend the meeting by listening to the audiocast accessible on the Commission's Web site at [www.sec.gov](http://www.sec.gov). Persons needing special accommodations to access the meeting because of a disability should notify the contact person listed below. The agenda for the meeting includes a continuation of discussions started at the Committee's meeting on October 5, 2016, including outreach and board diversity. The public is invited to submit written statements to the Committee.

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

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

**DATES:** The public meeting will be held on Wednesday, December 7, 2016. Written statements should be received on or before Monday, December 5, 2016.

**ADDRESSES:** Written statements may be submitted by any of the following methods:

*Electronic Statements*

- Use the Commission's Internet submission form (<http://www.sec.gov/info/smallbus/acsec.shtml>); or

- Send an email message to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 265–27 on the subject line; or

*Paper Statements*

- Send paper statements to Brent J. Fields, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–27. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Advisory Committee's Web site at <http://www.sec.gov/info/smallbus/acsec.shtml>.

Statements also 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. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Julie Z. Davis, Senior Special Counsel, at (202) 551–3460, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–3628.

**SUPPLEMENTARY INFORMATION:** In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.—App. 1, and the regulations thereunder, Keith F. Higgins, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: November 18, 2016.

**Brent J. Fields,**

*Committee Management Officer.*

[FR Doc. 2016–28257 Filed 11–22–16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79345; File No. SR–Phlx–2016–82]

### Self-Regulatory Organizations; NASDAQ PHLX LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt a New Exception in Exchange Rule 1000(f) for Sub-MPV Split-Price Orders

November 17, 2016.

#### I. Introduction

On August 3, 2016, NASDAQ PHLX LLC (“Exchange” or “Phlx”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to provide an additional exception to the mandatory use of the Exchange's Floor Broker Management System (“FBMS”) pursuant to Rule 1000(f)(iii) to permit Floor Brokers to execute certain sub-minimum price increments (“sub-MPV”) split-price orders in the trading crowd. The proposed rule change was published for comment in the **Federal Register** on August 22, 2016.<sup>3</sup> On October 3, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to November 20, 2016.<sup>4</sup> The Commission received no comments on the proposal. This order institutes proceedings under Section 19(b)(2)(B) of the Act<sup>5</sup> to determine whether to disapprove the proposed rule change.

#### II. Description of the Proposed Rule Change

Currently, Phlx Rule 1000(f) requires that all Exchange options transactions be executed in one of the following three ways: “(i) [a]utomatically by the Exchange Trading System pursuant to Rule 1080 and other applicable options rules; (ii) by and among members in the Exchange's options trading crowd none of whom is a Floor Broker; or (iii) through the Options [FBMS] for trades involving at least one Floor Broker.”<sup>6</sup> Although a Floor Broker may represent

orders in the trading crowd, a Floor Broker is not permitted to execute an order in the trading crowd unless one of three exceptions applies.<sup>7</sup> The exceptions to the mandatory use of FBMS<sup>8</sup> are set forth in Phlx Rule 1000(f)(iii). These exceptions allow a Floor Broker to execute a transaction in the trading crowd (rather than through FBMS) if: (i) there is a problem with Exchange's systems; (ii) the Floor Broker is executing the trade pursuant to Phlx Rule 1059 (“Accommodation Transactions”) or Phlx Rule 1079 (“Flex Index, Equity and Currency Options”); or (iii) the transaction involves a multi-leg order with more than 15 legs.<sup>9</sup>

Phlx Rule 1014(g)(i)(B) provides a priority rule regarding open outcry split price transactions in equity options and options overlying ETFs to permit a member who is responding to an order for at least 100 contracts who buys (sells) at least 50 contracts at a particular price to have priority over all other orders in purchasing (selling) up to an equivalent number of contracts of the same order at the next lower (higher) price without being required to yield to existing customer interest in the limit order book.<sup>10</sup> Absent Phlx Rule 1014(g)(i)(B), such orders would be required to yield priority. The Exchange states that “the purpose behind the split-price priority exception was ‘to bring about the execution of large orders, which by virtue of their size and the need to execute them at multiple prices may be difficult to execute

<sup>7</sup> See Phlx Rule 1000(f)(iii).

<sup>8</sup> The original FBMS (“FBMS 1”) began operating in 2005. The Exchange retired FBMS 1 on March 31, 2016 after operating it concurrently with the Exchange's enhanced FBMS (“FBMS 2”), which was made available on March 7, 2014. As of March 31, 2016, FBMS 2 is available to all Floor Brokers in all options and is the only FBMS currently in use. The Exchange represents that it has contracted with a third-party to build an alternative system (“FBMS 3”) to replace FBMS 2, and anticipates that FBMS 3 will be ready by November 30, 2016. See Notice, *supra* note 3, at 56725.

<sup>9</sup> See Notice, *supra* note 3, at 56726; see also Phlx Rule 1000(f)(iii)(A)–(C). According to the Exchange, each time a Floor Broker uses one of the current exceptions to Phlx Rule 1000(f)(iii), the Floor Broker is required by Phlx Rule 1063(e)(ii), to record the information required by Phlx Rule 1063(e)(i) on paper trade tickets. The Exchange further represents that a Floor Broker may only represent an order for execution that has been time stamped with the time of entry on the trading floor. In addition, according to the Exchange, once an execution occurs, the trade ticket must be stamped with the time of execution of such order. See Notice, *supra* note 3, at 56726.

<sup>10</sup> See Notice, *supra* note 3, at 56726 (citing Securities Exchange Act Release No. 51820 (June 10, 2005), 70 FR 35759 (June 21, 2005) (SR–Phlx–2005–28)) (approving pilot). See also Securities Exchange Act Release No. 55993 (June 29, 2007), 72 FR 37301 (July 9, 2007) (SR–Phlx–2007–44) (permanent approval).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 78593 (August 16, 2016), 81 FR 56724 (“Notice”).

<sup>4</sup> See Securities Exchange Act Release No. 79023 (October 3, 2016), 81 FR 69877 (October 7, 2016).

<sup>5</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>6</sup> See Phlx Rule 1000(f).