In the Approval Order, the Commission determined that the exception from NYSE Rule 2B to permit NYSE's indirect interest in BIDS Trading and BIDS Trading's affiliation with an affiliate of the Exchange is consistent with the Act, because the limitations and conditions stipulated appear reasonably designed to mitigate concerns about potential conflicts of interest and unfair competitive advantage. Further, the Commission determined that these conditions appear reasonably designed to promote robust and independent regulation of BIDS Trading.

The Commission has consistently expressed concern that an affiliation of an exchange with, or an ownership of, one of its members could raise a potential conflict of interest and impede its self-regulatory responsibilities with respect to such member. Although the Exchange proposes a small increase in the ceiling of its equity ownership of BIDS, the Commission notes that all of the other limitations and conditions would continue to apply, and the exceptions to NYSE Rule 2B would continue to be on a pilot basis. Further, the increase in the Exchange's equity ownership does not appear sufficiently large to raise additional or new concerns. Therefore, the Commission continues to find that the exception from NYSE Rule 2B described above would continue to be consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–2009–116) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–31343 Filed 1–4–10; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61258; File No. SR–Phlx–2009–107]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Technical Change to the Exchange's Complex Order Program

December 30, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2009, NASDAQ OMX PHLX, Inc. (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Phlx filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 terminate a feature of its complex order program.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/*, on the Commission's Web site at *http://www.sec.gov*, 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 purpose of the proposed rule change is to discontinue a feature of the Exchange's complex orders system, sometimes called ''NBBO protection.'' This feature enables a complex order to be designated as ineligible for execution at a price that is inferior to the NBBO for the individual components of the order. Otherwise, the existing rules permit COLA-eligible orders (defined in the rule) to be executed without consideration of any prices that might be available on other exchanges trading the same options contracts.[5]

This feature is mentioned several times in the rules, referring to various points in the Exchange's complex order processing where an order is executable but for this designation. In the original proposal adopting complex orders, the Exchange stated that the purpose of this provision is to provide a method to protect each component of a Complex Order from trading through the National Best Bid and/or Offer (''NBBO'') in that option series, until such time that the order is placed on the complex order book.[6] The Exchange believes that the feature has never been used. Accordingly, the Exchange believes that the proposal is a simple change to eliminate a feature.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] 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 removing a feature that the Exchange believes has not been taken advantage of by users.

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 comments were either solicited or received.

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

The proposed rule change is designated by the Exchange as a ''non-controversial'' rule pursuant to Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See e.g.,* Rule 1080.08(e)(i)(B).

[6] Securities Exchange Act Release No. 58099 (July 3, 2008), 73 FR 39769 (July 10, 2008) (SR–Phlx–2008–50) (Notice of Filing of Proposed Rule Change Relating to Complex Orders). The description of how this feature operates during the Complex Order Live Auction (''COLA'') appears at 73 FR 39772.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder,[10] because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 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, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change.[11] Consequently, the rule is being filed for immediate effectiveness.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2009–107 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–2009–107. 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 inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 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-2009–107 and should be submitted on or before January 26, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–31344 Filed 1–4–10; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61259; File No. SR–CBOE–2009–025]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, Related to the Simple Auction Liaison (SAL)

December 30, 2009.

I. Introduction

On May 4, 2009, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 6.13A to revise the Designated Primary Market-Maker (''DPM'')/Lead Market-Maker (''LMM'') participation entitlement formula that is applicable to Simple Auction Liaison (''SAL'') executions in Hybrid 3.0 classes on a one-year pilot basis. On November 13, 2009, CBOE filed Amendment No. 1 to the proposed rule change, which replaced the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on November 24, 2009.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

CBOE Rule 6.13A governs the operation of the Exchange's SAL system. SAL is a feature within CBOE's Hybrid System that auctions marketable orders for price improvement over the national best bid or offer (''NBBO''). For Hybrid 3.0 Classes in which SAL is activated,[4] the Exchange determines, on a class-by-class basis, which electronic matching algorithm from CBOE Rule 6.45B shall apply to SAL executions (*e.g.,* pro-rata, price-time, UMA priority with public customer, participation entitlement and/or market turner priority overlays).[5]

The Exchange also may establish, on a class-by-class basis, a DPM/LMM participation entitlement that is applicable only to SAL executions.[6] Pursuant to CBOE Rules 8.15B and 8.87, the participation entitlement generally is 50% when there is one other Market-Maker also quoting at the best bid/offer on the Exchange, 40% when there are two Market-Makers also quoting at the best bid/offer on the Exchange, and 30% when there are three or more Market-Makers also quoting at the best bid/offer on the Exchange. In addition, the participation entitlement must be in compliance with Rule 6.45B(a)(i)(2).[7] In relevant part, Rule 6.45B(a)(i)(2) provides that the DPM or LMM may not be allocated a total quantity greater than the quantity that it is quoting (including orders not part of quotes) at that price.[8] Further, if pro-rata priority is in effect and the DPM or LMM's allocation of an order pursuant to its participation entitlement is greater than its percentage share of quotes/orders at the best price at the time that the participation

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 61024 (November 18, 2009), 74 FR 61395.

[4] Currently, SPX (options on the S&P 500 Index) is the only Hybrid 3.0 class. Telephone call between Angelo Evangelou, Assistant General Counsel, CBOE, and Sara Hawkins, Special Counsel, Division of Trading and Markets, Commission, on December 14, 2009.

[5] *See* CBOE Rule 6.13A, Interpretation .04(ii).

[6] *Id.*

[7] *Id.*

[8] *See* CBOE Rule 6.45B(a)(i)(2)(B).