

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63679; File No. SR-Phlx-2010-187)

January 7, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

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, 2010, NASDAQ OMX PHLX, Inc. [sic] (“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 fees governing pricing for Exchange members using the Phlx XL II system,³ for routing standardized equity and index option Customer and Professional orders to away markets for execution.

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on January 3, 2011.

The text of the proposed rule change is available on the Exchange’s website at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ For a complete description of Phlx XL II, see Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The instant proposed fees will apply only to option orders entered into, and routed by, the Phlx XL II system.

Exchange, at the Commission's Public Reference Room, and on the Commission's website at www.sec.gov.

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 recoup costs that the Exchange incurs for routing and executing Customer and Professional orders in equity and index options to the International Securities Exchange LLC ("ISE") in Select Symbols⁴ for orders of 100 or more contracts. ISE recently amended its fees and the amendments proposed herein reflect the proposed ISE amendments.⁵

In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC ("NOS"), a member of the Exchange, as the Exchange's exclusive order router.⁶ NOS is utilized by the Phlx XL II system solely to route orders in options listed and open for trading on the Phlx XL II system to destination markets.

⁴ Select Symbols refer to the symbols which are subject to ISE's Rebates and Fees for Adding and Removing Liquidity in Select Symbols in ISE's Schedule of Fees.

⁵ See SR-ISE-2010-120.

⁶ See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).

Currently, the Exchange assesses a Routing Fee of \$0.26 per contract for Customer orders and \$0.31 per contract for Professional orders. The Exchange proposes to amend its Routing Fees for orders routed to ISE in Select Symbols by assessing \$0.18 per contract for Customer orders and \$0.34 per contract for Professional Orders.

The Exchange also proposes to remove a footnote reference to the ISE Select Symbols which states “[t]his fee applies to orders of 100 or more contracts.” This proposal reflects recent amendments to ISE’s fees, which eliminate the fee differential between priority customers with 100 or more contracts and priority customers with less than 100 contracts.⁷ All other orders that are routed to ISE, which are not in the Select Symbols, would be assessed the rates labeled “ISE”.

The Exchange is proposing these fees to recoup the majority of transaction and clearing costs associated with routing Customer and Professional orders to ISE in Select Symbols. These proposed fees will enable the Exchange to recover the transaction fees assessed by ISE, where applicable, plus clearing fees for the execution of Customer and Professional orders routed from the Phlx XL II system. As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on January 3, 2011.

2. Statutory Basis

⁷ See SR-ISE-2010-120. See also E-mail from Angela S. Dunn, Assistant General Counsel, Phlx, to Johnna B. Dumler, Special Counsel, Commission, dated January 5, 2011.

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that these fees are reasonable because the Exchange is seeking to recoup costs that it incurs when routing orders to ISE in Select Symbols on behalf of its members. The Exchange believes that the proposed fee amendments are equitable because these amendments mirror recent proposed amendments to ISE's Schedule of Fees and are being uniformly applied to the Exchange's members.

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 Act¹⁰ and paragraph (f)(2) of Rule 19b-4¹¹ thereunder. 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.

IV. Solicitation of Comments

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

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-2010-187 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-2010-187. 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 website (<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, 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 No. SR-Phlx-2010-187 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

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

Elizabeth M. Murphy
Secretary

¹² 17 CFR 200.30-3(a)(12).