

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64286; File No. SR-Phlx-2011-50)

April 8, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Singly Listed and Multiply Listed Indexes

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 8, 2011, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (the “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 the Exchange’s Fee Schedule to discontinue assessing an Options Surcharge Fee for RMN.<sup>3</sup>

The Exchange also proposes to remove specific symbol references to certain indexes in the title of Section II of the Exchange’s Fee Schedule captioned, “Equity Options Fees (Includes options overlying equities, ETFs, ETNs, HOLDRS, BKX, RUT, RMN, MNX, NDX which are Multiply Listed)” and instead substitute the word “indexes.” The Exchange proposes to make other conforming changes in the Fee Schedule.

---

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

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

<sup>3</sup> RMN represents options on the one-tenth value Russell 2000® Index (the “Reduced Value Russell Index” or “RMN”).

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

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 assessing an Options Surcharge for RMN because that index is no longer Multiply Listed and the license fee costs would be absorbed in the fees assessed on Singly Listed products.<sup>4</sup> The Exchange currently assesses an Options Surcharge for RUT,<sup>5</sup> RMN, MNX<sup>6</sup> and NDX<sup>7</sup> of \$.15 per

---

<sup>4</sup> RMN recently became a Singly Listed index option. The Exchange assesses higher fees for Singly Listed options as there are increased costs associated with those products.

<sup>5</sup> RUT represents the options on the Russell 2000® Index (the "Full Value Russell Index" or "RUT").

<sup>6</sup> MNX represents options on the one-tenth value of the Nasdaq 100 Index traded under the symbol MNX ("MNX").

<sup>7</sup> NDX represents options on the Nasdaq 100 Index<sup>7</sup> traded under the symbol NDX ("NDX").

contract for Specialists, ROTs, SQTs<sup>8</sup> and RSQTs,<sup>9</sup> Broker Dealers and Firms. The Exchange will continue to assess an Options Surcharge for RUT, MNX, NDX and BKX.

The purpose of this rule change is also to make the title of Section II of the Fee Schedule more general to address when a particular option switches from a Multiply Listed to a Singly Listed product. Specifically, the Exchange is amending Section II of the Fee Schedule, titled “Equity Options Fees (Includes options overlying equities, ETFs, ETNs, HOLDRS, BKX, RUT, RMN, MNX, NDX which are Multiply Listed)” to “Equity Options Fees (Includes options overlying equities, ETFs, ETNs, indexes and HOLDRS, which are Multiply Listed).” The Exchange is proposing to remove specific references to certain index symbols, namely BKX,<sup>10</sup> RUT, RMN, MNX and NDX, in the heading and instead use the broader term “indexes” in order to account for a circumstance where one of these named index options becomes Singly Listed.<sup>11</sup> The broader term “indexes” would clarify that only index options that are Multiply Listed would be assessed the fees in Section II. Index options that are Singly Listed options would continue to be assessed the fees in Section III, which applies to options overlying currencies, equities, ETFs, ETNs, indexes and HOLDRs not listed on another exchange.

---

<sup>8</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.

<sup>9</sup> A RSQT is defined Exchange Rule in 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>10</sup> BKX represents the KBW Bank Index.

<sup>11</sup> RMN recently became a Singly Listed index option. This proposed amendment would remove RMN from Section II of the Fee Schedule as well as the other specifically named index symbols and instead refer to indexes generally.

The Exchange is proposing to make this change in the Preface Section of the Fee Schedule as well as references to Section II fees in Section IV, titled “PIXL Pricing.”

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>13</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to not assess an Options Surcharge on RMN, a Singly Listed index option, because the license costs, which are recouped by the Options Surcharge Fee, are absorbed in the higher fees assessed to Singly Listed index options.

The Exchange believes that it is reasonable to remove the specific references to certain index symbols and instead insert the reference to “indexes” because the reference to the category of products is consistent with the remainder of the Fee Schedule<sup>14</sup> and more accurately describes the category of products applicable to Section II of the Fee Schedule.

The Exchange believes that the proposals to not assess an Options Surcharge on RMN and remove specific references to index symbols and insert the reference to “indexes” are equitable because these proposals would uniformly apply to members and member organizations trading Singly Listed and Multiply Listed products.

---

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> See Section III of the Fee Schedule titled “Singly Listed Options (Includes options overlying currencies, equities, ETFs, ETNs, indexes and HOLDRS not listed on another exchange), where the broader term “indexes” is utilized.

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>15</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

---

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

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2011-50 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-2011-50. 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 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-2011-50 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Cathy Ahn  
Deputy Secretary

---

<sup>16</sup> 17 CFR 200.30-3(a)(12).