

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64300; File No. SR-Phlx-2011-52)

April 14, 2011

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Rebates and Fees for Customer Complex Orders

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 April 8, 2011, NASDAQ OMX PHLX LLC (“Phlx” or “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 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 Complex Order³ Fees in Section I of its Fee Schedule titled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols.”

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on April 11, 2011.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or ETF coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i).

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, 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 amend Section I, Part B of the Exchange's Fee Schedule, titled "Complex Order" to: (i) pay a Customer Complex Order Rebate for Adding Liquidity of \$0.25 per contract for options overlying the iShares Russell 2000 Index ("IWM"); and (ii) waive the Customer Complex Order Fee for Removing Liquidity for options overlying Standard and Poor's Depositary Receipts/SPDRs ("SPY")⁴; the PowerShares QQQ Trust ("QQQ")®; and Apple, Inc. ("AAPL") [sic]. The Exchange is proposing these amendments to the Fee Schedule in order to continue to attract additional Customer order flow.

Complex Order Rebate for Adding Liquidity

Currently, the Exchange pays the following Complex Order Rebates for Adding Liquidity in the Select Symbols:

⁴ SPY options are based on the SPDR exchange-traded fund ("ETF"), which is designed to track the performance of the S&P 500 Index.

	Customer	Directed Participant	Specialist, ROT, SQT and RSQT	Firm	Broker-Dealer	Professional
Rebate for Adding Liquidity in all Select Symbols except SPY, QQQ and AAPL	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Rebate for Adding Liquidity for SPY, QQQ and AAPL	\$0.25	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

With respect to Complex Orders, the Exchange pays Customers a rate of \$0.25 per contract in specific Select Symbols, namely SPY, QQQ and AAPL. The Exchange currently pays a Complex Order Customer Rebate of \$0.24 per contract for transactions that add liquidity in IWM (“IWM Rebate”).⁵ The Exchange is proposing to change the IWM Customer Complex Order Rebate for Adding Liquidity from \$0.24 to \$0.25 per contract. The Exchange would continue to pay all other Select Symbols, except SPY, QQQ and AAPL, a Customer Complex Order Rebate for Adding Liquidity of \$0.24 per contract. Other, non-Customer market participants would not be paid a Complex Order Rebate for Adding Liquidity.⁶ The Exchange believes that this increased rebate for Customers transacting Complex Orders in options overlying IWM will attract additional Customer order flow to the Exchange in IWM.

Complex Order Fee for Removing Liquidity

Currently, the Exchange assesses the following Complex Orders Fees for Removing Liquidity in the Select Symbols:

⁵ The Exchange currently also pays a \$0.24 per contract Customer Complex Order Rebate for Adding Liquidity in all Select Symbols except SPY, QQQ and AAPL.

⁶ The only market participant that receives a Rebate for Adding Liquidity for Complex Orders today is a Customer.

	Customer	Directed Participant	Specialist, ROT, SQT and RSQT	Firm	Broker-Dealer	Professional
Fee for Removing Liquidity	\$0.25	\$0.25	\$0.27	\$0.28	\$0.35	\$0.28

With respect to Complex Orders, the Exchange currently assesses Customers a Fee for Removing Liquidity of \$0.25 per contract in all Select Symbols. The Exchange is proposing to waive the Customer Complex Order Fee for Removing Liquidity for options overlying SPY, QQQ, IWM and AAPL. All other Select Symbols would continue to be subject to a Customer Complex Order Fee for Removing Liquidity of \$0.25 per contract. The Exchange is not proposing to waive the Complex Order Fee for Removing Liquidity for any other market participant.⁷ The Exchange believes that this waiver of the Customer Complex Order Fee for Removing Liquidity for options overlying SPY, QQQ, IWM and AAPL will attract additional Customer order flow to the Exchange in those Select Symbols.

The Exchange does not propose to amend the fees in Section I, Part A titled “Single contra-side order.” While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on April 11, 2011.

2. Statutory Basis

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 also believes that there is an equitable allocation of reasonable rebates among Exchange members.

⁷ The other non-Customer market participants would continue to be assessed a Complex Order Fee for Removing Liquidity as noted above.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

The Exchange believes that it is reasonable to pay an increased Complex Order Rebate for Adding Liquidity to Customers in options overlying IWM and waive the Complex Order Fee for Removing Liquidity for Customers in options overlying SPY, QQQ, IWM and AAPL, because both the proposed Customer rebate and waiver of the fee should attract additional Customer order flow to the Exchange for the benefit of all market participants. The Exchange believes that the proposal is equitable because by paying an increased Complex Order Rebate for Adding Liquidity to Customers transacting options overlying IWM and waiving the Customer Fee for Removing Liquidity in options overlying SPY, QQQ, IWM and AAPL, all market participants should benefit from the increased liquidity which increased Customer order flow should bring to the Exchange. In addition, the aforementioned proposals are equitable because the Exchange would uniformly pay and waive the rebate and fee, respectively, for all Customer Complex Orders in the applicable symbols.

Also, the Exchange believes that it is reasonable to assess a different Fee for Removing Liquidity in certain symbols. For example, Chicago Board Options Exchange, Incorporated (“CBOE”) assesses Customers different fees for transacting QQQ [sic] and SPY as compared to other equity options.¹⁰

The Exchange operates in a highly competitive market comprised of nine U.S. options exchanges in which sophisticated and knowledgeable market participants can readily send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the Complex Order fees and rebates it assesses must be competitive with fees and rebates assessed in place on other options exchanges. The Exchange believes that this competitive marketplace impacts the fees and rebates present on the Exchange today and

¹⁰ See CBOE’s Fees Schedule.

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.¹¹ 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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2011-52 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2011-52. 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-2011-52 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Cathy H. Ahn
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).