

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-65043; File No. SR-Phlx-2011-104)

August 5, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program Regarding Price Improvement XL

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 August 1, 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 Exchange Rule 1080(n), Price Improvement XL (“PIXL<sup>SM</sup>”) to extend, through July 18, 2012, a pilot program (the “pilot”) concerning (i) the early conclusion of the PIXL Auction (as described below), and (ii) permitting orders of fewer than 50 contracts into the PIXL Auction. The current pilot is scheduled to expire August 31, 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 Exchange, and at the Commission’s Public Reference Room.

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

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

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 extend the pilot through July 18, 2012.

Background

The Exchange adopted PIXL in October, 2010 as a price-improvement mechanism on the Exchange.<sup>3</sup> PIXL is a component of the Exchange's fully automated options trading system, PHLX XL<sup>®4</sup> that allows an Exchange member (an "Initiating Member") to electronically submit for execution an order it represents as agent on behalf

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<sup>3</sup> See Securities Exchange Act Release No. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR-Phlx-2010-108) (Order Granting Approval to a Proposed Rule Change Relating to a Proposed Price Improvement System, Price Improvement XL).

<sup>4</sup> This proposal refers to "PHLX XL" as the Exchange's automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as "Phlx XL II." See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from "Phlx XL II" to "PHLX XL" for branding purposes.

of a public customer, broker dealer, or any other entity (“PIXL Order”) against principal interest or against any other order it represents as agent (an “Initiating Order”) provided it submits the PIXL Order for electronic execution into the PIXL Auction (“Auction”) pursuant to the Rule.

An Initiating Member may initiate a PIXL Auction by submitting a PIXL Order in one of three ways:

- First, the Initiating Member could submit a PIXL Order specifying a single price at which it seeks to execute the PIXL Order (a “stop price”).

- Second, an Initiating Member could submit a PIXL Order specifying that it is willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all trading interest and responses to the PIXL Auction Notification (“PAN,” as described below) (“auto-match”), in which case the PIXL Order will be stopped at the National Best Bid/Offer (“NBBO”) on the Initiating Order side of the market (if 50 contracts or greater) or, if less than 50 contracts, the better of: (i) the PHLX Best Bid/Offer (“PBBO”) price on the opposite side of the market from the PIXL Order improved by at least one minimum price improvement increment, or (ii) the PIXL Order’s limit price (if the order is a limit order), provided in either case that certain circumstances are met and that such price is at least one increment better than the limit of an order on the book on the same side as the PIXL Order.

- Third, an Initiating Member could submit a PIXL Order specifying that it is willing to either: (i) stop the entire order at a single stop price and auto-match PAN responses, as described below, together with trading interest, at a price or prices that improve the stop price to a specified price above or below which the Initiating Member

will not trade (a “Not Worse Than” or “NWT” price); (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the NBBO on the Initiating Order side (if 50 contracts or greater) or the better of: (A) the PBBO price on the opposite side of the market from the PIXL Order improved by one minimum price improvement increment, or (B) the PIXL Order’s limit price (if the order is a limit order) on the Initiating Order side (if for less than 50 contracts), and auto-match PAN responses and trading interest at a price or prices that improve the stop price up to the NWT price. In all cases, if the PBBO on the same side of the market as the PIXL Order represents a limit order on the book, the stop price must be at least one minimum price improvement increment better than the booked limit order’s limit price.

After the PIXL Order is entered, a PAN is broadcast and a one-second blind Auction ensues. Anyone may respond to the PAN by sending orders or quotes. At the conclusion of the Auction, the PIXL Order will be allocated at the best price(s).

Once the Initiating Member has submitted a PIXL Order for processing, such PIXL Order may not be modified or cancelled. Under any of the above circumstances, the Initiating Member’s stop price or NWT price may be improved to the benefit of the PIXL Order during the Auction, but may not be cancelled[.]

After a PIXL Order has been submitted, a member organization submitting the order has no ability to control the timing of the execution. The execution is carried out by the Exchange’s PHLX XL® automated options trading system and pricing is determined solely by the other orders and quotes that are present in the Auction.

## The Pilot

Three components of the PILX system were approved by the Commission on a pilot basis: (1) paragraphs (n)(i)(A)(2) and (n)(i)(B)(2) of Rule 1080, relating to auction eligibility requirements; (2) paragraphs (n)(ii)(B)(4) and (n)(ii)(D) of Rule 1080, relating to the early conclusion of the PIXL Auction; and (3) paragraph (n)(vii) of Rule 1080, stating that there shall be no minimum size requirement of orders entered into PIXL. The pilots were approved for a pilot period expiring on August 31, 2011.<sup>5</sup> The Exchange notes that during the pilot period it has been required to submit, and has been submitting, certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.<sup>6</sup> The Exchange will continue to provide such data. The Exchange believes that, because the pilot has been operating for a relatively short amount of time, the proposed extension should afford the Commission additional time to evaluate the pilot.

The Exchange proposes to extend the pilot through July 18, 2012.

### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general and with Section 6(b)(5) of the Act,<sup>8</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing

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<sup>5</sup> See supra note 3.

<sup>6</sup> See Exchange Rule 1080(n)(vii).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

information with respect to, and facilitating transactions in securities, 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act<sup>9</sup> in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes that PIXL, including the rules to which the pilot applies, result in increased liquidity available at improved prices, with competitive final pricing out of the Initiating Member's complete control. The Exchange believes that PIXL promotes and fosters competition and affords the opportunity for price improvement to more options contracts.

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.

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<sup>9</sup> 15 U.S.C. 78f(b)(8).

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6)<sup>11</sup> thereunder.

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

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give 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, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2011-104 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-2011-104. 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 D.C., 20549, on official business days between the hours of 10:00a.m. and 3:00p.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-Phlx-2011-104 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.<sup>12</sup>

Elizabeth M. Murphy  
Secretary

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