

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66122; File No. SR-Phlx-2011-186)

January 10, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Fees Applicable to the Trading of NMS Stocks Through NASDAQ OMX PSX

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 28, 2011, NASDAQ OMX PHLX LLC ("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 modify the fees applicable to trading on the NASDAQ OMX PSX system ("PSX"). The text of the proposed rule change is available on the Exchange's website at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, on the Commission's website at <http://www.sec.gov>, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify order routing fees applicable to the use of PSX's PMOP routing strategy. PMOP is a routing option under which an incoming order routes only to Protected Quotations (as defined in SEC Rule 600 under Regulation NMS),³ and only for the displayed size of such quotes. If shares remain unexecuted after routing, they are posted to the PSX book and do not route out again. Currently, the Exchange charges \$0.0025 per share executed with respect to PMOP orders that execute at the New York Stock Exchange ("NYSE") and \$0.0035 per share executed with respect to PMOP orders that execute at other trading venues. The Exchange is proposing to reduce the fee for PMOP orders that execute at other venues to \$0.0031 per share executed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Sections 6(b)(4) of the Act,⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls. In general, routing fees are reasonable because they seek to recoup the cost of the execution on the other venue, which is generally borne by the order router and, ultimately, the routing exchange.

³ 17 CFR 242.600.

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4).

The proposed change reflects a reduction in fees in order to make the routing services of PSX more attractive to potential customers.

The Exchange also believes that the proposed change is equitable. All similarly situated members are subject to the same fee structure, and access to Phlx is offered on fair and non-discriminatory terms; specifically, the same routing fee, credit or pass through fee applies to any participant and does not differ based on user type (e.g., customer or broker-dealer). The Exchange further believes that the fee for the PMOP routing strategy is equitable because PMOP is a complex routing strategy that it involves ascertaining all venues displaying a protected quote and the simultaneous routing of orders to the displayed size of such quotes; accordingly, the Exchange believes that charging a higher fee with respect to the strategy as compared with other strategies is equitable. Nevertheless, the change will reduce the difference between PMOP fees and fees for the use of other strategies, thereby enhancing the competitiveness of the Exchange's routing services.

Furthermore, the new routing fees are reasonable and equitable in that the decision to send routable orders and to use PHLX as a router is entirely voluntarily; members can avail themselves of numerous other means of directing orders to other venues, including becoming members of those markets or using any of a number of competitive routing services offered by other exchanges and brokers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily favor the Exchange's competitors in making order routing decisions to the

extent that they deem PSX's fees to be excessive. Moreover, the Exchange believes that the proposal will enhance competition through its use of reduced fees to draw greater order flow to PSX.

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.⁶ 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 No. SR-Phlx-2011-186 on the subject line.

Paper comments:

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

- 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 No. SR-Phlx-2011-186. 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-2011-186 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.⁷

Kevin M. O'Neill
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).