

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76867; File No. SR-Phlx-2015-115)

January 11, 2016

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Chapter VIII of the Pricing Schedule

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, 2015, 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 amend Chapter VIII of the Pricing Schedule to clarify the connectivity options and application of the fees assessed thereunder.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqomxphlx.cchwallstreet.com/>, 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

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Chapter VIII of the Pricing Schedule provides the charges Phlx assesses for equity securities market connectivity to systems operated by Phlx. Phlx is amending Chapter VIII of the Pricing Schedule in four ways: (1) to clarify the term “port pair”; (2) to clarify the connectivity options available under the rule; (3) to eliminate internet ports as a connectivity option; and (4) to eliminate rule text concerning a waiver of fees of limited duration that has since expired.

First, Phlx is proposing to clarify the use of the term “port pair.” For certain ports under Chapter VIII of the Pricing Schedule that are used for either trading or data, Phlx additionally provides a disaster recovery port at no cost. Such a disaster recovery port provides connectivity to Phlx’s disaster recovery location in the event of a failure of Phlx’s primary trading infrastructure. Phlx has provided disaster recovery ports at no cost since 2010 to encourage member organization to maintain such connectivity in the event of a market disruption so that the market as a whole could continue to operate. In the interest of clarity, the Exchange is proposing to eliminate the term port pair and to separately list disaster recovery ports as a connectivity option available at no cost under the rule.

Second, Phlx is reorganizing and adding language to Chapter VIII of the Pricing Schedule to list all connectivity provided by Phlx under the rule, which is currently subsumed in a connectivity option and related fee. Specifically, the Exchange currently offers connectivity for \$400 per port, per month for each port pair other than Multicast ITCH data feed pairs. Under

the \$400 per port, per month connectivity option a member organization may subscribe to an OUCH protocol trading port, a FIX Trading Port (either a FIX or FIX Lite protocol),³ RASH protocol trading port, and DROP ports. Phlx is listing separately each of the options available under the rule.⁴

Similarly, Phlx offers trading ports that may be used only in test mode. Member organizations may subscribe to these test mode trading ports at no cost, which are exclusively used for testing purposes and may not be used for trading in securities in the System. The Exchange is adding rule text noting that these test ports may be subscribed to under the rule. The Exchange also provides data retransmission ports at no cost. Data retransmission ports allow a subscriber to replay market data, in the event the data was missed in a live feed or for verification purposes. Data retransmission ports only allow replay of the current trading day and do not provide data concerning prior trading days' data. The Exchange is adding rule text noting that data retransmission ports may be subscribed to under the rule.

Third, Phlx is proposing to eliminate Internet Ports. Internet ports are based on outdated technology and Phlx does not have any subscribers to this connectivity method.

Fourth, the Exchange is proposing to eliminate rule text concerning a fee waiver of all Access Services fees for the first full six months during which Phlx's equities trading market,

³ A FIX port is a trading port using a FIX-based telecommunication protocol. FIX, an abbreviation for Financial Information eXchange, is a standard message protocol that defines an electronic message exchange for communicating securities transactions between two parties. Phlx offers two FIX-based trading ports, which vary based on messaging formats and capability. Phlx is proposing to list these two protocols as options under the rule that a member organization may select when subscribing to a FIX trading port.

⁴ The Exchange is also deleting rule text concerning a port fee waiver of this connectivity option, which has since expired.

NASDAQ OMX PSX, operates. NASDAQ OMX PSX began operations in October, 2010.⁵

Thus, the Exchange is proposing to eliminate the unneeded text.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁷ 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, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing 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 are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the clarifying changes to the rule protect investors and the public interest because they explicitly describe the fees assessed for all ports under the rule. Describing all services covered by the rule will serve to avoid investor confusion over the scope of what connectivity options are available, and the costs of such options. The Exchange notes that it is not adding new connectivity options or functionality, but is rather describing more specifically what is currently offered under the rule. In this regard, the Exchange is adding new

⁵ Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-Phlx-2010-79).

⁶ 15 U.S.C. 78f (b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

rule text that describes all functionality available under each subparagraph of the rule, and is reorganizing some rule text under the rule in an effort to make the rule clearer. The Exchange notes that much of the new text concerns testing ports, and ports used in the event of a disaster or hardware failure. These ports help ensure that a fair and orderly market is maintained by allowing member organizations to test their systems prior to connecting to the live trading environment, and to provide backup connectivity in the event of a failure or disaster. Thus, the Exchange believes the proposed clarifying changes are consistent with the protection of investors and the public interest.

The Exchange believes that the proposed deletion of the Internet Port connectivity option is reasonable, equitably allocated, and not unfairly discriminatory because there are no subscribers to this connectivity option, which is based on outdated means of connecting to the Exchange. As a consequence, no member organizations will be impacted by deletion of the connectivity option. Likewise, the Exchange believes that the proposed deletion of the expired Access Services fee waiver rule text is reasonable, equitably allocated, and not unfairly discriminatory because the waiver is no longer in effect and therefore no member organizations will be impacted by the deletion. The Exchange notes that it is not altering the charges assessed for the remaining connectivity options under Chapter VIII of the Pricing Schedule.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, Phlx is making clarifying changes to Chapter VIII of the Pricing Schedule, which does not impose any burden on competition whatsoever. To the contrary, the proposed change facilitates competition by clarifying what connectivity options are provided by the Exchange, thereby informing other market venues a better understanding of what connectivity options are

available for Phlx. With that better understanding, other market venues may improve existing connectivity options or offer new connectivity options to compete with Phlx. Accordingly, the proposed changes do not inhibit market participants' ability to compete among each other, nor do they impose any burden on competition among market venues, but rather may promote competition among market venues.

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

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹ 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

⁸ 15 U.S.C. 78s(b)(3)(a)(iii).

⁹ 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.

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-2015-115 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2015-115. 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-2015-115 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.¹⁰

Robert W. Errett
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).