

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-77444; File No. SR-Phlx-2016-34)

March 25, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Continuing Education Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 15, 2016, NASDAQ PHLX LLC ("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 the Continuing Education fee schedule as described further below. The proposed rule change is being filed for immediate effectiveness.

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

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

<sup>2</sup> 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

The Exchange proposes to make changes to the Continuing Education fees set forth in subsection C, FINRA Fees, of Section VII, Other Member Fees, to provide that the Continuing Education fee will be \$55 if the Continuing Education session is conducted via Web delivery. The Continuing Education fee will remain \$100 if the Continuing Education session is conducted at a testing center. The Exchange is also eliminating the \$60 Continuing Education fee for the S501 Regulatory Element, which was discontinued by FINRA as of January 4, 2016.<sup>3</sup>

On August 8, 2015, the Commission approved SR-FINRA-2015-015 relating to proposed changes to FINRA Rule 1250 to provide for Web-based delivery for completing the Regulatory Element of the Continuing Education requirements.<sup>4</sup> Pursuant to the rule change, effective

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<sup>3</sup> Currently, Section VII, subsection C, of the Exchange's fee schedule provides that the Continuing Education fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education requirements pursuant to Exchange Rule 640. This fee, which is paid directly to FINRA, is \$60.00 for each individual who is required to complete the Proprietary Trader Regulatory Element (S501) and \$100.00 for each individual who is required to complete the S101 or S201 Regulatory Elements.

<sup>4</sup> See Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements) (SR-FINRA-2015-015). FINRA elected to provide a Web-based delivery method for completing the Regulatory Element based on its evaluation of different delivery methods and in consultation with the Securities Industry Regulatory Council on Continuing Education ("CE Council"). The CE Council is composed of up to 20 industry members from broker-dealers, representing a broad cross section of industry firms, and representatives from FINRA and other SROs as well as liaisons from the SEC and the North American Securities Administrators Association. See <http://www.cecouncil.com>.

October 1, 2015, the Regulatory Element of the Continuing Education programs for the S101 and S201 is now administered through Web-based delivery.<sup>5</sup>

Pursuant to the approval order for SR-FINRA-2015-015, the fee for test-center delivery of the Regulatory Element of the S101 and S201 Continuing Education programs will continue to be \$100 per session through no later than six months after January 4, 2016 when the program will no longer be offered at testing centers. However, the fee for Web-based delivery of the Regulatory Element of the S101 and S201 Continuing Education programs is now \$55.

The Exchange currently utilizes the S101 and S201 programs that are part of the Securities Industry Continuing Education Program.<sup>6</sup> Consistent with SR-FINRA-2015-015, the Exchange recently filed a separate proposed rule change to follow the changes set forth in SR-FINRA-2015-015 with respect to Web-based delivery of the Regulatory Element of the Continuing Education programs.<sup>7</sup> The CE Council determined to adopt a lower Web-delivery CE fee based on the difference between the cost of CE administered at a testing center and the cost of CE administered by Web delivery. FINRA made this change to its fees in SR-FINRA-2015-015 in response to the Council's decision. Consistent with SR-FINRA-2015-015, this

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The Exchange, with other SROs, is adopting the fee for Web based CE that was recommended by FINRA and approved by the CE Council.

<sup>5</sup> The Regulatory Element of the S101 and S201 Continuing Education programs will continue to be offered at testing centers until no later than six months after January 4, 2016. Test-center delivery of the Regulatory Element will be phased out by no later than six months after January 4, 2016. See Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (Order Approving a Proposed Rule Change To Provide a Web-Based Delivery Method for Completing the Regulatory Element of the Continuing Education) (SR-FINRA-2015-015).

<sup>6</sup> The Securities Industry/Regulatory Council on Continuing Education has advisory and consultative responsibilities with regard to the development, implementation and ongoing operation of the Securities Industry Continuing Education Program.

<sup>7</sup> See Securities Exchange Act Release No. 76880 (January 12, 2016), 81 FR 2928 (January 19, 2016).

proposed rule change will now amend the Exchange's fee schedule to provide that the continuing education fee is \$100.00 (\$55.00 if the Continuing Education is Web-based) for each individual who is required to complete the S101 or S201.<sup>8</sup> The Exchange is also deleting an extraneous parenthesis.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities. The Exchange believes that the proposal to set the Continuing Education fee at \$55 if the Continuing Education session is conducted via Web delivery is an equitable allocation of dues, fees and other charges because the fee change applies equally to all persons associated with members. In addition, the Exchange believes that the amended fee is an equitable allocation of dues, fees and other charges as it will apply uniformly to all persons associated with the members who choose to participate in the continuing education program through FINRA via Web delivery. As FINRA has stated in SR-FINRA-2015-015, the test center delivery method is expensive to operate and support, and web-based delivery is efficient and offers significant cost savings over test-center and in-firm deliveries. The proposed deletion of the \$60 Continuing Education fee for the S501 Regulatory Element is reasonable because the S501 CE program has been discontinued by FINRA.

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<sup>8</sup> As noted above, the S501 Proprietary Trader Regulatory Element was discontinued as of January 4, 2016. The Exchange is therefore deleting the \$60 S501 Proprietary Trader Regulatory Element fee. The Exchange will file another proposed rule change to eliminate the reference to the \$100 Continuing Education fee when the test center option is eliminated for the S101 and S201 Regulatory Elements.

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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

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. Because the proposed rule change applies to all persons associated with members who are required to fulfill Continuing Education requirements, the proposal has no effect on competition.

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>11</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: (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.

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>11</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-2016-34 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2016-34. 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-2016-34 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>

Brent J. Fields  
Secretary

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