

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78408; File No. SR-Phlx-2016-76)

July 25, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Update Public Disclosure of Exchange Usage of Market Data

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 July 12, 2016, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 update Exchange Rule 3304 and to amend the public disclosure of the sources of data that the Exchange utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes.

The text of the proposed rule change is below. Proposed new language is underlined.

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Rule 3304. Data Feeds Utilized

The PSX System utilizes the below proprietary and network processor feeds for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Secondary Source of data is, where applicable, utilized only in emergency market conditions and only until those emergency conditions are resolved.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Market Center	Primary Source	Secondary Source
A - NYSE MKT (AMEX)	NYSE MKT OpenBook Ultra	CQS/UQDF
B - NASDAQ OMX BX	BX ITCH 5.0	CQS/UQDF
C - NSX	CQS/UQDF	n/a
D - FINRA ADF	CQS/UQDF	n/a
J - DirectEdge A	BATS PITCH	CQS/UQDF
K - DirectEdge X	BATS PITCH	CQS/UQDF
M - CHX	CHX Book Feed	CQS/UQDF
N - NYSE	NYSE OpenBook Ultra	CQS/UQDF
P - NYSE Arca	NYSE ARCA XDP	CQS/UQDF
T/Q - NASDAQ	ITCH 5.0	CQS/UQDF
<u>V – IEX</u>	<u>CQS/UQDF</u>	<u>n/a</u>
X - NASDAQ OMX PSX	PSX ITCH 5.0	CQS/UQDF
Y - BATS Y-Exchange	BATS PITCH	CQS/UQDF
Z - BATS Exchange	BATS PITCH	CQS/UQDF

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The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqphlx.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 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 proposes to update and amend the table in Exchange Rule 3304 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

Specifically, the table will be amended to include Investors’ Exchange LLC (“IEX”), which has informed the UTP Securities Information Processor (“UTP SIP”) that it is projecting to activate its status as an operating participant for quotation and trading of Nasdaq-listed securities under the Unlisted Trading Privileges (“UTP”) Plan on or about August 1, 2016. The primary source will be CQS/UQDF and there is no secondary source provided.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,³ in general and with Section 6(b)(5) of the Act,⁴ in particular in that it is

³ 15 U.S.C. 78f.

⁴ 15 U.S.C. 78f(b)(5).

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.

The Exchange believes that its proposal to update the table in Exchange Rule 3304 to include IEX will ensure that Exchange Rule 3304 correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. Also, the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

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. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges and the correct information for the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

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)⁵ of the Act and Rule 19b-4(f)(6) thereunder.⁶

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁷ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁸ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would permit the Exchange to immediately enhance transparency and to accommodate the projected date that IEX will activate its status as an operating participant for quotation and trading of Nasdaq-listed securities under the UTP Plan. Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest.

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 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, along with a brief description and the text of 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.

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 17 CFR 240.19b-4(f)(6)(iii).

Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.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.

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-2016-76 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-2016-76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2016-76, 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).