

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84495; File No. SR-Phlx-2018-66)

October 29, 2018

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Relocate the Pricing Schedule Rules

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 October 18, 2018, 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 (a) relocate rules from the Phlx’s Pricing Schedule (“Pricing Schedule”) and current Rule 909 to the Exchange’s rulebook’s (“Rulebook”) shell structure,³ (b) eliminate the Pricing Schedule’s Table of Contents, obsolete text, and reserved rules; and (c) make conforming cross-reference changes throughout the Rulebook.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; and Nasdaq MRX, LLC (“Affiliated Exchanges”). See Securities Exchange Act Release No. 82169 (November 29, 2017), 82 FR 57508 (December 5, 2017) (SR-Phlx-2017-97).

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 Exchange, as part of its continued effort to promote efficiency and the conformity of its processes with those of the Affiliated Exchanges, and the goal of harmonizing and uniformizing its rules, proposes to relocate the Pricing Schedule rules and Rule 909 to the Exchange's shell structure. Specifically, the Exchange will relocate the Pricing Schedule rules described below respectively into the Equity 7 and Options 7 sections of the shell structure (both named "Pricing Schedule").

In addition, the Exchange proposes to delete the current Pricing Schedule's Table of Contents and the obsolete term "Phlx XL II" at current Chapter VI., A. Moreover, the Exchange proposes not to relocate current Chapters X, XI, and XII, since these are reserved rules that do not contain any rule text. Finally, the Exchange proposes to make conforming cross-reference changes throughout the Rulebook.

(a) Table of Contents

The Exchange proposes to eliminate the existing Table of Contents in the Phlx Pricing Schedule. The Table of Contents is unnecessary. The website where the Phlx rules are listed⁴ contains hyperlinks and a skeleton of the available rules within the site and enables market participants to view all rules in that section.

(b) Relocation of Equity Rules

The Exchange proposes to adopt, under Equity 7, Section 1 (“General Provisions”) a modified version of the current introductory text in the Pricing Schedule. Proposed Equity 7, Section 1(a) will refer to the calculation of fees in the Exchange, with a specific reference to the exception concerning disputes of Nasdaq PSX fees and proprietary data feed fees. The Exchange notes that the relocated text will not include the reference to disputes concerning fees for co-location services. The co-location services rule was recently moved to the General 8 section of the Rulebook⁵ and the rules of the proposed Pricing Schedule will not apply to co-location services.⁶

The Exchange proposes also to relocate to Equity 7, Section 1(b) the portion of the Pricing’s Schedule’s Preface that applies only to equities. This will include the paragraph that

⁴ Phlx rules are located at: <http://nasdaqphlx.cchwallstreet.com>.

⁵ See Securities Exchange Act Release No. 83465 (June 19, 2018), 83 FR 29594 (June 25, 2018) (SR-Phlx-2018-46).

⁶ See proposed Equity 7, Section 1(a): “Policy for amending billing information: corrections submitted after trade date and prior to the issuance of an invoice by the exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation. Only members may submit trade corrections.

All billing disputes must be submitted to the Exchange in writing and must be accompanied by supporting documentation. All disputes must be submitted no later than sixty (60) days after receipt of a billing invoice, except for disputes concerning Nasdaq PSX fees and proprietary data feed fees. The Exchange calculates fees on a trade date basis. Only members may submit billing disputes.”

reads “For PSX Equities.” The relocated text has no application to transactions in options and, therefore, will not be included in Options 7, Section 1(b) described below.

The Exchange proposes also to relocate and renumber Phlx Rule 909 under both Equity 7, Section 2 and Options 7, Section 2 (both named “Collection of Exchange Fees and Other Claims”). Rule 909 permits Phlx to collect undisputed or final fees, fines, charges and/or other monetary sanctions or other monies due and owing to the Exchange or other charges related to Rule 924.⁷ The Exchange believes that, unlike other rules in the 900 Rules Series (“Membership”), which generally refer to the powers of the Board of Directors and the authority it delegates to Senior Management of the Exchange, the direct debit process established in Rule 909 will be better situated among the relocated rules in the Equity 7 and Options 7 titles.

Next, the Exchange proposes to relocate and renumber current Pricing Schedule’s Chapter VIII (“NASDAQ PSX FEES”) as Equity 7, Section 3 in the shell structure. The text of this rule will not be substantively changed other than to update the capitalization of its title.

Today, Chapter VI of the Phlx Pricing Schedule consists of rule text applicable to both equities and options. Specifically, references to floor pricing apply to the options market, as only that market has a trading floor. In Chapter VI, A. (“Permit and Registration Fees”), the paragraph that describes PSX Only Permit Fees describes an equity fee. The “Application Fee,” “Application Fee for Lapsed Applications,” “Transfer of Affiliation Fee,” “Account Fee,”

⁷ See Securities Exchange Act Release No. 61405 (January 21, 2010), 75 FR 4888 (January 29, 2010) (SR-Phlx-2009-101) (Order Approving a Proposed Rule Change Relating to Collection of Exchange Fees).

“Initiation Fee” and “Permit Fees” apply to both equities and options. Finally, the “Inactive Nominee Fee” and the “Clerk Fee” are floor fees and therefore apply to options only.⁸

The Exchange proposes to adopt Equity 7, Section 4 (“Membership Fees”), A. (“Permit and Registration Fees”) by adapting text from current Chapter VI, A. of the Pricing Schedule. Specifically, as previously noted, Equity 7, Section 4, A. will consist of the following fees: “Application Fee,” “Application Fee for Lapsed Applications,” “Transfer of Affiliation Fee,” “Account Fee,” “Initiation Fee,” and “Permit Fees.” Proposed Equity 7, Section 4 will also include text from the current rule which is only applicable to PSX transactions; thus, the Exchange proposes to relocate the text under the subheading “PSX Only Permit Fees.”

Additionally, the Exchange will relocate the callout (“*”) and respective footnote that accompany the “Application Fee,” “Application Fee for Lapsed Applications,” “Account Fee,” and “Initiation Fee” subheadings; this is because the footnote is exclusively applicable to those who only apply for PSX membership, and therefore should be moved to the Equity 7 title.

The Exchange notes that it will not relocate the obsolete term “Phlx XL II” used in the footnote described above; the term is a legacy reference and its removal will not affect the rights of prospective or existing members of the Exchange.

The Exchange will thus relocate and renumber the above-referenced rules as follows:

Equity 7 – Pricing Schedule (Proposed)	Schedule of Fees (Current)
Section 1. General Provisions – (a)	<i>Pricing Schedule’s Introduction</i>
Section 1. General Provisions – (b)	PREFACE

⁸ As explained later, the Exchange is proposing to adopt a parallel rule under the Options 7, Section 8 (“Membership Fees”), with fees applicable to both options and equities and relocate only the subsections from Chapter VI that apply to options.

Equity 7 – Pricing Schedule (Proposed)	Schedule of Fees (Current)
Section 2. Collection of Exchange Fees and Other Claims	Rule 909. Collection of Exchange Fees and Other Claims
Section 3. Nasdaq PSX Fees	VIII. NASDAQ PSX FEES
Section 4. Membership Fees	VI. Membership Fees

(c) Relocation of Options Rules

The Exchange proposes to adopt, under Options 7, Section 1(a), a modified version of the current introductory section in the Pricing Schedule. Proposed Options 7, Section 1(a) will refer to the calculation of fees in the Exchange, with a specific reference to the exception concerning disputes of proprietary data fees, which applies to transactions in options. The Exchange believes that this change will improve the readability of the rules relocated under the Options 7 title.

The Exchange also proposes to adopt under Options 7, Section 1(b) the text from the Pricing Schedule’s Preface that applies only to transactions in options. Specifically, proposed Options 7, Section 1(b) will contain the text that opens with “For Phlx Options”; the definitions of “Customer”; “Specialist”; “ROT, SQT and RSQT”; “Market Maker”; “Registered Option Trader”; “Streaming Quote Trader”; “Remote Streaming Quote Trader”; “Firm”; “Professional”; “Broker-Dealer”; “Joint Back Office”; “Common Ownership”; and “Non-Customer”; and the rules that apply to options transactions fees or rebates described under the subsection “For Purposes of Common Ownership Aggregation of Activity of Affiliated Members and Member Organizations,” including the terms “Appointed MM,” “Appointed OFP,” and “Affiliated Entity.”

The Exchange additionally proposes that Subsections A and B (respectively, “Mini Options Fees” and “Customer Rebate Program”) in the Pricing Schedule’s Preface remain unchanged and be relocated to proposed Options 7, Section 1(b).

As previously explained, the Exchange proposes also to adopt a rule, under Options 7, Section 2, for the collection of undisputed fees or other monies identical to current Phlx Rule 909 (“Collection of Exchange Fees and Other Claims”), which will parallel the rule under Equity 7, Section 2.

The Exchange proposes also to relocate, renumber, and add the word “Section” to each of the following chapters in the Pricing Schedule: I (“Rebates and Fees for Adding and Removing Liquidity in SPY”); II (“Multiply Listed Options Fees”), III (“Singly Listed Options”); IV (“Other Transaction Fees”); V (“Routing Fees”); VII (“Other Member Fees”); IX (“Proprietary Data Feed Fees”); and XIII (“Access and Redistribution Fee”).

With respect to the text in current Chapter VI of the Pricing Schedule, as previously explained, the Exchange proposes to adopt Options 7, Section 8, A. (“Permit and Registration Fees”) which will include text applicable to both equities and options (the “Application Fee,” “Application Fee for Lapsed Applications,” “Transfer of Affiliation Fee,” “Account Fee,” “Initiation Fee,” and “Permit Fees.”).

The Exchange proposes also to remove the callout (“*”) from the Application, Account, and Initiation fees’ subheadings since such footnote is applicable to those who only apply for membership with PSX.

Moreover, the Exchange proposes to include under Options 7, Section 8, A. portions of text from Chapter VI which apply only to transactions in options (namely, “Phlx Permit Fees,” “Inactive Nominee Fee,” and “Clerk Fee”). The Exchange additionally proposes to relocate to

Options 7, Section 8, subsections B. (“Streaming Quote Trader Fees”), C. (“Remote Market Maker Organization Fee”) and D. (“Remote Specialist Fee”) from current Chapter VI.

The proposed relocation of options rules can be summarized as follows:

Options 7 – Pricing Schedule (Proposed)	Schedule of Fees (Current)
Section 1. General Provisions – (a)	<i>Pricing Schedule’s Introduction</i>
Section 1. General Provisions – (b)	PREFACE A. Mini Option Fees B. Customer Rebate Program
Section 2. Collection of Exchange Fees and Other Claims	Rule 909. Collection of Exchange Fees and Other Claims
Section 3. Rebates and Fees for Adding and Removing Liquidity in SPY	I. Rebates and Fees for Adding and Removing Liquidity in SPY
Section 4. Multiply Listed Options Fees	II. Multiply Listed Options Fees
Section 5. Singly Listed Options	III. Singly Listed Options
Section 6. Other Transaction Fees	IV. Other Transaction Fees
Section 7. Routing Fees	V. Routing Fees
Section 8. Membership Fees	VI. Membership Fees
Section 9. Other Member Fees	VII. Other Member Fees
Section 10. Proprietary Data Feed Fees	IX. Proprietary Data Feed Fees
Section 11. Access and Redistribution Fee	XIII. Access and Redistribution Fee

The Exchange believes that the changes previously explained are non-substantive and that they will facilitate the use of the Rulebook by Members⁹ of the Exchange, including those who are members of other Affiliated Exchanges, and other market participants.

⁹ Exchange Rule 100(a)(32).

(d) Pricing Schedule Rules to be Removed

The Exchange proposes Pricing Schedule's Chapters X, XI, and XII not to be relocated to the shell structure and that they be removed from the Rulebook. The aforementioned sections are currently marked as "Reserved" and their relocation to the shell structure is unnecessary since the Exchange may amend and create new rules if needed.

(e) Cross-Reference Updates

In connection with the changes described above, the Exchange proposes to update all cross-references in the Rulebook that direct the reader to the current location of the Pricing Schedule rules and/or any of their subsections.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed to promote just and equitable principles of trade, 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, by promoting efficiency and the structural conformity of the Exchange's processes with those of the Affiliated Exchanges and to make the Exchange's Rulebook easier to read and more accessible to its Members and market participants. The Exchange believes that the relocation and renumbering of rules in the Equity 7 and Options 7 Pricing Schedules, related cross-reference updates, and the deletion of the Table of Contents, the obsolete term "Phlx XL II," and unused Pricing Schedule chapters are of a non-substantive nature.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' and market participants' navigation and reading of the Equities' and Options' Pricing Schedules.

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) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁵

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) 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 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.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

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 requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to promptly relocate the Pricing Schedule rules, which the Exchange believes will improve the organization and readability of the Exchange's Rulebook. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁶

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 change 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

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2018-66 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-2018-66. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-Phlx-2018-66, 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.¹⁷

Eduardo A. Aleman
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(12).