

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88753; File No. SR-Phlx-2020-21)

April 27, 2020

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Various Phlx Rules related to Routing, Remote Specialist, and Assistant Lead Market Maker

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 April 15, 2020, 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 amend Phlx Rules at Options 2, Section 3, Allocation Application, Allocation, Reallocation, Transfer and Voluntary Resignation”; Options 2, Section 4, Obligations of Market Makers; Options 2, Section 11, Lead Market Maker Appointments; Options 5, Section 4, Order Routing; Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment; Options 8, Section 25, Floor Allocation; and Options 8, Section 39, Option Minor Rule Violations and Order and Decorum Regulations at E-2, Allocation, Time Stamping, Matching and Access to Matched Trades.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Phlx Rules at Options 2, Section 3, Allocation Application, Allocation, Reallocation, Transfer and Voluntary Resignation"; Options 2, Section 4, Obligations of Market Makers; Options 2, Section 11, Lead Market Maker Appointments; Options 5, Section 4, Order Routing; Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment; Options 8, Section 25, Floor Allocation; and Options 8, Section 39, Option Minor Rule Violations and Order and Decorum Regulations at E-2, Allocation, Time Stamping, Matching and Access to Matched Trades. Each change is described below.

Remote Specialist

The Exchange proposes to amend Options 2, Section 4, Obligations of Market Maker, to replace rule text currently within Options 2, Section 4(b)(2) with more precise rule text. Currently, the rule text in the last two sentences of Options 2, Section 4(b)(2) provides, "An RSQT shall not submit option quotations in eligible options to which such RSQT is assigned to

the extent that the RSQT is also approved as a Remote Lead Market Maker in the same options. An RSQT may only trade in a market making capacity in classes of options in which he is assigned or approved as a Remote Lead Market Maker.” The Exchange would like to replace this text with more precise language which it believes more clearly conveys the meaning of those sentences. The Exchange proposes to state, “An RSQT may not simultaneously quote both as RSQT and Remote Lead Market Maker in a particular security. If an RSQT is a Remote Lead Market Maker in a particular security, the Remote Lead Market Maker must make a market as a Remote Lead Market Maker and may not make a market as an RSQT in that particular security.” This rule text, which the Exchange believes is clear and precise, is taken from the Order which approved this rule text.³ This amendment is a non-substantive rule change which is merely intended to bring greater clarity to the obligation of an RSQT who is also the Remote Lead Market Maker in a particular security.

Assistant Lead Market Maker

The Exchange proposes to amend rule text within Options 2, Section 3, Allocation Application, Allocation, Reallocation, Transfer and Voluntary Resignation; Options 2, Section 11, Lead Market Maker Appointments; Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment; Options 8, Section 25, Floor Allocation; and Options 8, Section 39, Option Minor Rule Violations and Order and Decorum Regulations at E-2, Allocation, Time Stamping, Matching and Access to Matched Trades to replace the term “assistant” with “back-up.” This amendment is non-substantive. The Exchange believes that the word “back-up” is a

³ See Securities Exchange Act Release No. 63717 (January 14, 2011), 76 FR 4141 at 4143 (January 24, 2011) (SR-Phlx-2010-145) (“Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Establishment of Remote Specialists”).

more precise term that emphasizes that the Market Maker must be able to take on all the duties of the Lead Market Maker. No obligations are being amended with respect to this role.

Routing

Phlx previously filed a rule proposal⁴ to amend this Options 5, Section 4, “Order Routing,” which was previously numbered Rule 1093.⁵ At this time, the Exchange proposes to remove two sentences within Options 5, Section 4 for FIND and SRCH Orders. These sentences were inadvertently not removed in the Prior Rule Change.

FIND Orders

The Exchange proposes to delete a sentence within FIND Orders at Options 5, Section 4(a)(iii)(B)(5) which states, “If during the Route Timer, the ABBO moves and crosses the FIND Order, any new interest arrives opposite the FIND Order that is marketable against the FIND Order will trade at the FIND Order price.” This sentence is incorrect in that it contradicts a sentence at the end of Options 5, Section 4(a)(iii)(B)(5) which states, “If during the Route Timer any new interest arrives opposite the FIND Order that is marketable against the FIND Order such interest will trade against the FIND Order at the ABBO price unless the ABBO is improved to a price which crosses the FIND Order’s already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price.” The current last sentence within Options 5, Section 4(a)(iii)(B)(5) accurately describes the scenario for new interest arriving opposite the FIND Order that is marketable against the FIND Order.

⁴ See Securities Exchange Act Release No. 87811 (December 20, 2019), 84 FR 72017 (December 30, 2019) (SR-Phlx-2019-56) (“Prior Rule Change”).

⁵ Phlx has recently renumbered its rules in connection with a Rulebook relocation to a new Rulebook shell. See SR-Phlx-2020-03.

By way of example, assume a PHLX BBO: 1 x 1.25 and a CBOE BBO: 1.05 x 1.15.

If a FIND Order was entered to Buy 1 @ 1.20

FIND Order to buy is exposed on Phlx market data feeds @1.15 (then ABBO) and displayed on OPRA at 1.14

Route Timer begins

During Route Timer a Limit Order to sell 1 @ 1.15 arrives

CBOE adjusts its BBO to 1.05 x 1.10

The Route Timer ends and the Find Order will trade with the sell Limit Order at 1.15 in this example.

The incorrect sentence provides that if the ABBO moves and crosses the FIND Order, any new interest that arrives opposite the FIND Order, which is marketable against the FIND Order, will trade at the FIND Order Price. This is incorrect because the new interest would trade against the FIND Order at the ABBO price, unless the ABBO is improved to a price which crosses the FIND Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. The current sentence is incorrect because the FIND Order will not trade at the FIND Order price as noted in the first quoted sentence, rather it would execute at the previous ABBO price because the away market crossed a displayed price. The Exchange would display the order one MPV inferior to the away market offer, at 1.14. The FIND Order would execute at 1.15 which was the previous ABBO bid, as the away market crossed the displayed price of 1.14. Today, the System does not execute this trade at the FIND Order price as incorrectly noted. The Exchange would not trade-through the ABBO in this circumstance, Phlx would be bound by the Cboe's price in the above example. This specific rule text does not properly reflect the System operation. The rule text which provides that if the away market crossed Phlx's already displayed price the FIND Order will execute at the previous ABBO price, reflects the current System handling.

The Exchange proposes to correct the rule text by deleting the contradictory sentence. The remaining rule text will properly reflect the current System handling. Further, the Exchange proposes to relocate the correct sentence within Options 5, Section 4(a)(iii)(B)(5) to the same location as the deleted text to improve the flow of information presented within Options 5, Section 4(a)(iii)(B)(5).

SRCH Orders

The Exchange proposes a similar correction to the SRCH Orders rule text. The Exchange proposes to similarly remove a contradictory sentence within current Options 5, Section 4(a)(iii)(C)(4) which provides, “If during the Route Timer, the ABBO moves and crosses the SRCH Order, any new interest arrives opposite the SRCH Order that is marketable against the SRCH Order will trade at the SRCH Order price.” Also, the Exchange proposes to replicate the last sentence of Options 5, Section 4(a)(iii)(C)(6), which contains the accurate scenario for new interest arriving opposite the SRCH Order that is marketable against the SRCH Order, to the same location as the deleted text within Options 5, Section 4(a)(iii)(C)(4) to improve the flow of information presented within that paragraph. The Exchange proposes to retain the exact sentence within Options 5, Section 4(a)(iii)(C)(6) because it applies equally to the scenarios described within Options 5, Section 4(a)(iii)(C)(6).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

interest.

Remote Specialist

The Exchange's proposal to amend Options 2, Section 4, Obligations of Market Maker, to replace rule text currently within Options 2, Section 4(b)(2) with more precise rule text is consistent with the Act. The proposed new rule text is taken from the order approving the rule and more clearly explains the obligation of an RSQT who is also the Remote Lead Market Maker in a particular security. This rule change is non-substantive and will benefit market participants by bringing greater clarity to the rule text.

Assistant Lead Market Maker

The Exchange's proposal to amend rule text within Options 2, Section 3, Allocation Application, Allocation, Reallocation, Transfer and Voluntary Resignation; Options 2, Section 11, Lead Market Maker Appointments; Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment; Options 8, Section 25, Floor Allocation; and Options 8, Section 39, Option Minor Rule Violations and Order and Decorum Regulations at E-2, Allocation, Time Stamping, Matching and Access to Matched Trades, to replace the term "assistant" with "back-up" is consistent with the Act. This amendment is non-substantive. The Exchange believes that the word "back-up" is a more precise term that emphasizes that the Market Maker must be able to take on all the duties of the Lead Market Maker and will benefit market participants by bringing greater clarity to the rule text. No obligations are being amended with respect to this role.

Routing

With respect to the amendments to the Order Routing Rule, the Exchange's removal of two contradictory sentences is consistent with the Act because this will bring clarity and transparency to the rule. Further, relocating the correct rule text within the FIND and adding the

correct rule text within SRCH rule language are non-substantive amendments which will improve the flow of information.

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.

Remote Specialist

The Exchange’s proposal to amend Options 2, Section 4, Obligations of Market Maker” to replace rule text currently within Options 2, Section 4(b)(2) with more precise rule text does not impose an undue burden on competition. This non-substantive amendment more clearly explains the obligation of an RSQT who is also the Remote Lead Market Maker in a particular security.

Assistant Lead Market Maker

The Exchange’s proposal to amend rule text within Options 2, Section 3, Allocation Application, Allocation, Reallocation, Transfer and Voluntary Resignation; Options 2, Section 11, Lead Market Maker Appointments; Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment; Options 8, Section 25, Floor Allocation; and Options 8, Section 39, Option Minor Rule Violations and Order and Decorum Regulations at E-2, Allocation, Time Stamping, Matching and Access to Matched Trades, to replace the term “assistant” with “back-up” does not impose an undue burden on competition. This non-substantive amendment will bring greater clarity to the rule text. No obligations are being amended with respect to this role.

Routing

The Exchange believes that deleting the two contradictory sentences will bring greater clarity to the rule. Further, relocating the correct rule text within the FIND and adding the

correct rule text within the SRCH language is a non-substantive amendment which will improve the flow of information.

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

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it may immediately remove incorrect and contradictory sentences in Phlx Options 5, Section 4, to bring greater clarity and transparency to the Phlx routing rules. The Commission believes that waiving the 30-day operative delay is consistent

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 the Exchange 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.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹²

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 Number SR-Phlx-2020-21 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-2020-21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

¹² For purposes only of waiving the 30-day operative delay, the Commission has 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. 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-2020-21 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.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).