

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-65667; File No. SR-Phlx-2011-136)

November 2, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to Transfer of Exchange House Accounts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on October 19, 2011, 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, pursuant to Section 19(b)(1) of the Act<sup>3</sup> and Rule 19b-4 thereunder,<sup>4</sup> proposes a new Exchange Rule 912 entitled "Transfer of Accounts" to codify a current Exchange policy with respect to the transfer of accounts.

The text of the proposed rule change is available on the Exchange's Website at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, 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

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(1).

<sup>4</sup> 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to codify the Exchange's current policy with respect to the transfer of accounts by memorializing the policy in a new Exchange Rule 912 entitled "Transfer of Accounts."<sup>5</sup> The proposed new rule should provide member organizations guidance with respect to requests to transfer accounts either to or from a member organization.<sup>6</sup>

Proposed new Exchange Rule 912 would require a member organization to notify the Exchange's Membership Department, in writing, to transfer an account either to or from a member organization. The Exchange would also require member organizations to execute a Letter of Indemnity<sup>7</sup> in order to obligate the successor and assigns of the account(s) to accept full responsibility for payment of all outstanding Exchange fees, dues, fines and/or charges.

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<sup>5</sup> Exchange Rule 912 is currently reserved. The Exchange proposes to delete the word "Reserved" and insert this new Rule in its place.

<sup>6</sup> These accounts are Phlx member house accounts which are assigned by the Exchange's Membership Department. These Phlx house accounts are not customer accounts but rather are assigned to Phlx member firms and utilized by members to transact business on the Exchange. These accounts uniquely identify each member for various reasons, including but not limited to: audit trail, clearing and billing. This will have no impact on member registrations.

<sup>7</sup> This is a standard form that is required to be completed by members desiring to transfer their Phlx account.

By way of example, if a member organization acquired another member organization and wished to maintain the acquired member's current account assignments, the surviving member organization would be required, pursuant to this proposed Rule, to submit a request to the Exchange's Membership Department for a transfer of those accounts to itself. Another example might be an individual currently employed as a member by one organization who elects to transfer his affiliation to another member organization. In that regard, that individual may wish to maintain the account that is already assigned and request that the Membership Department reassign the account to the new member organization. Any member organization may request an account transfer from the Exchange's Membership Department. However, both member organizations involved must consent to the transfer prior to it becoming effective.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> 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 providing an accommodation for members and member organizations who desire to transfer accounts. The Exchange believes that memorializing its current policy within an Exchange Rule will provide member organizations clear guidelines on procedures related to transfers of accounts. In addition, the Exchange will require member organizations to execute a Letter of Indemnity to clearly delineate which firm has responsibility for liabilities associated with the accounts. The Exchange believes that the proposed rule creates

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<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

an orderly process for allowing such transfers and reduces risk by clearly allocating financial responsibilities with respect to the accounts.

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.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2011-136 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2011-136. 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 such 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-2011-136 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>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).