

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63145; File No. SR-Phlx-2010-143)

October 21, 2010

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Active SQF Port Fee

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 October 15, 2010, 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 proposes to amend fee calculations for the Active SQF Port Fee. The text of the proposed rule change is available on the Exchange's website at <http://nasdaqtrader.com/micro.aspx?id=PHLXfilings>, 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

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

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

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 amend the Active SQF Port Fee calculation to account for a new version of the Specialized Quote Feed (“SQF”) interface, which was recently released by the Exchange. The Exchange is amending the Active SQF Port Fee calculation so that member organizations not be assessed port fees for use of the prior version of the interface (SQF 5.0) while transitioning to (and paying for) the new version (SQF 6.0).

In a given month, active SQF ports are ports that receive inbound quotes at any time within that month. SQF is an interface that enables specialists, Streaming Quote Traders (SQTs”)<sup>3</sup> and Remote Streaming Quote Traders (“RSQTs”)<sup>4</sup> to connect and send quotes into Phlx XL.<sup>5</sup> The Exchange released SQF 6.0 on October 11, 2010. The

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<sup>3</sup> An SQT is an Exchange Registered Options Trader (“ROT”) who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. See Exchange Rule 1014(b)(ii)(A).

<sup>4</sup> An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Exchange Rule 1014(b)(ii)(B).

<sup>5</sup> See Securities Exchange Act Release No. 63034 (October 4, 2010), 75 FR 62441 (October 8, 2010) (SR-Phlx-2010-124).

Exchange anticipates that member organizations will utilize both SQF 5.0 and SQF 6.0 for a period of time.

Presently, quoting participants (users of SQF 5.0) do not receive reports of executions against their quote or other information that is relevant to their quoting application over SQF 5.0. SQF 6.0 provides more information than SQF 5.0. SQF 6.0 increases efficiency by allowing member organizations to access, information such as execution reports and other relevant data through a single feed, rather than through accessing multiple feeds, which was necessary under SQF 5.0.<sup>6</sup>

This administrative data will also include the definition of complex order strategies.<sup>7</sup> Auction notifications are available on SQF 6.0.<sup>8</sup> The new interface, SQF 6.0, will also contain execution report messages, which are not contained in SQF

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<sup>6</sup> Member organizations that have written interfaces to the PHLX system could use the administrative data to determine the current status of the Exchange's market for a particular option. For example, this data would show which symbols are trading on the PHLX, the current state of an options symbol (i.e., open for trading, trading, halted or closed), as well as similar information regarding complex order strategies.

<sup>7</sup> See Exchange Rule 1080.08.

<sup>8</sup> A member organization's quoting application can receive these notifications over the same interface it sends quotes to the Exchange, SQF, and can now use the data to respond to auctions quickly and efficiently. This data is not sent as a quote to the market because it represents interest that is not immediately executable or, in the case of complex orders, represents a complex strategy which is not disseminated by the Options Price Reporting Authority.

5.0.<sup>9</sup> Other data is also available on SQF 6.0.<sup>10</sup>

The Exchange currently assesses an Active SQF Port Fee of \$500 per month per port. Active SQF ports refer to ports that receive inbound quotes at any time within that month. The Exchange anticipates that member organizations will utilize both SQF 5.0 and SQF 6.0 for a period of time.

SQF 5.0 and SQF 6.0 require different port configurations, and, as a consequence, a member organization could be charged for both types of active SQF ports in a given month as the member organization transitions from SQF 5.0 to SQF 6.0. Therefore, the Exchange proposes not to charge a member organization for the use of SQF 5.0 active ports to the extent that the member is paying for the same (or greater) number of SQF 6.0 active ports. (If a member organization has more SQF 5.0 than SQF 6.0 active ports, then the member organization would continue to pay for the “extra” active SQF 5.0 ports.) This would avoid duplicative billing while a member organization transitions its ports from SQF 5.0 to SQF 6.0.<sup>11</sup>

## 2. Statutory Basis

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<sup>9</sup> The Exchange currently provides Exchange members with execution reports through two interfaces. Execution reports are made available to all exchange participants on a Risk Management Feed known as “RMP,” as well as an interface replacing RMP known as the Clearing Trade Interface or “CTI”. See Securities Exchange Act Release No. 62155 (May 24, 2010), 75 FR 30081 (May 28, 2010) (SR-Phlx-2010-67).

<sup>10</sup> Other data that is available on SQF 6.0 includes: (1) Options Auction Notifications (e.g., opening imbalance, market exhaust, PIXL or other information currently provided on SQF 5.0); (2) Options Symbol Directory Messages (currently provided on SQF 5.0); (3) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening); (4) Complex Order Strategy Auction Notifications (COLA); (5) Complex Order Strategy messages; (6) Option Trading Action Messages (e.g., trading halts, resumption of trading); and (7) Complex Strategy Trading Action Message (e.g., trading halts, resumption of trading).

<sup>11</sup> The Exchange anticipates that it will take several months for this transition to occur.

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>13</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities. Specifically, the Exchange believes that this fee proposal is fair, reasonable and equitable because it will prevent all member organizations from experiencing an unintended increase in SQF port charges during the transition from SQF 5.0 to SQF 6.0.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>14</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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the

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<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-143 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-2010-143. 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. 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-2010-143 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>15</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).