

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64705; File No. SR-Phlx-2011-83)

June 20, 2011

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of
Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to a Remote Specialist
Fee

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 June 13, 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 proposes to adopt a new fee entitled "Remote Specialist Fee."

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on July 2, 2011. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to recoup costs associated with maintaining a remote specialist post on the Exchange's trading floor.

The Exchange recently amended Rule 501, Specialist Appointment, and Rule 1020, Registration and Functions of Options Specialists, to allow qualified Exchange members to act as off-floor specialists in one or more options classes ("Remote Specialist").³ In conjunction with recent amendments, the Exchange will staff and administer a physical location or post on the trading floor to provide on-floor market participants with a physical location to trade in options classes allocated to a Remote Specialist. This physical location on the Exchange's trading floor will require Exchange operations and regulatory staff to be present at this post. As such, the Exchange would incur additional operational and regulatory costs to maintain this post and seeks to defray such costs by assessing a Remote Specialist Fee.

³ See Securities Exchange Act Release No. 64591 (June 8, 2011), 76 FR 33383 (June 2, 2011) (SR-Phlx-2011-79). A Remote Specialist is an options specialist in one or more classes that may not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.

The Exchange is proposing to assess Remote Specialists a monthly fee of \$50 per option allocation.⁴ The Exchange would cap the fee at \$4,500 per month. The Exchange notes that the \$4,500 proposed cap is equivalent to the Specialist Post Fee⁵ which is currently assessed on on-floor Specialists.⁶

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on July 2, 2011.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act⁸ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that this Remote Specialist Fee is reasonable because it

⁴ Pursuant to Rule 507, Application for Approval as an SQT or RSQT and Assignment in Options, a Remote Specialist must meet certain requirements to be approved as an RSQT. Rule 507(b)(i) describes the process for the assignment of options. See Exchange Rule 507. An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as 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 in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

⁵ The Exchange assesses a Specialist Post fee of \$1,125 per month for a quarter post and \$4,500 per month for a full post with a maximum of \$4,500 per month. See Exchange's Fee Schedule. The Specialist posts are designed to facilitate Specialist interaction with the trading crowd. See Securities Exchange Act Release No. 59852 (April 30, 2009), 74 FR 21424 (May 7, 2009) (SR-Phlx-2009-39).

⁶ Specialists are members who are registered as options specialists pursuant to Rule 1020(a). See Exchange Rule 1020.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

seeks to recoup costs that are incurred by the Exchange for maintaining a defined physical location or post on the Exchange's trading floor to facilitate interaction amongst market participants located on the Exchange's physical trading floor. The Exchange also believes the proposal is reasonable because the Exchange proposes to cap the Remote Specialist Fee at \$4,500 per month, which is equal to the maximum fees the Exchange assesses on-floor Specialists for the Specialist Post Fee.

The Exchange believes that the proposed Remote Specialist Fee is equitable because it would be uniformly applied to all Remote Specialists.

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.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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the

⁹ 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. Please include File Number SR-Phlx-2011-83 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-2011-83. 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; 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-2011-83 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

Cathy H. Ahn
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).