

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65586; File No. SR-Phlx-2011-135)

October 18, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Tether Monthly Service 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 October 5, 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 eliminate the Tether Monthly Service Fee from the Fee Schedule. The Exchange also proposes to make other minor amendments to the Fee Schedule.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the elimination of the Tether Monthly Service Fee to be operative on November 1, 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, on the Commission’s website at <http://www.sec.gov>, 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 eliminate the Tether Monthly Service Fee. A tether is a hardwire connection to an existing Exchange communication network (local areas network) on the Exchange's options trading floor. It allows users on the options floor to connect their handheld devices to the existing Exchange communication network and thereby interface with member firm communication networks via a wireless network.

The Exchange currently assesses Registered Options Traders³ and floor brokers on the options trading floor a Tether Monthly Service Fee of \$150.⁴ The number of users of the tether service on the options trading floor has diminished significantly since the tethers were first put

³ A Registered Options Trader ("ROT") includes a SQT, a RSQT and a Non-SQT ROT, which by definition is neither a SQT nor a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014(b)(i) and (ii).

⁴ Specialists are not assessed this fee. The fee was initially assessed in 2001 and based on actual and estimated expenses incurred in installing and maintaining the tethered connections.

into place in 2001⁵. While the Exchange will continue to offer its members the ability to use the tethers, it will no longer assess a fee as of November 1, 2011.

The Exchange also proposes an amendment to eliminate an unnecessary reference to the Market Access Provider Subsidy (“MAP”). The Exchange previously eliminated this subsidy from the Fee Schedule.⁶ The remaining reference to the MAP in Section I of the Fee Schedule, entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols” is outdated. The Exchange also proposes to replace the word “charges” in the Fee Schedule with the word “fees,” in order to conform the verbiage in the Fee Schedule to maintain clarity.

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 and other persons using its facilities.

The Exchange believes that the proposed elimination of the Tether Monthly Service Fee is reasonable, equitable and not unfairly discriminatory because members will still have the ability to tether on the options trading floor, but will not be assessed a fee. In 2001, the Exchange installed tethers due to an increase in bandwidth demands and the use of applications by traders. All floor members will still have access to this service, however no member will be assessed a fee for this service.

⁵ See Securities Exchange Act Release No. 44963 (October 19, 2001), 66 FR 54317 (October 19, 2011) (SR-Phlx-2001-84).

⁶ See Securities Exchange Act Release No. 64539 (May 24, 2011), 76 FR 31384 (May 31, 2011) (SR-Phlx-2011-68).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

The Exchange believes that other proposed modifications to the Fee Schedule to eliminate outdated references in the Fee Schedule and amend certain verbiage are reasonable and equitable to clarify the Fee Schedule.

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 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

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2011-135 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-2011-135. 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-2011-135 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

Elizabeth M. Murphy
Secretary

¹⁰ 17 CFR 200.30-3(a)(12).