

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65764; File No. SR-Phlx-2011-153)

November 16, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add Good-till-Cancelled and Discretionary Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4² thereunder, notice is hereby given that on November 10, 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 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 is filing a proposed rule change to adopt the following two new Time in Force conditions in Rule 3301(h): System Hours Good-till-Cancelled ("SGTC") and Market Hours GTC ("MGTC") on NASDAQ OMX PSX ("PSX"), as described below. PHLX also proposes to amend Rules 3301(f)(1), 3305, Order Entry Parameters, and 3306, Entry and Display of Orders, to add Discretionary Orders.

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

¹ 15 U.S.C. 78s(b)(1).

² 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, Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to add some new features to the PSX Market, as described below.

Time in Force

Currently, Rule 3301(h) provides that the term "Time in Force" means the period of time that the System will hold an order for potential execution. Time in force conditions, which are listed in Rule 3305(a)(1)(A), include System Hours Expire Time ("SHEX"), System Hours Day ("SDAY"), System Hours Immediate or Cancel ("SIOC"), or Good-til-Market Close "GTMC"). At this time, two new designations are being added. First, PHLX proposes to adopt, in Rule 3301(h)(3), that "System Hours Good-till-Cancelled" or "SGTC" shall mean, for orders so designated, that if after entry into the System, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution from 7:00 a.m. until 8:00 p.m. Eastern Time³ unless cancelled by the entering party, or until 1 year after entry, whichever comes first.

³ The PSX Market operates until 8:00 p.m.

Second, PHLX proposes to adopt, as Rule 3301(h)(7), "Market Hours GTC" or "MGTC," which shall mean for orders so designated, that if after entry into System, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution unless cancelled by the entering party, or until 1 year after entry, whichever comes first. MGTC Orders shall be available for entry from 7:00 a.m. until 8:00 p.m. Eastern Time and for potential execution from 9:30 a.m. until 4:00 p.m. Eastern Time.

Lastly, PHLX proposes to amend Rule 3305(a)(1)(A) to add SGTC and MGTC designations to this rule, which lists the various Time in Force designations available. PHLX proposes to delete the sentence in Rule 3305(a)(1)(B) that provides that, in addition to such other designations as may be chosen by a participant, all System orders must be entered with a Time in Force of System Hours Immediate or Cancel or designated as a Pegged Order, an Intermarket Sweep Order, a Price to Comply order, or a Post-Only Order. With the addition of two GTC designations, this provision is obsolete.

PHLX believes that these two new Time in Force designations should be useful to PHLX participants and may attract additional business to PHLX.

Discretionary Orders

PHLX also proposes to adopt a new order type, Discretionary Orders, which are orders that have a displayed price and size, as well as a non-displayed discretionary price range, at which the entering party, if necessary, is also willing to buy or sell. The non-displayed trading interest is not entered into the System book but is, along with the displayed size, converted to an IOC buy (sell) order priced at the highest (lowest) price in the discretionary price range when displayed shares become available or an execution takes place at any price within the discretionary price range. The generation of this IOC order is triggered by the cancellation of the

open shares of the Discretionary Order. If more than one Discretionary Order is available for conversion to an IOC order, the system will convert all such orders at the same time and priority will be given to the first IOC order(s) that reaches the trading interest on the other side of the market. If an IOC order is not executed in full, the unexecuted portion of the order is automatically re-posted and displayed in the System book with a new time stamp, at its original displayed price, and with its non-displayed discretionary price range.

For example, the market on the PHLX is \$10.00 x \$10.05 and Order A is entered as a bid for 1,000 shares at \$10.00 with a discretionary price of \$10.03. It posts on the book at \$10.00. Order B is an offer for 500 shares at \$10.03 which posts on the book. Order A is cancelled by the system and a 500 share IOC (Order C) is sent into the system to take out Order B at \$10.03. Orders C and B trade at \$10.03, after which the remaining 500 shares of the original discretionary order (Order A) post on the book at \$10.00.

The Exchange proposes to adopt the definition of Discretionary Orders as Rule 3301(f)(1) in the Definitions section where order types are defined. In addition, the Exchange proposes to add Discretionary Orders to Rule 3305(a)(1)(B), which lists various order types, and Rule 3306(c)(3)(B), which governs the display of orders. With respect to the display of orders, Rule 3306 generally states that the System will display the aggregate size of all quotes and orders at the best price to buy and sell resident in the System. Discretionary Orders will be added as an exception, similar to Reserve Size, because Discretionary Orders, by definition, have a non-displayed discretionary price range.

PHLX believes that Discretionary Orders are useful to market participants, because this order type enables participants to provide price improvement beyond the price at which they are willing to submit an order today; when the price of an order is displayed, the result may be that

the market has moved, reflecting that order. Some market participants prefer not to advertise their order but are willing to provide price improvement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Sections 6(b)(5) of the Act,⁵ in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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, because it offers PHLX participants an additional Time in Force to better manage their orders and risk, which should, in turn, attract additional orders to the Exchange and enhance the Exchange's competitive position. Furthermore, Discretionary Orders should enable participants to provide price improvement beyond the price at which they are willing to submit an order today, consistent with just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6)⁷ thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission. The Commission believes waiver of the 30-day operative delay is in the interest of investors because it will expedite the introduction of new features to the PHLX equities market. The features are currently available on other exchanges, and the Commission sees no reason to delay their introduction at the Exchange. Therefore, the Commission designates the proposal to be operative upon filing.⁸

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.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

⁸ 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).

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-2011-153 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-2011-153. 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-2011-153 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.⁹

Kevin M. O'Neill
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).