

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76657; File No. SR-Phlx-2015-104)

December 15, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delete Rule 108

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 December 9, 2015, 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 delete Rule 108, Bids and Offers to Be Made Within Six Feet of Post.

The text of the proposed rule change is below; proposed new language is in italics; proposed deletions are in brackets.

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Rule 108. Reserved. [Bids and Offers to Be Made Within Six Feet of Post

All bids and offers in any security on the floor shall be made within six feet of the post assigned to such security by the Exchange.]

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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 Exchange proposes to update its rules to delete Rule 108, Bids and Offers to Be Made Within Six Feet of Post. Rule 108 applied to both the equity and options trading floors for a long time. Now, there is no equity trading floor and the options trading floor is configured in a way that this provision does not make sense. The number of people on the options floor has decreased over time due to increased automation such that the layout of the floor is more compact. The Exchange does not believe that the number of feet is the relevant measure of where bids and offers should be made, because the number of feet is not determinative of whether crowd participants are aware of and can reasonably participate in crowd trades.

Instead, the Exchange relies on a number of other rules to ensure that the options trading floor operates in a fair and orderly manner. Specifically, Rules 110 and 1000(g) provide that bids and offers must be made in an audible tone of voice. In addition, Options Floor Procedure Advice C-7(b) provides that a Floor Broker must be loud and audible when representing a market and/or representing an order in the trading crowd. A Floor Broker must make reasonable efforts to position himself in the trading crowd to be heard by the majority of the trading crowd.

A number of other provisions also refer to similar requirements, such as the loud and audible requirement.³

Accordingly, the Exchange believes that the rules relating to exposing orders in the options trading crowd in an audible manner are sufficient and that Rule 108 can be deleted.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act⁵ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by making clear that the bids and offers made on the options trading floor are not subject to a “six foot” rule but rather to the requirement that bids and offers occur in a loud and audible fashion. This should promote just and equitable principles of trade by helping ensure maximum participation from the trading crowd, including the opportunity for price improvement. The opportunity for price improvement should, in turn, protect 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. The proposal applies equally to all participants in the options trading crowd.

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.

³ See Rules 1014(g)(v)(D)(1)(a) and 1064(a)(i).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁷

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2015-104 on the subject line.

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

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.

Paper Comments:

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

All submissions should refer to File Number SR-Phlx-2015-104. 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-2015-104 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.⁸

Robert W. Errett
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).