

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85577; File No. SR-Phlx-2019-09)

April 9, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay the Implementation of the FBMS FIX Interface to Submit Orders to a Particular Floor Broker on the Options Floor

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 March 29, 2019, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“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 proposes to delay the implementation of the FBMS FIX Interface to submit orders to a particular Floor Broker on the options floor.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.cchwallstreet.com/>, 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 received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 filed a rule change to offer a new FBMS FIX interface which connects to FBMS (“FBMS FIX Interface”)³ to allow members and non-members to submit orders directly⁴ to a Floor Broker on the Exchange’s trading floor.⁵ With this new protocol, a market participant desiring to submit an order to the trading floor, who would today contact a Floor Broker telephonically, would be able to electronically utilize an external order management system or via instant message.⁶

FBMS FIX Interface Background

An order submitted via the FBMS FIX Interface will be created by the sender and routed to a Floor Broker. This order would be systematized so that the Floor Broker⁷ automatically receives the order and may then represent the order for execution. A member or non-member would not be able to send the order directly to the System for execution. Orders entered via the FBMS FIX Interface will require the interaction of a Floor Broker. Orders will continue to be represented in the trading crowd, regardless of the method in which the order was received.

³ This new FBMS FIX Interface is a separate and distinct connection from the existing FIX interface, which allows members to send orders to the electronic match engine.

⁴ The FBMS FIX Interface would allow the market participant to designate a particular Floor Broker through the use of a FIX tag.

⁵ See Securities Exchange Act Release No. 84180 (September 18, 2018), 83 FR 48353 (September 24, 2018) (SR-Phlx-2018-58).

⁶ An audit trail is maintained today for all orders received by a Floor Broker.

⁷ A Floor Broker’s employee may also send an order into FBMS or the System on behalf of the Floor Broker.

Orders would be executed in the matching engine using FBMS, after all requirements for exposure have been met.⁸

Proposal

The Exchange proposed to implement this functionality in Q1 of 2019 and notify market participants of the deployment date by way of an Options Trader Alert, which will be posted on the Exchange's website. At this time, the Exchange proposes to delay the implementation until Q2 of 2019. The Exchange would still notify market participants via an Options Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade, 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, by proposing delaying the implementation of the FBMS FIX Interface to allow for additional testing. The Exchange believes that additional testing will ensure a successful launch of the FBMS FIX Interface.

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 Exchange's proposal to delay the adoption of the FBMS FIX Interface does not impose an undue

⁸ The FBMS FIX Interface will allow the following types of orders to be submitted directly to a Floor Broker: Simple Orders, Multi-leg Orders, Cross and Non-Cross Orders, Simple Cancels, Cancel and Replacement Orders and Floor Qualified Contingent Cross Orders.

⁹ 15 U.S.C. 78f(b)

¹⁰ 15 U.S.C. 78f(b)(5).

burden on competition. Delaying the FBMS FIX Interface will allow the Exchange additional time to test the functionality.

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

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) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹³ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to immediately delay the implementation of the FBMS Fix Interface to allow the Exchange additional time to successfully implement this functionality. Therefore, the Commission believes that waiver of the 30-day

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

operative delay is consistent with the protection of investors and the public interest.

Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁵

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 change 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-2019-09 on the subject line.

Paper comments:

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

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-Phlx-2019-09. 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 Web site (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-Phlx-2019-09 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.¹⁶

Jill M. Peterson
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).