

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66022; File No. SR-Phlx-2011-136)

December 21, 2011

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change Relating to Transfer of Exchange House Accounts

I. Introduction

On October 19, 2011, NASDAQ OMX PHLX LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to codify current Exchange policy with respect to the transfer of Exchange house accounts. The proposed rule change was published in the Federal Register on November 8, 2011.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of Proposal

The Exchange proposes to adopt new Exchange Rule 912, Transfer of Accounts. The proposed rule would provide the process when an Exchange member or member organization transfers Exchange house accounts to another Exchange member or member organization. According to the Exchange, the house accounts are assigned by the Exchange’s Membership Department and are not customer accounts. Rather, these Exchange house accounts are used by Exchange members or member organizations to transact business on the Exchange.

Specifically, the proposed rule would provide that transferor and transferee members or member organizations must notify the Exchange’s Membership Department in writing of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 65667 (November 2, 2011), 76 FR 69316.

intent to transfer Exchange house account(s) in accordance with the rules prescribed by the Membership Department. Further, the transferor and transferee members or member organizations must execute and provide a Letter of Indemnity to the Exchange. According to the Exchange, the Letter of Indemnity is a standard form that the Exchange requires members to complete for transfers of Exchange house accounts.

III. Commission Findings and Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act,⁴ and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁵ which requires, among other things, that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, 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.⁶

The Exchange's proposal would govern how an Exchange member or member organization would transfer Exchange house accounts. The Commission believes that the proposal clarifies to members and member organizations the process required to transfer such accounts. In requiring that members or member organizations execute a Letter of Indemnity in connection with a transfer of accounts, the proposed rule also delineates which firm has responsibility for liabilities associated with those accounts. Accordingly, the Commission finds

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

that the proposal would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market, and is consistent with the requirements of the Act.⁷

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-Phlx-2011-136) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill
Deputy Secretary

⁷ The Commission notes, however, that this order does not approve any prior transfer of Exchange house accounts that may have been inconsistent with the approved rules of the Exchange then in effect.

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).