

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66993; File No. SR-Phlx-2012-63)

May 15, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Direct Market Data Product, PHLX Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 7, 2012, 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 establish a direct market data product, PHLX Orders. PHLX Orders is a data feed that will include full depth of orders on the limit order book for all series of options listed on PHLX.

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

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish the PHLX Orders data product. PHLX Orders is a real-time full limit order book data feed that provides pricing information for orders on the PHLX limit order book. PHLX Orders is currently provided as part of the PHLX Top of PHLX Options (“TOPO”) Plus Orders data product, described below. PHLX Orders is a new offering that will provide data that is identical to that which is included in the “Orders” portion of the TOPO Plus Orders data product.

In October, 2009, the Exchange made the TOPO Plus Orders data feed available to all market participants.<sup>3</sup> TOPO Plus Orders provides disseminated Exchange top-of-market data (including orders, quotes and trades) to subscribers.

PHLX Orders will provide real-time information to enable users to keep track of the single order book(s), single and complex orders,<sup>4</sup> and Complex Order Live Auction (“COLA”)<sup>5</sup> for all symbols listed on PHLX. PHLX Orders will provide real-time data for the entire book to its users. It is a compilation of data for limit orders residing on the Exchange’s limit order book for options traded on the Exchange that the Exchange provides through a real-time data feed.

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<sup>3</sup> See Securities Exchange Act Release No. 60877 (October 26, 2009), 74 FR 56255 (October 30, 2009) (SR-Phlx-2009-92).

<sup>4</sup> A Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. See Exchange Rule 1080.08(a)(i).

<sup>5</sup> See Exchange Rule 1080.08(e).

The Exchange updates the information upon receipt of each displayed limit order or change to any order resting on the book.

The Exchange believes that some users do not wish or need to subscribe to the full TOPO Plus Orders market data product; the PHLX Orders data product is being offered to those users that want the order book information provided in TOPO Plus Orders but don't have the need for the entire TOPO Plus Orders data product. Accordingly, the Exchange proposes to make available the PHLX Orders data product for any user that needs or wants only the order book information. The Exchange will continue to offer the TOPO Plus Orders market data product.

The Exchange represents that it will make PHLX Orders equally available to any market participant that wishes to subscribe to it. The Exchange will establish monthly fees for the PHLX Orders data product by way of a separate proposed rule change, which the Exchange will submit after the PHLX Orders product is established.

PHLX Orders will provide subscribers with specific order book data that should enhance their ability to analyze market conditions, and to create and test trading models and analytical strategies. The Exchange believes that PHLX Orders is a valuable tool that subscribers can use to gain comprehensive insight into the limit order book in a particular option.

## 2. Statutory Basis

PHLX believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> 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 establishing a market data product that enhances subscribers'

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

ability to make decisions on trading strategy, and by providing data that should help bring about such decisions in a timely manner.

As stated above, the Exchange represents that it will make PHLX Orders equally available to any market participant that wishes to subscribe to it.

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

Written comments were neither solicited nor 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 Act<sup>8</sup> and Rule 19b-4(f)(6)<sup>9</sup> thereunder.

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

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 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 Commission notes that the Exchange has satisfied this requirement.

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](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-2012-63 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 No. SR-Phlx-2012-63. 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 No. SR-Phlx-2012-63 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.<sup>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).