

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68689; File No. SR-Phlx-2013-03)

January 18, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change to Amend Exchange Rules 507 and 1014 to Establish Remote Streaming Quote Trader Organizations

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 January 4, 2013, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“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 is filing with the Commission a proposal to amend Phlx Rules 507 (Application for Approval as an SQT or RSQT and Assignment in Options) and 1014 (Obligations and Restrictions Applicable to Specialists and Registered Options Traders) to establish that member organizations may qualify to be Remote Streaming Quote Trader Organizations with which as many as three Remote Streaming Quote Traders may be affiliated.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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 purpose of the proposed rule change is to amend Phlx Rules 507 and 1014 to establish that member organizations may qualify to be Remote Streaming Quote Trader Organizations (“RSQTOs”) with which as many as three Remote Streaming Quote Traders may be affiliated.

Background

Remote Streaming Quote Traders (“RSQTs”) are, along with specialists, one of several types of Registered Option Traders (“ROTs”) on the Exchange. ROTs are market makers that include Streaming Quote Traders (“SQTs”),³ RSQTs,⁴ Directed Streaming Quote Traders

³ An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in eligible options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. See Rule 1014(b)(ii)(A).

⁴ An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Rule 1014(b)(ii)(B).

(“DSQTs”), and Directed Remote Streaming Quote Traders (“DRSQTs”)⁵ (SQTs, DSQTs, and DRSQTs are together known as the “Other Streaming Quote Traders”).

Rule 507 is one of the numerous rules administered by the Exchange that deal with allocation and assignment of securities (the “Allocation and Assignment Rules”). The Allocation and Assignment Rules generally describe the process for: application for becoming and appointment of specialists; allocation of classes of options to specialist units and individual specialists; application for becoming and approval of SQTs and RQTs and assignment of options to them; and performance evaluations. The Allocation and Assignment Rules also indicate, among other things, under what circumstances new allocations to specialists and assignments to Streaming Quote Traders may not be made.⁶

Rule 1014 is the principal rule that deals with the obligations and restrictions that are applicable to specialists and Registered Option Traders. Rule 1014 states that, in addition to other requirements, on a daily basis RSQTs and Other Streaming Quote Traders are responsible to quote two-sided markets in not less than a specified percentage of options assigned by the

⁵ A DSQT is an SQT and a DRSQT is an RSQT that receives a Directed Order. Exchange Rule 1080(l)(i)(A) defines Directed Order as any customer order (other than a stop or stop-limit order as defined in Rule 1066) to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Provider and delivered to the Exchange via its electronic quoting, execution and trading system.

⁶ See, for example, Supplementary Material .01 to Rule 506 (specialist may not apply for a new allocation for a period of six months after an option allocation was taken away from the specialist in a disciplinary proceeding or an involuntary reallocation proceeding). See also Commentaries .01 to .05 to Rule 507 setting forth procedures regarding the Maximum Number of Quoters (“MNQ”) allowed in equity options.

Exchange at the request of such traders,⁷ unless specifically exempted from such quoting (market-making) responsibility.

Remote Streaming Quote Trader Organizations and Affiliated Remote Streaming Quote Traders

Rule 507 discusses the process of applying for approval as an RSQT or SQT on the Exchange and assignment of options to them. Under Rule 507, RSQTs are actually Exchange member organizations while SQTs are Exchange members; therefore, options are assigned to RSQTs as firms (member organizations) and to SQTs as individual members (permit holders). The criteria for successfully applying to be an RSQT or an SQT is currently, with two exceptions, the same for both types of streaming quoters: 1) significant market-making and/or specialist experience in a broad array of securities; 2) superior resources, including capital, technology and personnel; 3) demonstrated history of stability, superior electronic capacity, and superior operational capacity; 4) proven ability to interact with order flow in all types of markets; and 5) willingness and ability to make competitive markets on the Exchange and otherwise to promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the options it trades (together the “readiness requirements”).⁸ Only RSQTs need to demonstrate two additional criteria for successful approval as remote streaming quoters: 1) existence of order flow commitments; and 2) willingness to accept allocations as an RSQT in options overlying 400 or more securities.⁹ The

⁷ Regarding RSQT and Other Streaming Quote Trader quoting obligations, see Rule 1014(b)(ii)(D)(1). Regarding specialist quoting obligations, see Rule 1014(b)(ii)(D)(2). See also Rule 1014 generally.

⁸ See Rule 507(a)(i)(A) through (D) and (G) and Rule 507 (a)(ii).

⁹ See Rule 507(a)(i)(E) and (F). See also 1014(b)(ii)(B), which indicates that an RSQT is an ROT that is a member with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically.

Exchange continues to believe that the existence of order floor commitments and the willingness to accept options allocations overlying hundreds of securities are criteria that belong at the firm level. As such, the Exchange proposes that all of the current RSQT application criteria will become the application criteria for RSQTOs (the “RSQTO readiness requirements”), and all of the current SQT application criteria will become application criteria for both RSQTs and SQTs.¹⁰

The Proposal

Proposed Rule 507 adds the concept of RSQTOs, which does not currently exist in Exchange rules. Any member organization of the Exchange in good standing that satisfies the RSQTO readiness requirements will be approved as an RSQTO.¹¹ No limit is placed on the number of member organizations that may become RSQTOs. Moreover, as many as three RSQT applicants affiliated with an RSQTO may be approved as an RSQT, to the extent that each such RSQT applicant is qualified as an ROT in good standing, and satisfies the five readiness requirements that are set out in Rule 507. The Exchange would continue to assign options to RSQTs, but these RSQTs would no longer be corporate entities but would be as many as three individual members per each Exchange-approved RSQTO. Rule 507 would continue to indicate that there is no limit on the number of qualifying ROTs that may be approved as RSQTs, as long as the applicants are qualified as ROTs in good standing and satisfy the readiness requirements.¹²

¹⁰ See proposed Rule 507(a)(ii). RSQTs will, in addition, have to demonstrate that they have an ongoing affiliation with an Exchange-approved RSQTO. Rule 507 (a)(ii)(F).

¹¹ RSQTOs may also be referred to as Remote Market Maker Organizations (“RMOs”) and RSQTs may also be referred to as Remote Market Markers (“RMMs”). Proposed Rule 507(a).

¹² Rule 507 provides, however, that based on system constraints, capacity restrictions or other factors relevant to the maintenance of a fair and orderly market, the Board may defer, for a period to be determined in the Board's discretion, approval of qualifying applications for SQT or RSQT status pending any action required to address the issue of concern to the Board; where the basis for such deferral has been objectively determined

The process for applying for RSQTO and applying for and assigning options to RQSTs and SQTs is set out in Rule 507. The Exchange proposes in subsection (b)(i) that each RSQTO application is submitted to the Exchange's designated staff in writing (electronically or otherwise as specified by the Exchange) in a form and/or format prescribed by the Exchange and shall include, at a minimum: 1) the name of the RSQTO applicant, 2) the appropriate Exchange account number, and 3) the name of each RSQT associated with the RSQTO applicant. The Exchange proposes to also add that each RSQT application, in addition to other currently-requested minimum information,¹³ state the name of the RSQTO with whom the RSQT is affiliated. If the Exchange does not have applications from SQTs or RSQTs for assignment in a particular option or options that it desires to assign or reassign, the Exchange may request such applications.¹⁴

The Exchange also clarifies in subsection (b)(ii) of Rule 507 that the technological readiness and testing requirements are applicable to RSQTO applicants just as they are applicable to RSQTs and SQTs. Thus, no application for being RSQTO or assignment in an option will be approved without verification that: 1) the RSQTO, SQT or RSQT applicant has sufficient technological ability to support his/her continuous quoting requirements as set forth in Rule 1014(b)(ii), and 2) the RSQTO, SQT or RSQT applicant has successfully completed, or is scheduled to complete, testing of its quoting system with the Exchange.

by the Board, subject to Commission approval or effectiveness pursuant to a rule change filing under Section 19(b) of the Act.

¹³ Other minimum information required of RSQT and SQT applicants includes: 1) the name of the SQT or RSQT applicant, 2) the appropriate Exchange account number, and 3) the requested start date for each option applied for. Rule 507(b)(i).

¹⁴ The Exchange is deleting obsolete language from 507(b)(i) that it request (solicit) applications for all assignments, as such language is no longer necessary or desirable in light of the updated application process.

The Exchange also proposes in subsection (a) of Rule 507 a procedure to facilitate the process of RSQTs (currently, member organizations) to convert to an RSQTO structure with associated RSQTs. Upon approval of the proposal establishing RSQTOs and Exchange notification via OTA of such approval, each member organization operating as an RSQT pursuant this rule will automatically be deemed an RSQTO. After this designation the RSQTO will have twenty one (21) days to notify the Exchange of no more than three RSQTs to be affiliated with the RSQTO (the “Conversion Period”), each of whom is an ROT in good standing and satisfies the technological readiness and testing requirements described in sub-paragraph (b)(ii) of Rule 507.

After the Conversion Period, per proposed subsection (a) of Rule 507 a member organization that is not currently qualified as an RSQTO may apply to the Exchange to be an RSQTO with up to three affiliated RSQTs. Each RSQTO application shall be submitted to the Exchange's designated staff in writing (electronically or otherwise as specified by the Exchange) in a form and/or format prescribed by the Exchange and shall include, at a minimum, the name of the RSQTO applicant, the appropriate Exchange account number, and the name of each RSQT affiliated with the RSQTO applicant (the “Application Process”). The purpose for the sequential Conversion Period followed by the Application Process is to use the Exchange’s current administrative process to ensure an accurate conversion from the existing RSQT methodology to the proposed RSQTO concept with three associated RSQTs.¹⁵

Subsection (d) of Rule 507 indicates that once an RSQTO, SQT or RSQT is approved for initial assignment in an option, he may not withdraw from such option assignment for ten (10) or fewer business days after the effective date of assignment. However, the Exchange may, in

¹⁵ There are currently 28 member organizations that will be converted to RSQTOs pursuant to this proposal.

exceptional circumstances, approve withdrawal from an option assignment in ten (10) or fewer business days. If an RSQTO, SQT or RSQT seeks to withdraw from assignment in an option, it should so notify the Exchange at least one business day prior to the desired effective date of such withdrawal.

Finally, market makers may appeal if they believe that the Exchange's determination in respect of Rule 507 was improper.¹⁶ The current appeal rights provided in subsection (e) of Rule 507 are not changed. Thus, an appeal to the Exchange's Board of Directors ("Board") from a decision of the Exchange may be requested by a member or member organization interested therein by filing with the Secretary of the Exchange written notice of appeal within ten (10) days after the decision has been rendered. Any appeal from a decision pursuant to Rule 507 shall be heard by a special committee of the Board composed of three (3) Directors, of whom at least one (1) shall be an Independent Director.¹⁷

Restrictions Applicable to Remote Streaming Quote Traders and Remote Streaming Quote Trader Organizations

Rule 1014 describes, among other things, certain electronic quoting obligations via the Exchange's electronic quoting and trading system,¹⁸ as well as restrictions, pertaining to the

¹⁶ Decision concerning applications for assignment in options shall be in writing and shall be distributed to all applicants. Proposed Rule 507(c).

¹⁷ Rule 507(e) states also that the person requesting review shall be permitted to submit a written statement to and/or appear before this special committee. The Secretary of the Exchange shall certify the record of the proceeding, if any and the written decision and shall submit these documents to the special committee. The special committee's review of the action shall be based solely on the record, the written decision and any statement submitted by the person requesting the review. The special committee shall prepare and deliver to such person a written decision and reasons therefore. If the special committee affirms the action, the action shall become effective ten (10) days from the date of the special committee's decision. There shall be no appeal to the Board of Directors from any decision of the special committee.

¹⁸ The Exchange's electronic quoting and trading system, which has been denoted in Exchange rules as XL II, XL and AUTOM, has been updated with recent enhancements

current market makers on the Exchange. One of these restrictions in Rule 1014 indicates that no person who is either directly or indirectly affiliated with an RSQT (“affiliated RSQT”) is allowed to submit quotations as a specialist, SQT, RSQT or non-SQT ROT in options in which such affiliated RSQT is assigned.¹⁹ In light of customer requests, the establishment of RSQTOs and inherent RSQT affiliation(s), and established quoting procedures, the Exchange proposes to clarify the quoting restriction applicable to RSQTs.

In particular, the Exchange proposes to amend subsection (b)(ii)(B) of Rule 1014 to remove the provision that states that no person who is either directly or indirectly affiliated with an RSQT shall submit quotations as a specialist, SQT, RSQT or non-SQT ROT in options in which such affiliated RSQT is assigned. This allows more than one RSQT to submit a quote in an assigned option, to the extent that each RSQT applies for and is approved as an RSQT affiliated with an RSQTO pursuant to Rule 507. The Exchange notes that this proposal does not otherwise affect the quoting responsibilities of RSQTs or other aspects of Rule 1014.²⁰ The

and configurations. See Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009)(SR-Phlx-2009-32)(approval order regarding current electronic quoting and trading system known as XL II).

¹⁹ See Rule 1014 (b)(ii)(B).

²⁰ The proposed rule change will not, for example, impact the allocation received by a Directed RSQT or Directed SQT pursuant to rule 1014 (viii)(B)(2). Thus, if an order is directed to a member organization that has more than one affiliated SQT or RSQT assigned in an option, only one SQT or RSQT may receive an allocation as Directed RSQT or Directed SQT, and the remaining non-Directed market makers will simply receive the standard RSQT or SQT allocation. Each RSQT and SQT would need to maintain Directed SQT and Directed RSQT quoting requirements because it is possible that they could receive a Directed Order, albeit only one market maker could be Directed per order.

Exchange also proposes to clarify subsection (b)(ii)(A) of Rule 1014 to state that an SQT may only trade in a market making capacity in classes of options in which the SQT is assigned.²¹

The Exchange represents that it has an adequate surveillance program in place for options that are quoted and traded on the Exchange and intends to continue application of those program procedures as necessary.²² The Exchange also represents that it has the systems capacity to continue to support quoting and trading options subsequent to the effectiveness of this proposal.

The Exchange believes that the proposed rule change establishing RSQTOs and affiliated RSQTs and enabling the submission of more than one quotation in the same option class should encourage competition, create additional trading opportunities and outlets and increase the depth of markets, and promote a more robust system with specific standards for member organizations that are RSQTOs, electronic market makers that are affiliated with RSQTOs as RSQTs, and floor-based SQTs. This should lead to tighter, more efficient markets to the benefit of market participants including public investors that engage in trading and hedging on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act²³ in general, and furthers the objectives of Section 6(b)(5) of the Act²⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect

²¹ The language regarding when an SQT may trade in a market making capacity is exactly the same as what is currently applicable to RSQTs. See Rule 1014(b)(ii)(B).

²² Additionally, the Exchange is a member of the Intermarket Surveillance Group (“ISG”) under the Intermarket Surveillance Group Agreement, dated June 20, 1994. ISG members generally work together to coordinate surveillance and investigative information sharing in the stock and options markets. Moreover, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enabling approval of RSQTOs with whom as many as three RSQTs may be affiliated, and enabling multiple quotes in the same option.

The Exchange believes that its rule change proposal does not engender unfair discrimination among specialists, specialist units, SQTs and RSQTs in that it proposes to amend rules and procedures that are equally applicable to all members and member organizations at the Exchange. Moreover, the Exchange believes that the proposal will promote a more robust system with specific standards for member organizations that are RSQTOs, electronic market makers that are affiliated with RSQTOs as RSQTs, and floor-based SQTs. By engendering more competition among market makers, the proposal may also lead to tighter, more efficient markets to the benefit of market participants including public investors that engage in trading and hedging on the Exchange.

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. To the contrary, the proposal further promotes competition on the Exchange which should lead to tighter, more efficient markets to the benefit of market participants including public investors that engage in trading and hedging on the Exchange, and thereby make the Exchange a desirable market vis a vis other options exchanges.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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-2013-03 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-2013-03. 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-2013-03 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.²⁵

Kevin M. O'Neill
Deputy Secretary

²⁵ 17 CFR 200.30-3(a)(12).