

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69417; File No. SR-Phlx-2013-03)

April 19, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Exchange Rules 507 and 1014 to Establish Remote Streaming Quote Trader Organizations

I. Introduction

On January 4, 2013, 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”), and Rule 19b-4 thereunder, a proposed rule change to amend Exchange Rules 507 and 1014 to establish Remote Streaming Quote Trader Organizations. The proposed rule change was published in the Federal Register on January 25, 2013.¹ On March 8, 2013, the Exchange filed an extension to extend the action date to March 25, 2013. On March 22, 2013, the Exchange filed a second extension to extend the action date to April 8, 2013. On April 8, 2013, the Exchange filed a third extension to extend the action date to April 22, 2013. On April 16, 2013, the Exchange filed Partial Amendment No. 1 to the proposal.² The

¹ See Securities Exchange Act Release No. 68689 (January 18, 2013), 78 FR 5518.

² In Partial Amendment No. 1, the Exchange provided clarification for the deleted rule text in Exchange Rule 1014(b)(ii)(B), pertaining to the restriction of persons directly or indirectly affiliated with an RSQT from submitting quotations as a specialist, SQT, RSQT or non-SQT ROT in options in which such affiliated RSQT is assigned. The Exchange proposed to delete this restriction, which would allow affiliated persons with an RSQT to submit quotations in options in which the affiliated RSQT is assigned. The Exchange stated that the restriction was appropriate when the Exchange market was a traditional open outcry floor, but is no longer applicable in the current predominantly electronic trading environment. According to the Exchange, the following reasons support the removal of this restriction: (1) the prohibition was never applicable to SQTs but only to the off-floor RSQTs, and so removing the prohibition for RSQTs would treat the on and off-floor traders equally; (2) RSQTs are no longer an unknown quantity, but rather over the years have evolved into an integral and tested component of the current electronic trading system; (3) while there may have been a desire to prohibit affiliates of RSQTs from submitting competitive quotes at the beginning of the RSQT program when

Commission received no comments on the proposal. This order approves the proposal, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to add a new category of member organizations, called Remote Streaming Quote Trader Organizations (“RSQTOs”), to be eligible to register as Registered Options Traders (“ROT”) on the Exchange. A ROT is an Exchange member located on the trading floor who trades in options for his own account.³ The term ROT includes a Streaming Quote Trader (“SQT”) and a Remote Streaming Quote Trader (“RSQT”).

Currently, a ROT may apply to be an SQT and an RSQT.⁴ An SQT generates and submits option quotes electronically in assigned options, while physically present on the Exchange floor.⁵ On the other hand, an RSQT generates and submits option quotes electronically in assigned options while maintaining no physical presence on the Exchange floor.⁶ An RSQT could be an Exchange member or member organization.

The Exchange proposes to add RSQTOs, which would consist of member organizations only, and reclassify RSQTs as Exchange members.⁷ The Exchange would allow a maximum of three RSQTs at any time to be affiliated with an RSQTO.⁸ Current Exchange member

RSQT options assignments were instituted at the corporate level, that is no longer the case with options assignments being made at the individual RSQT level pursuant to this proposal; and (4) removal of the prohibition comports with the growth of competitive quoting to the benefit of investors. Because Amendment No. 1 is technical in nature, it is not subject to notice and comment.

³ See Exchange Rule 1014(b).

⁴ See Exchange Rule 1014(b)(ii).

⁵ See Exchange Rule 1014(b)(ii)(A).

⁶ See Exchange Rule 1014(b)(ii)(B).

⁷ See proposed Exchange Rule 507(a).

⁸ See proposed Exchange Rule 507(a).

organizations operating as RSQTs would be deemed to be RSQTOs.⁹ The converted RSQTOs would have 21 days to notify the Exchange of their affiliated RSQTs.¹⁰

Currently, the criteria that must be met in order to be eligible as a RSQT is the same as the criteria to be eligible as an SQT, with two exceptions; specifically, the RSQT must demonstrate the existence of order flow commitments, and the willingness to accept allocations as an RSQT in options overlying 400 or more securities. The Exchange proposes that all of the current RSQT application criteria (including the provisions described above) will become the application criteria for RSQTOs. In addition, all of the current SQT application criteria will apply equally to SQTs and RSQTs.

As proposed by the Exchange, an RSQTO must submit its application in writing in a form and format prescribed by the Exchange.¹¹ The application must include, at a minimum, the name of the application, the Exchange account number, and the name of each affiliated RSQT.¹² The Exchange proposes to amend the current SQT application process by including RSQTs and adding a requirement that they be affiliated with an RSQTO.¹³

The Exchange also proposes to amend the application and assignment in options for RSQTOs, RSQTs, and SQTs. The Exchange would require the name of the RSQTO with whom the RSQT is affiliated, and the member organization with whom the SQT is affiliated.¹⁴

Lastly, the Exchange would allow more than one RSQT to submit a quote in assigned options. Currently, Exchange Rule 1014(b)(ii)(B) prohibits a person who is directly or indirectly

⁹ See proposed Exchange Rule 507(a).

¹⁰ See proposed Exchange Rule 507(a).

¹¹ See proposed Exchange Rule 507(a).

¹² See proposed Exchange Rule 507(a).

¹³ See proposed Exchange Rule 507(b)(i).

¹⁴ See proposed Exchange Rule 507(b)(i).

affiliated with an RSQT to submit quotes as a specialist, SQT, RSQT or non-SQT ROT in options in which the affiliated RSQT is assigned.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ which requires that the rules of an exchange be designed, among other things, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposal is consistent with the requirements of the Act. The proposal would reclassify RSQTs as Exchange members and create a new category of Exchange participants known as RSQTOs, which would be Exchange member organizations only. The Commission finds that this classification is consistent with the requirements of the Act and would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposal would also convert current Exchange member organizations operating as RSQTs into the proposed RSQTOs, and allow an application process for future RSQTOs. The Commission believes that the proposal is consistent with the requirements of the Act and should promote just

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

¹⁶ 15 U.S.C. 78f(b)(5).

and equitable principles of trade. Finally, the Commission believes that the proposal to allow more than one RSQT to submit a quote in assigned options is consistent with the requirements of the Act. The Exchange represented that the proposal is in response to customers' requests and that the Exchange has adequate surveillance program in place to monitor the impact of this proposal.

For the reasons stated above, the Commission believes that the proposal is consistent with the requirements of the Act and is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change, as modified by Amendment No. 1 (SR-Phlx-2013-03), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Elizabeth M. Murphy
Secretary

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).