

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69509; File No. SR-Phlx-2013-44)

May 3, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Remote Streaming Quote Trader Fees and Reference a Remote Streaming Quote Trader Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 29, 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 proposes to amend the Exchange’s Pricing Schedule to update the Preface section of the Pricing Schedule and Section VI, Part C to update references to Remote Streaming Quote Traders or RSQTs.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqomxphlx.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

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

<sup>2</sup> 17 CFR 240.19b-4.

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 Exchange recently amended various Exchange Rules to establish that member organizations may qualify to be Remote Streaming Quote Traders Organizations (“RSQTOs”) with as many as three affiliated RSQTs.<sup>3</sup> RSQTs are, along with Specialists,<sup>4</sup> one of several types of Registered Option Traders (“ROT”) on the Exchange. SR-Phlx-2013-03 amended Rules 507 and 1014 to define an RSQTO, which may also be referred to as Remote Market Maker Organizations (“RMOs”).<sup>6</sup> An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a). Amended Rule 507(a) provides that

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<sup>3</sup> An RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an Registered Options Trader that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. See Securities Exchange Act Release No. 68689 (January 18, 2013), 78 FR 5518 (January 25, 2013) (SR-Phlx-2013-03) (a rule change which amended Phlx Rules 507 and 1014 to enable RSQTOs to affiliate with up to three RSQTs).

<sup>4</sup> A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

<sup>5</sup> A ROT includes a Streaming Quote Trader (“SQT”), a RSQT and a Non-SQT, which by definition is neither a SQT nor a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii). Rule 1014 states that, in addition to other requirements, on a daily basis RSQTs and other SQTs are responsible to quote two-sided markets in not less than a specified percentage of options assigned by the Exchange at the request of such traders, unless specifically exempted from such quoting (market-making) responsibility.

<sup>6</sup> See Exchange Rule 507(a) and 1014(b)(ii)(B). See Securities Exchange Act Release No. 68689 (January 18, 2013), 78 FR 5518 (January 25, 2013) (SR-Phlx-2013-03). This filing became effective on April 19, 2013.

“...[a]s many as three RSQTs at any time may be identified by and affiliated with an RSQTO. Each of the affiliated RSQTs must be qualified as an ROT and must be in good standing.”<sup>7</sup>

The Exchange is proposing to amend a reference in the Preface to the Pricing Schedule to reflect recent amendments to Exchange Rule 1014(b)(ii)(B).<sup>8</sup> Pursuant to the recent rule change, an RSQT is a member affiliated with an RSQTO. The member organization is the RSQTO with which as many as three RSQTs may be affiliated. The Exchange proposes to amend note 6 in the Preface to reflect that change and to also add language to that note to state that an RSQTO, which may also be referred to as an RMO, is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

The Exchange also proposes to change references to the Remote Streaming Trader Fee in Section VI, entitled “Membership Fees,” at Part C from “RSQTs” to “RSQTOs.” This fee is assessed to the member organization and not the individual member. In order to continue to assess the member organization, as is the case today, the Exchange is proposing to update the Pricing Schedule to properly reflect the reference to the fee for RSQTOs.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

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<sup>7</sup> See Rule 507(a).

<sup>8</sup> See Exchange Rule 507(a) and 1014(b)(ii)(B). See Securities Exchange Act Release No. 68689 (January 18, 2013), 78 FR 5518 (January 25, 2013) (SR-Phlx-2013-03).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

The Exchange believes that the proposal to amend the Preface and Section VI, Part C of the Pricing Schedule to amend references from RSQT to RSQTO and redefine an RSQT in accordance with recent amendments to Rule 1014(b)(ii)(B) is reasonable because the Exchange is seeking to reflect the introduction of an RSQTO, which refers to the member organizations that must satisfy the requirements of Rule 507(a). Specifically, the Exchange is amending the Preface to identify the RSQTO and reference Rule 507(a) for purposes of defining RSQTOs. The Exchange is also amending the Preface to correctly refer to an RSQT as an individual for purposes of assessing fees. The amendment to Section IV also serves to properly identify RSQTOs and distinguish them from RSQTs. The Exchange believes that the amendments serve to properly reflect the distinction between RSQTs and RSQTOs to avoid confusion and reflect the correct permit holder that will be assessed certain fees. The Exchange also believes that the proposal is equitable and not unfairly discriminatory because the Exchange will continue to uniformly apply the new “RSQTO Fees” in the same manner as it does today, by assessing fees to the member organization.

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 does not amend the manner in which current fees are assessed, but rather continues to assess remote streaming fees to the member organizations. The Exchange’s proposal amends references to RSQTs and establishes the RSQTOs in the preface to distinguish individual members and member organizations to provide clarity to the Pricing Schedule and certainty with respect to billing.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>11</sup> 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 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 Number SR-Phlx-2013-44 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.

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-Phlx-2013-44. 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-2013-44 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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