

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83077; File No. SR-Phlx-2018-30)

April 20, 2018

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Incorporate by Reference The Nasdaq Stock Market LLC's Consolidated Audit Trail Rules into the Rules of Nasdaq Phlx

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 April 10, 2018, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 incorporate by reference The Nasdaq Stock Market LLC's ("Nasdaq") rule at General 7, entitled "Consolidated Audit Trail Compliance" into Phlx's General 7.

The text of the proposed rule change is available on the Exchange's Website at <http://nasdaqphlx.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 proposes to incorporate by reference Nasdaq’s rule at General 7, entitled “Consolidated Audit Trail Compliance” into Phlx’s General 7. The rule sets are identical.<sup>3</sup> Phlx proposes to remove the current rule text from General 7 and replace that rule text with the following text:<sup>4</sup>

The rules contained in The Nasdaq Stock Market LLC General 7, as such rules may be in effect from time to time (the “General 7 Rules”), are hereby incorporated by reference into this Nasdaq Phlx General 7, and are thus Nasdaq Phlx Rules and thereby applicable to Nasdaq Phlx Members. Nasdaq Phlx Members shall comply with the General 7 Rules as though such rules were fully set forth herein. All defined terms, including any variations thereof, contained in the General 7 Rules shall be read to refer to the Nasdaq Phlx related meaning of such term. Solely by way of example, and not in limitation or in exhaustion: the defined term “Exchange” in the General 7 Rules shall be read to refer to the Nasdaq Phlx Exchange; the defined term “Rule” in the General 7 Rules shall be read to refer to the Nasdaq Phlx Rule.

Should any rules which impact trading behavior be added to the Consolidated Audit Trail Compliance Rules in Nasdaq General 7 in the future, those rules shall not become subject to the incorporation by reference and shall be placed elsewhere within Phlx’s Rulebook. The

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<sup>3</sup> See Securities Exchange Act Release Nos. 82601 (January 30, 2018), 83 FR 4949 (February 2, 2018) (SR-Phlx-2018-11); 82604 (January 30, 2018), 83 FR 5154 (February 5, 2018) (SR-NASDAQ-2018-007); 82597 (January 30, 2018), 83 FR 4942 (February 2, 2018) (SR-BX-2018-007); 82599 (January 30, 2017), 83 FR 4947 (February 2, 2018) (SR-ISE-2018-09); 82598 (January 30, 2018), 83 FR 4936 (February 2, 2018) (SR-GEMX-2018-02); and 82600 (January 30, 2018), 83 FR 4934 (February 2, 2018) (SR-MRX-2018-03).

<sup>4</sup> Phlx shall include a hyperlink to Nasdaq’s General 7 for ease of reference.

incorporations by reference of Nasdaq General 7 into Phlx's General 7 Rule are regulatory in nature.<sup>5</sup> The Exchange notes that as a condition of an exemption, which the Exchange will request and will need to be approved by the Commission,<sup>6</sup> Phlx agrees to provide written notice to its members whenever Nasdaq proposes a change to its General 7 Rule.<sup>7</sup> Such notice will alert Phlx members to the proposed Nasdaq rule change and give them an opportunity to comment on the proposal. Phlx will similarly inform its members in writing when the SEC approves any such proposed change.

### Implementation

The Exchange proposes that this rule change become operative at such time as it receives approval for an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Exchange Act of 1934 ("Act") and Rule 0-12<sup>8</sup> thereunder, from the Section 19(b) rule filing requirements to separately file a proposed rule change to amend Phlx General 7.

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<sup>5</sup> The General 7 Rules are categories of rules that are not trading rules. See 17 CFR 200.30-3(a)(76) (contemplating such requests). In addition, several other SROs incorporate by reference certain regulatory rules of another SRO and have received from the Commission similar exemptions from Section 19(b) of the Exchange Act. See e.g., Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008), 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

<sup>6</sup> The Exchange will request an exemption pursuant to its authority under Section 36 of the Exchange Act of 1934 ("Act") and Rule 0-12<sup>6</sup> thereunder, from the Section 19(b) rule filing requirements to separately file a proposed rule change to amend Phlx General 7.

<sup>7</sup> Phlx will provide such notice via a posting on the same website location where Phlx posts its own rule filings pursuant to Rule 19b-4 within the timeframe require by such Rule. The website posting will include a link to the location on the Nasdaq website where the applicable proposed rule change is posted.

<sup>8</sup> See 17 CFR 240.0-12; Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</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 consolidating its rules into a single rule set. The Exchange intends to also file similar proposed rule changes for the Nasdaq PHLX LLC; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; and Nasdaq MRX, LLC markets so that the General 7 Rules which govern Consolidated Audit Trail Compliance are conformed.

Incorporating by reference the Nasdaq General 7 Rules into the Phlx General 7 Rules will provide an easy reference for Members seeking to comply with Consolidated Audit Trail on multiple markets. As noted, the Exchange intends to file similar proposed rule changes for other affiliated markets so that Nasdaq General 7 is the source document for all Nasdaq Consolidated Audit Trail rules. The Exchange notes that the current rule is not changing and Phlx members will be required to continue to comply with the General 7 Rules as though such rules are fully set forth in Phlx's Rulebook. The Exchange desires to conform its rules and locate those rules within the same location in each Rulebook to provide Members the ability to quickly locate rules.

### 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 believes that this rule change does not impose an undue burden on competition

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

because Phlx is merely incorporating by reference the rules of Nasdaq's General 7 into its own Rulebook. The current General 7 is not being amended and therefore no Member is impacted.

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

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

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

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of 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 Exchange has satisfied this requirement.

#### 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-2018-30 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2018-30. 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 the filing also will be available for inspection and copying at the

principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2018-30 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>13</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).