

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83194; File No. SR-Phlx-2018-34)

May 9, 2018

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Reorganize and Amend the Exchange's Pricing Schedule at Section VII, B, Entitled "Port Fees"

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 27, 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 reorganize and amend the Exchange's Pricing Schedule at Section VII, B, entitled "Port Fees."

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 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 Exchange proposes to reorganize and amend the Exchange’s Pricing Schedule at Section VII, B, entitled “Port Fees.” The Exchange offers various services across its 6 affiliated options markets, Phlx, Nasdaq BX, Inc., The Nasdaq Options Market LLC, Nasdaq ISE, LLC, Nasdaq GEMX, LLC and Nasdaq MRX, LLC (“Nasdaq Affiliated Markets”).<sup>3</sup> The Exchange desires to rename services to conform the naming of the offerings across all Nasdaq Affiliated Markets. The Exchange proposes to reorganize Section VII, B to list order and quote protocols first, order and execution offerings next, followed by data ports and other ports as the last section. The Exchange proposes to list data offerings which are offered at no cost. The Exchange believes that aligning its offerings, where relevant, across the Nasdaq Affiliated Markets will provide more transparency as to the offerings for market participants.

Ports

The Exchange proposes to define a port within Section VII, B to provide additional clarity to the Pricing Schedule as “a logical connection or session that enables a market participant to send inbound messages and/or receive outbound messages from the Exchange using various communication protocols.” The Exchange believes this definition will assist members in distinguishing ports from other offerings.

Order and Quote Protocols

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<sup>3</sup> The Exchange will file a similar rule change on each Nasdaq Affiliated Market to conform the offerings by amending naming to make them similar and delineating each offering on the fee schedule where no fee is assessed.

The Exchange proposes to add a new section (i) and include the following introductory sentence, “The following order and quote protocols are available on Phlx.”

Today, Phlx offers members an Order Entry order protocol, an Active SQF quote protocol as well as an SQF Purge Port. These fees currently exist on the Pricing Schedule. The Exchange is not amending any pricing related to these protocols. The Exchange proposes to rename “Order Entry Port Fee” as “FIX Port Fee.” This description is more accurate as “FIX” is the name of the order entry protocol. Nasdaq ISE, LLC calls this protocol “FIX” in its fee schedule.<sup>4</sup> The Exchange proposes to remove the word “Active” before SQF Port from the title of the offering. The term “active” refers to the manner in which the port is billed. For consistency the Exchange proposes to refer the SQF Port without the “Active” to conform the naming of the offering to that of the Nasdaq Affiliated Markets. The Exchange will continue to use the word “active,” which is proposed to be lowercase, to describe the manner in which the port will be billed. The Exchange proposes to define the term “active” to mean that the port was utilized to submit a quote to the System during a given month. The Exchange believes that this definition will provide greater transparency as to the manner in which the term “active” is applied today by the Exchange.

The Exchange believes that grouping the available order and quote protocols together into their own subsection will provide greater transparency within its Pricing Schedule as to the available protocols.

#### Order and Execution Information

The Exchange proposes to add a new section (ii) and add the following introductory sentence, “The following order and execution information is available to members.” The

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<sup>4</sup> See ISE’s Fee Schedule at Chapter V, Part D.

Exchange proposes to group the available order and execution information that is particular to a member's transactions on Phlx into its own subsection. Today, Phlx offers CTI and TradeInfo PHLX. The Exchange proposes to relocate the TradeInfo offering from Section XII of the Pricing Schedule to Section VII, B. The Exchange proposes to rename "TradeInfo PHLX" as "TradeInfo Interface" to conform the naming on the Nasdaq Affiliated Markets. This also makes clear that this particular offering is an interface. No changes are proposed to amend pricing for CTI or the TradeInfo offering. Finally, the Exchange proposes to delete the definition of the TradeInfo offering. The Exchange is instead defining this offering within Rule 1070(b).

#### Data Ports

The Exchange proposes to add a new section (iii) and include the following information, "The following data port fees apply in connection with data subscriptions pursuant to Phlx's Pricing Schedule at Section IX. These ports are available to non-Phlx members and Phlx members." The Exchange believes the addition of this sentence makes clear where the related applicable data fees can be located within the Pricing Schedule. Today, no data port fees are listed on Phlx's Pricing Schedule as these services are offered at no cost. The Exchange proposes to list the relevant data ports which are offered today in order to provide information as to the available offerings. Today, the Exchange offers TOPO Ports, PHLX Orders Ports and PHLX Depth of Market Ports at no cost. The Exchange believes listing these offerings on the Pricing Schedule at \$0 will add more transparency to the Pricing Schedule. No changes are being made to the fees.

#### Other Ports

The Exchange proposes to adopt a new section (iv) entitled "Other Ports" to include Disaster Recovery Ports. Today, the Exchange offers Disaster Recovery Ports for all the ports

reorganized into proposed subsections (i), (ii) and (iii). The Exchange is noting that these ports are available at no cost to make clear their availability.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on Phlx. The Exchange's proposal to reorganize Section VII, B and rename certain offerings to conform to other Nasdaq Affiliated Markets will provide clarity as to the offerings and uniformity in naming similar offerings. The Exchange believes that its new structure makes clear the differences in its offerings and the availability of various options within each type of offering. The Exchange's proposal is consistent with the protection of investors and the public interest in that the proposal provides greater transparency as to the offerings, the application of fees and the availability of offerings which are offered at no cost. The Exchange's proposal to define a port should also provide members with greater insight into the terminology utilized within Section VII, B.

### B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>7</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(8).

does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on Phlx. The offerings are available to all members. The Exchange does not intend to amend pricing, rather it proposes to make clear the application of the current pricing.

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 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>10</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>11</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. 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)(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.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

Exchange states that such waiver will allow it to update its rules immediately to provide more detailed and reorganized information regarding its offerings and further the protection of investors and the public interest because it will provide greater transparency as to the offerings available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.<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 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-2018-34 on the subject line.

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<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2018-34. 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-2018-34, 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).