

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72969; File No. SR-Phlx-2014-56)

September 3, 2014

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Collection of Information Related to Aggregation of Activity of Affiliates

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 20, 2014, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 harmonize the process by which it collects and aggregates information from its equity and option members and member organizations for the purposes of assessing charges or credits for options and equities trading.

The Exchange requests that this filing become operative on December 1, 2014.

The text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

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NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

ALL BILLING DISPUTES MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ALL DISPUTES MUST BE SUBMITTED NO LATER THAN SIXTY (60) DAYS AFTER RECEIPT OF A BILLING INVOICE, EXCEPT FOR DISPUTES CONCERNING NASDAQ OMX PSX FEES, PROPRIETARY DATA FEED FEES AND CO-LOCATION SERVICES FEES. AS OF JANUARY 3, 2011, THE EXCHANGE WILL CALCULATE FEES ON A TRADE DATE BASIS.

¹PHLX[®] is a registered trademark of The NASDAQ OMX Group, Inc.

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PREFACE

For purposes of assessing options fees and paying rebates, the following references should serve as guidance.

The term "**Customer**" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Rule 1000(b)(14)).²

The term "**Specialist**" applies to transactions for the account of a Specialist³ (as defined in Exchange Rule 1020(a)).

The term "**ROT, SQT and RSQT**" applies to transactions for the accounts of Registered Option Traders⁴ ("ROTs"), Streaming Quote Traders ("SQTs"),⁵ and Remote Streaming

Quote Traders ("RSQTs").⁶ For purposes of the Pricing Schedule, the term "**Market Maker**" will be utilized to describe fees and rebates applicable to ROTs, SQTs and RSQTs.

The term "**Firm**" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

The term "**Professional**" applies to transactions for the accounts of Professionals (as defined in Exchange Rule 1000(b)(14)).

The term "**Broker-Dealer**" applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

The term "**Joint Back Office**" or "**JBO**"⁷ applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer as of September 1, 2014.

The term "**Common Ownership**" shall mean members or member organizations under 75% common ownership or control.

For Purposes of Common Ownership Aggregation of Activity of Affiliated Members and Member Organizations

(a) For purposes of applying any options transaction fee or rebate where the fee assessed, or rebate provided by the Exchange depends upon the volume of a member or member

organization's activity, a member or member organization may request that the Exchange aggregate its activity with the activity of its affiliates.

(1) A member or member organization requesting aggregation of affiliate activity shall be required to certify to the Exchange the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and shall be required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate. The Exchange shall review available information regarding the entities, and reserves the right to request additional information to verify the affiliate status of an entity. The Exchange shall approve a request unless it determines that the certification is not accurate.

(2) If two or more members or member organizations become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of that month. If two or more members or member organizations become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of the next calendar month.

(b) For purposes of applying any option transaction fee or rebate where the fee assessed, or rebate provided by the Exchange depends upon the volume of a member or member organization's activity, references to an entity (including references to a "member" or

"member organization") shall be deemed to include the entity and its affiliates that have been approved for aggregation.

(c) For purposes of this provision, the term "affiliate" of a member or member organization shall mean any member or member organization under 75% common ownership or control of that member or member organization.

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VIII. NASDAQ OMX PSX FEES

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Aggregation of Activity of Affiliated Member Organizations

(a) For purposes of applying any PSX charge or credit where the charge assessed, or credit provided, by the Exchange depends upon the volume of a member organization's activity, a member organization may request that the Exchange aggregate its activity with the activity of its affiliates.

(1) A member organization requesting aggregation of affiliate activity shall be required to certify to the Exchange the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and shall be required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate. [In addition, the Exchange reserves the right to request information to verify the affiliate status of an entity.] The Exchange shall review available information regarding the entities, and reserves the right to request

additional information to verify the affiliate status of an entity. The Exchange shall approve a request unless it determines that the certification is not accurate.

(2) If two or more member organizations become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of that month. If two or more members become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of the next calendar month.

(b) No Change

(c) No Change.

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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 Exchange is proposing to amend both the Preface of the Pricing Schedule, which applies to options, and Chapter VIII of the Pricing Schedule, which applies to equities, to harmonize the process by which the Exchange will collect information from members and member organizations that desire their activity to be aggregated for the purposes of assessing charges or credits. Today, equity and options members may aggregate affiliate activity based on volume of activity for purposes of pricing, but at different percentages (100 percent vs. 75 percent).³ The Exchange believes that having the same process for equity and options members will provide consistency to its processes when aggregating pricing.

Today, a PSX member organization requesting aggregation of affiliate activity is required to certify to the Exchange the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and is required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate. In addition, the Exchange reserves the right to request information to verify the affiliate status of an entity.

The Exchange proposes to make this language consistent with the requirements of The NASDAQ Stock Market LLC (“NASDAQ”) and NASDAQ OMX BX, Inc. (“BX”)⁴

³ See Preface of the Pricing Schedule, which applies to options, and Chapter VIII of the Pricing Schedule, which applies to equities.

⁴ See NASDAQ and BX Rules 7027(a).

by further stating that it will approve a request unless it determines that the certification is not accurate. Also, the Exchange proposes to adopt the following NASDAQ and BX equity process for determining the effective date for aggregation: “If two or more member organizations become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of that month. If two or more members become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of the next calendar month.”

The Exchange also proposes to add the same process that would exist for PSX members to the process that would be required for option members by also adding the same language, as specified above, to the Preface of the Pricing Schedule, which applies to options pricing. The Exchange believes that harmonizing the process for collecting this information will avoid confusion and simplify information requested of equity and options members by requesting consistent information.

Finally, the Exchange proposes to add language to clarify that the defined terms in the Preface of the Pricing Schedule apply to options pricing, fees and rebates.

The Exchange proposes to apply this pricing as of December 1, 2014 and issue an Options Trader Alert to its members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ 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, in that the proposal will harmonize the process by which the Exchange collects information from equity and options members and member organizations regarding the aggregation of activity of affiliated member organizations for the purposes of assessing charges or credits.

The Exchange believes that harmonizing this process by which the Exchange collects information related to aggregation for equity and options members to the process in place at NASDAQ and BX⁷ will provide consistency to market participants with respect to meeting the requirements to aggregate on NASDAQ, BX or Phlx. Also, the Exchange believes that adopting this method for collecting such information on aggregated pricing will ensure proper validation for firms entitled to the aggregation.

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 is merely seeking to harmonize the manner in which it collects

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ See note 4.

information related to the aggregation of activity of affiliated member organizations for the purposes of assessing charges or credits for equity and options members. The Exchange intends to apply a uniform process to request such aggregation for all Phlx members and member organizations.

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)(ii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

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.

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:

⁸ 15 U.S.C. 78s(b)(3)(a)(ii).

⁹ 17 CFR 240.19b-4(f)(6).

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-2014-56 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-2014-56. 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; 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-2014-56 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.¹⁰

Kevin M. O' Neill
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).