SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64447; File No. SR-Phlx-2011-63)

May 9, 2011

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Rebates and Fees for Adding and Removing Liquidity

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 April 29, 2011, 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 its Complex Order[3] Fees in Section I of its Fee Schedule titled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 2, 2011.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or ETF coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i).

The text of the proposed rule change is available on the Exchange's website at http://nasdaqtrader.com/micro.aspx?id=PHLXfilings, at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's website at www.sec.gov.

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 purpose of the proposed rule change is to amend Section I, Part B of the Exchange's Fee Schedule, entitled "Complex Order." Currently, the Fees for Removing Liquidity are assessed based upon the options class and the type of market participant order that removes liquidity: Customer, Directed Participants, Specialists,[4] Registered Options Traders,[5] SQTs,[6]

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

5 A Registered Options Trader ("ROT") includes a Streaming Quote Trader ("SQT"), a Remote Streaming Quote Trader ("RSQT") and a Non-SQT ROT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member or a foreign currency options participant 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).

6 An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

RSQTs,[7] Broker-Dealers, Firms and Professional.[8] The Exchange is proposing to increase fees for five of those categories; the Broker-Dealer category (which currently pays the highest fee) and the Customer category are unaffected by this proposal.

Specifically, the Exchange proposes to amend the Complex Order Fees for Removing Liquidity in all Select Symbols including SPY, QQQ, IWM and AAPL. The Exchange proposes to assess the following complex order fees:

	Customer	Directed Participant	Specialist, ROT, SQT and RSQT	Firm	Broker-Dealer	Professional
Fee for Removing Liquidity in all Select Symbols except SPY, QQQ, IWM and AAPL	$0.25	$0.27	$0.29	$0.30	$0.35	$0.30
Fee for Removing Liquidity for SPY, QQQ, IWM and AAPL	$0.00	$0.27	$0.29	$0.30	$0.35	$0.30

Currently, the Exchange assesses the following Complex Order Fees for Removing Liquidity:

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7 An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization 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. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

8 The Exchange defines a "professional" as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) (hereinafter "Professional").

	Customer	Directed Participant	Specialist, ROT, SQT and RSQT	Firm	Broker-Dealer	Professional
Fee for Removing Liquidity in all Select Symbols except SPY, QQQ, IWM and AAPL	$0.25	$0.25	$0.27	$0.28	$0.35	$0.28
Fee for Removing Liquidity for SPY, QQQ, IWM and AAPL	$0.00	$0.25	$0.27	$0.28	$0.35	$0.28

The Exchange is proposing to amend the Complex Order Fees for Removing Liquidity in all Select Symbols including SPY, QQQ, IWM and AAPL for Directed Participants, Specialists, ROTs, SQTs, RSQTs, Firms, and Professionals. The Complex Order Fees for Removing Liquidity in all Select Symbols for Customers and Broker-Dealers will remain the same.

Additionally, the Exchange proposes to continue to assess Directed Participants a Fee for Removing Liquidity of $0.25 per contract during the Exchange's opening process. The Exchange proposes to continue to assess Specialists, ROTs, SQTs and RSQTs a Complex Order Fee of Removing Liquidity of $0.27 per contract during the Exchange's opening process.[9] The Exchange believes that these proposed fees will continue to encourage these market participants to transact orders during the opening process.

9 Currently, Professionals, Directed Participants, Firms, Broker-Dealers, Specialists, ROTs, SQTs and RSQTs are assessed the Fees for Removing Liquidity in Part B on transactions resulting during the Exchange's opening process. Professionals, Firms and Broker-Dealers would continue to be assessed the Fees for Removing Liquidity in Part B to transactions resulting during the Exchange's opening process.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 2, 2011.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(4) of the Act[11] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The impact of the proposal upon the net fees paid by a particular market participant will depend on a number of variables, most important of which will be its propensity to add or remove liquidity in options overlying the Select Symbols.

The Exchange believes that the proposed amendments to the Complex Order Fees to Remove Liquidity in all Select Symbols are equitable in that the Exchange currently differentiates between options classes and categories of market participants. The existing differentiation recognizes the differing contributions made to the liquidity and trading environment on the Exchange, as well as the differing mix of orders entered. In addition, some market participants have obligations pursuant to Exchange rules which the Exchange recognizes in its pricing. The Exchange believes that attracting additional order flow to the Exchange benefits all market participants and seeks to generate such order flow in setting its fees and rebates.

Additionally, the proposal is equitable because the Exchange is proposing to increase the fees for all market participants by $0.02 per contract, except for Customers and Broker-Dealers. The Exchange believes that it is equitable and not unfairly discriminatory to continue to assess lower fees to Customers because all market participants benefit from Customer order flow. In

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10 15 U.S.C. 78f(b).

11 15 U.S.C. 78f(b)(4).

addition, Broker-Dealers are assessed a higher rate as compared to other market participants and the Exchange is not seeking to increase that rate further.[12]

The Exchange believes that continuing to differentiate between market makers[13] as compared to Professionals, Firms and Broker-Dealers is equitable because market makers have obligations to the market, which do not apply to Firms, Professionals and Broker-Dealers.[14] Obligations, such as quoting obligations, are critical to ensure there is sufficient liquidity. The proposed differential as between Directed Participants and other market makers is equitable because it is the same $0.02 per contract differential which exists today between those categories of market participants.

The Exchange believes that the proposed fees are reasonable and equitable because they are within the range of fees or less than fees currently assessed by the Exchange for Single contra-side equity option orders.

The Exchange also believes that the proposed fees are reasonable and equitable because they are within the range of fees assessed by exchanges with which the Exchange competes. Specifically, the proposed fees are similar to fees ISE assesses for complex orders.[15] Additionally, the proposal would allow the Exchange to remain competitive with exchanges that employ a similar pricing scheme while maintaining a two cent differential that currently exists at options exchanges between fees charged for orders that take liquidity and directed complex

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12 International Securities Exchange, LLC ("ISE") assess its Non-ISE Market Marker (FARMM) a taker fee of $0.35 per contract fee as well. See ISE's Fee Schedule.

13 The Exchange market maker category includes Specialists (see Rule 1020) and ROTs (Rule 1014(b)(i) and (ii), which includes SQTs (see Rule 1014(b)(ii)(A)) and RSQTs (see Rule 1014(b)(ii)(B)).

14 See Exchange Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

15 See ISE's Schedule of Fees. See also Securities Exchange Act Release No. 64303 (April 15, 2011) (SR-ISE-2011-18).

orders. For example, ISE currently charges $0.28 per contract to market makers who remove liquidity from its complex order book by trading with orders that are preferenced to them compared to a $0.30 per contract for complex orders executed by market makers in select symbols. Finally, the Exchange believes the proposed fee increases are reasonable and equitable in that they apply equally to all market participants that were previously subject to these fees.

The Exchange's proposal to continue to assess Directed Participants a Fee for Removing Liquidity of $0.25 per contract and assess Specialists, ROTs, SQTs and RSQTs a Fee for Removing Liquidity of $0.27 per contract, during the Exchange's opening process, is both equitable and reasonable because the Exchange is seeking to incentivize those market makers to continue to provide liquidity during the Exchange's opening process by assessing them a lower fee as compared to Firms, Broker-Dealers and Professionals.

The Exchange operates in a highly competitive market comprised of nine U.S. options exchanges in which sophisticated and knowledgeable market participants readily can, and do, send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the Complex Order Fees and opening process fees it assesses must be competitive with fees assessed on other options exchanges. The Exchange believes that this competitive marketplace impacts the fees present on the Exchange today and influences the proposals set forth above.

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.

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.[16] 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. Please include File Number SR-Phlx-2011-63 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.

All submissions should refer to File Number SR-Phlx-2011-63. 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

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[16] 15 U.S.C. 78s(b)(3)(A)(ii).

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-2011-63 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.[17]

Cathy H. Ahn
Deputy Secretary

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[17] 17 CFR 200.30-3(a)(12).