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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66251; File No. SR-Phlx-2012-09)

January 26, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Document Removal Fee

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 January 20, 2012, 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 adopt a fee of \$250 per box to ship documents stored by members or member organizations on the trading floor to the member or member organization’s address of record. While changes to the Exchange’s fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on February 1, 2012.

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, and at the Commission’s Public Reference Room.

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

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

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to charge member organizations a fee of \$250 per box containing documents belonging to the member or member organization which the Exchange removes from Exchange space on the trading floor.<sup>3</sup> The Exchange is instituting a policy on February 1, 2012, pursuant to which the Exchange will remove any documents, including storage boxes containing documents, in Exchange space on the trading floor and ship them to the address of record of the member or member organization whose name appears on the documents in question. The Exchange will charge the member organization a \$250 per box Document Removal Fee which will cover staff time, postage and handling.<sup>4</sup> Removal of documents from Exchange space may be necessary to ensure that the Exchange complies with its obligations under its lease and the Philadelphia Fire Code. Documents which are stored in

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<sup>3</sup> The Exchange will use standard 1.2 square feet storage boxes to ship documents left on the trading floor to the member or member organization's address of record.

<sup>4</sup> The Exchange estimates that \$250 per box will be the average administrative cost to the Exchange of removing and shipping the documents. The Exchange does not view this fee as a potential source of revenue to the Exchange.

compliant space which has been authorized by the Exchange for use by the member or member organization will not be removed by the Exchange and therefore will not be subject to the fee.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities. The Document Removal Fee is reasonable because it allows the Exchange to recoup costs associated with the administrative burden of removing documents that are stored by members and member organizations without authorization in Exchange space on the trading floor. It is equitable and not unfairly discriminatory because it is uniformly applied to all members and member organizations that store documents in Exchange space without authorization. The Exchange believes that this is fair since members and member organizations should not be permitted to use Exchange space for their own storage needs.

### 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.<sup>5</sup> At any time within 60 days of the filing of the proposed rule change, the Commission

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<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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 No. SR-Phlx-2012-09 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 No. SR-Phlx-2012-09. 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 No. SR-Phlx-2012-09 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>6</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).