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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66543; File No. SR-Phlx-2012-25)

March 8, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Fees Applicable to the Trading of NMS Stocks Through NASDAQ OMX PSX

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 February 27, 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 modify the fees applicable to trading on the NASDAQ OMX PSX system (“PSX”). The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, 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

¹ 15 U.S.C. 78s(b)(1).

² 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

Phlx is amending its fee and credit schedule for transaction executions on PSX. Specifically, Phlx is introducing reduced fees for accessing liquidity in securities listed on the New York Stock Exchange ("Tape A Securities"), along with correspondingly reduced rebates for liquidity provision in Tape A Securities.³ Currently, PSX charges \$0.0027 per share executed to members accessing liquidity in any security traded by the Exchange. Under the proposed rule change, the fee will be reduced to \$0.0019 per share executed for Tape A Securities. However, to keep the Exchange's rebates for liquidity provision in line with the reduced fee to access liquidity, the Exchange will also make reductions in the rebates for Tape A Securities. Currently, the liquidity provider rebate is \$0.0026 per share executed with respect to orders with an original displayed size of 2,000 or more shares, and is also \$0.0026 with respect to liquidity provided by minimum life orders.⁴ Under the proposed rule change, this rebate will be reduced to \$0.0018 per share executed for Tape A Securities. The rebate for orders with an original displayed size of less than 2,000 shares is currently \$0.0024 per share executed, and will be reduced to \$0.0016 per share executed for Tape A Securities. The rebate for non-displayed orders is currently \$0.0010 per share executed, and will be reduced to \$0.0005 per share executed for Tape A Securities.

³ The changes apply to executions priced at \$1 or more. Fees and rebates applicable to executions of securities priced below \$1 remain unchanged.

⁴ Minimum life orders are orders that may not be cancelled for a period of 100 milliseconds following entry.

The change is designed to encourage greater use of PSX for the purpose of trading Tape A Securities. Specifically, although PSX has market participants that post liquidity in Tape A Securities with regularity, Phlx believes that the extent to which market participants direct liquidity-seeking orders to PSX may be limited by its current fees. Accordingly, Phlx believes that a reduction in the fee to access liquidity will encourage more market participants to seek available liquidity at PSX. Moreover, Phlx further believes that any disincentive to post liquidity caused by a reduction in the rebates for Tape A Securities will be offset by a heightened expectation of prompt execution created by the reduced fee for liquidity-accessing orders.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Sections 6(b)(4) and (5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. All similarly situated members are subject to the same fee structure, and access to Phlx is offered on fair and non-discriminatory terms.

The proposed new fee and rebate structure for members that use Phlx to trade Tape A Securities is reasonable because it will result in a reduction of fees for members that access liquidity, which in turn will benefit members that post liquidity by providing greater certainty of execution for their posted orders. Phlx believes that this increased certainty of execution will continue to encourage members to post liquidity at PSX, notwithstanding the associated reduction in liquidity provider rebates. Moreover, because the fee charged to access liquidity

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4) and (5).

funds the payment of a rebate to liquidity providers, Phlx does not believe that it would be reasonable to require an exchange that opts to reduce access fees to maintain pre-existing higher rebates.

Moreover, the proposed change is consistent with an equitable allocation of fees because it is designed to promote a more active market for Tape A Securities on PSX, thereby benefitting all members that seek to trade such securities through the Exchange. Specifically, the change is equitable to members that seek to access liquidity because it will reduce the fees that they pay, and equitable to members that provide liquidity because it will increase the likelihood of posted orders executing. Similarly, to the extent that the proposed change is successful in encouraging greater use of PSX for trading Tape A Securities, it will enhance market quality for all market participants. Finally, Phlx believes that the change is not unfairly discriminatory because the price reduction offered is available to all members that access liquidity in Tape A Securities. Similar pricing incentives that focus on securities listed on particular listing venues are not uncommon,⁷ and provide means by which venues such as Phlx may compete more effectively with listing venues such as NYSE.

Finally, Phlx notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, Phlx must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Phlx believes that the

⁷ See, e.g., Securities Exchange Act Release No. 66322 (February 3, 2012), 77 FR 6831 (February 9, 2012) (SR-NASDAQ-2012-020) (pricing incentives focused on securities listed on exchanges other than The NASDAQ Stock Market or NYSE).

proposed rule change reflects this competitive environment because it is designed to create pricing incentives for trading Tape A Securities through PSX.

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

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, members may readily opt to disfavor Phlx's execution services if they believe that alternatives offer them better value. The proposed change is designed to enhance competition by using pricing incentives to encourage trading of Tape A Securities through PSX.

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.⁸ 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.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

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 No. SR-Phlx-2012-25 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-2012-25. 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-2012-25 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.⁹

Kevin M. O'Neill
Deputy Secretary

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⁹ 17 CFR 200.30-3(a)(12).