



This document is scheduled to be published in the Federal Register on 07/20/2015 and available online at <http://federalregister.gov/a/2015-17657>, and on FDsys.gov

8011-01p

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75446; File No. SR-Phlx-2015-58)

July 14, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exchange’s Pricing Schedule under Section VIII with Respect to Execution and Routing of Orders in Securities Priced at \$1 or More Per Share

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that, on June 30, 2015, 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 the Exchange’s Pricing Schedule under Section VIII, entitled “NASDAQ OMX PSX FEES,” with respect to execution and routing of orders in securities priced at \$1 or more per share.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on July 1, 2015.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqomxpathlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend certain credits for order execution and routing applicable to the use of the order execution and routing services of the NASDAQ OMX PSX System (“PSX”) by member organizations for all securities traded at \$1 or more per share.

The Exchange will increase non-displayed order credits for all orders with midpoint pegging that provide liquidity through PSX. Specifically, the credit tiers for non-displayed orders of a \$0.0015 per share executed credit for orders with midpoint pegging that provide liquidity entered by a member organization that provides 1,000,000 shares or more average daily volume of non-displayed liquidity during the month and the credit tier for non-displayed orders of \$0.0010 per share executed will be replaced with a single credit tier of \$0.0020 per share executed for all orders with midpoint pegging³ that provide liquidity to create further incentives to provide midpoint liquidity on PSX for the benefit of investors and other market participants.

³ Including the Midpoint Peg Post-Only Order recently filed with the Commission, once effective and operative. See SR-PHLX-2015-056 (as recently filed).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Section 6(b)(4) and 6(b)(5) of the Act,⁵ 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 the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed increases to the credits in the fee schedule under the Exchange's Pricing Schedule under Section VIII are reflective of the Exchange's ongoing efforts to use pricing incentive programs to attract order flow to the Exchange and improve market quality. The goal of these pricing incentives is to provide meaningful incentives for members to increase their participation on the Exchange.

The Exchange is proposing to increase non-displayed order credits for all orders with midpoint pegging that provide liquidity through PSX by replacing the existing two such tiers with a single tier. Specifically, the credit tiers for non-displayed orders of a \$0.0015 per share executed credit for orders with midpoint pegging that provide liquidity entered by a member organization that provides 1,000,000 shares or more average daily volume of non-displayed liquidity during the month and the credit tier for non-displayed orders of \$0.0010 per share executed will be replaced with a single credit tier of \$0.0020 per share executed for all orders with midpoint pegging that provide liquidity.

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes the proposed change is reasonable because the increase to the credit for all orders with midpoint pegging that provide liquidity provides member organizations with a uniform credit designed to incentivize increased midpoint liquidity on PSX. Additionally, the Exchange believes providing a greater credit will act as an incentive for members to increase their participation on the Exchange.

The Exchange believes that the proposed rule change is consistent with an equitable allocation of fees and is not unfairly discriminatory because the single credit for all orders with midpoint pegging that provide liquidity is uniformly available to all members and affects all members equally and in the same way.

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

The Exchange 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.⁶ Phlx notes that it operates in a highly competitive market in which market participants can readily favor dozens of different competing exchanges and alternative trading systems if they deem charges at a particular venue to be excessive, or credit opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its charges and credits to remain competitive with other exchanges. Because competitors are free to modify their own charges and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which changes to charges and credits in this market may impose any burden on competition is extremely limited.

⁶ 15 U.S.C. 78f(b)(8).

In this instance, the changes to the credits for all orders with midpoint pegging that provide liquidity do not impose a burden on competition because Exchange membership is optional and is the subject of competition from other exchanges. The increased credit is reflective of the intent to increase the order flow on the Exchange. For these reasons, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that the Exchange will lose market share as a result of the changes if they are unattractive to market participants.

Accordingly, Phlx does not believe that the proposed rule changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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.⁷ 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.

⁷ 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
[\(http://www.sec.gov/rules/sro.shtml\);](http://www.sec.gov/rules/sro.shtml)
or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2015-58 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-2015-58. 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 Number SR-Phlx-2015-58 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.⁸

Robert W. Errett
Deputy Secretary

[FR Doc. 2015-17657 Filed: 7/17/2015 08:45 am; Publication Date: 7/20/2015]

⁸ 17 CFR 200.30-3(a)(12).