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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85366; File No. SR-Phlx-2019-04]

### **Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New SCAR Routing Option Under Rule 3315**

March 20, 2019.

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 March 6, 2019, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 a proposal to [sic] adopt a new SCAR routing option under Rule 3315.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.cchwallstreet.com/>, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt SCAR, a new order routing<sup>3</sup> option under Rule 3315(a)(1)(A). The Exchange currently provides a variety of routing options under Rule 3315(a)(1)(A). Routing options may be combined with all available Order Types and Times-in-Force, with the exception of Order Types and Times-in-Force whose terms are inconsistent with the terms of a particular routing option. The SCAR routing option would allow members to seek liquidity on the Exchange and the other equity markets operated by Nasdaq, Inc., the Nasdaq BX Equities Market ("BX") and The Nasdaq Stock Market ("Nasdaq" and together with BX and the Exchange, the "Nasdaq Affiliated Exchanges"). SCAR will operate in the same manner as the

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<sup>3</sup> Routing is an Order Attribute that allows a Participant to designate an Order to employ one of several Routing Strategies offered by the Exchange, as described in Rule 3315; such an Order may be referred to as a "Routable Order." Upon receipt of an Order with the Routing Order Attribute, the System will process the Order in accordance with the applicable Routing Strategy. In the case of a limited number of Routing Strategies, the Order will be sent directly to other market centers for potential execution. For most other Routing Strategies, the Order will attempt to access liquidity available on the Exchange in the manner specified for the underlying Order Type and will then be routed in accordance with the applicable Routing Strategy. Shares of the Order that cannot be executed are then returned to the Exchange, where they will (i) again attempt to access liquidity available on the Exchange and (ii) post to the Exchange Book or be cancelled, depending on the Time-in-Force of the Order. See Rule 3301B(f).

current PCRT strategy, but will differ in the initial order routing to the Nasdaq Affiliated Exchanges. Whereas PCRT orders route sequentially to BX, the Exchange, and then to Nasdaq,<sup>4</sup> SCAR orders will route simultaneously to all three Nasdaq Affiliated Exchanges in accordance with the System routing table.<sup>5</sup>

Specifically as proposed, SCAR would be a routing option under which orders check the System<sup>6</sup> for available shares and simultaneously route<sup>7</sup> to BX and Nasdaq in accordance with the System routing table.<sup>8</sup> Similar to PCRT, if shares remain unexecuted after routing, they are posted on the Exchange's book or cancelled, depending on the Time-in-Force of the order.<sup>9</sup> Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This is also similar

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<sup>4</sup> See Rule 3315(a)(1)(A)(vii).

<sup>5</sup> The term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. The Exchange reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. See Rule 3315(a)(1)(A).

<sup>6</sup> The term "System" shall mean the automated system for order execution and trade reporting owned and operated by the Exchange. See Rule 3301(a).

<sup>7</sup> As with all routing strategies that provide for simultaneous routing, the incoming SCAR order would be broken up into child orders. For SCAR routing, the orders would be sent to the Exchange, Nasdaq, and BX at the same time based on the available displayed interest on these exchanges. In particular, the Exchange would allocate the number of shares from the parent order based on the System routing table for SCAR, and route the allocated shares (i.e., the child orders) to the executing venues simultaneously.

<sup>8</sup> As is the case today for all market destinations on the System routing table, the placement of the Exchange, BX and Nasdaq on the applicable System routing table for SCAR will depend on the Exchange's ongoing assessments of factors such as latency, fill rates, reliability, and cost.

<sup>9</sup> Unexecuted shares of a SCAR order will return to the Exchange after routing and check the System for available shares before cancelling if the order has a Time-in-Force of IOC. Otherwise, shares that remain unexecuted after routing will return to the Exchange and check the System for available shares before posting on the Exchange's book (e.g., the SCAR order has a Time-in-Force of DAY).

to how PCRT treats shares that remain unexecuted after completing the initial order route and posting to the Exchange book. Like all of the Exchange's routing strategies, SCAR is designed to comply with Rule 611 and the other provisions of Regulation NMS.<sup>10</sup>

The Exchange will implement the proposal in the second quarter of 2019, subject to approval by the Commission. The Exchange will provide prior notice of the implementation date in an Equity Trader Alert.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> 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. The Exchange believes that the proposed rule change will accomplish those ends by providing market participants with an additional voluntary routing option that will allow them to easily access liquidity available on all Nasdaq Affiliated Exchanges. The Exchange expects the proposed routing strategy will benefit firms that do not employ routing or trading strategies under which the firm itself would rapidly access liquidity provided on the multiple venues. SCAR would not provide any advantage, including latency and priority, to members when routing to the Nasdaq Affiliated Exchanges as compared to other methods of routing or connectivity available to members by the Exchange.

Lastly, the Exchange notes that routing options enabling the routing of orders between affiliated exchanges is not unique, and that the proposed SCAR routing option is similar to those

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<sup>10</sup> 17 CFR 242.611.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

already offered by the Exchange (i.e., PCRT) and by other exchange groups. Specifically, Cboe BZX Exchange (“BZX”), Cboe BYX Exchange (“BYX”), Cboe EDGA Exchange (“EDGA”), and Cboe EDGX Exchange (“EDGX”) offer a routing option called ALLB that enables an order, whether sent to BZX, BYX, EDGA, or EDGX, to check the BZX, BYX, EDGA, and EDGX books for liquidity before optionally posting on the BZX, BYX, EDGA, or EDGX book.<sup>13</sup> For the foregoing reasons, the Exchange believes that the proposed rule change is consistent with the Act.

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. As discussed above, the proposed functionality is partly based on existing functionality available on competitor exchanges.<sup>14</sup> Furthermore, the Exchange provides routing services in a highly competitive market in which participants may avail themselves of a wide variety of routing options offered by other exchanges, alternative trading systems, other broker-dealers, market participants’ own proprietary routing systems, and service bureaus. In such an environment, system enhancements such as the changes proposed in this rule filing do not burden competition, because they can succeed in attracting order flow to the Exchange only if they offer investors higher quality and better value than services offered by others. Encouraging competitors to provide higher quality and better value is the essence of a well-functioning competitive marketplace. Lastly, SCAR would not provide any advantage to members when routing to the Nasdaq Affiliated Exchanges as compared to other methods of routing or connectivity available

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<sup>13</sup> See BZX Rule 11.13(b)(3)(O), BYX Rule 11.13(b)(3)(M), EDGA Rule 11.11(g)(7), and EDGX Rule 11.11(g)(7). ALLB is also substantially similar to the Exchange’s PCRT strategy, as described above.

<sup>14</sup> Id.

to members by the Exchange. For the foregoing reasons, the Exchange does not believe 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.

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) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

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

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 Number SR-Phlx-2019-04 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-2019-04. 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-Phlx-2019-04 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>17</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

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

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