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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-68574; File No. SR-Phlx-2012-130)

January 3, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change to Amend Performance Evaluations with Respect to Quote Submissions of Streaming Quote Traders and Remote Streaming Quote Traders

I. Introduction

On October 31, 2012, NASDAQ OMX PHLX LLC (“Exchange” or “Phlx”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend performance evaluations with respect to Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”). The proposed rule change was published for comment in the Federal Register on November 19, 2012.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend the performance evaluations with respect to SQTs and RSQTs. Exchange Rule 510 sets forth standards by which the Exchange periodically conducts an evaluation of SQTs and RSQTs to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, efficient quote submission to the Exchange (including quotes submitted through a third party vendor), competition among market makers, observance of ethical standards, and administrative factors.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 68217 (November 13, 2012), 77 FR 69525.

Specifically, the Exchange proposes to amend the evaluation standards with respect to quote submission. According to the Exchange, Phlx reviews the percentage of total quotes that represent the Phlx best bid or offer, quoting requirements pursuant to Exchange Rule 1014, the number of requests for a quote spread parameter and efficient quote submission. To evaluate efficient quote submission, the Exchange currently considers how an SQT or RSQT optimizes the submission of quotes through the Specialized Quote Feed⁴ by evaluating the number of individual quotes per quote block received by the Exchange.

Instead of evaluating the number of individual quotes per quote block, the Exchange proposes to utilize quote-to-trade and quote-to-contracts traded ratios to evaluate SQTs and RSQTs. According to the Exchange, the quote-to-trade and quote-to-contract traded data would provide statistical information on spreads and efficiency, which would allow the Exchange to obtain more precise information to evaluate performance.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁶ which requires that the rules of an exchange be

⁴ Exchange Rule 1080.01(a) provides that “[a] specialist, [remote streaming quote trader] or [streaming quote trader] may establish an option pricing model via a specialized connection, which is known as a specialized quote feed (‘SQF’). Specialists, [streaming quote traders] and [remote streaming quote traders] individually determine which model to select per option and may change models during the trading day. Each pricing model requires the specialist, [streaming quote traders] and [remote streaming quote traders] to input various parameters, such as interest rates, volatilities (delta, vega, theta, gamma, etc.) and dividends.”

⁵ In approving the proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

designed, among other things, to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposal should provide the Exchange with a better metric to evaluate the quote submission quality of SQTs and RSQTs. In particular, the Exchange represented that it could capture the following data in a report for each SQT and RSQT: executed contracts, trade count, total quotes, executed contract to quote ratio and trade count to quote ratio. The Commission believes that such additional information, which is not available today, should enable the Exchange to better judge the quality of quotes provided. The proposal would analyze the number of contracts executed, in addition to the number of quotes received by the Exchange. The Commission believes that the number of executed contracts to quote ratio should provide the Exchange with more useful information to judge actual liquidity supplied on the Exchange. The proposal would also analyze the number of trades to quotes. The Commission believes that this aspect of the proposal is reasonably designed to enable the Exchange to better evaluate smaller participants, who may execute lesser size, but who may still have a high trade-to-quote ratio if they are present at the national best bid or offer. Finally, the Exchange has represented that these standards which would be applied to all members and member organizations of the Exchange in a uniform matter that is equitable and not unfairly discriminatory.⁷

For the reasons stated above, the Commission believes that the proposal is consistent with the requirements of the Act and is designed to promote just and equitable principles of trade, to

⁷ See e-mail from Angela Dunn, Associate General Counsel, Phlx, to Steve Kuan, Special Counsel, Commission, dated January 3, 2013.

remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-Phlx-2012-130), be, and it hereby is, approved.

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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⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).