

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 Web site 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-NYSE-2014-73 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74000; File No. SR-Phlx-2014-83]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Port Fees

January 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 24, 2014, 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 the Substance of the Proposed Rule Change

The Exchange proposes to modify Section VII entitled "Other Member Fees" of the Phlx Pricing Schedule

("Pricing Schedule"). Specifically, the Exchange proposes to amend the Port Fees in Section VII of the Pricing Schedule in order to increase the Order Entry Port Fee, establish a CTI Port Fee, and delete the Real-Time Risk Management Fee.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on January 2, 2015.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/>, 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 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 this filing is to amend the Port Fees in Section VII of the Pricing Schedule in order to increase the Order Entry Port Fee, establish a CTI Port Fee, and remove the Real-Time Risk Management Fee.<sup>3</sup>

Today, all Port Fees on the Exchange are located in subsection B of Section VII of the Pricing Schedule. These Port Fees include Order Entry Port Fees, Real-time Risk Management Fees, and Active SQF Port Fees, which are not amended by this proposal. Each of the amended fees is discussed below.

###### Order Entry Port Fee

The Order Entry Port Fee is a connectivity fee related to routing

<sup>3</sup> The Real-Time Risk Management Fee was adopted well over a decade ago for members receiving option trading information on-line (*i.e.*, electronically) from the Exchange. See Securities Exchange Act Release No. 43719 (December 13, 2000), 65 FR 80975 (December 22, 2000) (SR-Phlx-00-97) (notice of filing and immediate effectiveness). This fee is, as discussed, being deleted as the CTI Port Fee, which is also used on other exchanges, is added.

orders to the Exchange via an external order entry port. Phlx members access the Exchange's network through order entry ports. A Phlx member may have more than one order entry port. Today, the Exchange assesses members an Order Entry Port Fee of \$550 per month, per mnemonic.<sup>4</sup> The current practice will continue whereby the Order Entry Port Fee will be waived for mnemonics that are used exclusively for Complex Orders<sup>5</sup> where one of the components of the Complex Order is the underlying security. Member organizations will continue not being assessed an Order Entry Port Fee for additional ports acquired for only ten business days for the purpose of transitioning technology.<sup>6</sup>

The Exchange proposes to increase the Order Entry Port Fee of \$550 per month, per mnemonic to \$600 per month, per mnemonic, as described below. This is exactly the same as a rule change filed by NASDAQ Options Market ("NOM") proposing to assess \$600 for Order Entry Port Fees as of January 2, 2015.<sup>7</sup>

###### Real-Time Risk Management Fee

The Exchange is eliminating the Real-time Risk Management Fee from subsection B of Section VII of the Pricing Schedule, entitled "Port Fees." The proposal to delete the Real-Time Risk Management Fee results in a price reduction to member organizations and members (clearing firms,<sup>8</sup> Specialists,<sup>9</sup> and Market Makers<sup>10</sup>),

<sup>4</sup> Mnemonics are codes that identify member organization order entry ports.

<sup>5</sup> A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund ("ETF") coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i).

<sup>6</sup> Similarly, member organizations will continue to be required to provide the Exchange with written notification of the transition and all additional ports which were provided at no cost will be removed at the end of the ten business days.

<sup>7</sup> See Securities Exchange Act Release No. 73843 (December 16, 2014) (SR-NASDAQ-2014-122) (not yet published).

<sup>8</sup> A "clearing firm" is a member organization that meets the requirements of Rule 165(c).

<sup>9</sup> A "Specialist" is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

<sup>10</sup> A "Market Maker" includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (Rule 1014(b)(ii)(B)).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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

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

which market participants are assessed the Real-Time Risk Management Fees.

The Real-time Risk Management Fee was established more than a decade ago to assess a fee to members and member organizations that receive electronic option trading information on-line from the Exchange. The purpose of the fee was to provide members and member organizations (e.g. clearing firms, Specialists, and Market Makers) with option trade information, electronically, on a real-time basis. Members and member organizations were able to log on to an interface through AUTOM<sup>11</sup> to receive options (among other information) transaction information real-time. The Exchange limited the assessment of the Real-Time Risk Management Fee to two ports, a Specialized Quote Feed (“SQF”)<sup>12</sup> Port and a CTI Port. As the Exchange has previously noted,<sup>13</sup> it was always the intent of the Exchange to limit the Real-Time Risk Management Fee to the SQF and CTI ports, and this has been the practice of the Exchange. The Exchange is eliminating the Real-Time Risk Management Fee and will instead only assess port fees.

#### CTI Port Fee

The Exchange now proposes to establish a CTI Port Fee that is \$600 per port, per month for each of the first 5 CTI ports, and \$100 per port for each port thereafter. The Exchange proposes to charge a smaller amount for the subsequent ports in order to continue to encourage use of ports on the Exchange.

CTI offers real-time clearing trade updates. A real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The trade messages are routed to a member’s connection containing certain information. The administrative and market event messages include, but are not limited to: System event messages to

communicate operational-related events; options directory messages to relay basic option symbol and contract information for options traded on the Exchange; complex strategy messages to relay information for those strategies traded on the Exchange; trading action messages to inform market participants when a specific option or strategy is halted or released for trading on the Exchange; and an indicator which distinguishes electronic and non-electronically delivered orders. This information will be available to members on a real-time basis.

The Exchange notes that the CTI Port Fee is currently available on NOM at \$550 per port, per month.<sup>14</sup> NOM assesses port fees for similar ports, namely the Order Entry and CTI Ports. The Exchange desires to continue assessing Order Entry Fees, and to access CTI Post [sic] Fees on Phlx in order to recoup costs associated with these ports while encouraging members to participate in the market.

By increasing the Order Entry Port Fee and establishing a new CTI Port Fee,<sup>15</sup> the Exchange will only assess port fees<sup>16</sup> and no longer assess other types of fees, such as the Real-Time Risk Management Fees. This proposal reflects a modest price increase to members and member organizations while allowing the Exchange to recoup a certain portion of costs associated with ports, namely the Order Entry Port and CTI Port.<sup>17</sup>

#### 2. Statutory Basis

The Exchange believes that its proposal to amend the Pricing Schedule is consistent with Section 6(b) of the Act<sup>18</sup> in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of

the Act<sup>19</sup> 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.

The Exchange believes that eliminating the Real-Time Risk Management Fee and proposing a new CTI Port Fee on the Exchange<sup>20</sup> at \$600 per port per month for each of the first 5 CTI ports, and \$100 per port for each port thereafter, is reasonable because it would allow the Exchange to recoup costs associated with offering the CTI ports. The proposal to delete the Real-Time Risk Management Fee results in a price reduction to member organizations and members (clearing firms, Specialists, and Market Makers), which market participants are assessed the Real-Time Risk Management Fee. By increasing the Order Entry Port Fee and establishing new CTI Port Fee, the Exchange will only assess port fees and no longer assess other types of fees, such as the Real-Time Risk Management Fee. This proposal reflects a modest price increase to members and member organizations while allowing the Exchange to recoup a certain portion of costs associated with ports, namely the Order Entry Port and CTI Port. The Exchange does not, by this proposal, expect to fully offset the Real-Time Risk Management Fee. Rather, the goal of the Exchange is to eliminate the Real-Time Risk Management Fee and apply only port fees. Members and member organizations will be able to obtain real-time information via CTI and SQF as discussed.

As with other port fees in subsection B of Section VII of the Pricing Schedule, the CTI Port Fees reflect a portion of the costs that the Exchange bears with respect to offering and maintaining the CTI ports. The CTI Port Fees are reasonable because they enable the Exchange to offset, in part, its connectivity costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. Charging less for additional fees is reasonable to continue to recoup costs while encouraging members to connect to the Exchange.

<sup>19</sup> 15 U.S.C. 78f(b)(4), (5).

<sup>20</sup> The Exchange has determined that the Real-Time Risk Fee is no longer necessary in light of the new CTI Port Fee and the increased Order Entry Port Fee.

<sup>11</sup> AUTOM, now known as Phlx XL, is the Exchange’s electronic order, execution, and trade system.

<sup>12</sup> SQF is an interface that allows specialists, streaming quote traders and remote streaming quote traders to connect and send quotes into Phlx XL. SQF 6.0 allows participants to access information in a single feed available to all participants, rather than through accessing multiple feeds. The information available includes execution reports and other relevant data. Non quoting firms may also receive relevant information available over SQF by connecting to the SQF interface, but they may not send quotes.

<sup>13</sup> See Securities Exchange Act Release No. 66208 (January 20, 2012), 77 FR 4077 (January 26, 2012) (SR-Phlx-2012-06) (notice of filing and immediate effectiveness).

<sup>14</sup> See, e.g., Securities Exchange Act Release No. 68502 (December 20, 2012), 77 FR 76572 (December 28, 2012) (SR-NASDAQ-2012-139) (notice of filing and immediate effectiveness). NOM does not, however, tier its CTI Port Fees, as proposed herein. This port fee will increase to \$600 as of January 2, 2015.

<sup>15</sup> Today, members utilize CTI Ports at no cost.

<sup>16</sup> The Pricing Schedule also notes an Active SQF Port Fee, which fee remains unchanged by this proposal. SQF is an interface that enables specialists, Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”) to connect and send quotes into Phlx XL, the options trading system. Active SQF ports are ports that receive inbound quotes at any time within that month. SQTs and RSQTs are defined in Rule 1014(b)(ii)(A) and Rule 1014(b)(ii)(B), respectively.

<sup>17</sup> The Exchange does not, by this proposal, expect to fully offset the Real-Time Risk Management Fee. Rather, the goal of the Exchange is to eliminate the Real-Time Risk Management Fee and assess only port fees. Members and member organizations will be able to continue to obtain real-time information via CTI and SQF as discussed herein.

<sup>18</sup> 15 U.S.C. 78f(b).

The Exchange believes that assessing CTI Port Fees for the CTI ports at \$600 per port per month for each of the first 5 CTI ports, and \$100 per port for each port thereafter, is equitable and not unfairly discriminatory because the Exchange will assess the same fees for all CTI ports to all members.

The Exchange believes that continuing the Order Entry Port Fee at \$600 per month, per mnemonic on the Exchange is reasonable because it will allow the Exchange to continue to recoup fees associated with offering the Order Entry Port. As with other port fees in subsection B of Section VII of the Pricing Schedule, including the CTI Port Fee, the Order Entry Port Fee reflects a portion of the costs that the Exchange bears with respect to offering and maintaining the Order Entry Ports. The Order Entry Port Fees are reasonable because they enable the Exchange to offset, in part, its connectivity costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support.

The Exchange believes that Order Entry Fees for the Order Entry Ports at \$600 per month, per mnemonic is equitable and not unfairly discriminatory because the Exchange will assess the same fees for all Order Entry Ports to all members.

#### *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. The Exchange believes the proposed Order Entry Fees and CTI Port Fees are fair and equitable, and therefore, will not unduly burden any particular group of market participants trading on the Exchange. The Exchange's proposal to adopt CTI Port and continue Order Entry Fees would be applied in a uniform manner to all Exchange members. The proposed fees are designed to ensure a fair and reasonable use of Exchange resources by allowing the Exchange to recoup a certain portion of connectivity costs, while continuing to offer connectivity at competitive rates to Exchange members.

The Exchange will not assess the Real-Time Risk Management Fee with respect to any member.

#### *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>21</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 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2014-83 on the subject line.

##### *Paper Comments*

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2014-83. This file number should be included on the subject line if email 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 Web site (<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 Web site 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-2014-83, and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Brent J. Fields,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-73997; File No. SR-NYSE-2014-70]**

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List to Eliminate Transaction Fees for Midpoint Passive Liquidity Orders That Remove Liquidity From the Exchange and That Are Designated With a "Retail" Modifier as Defined in Rule 13**

January 6, 2015.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> notice is hereby given that, on December 22, 2014, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>22</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).