All submissions should refer to File Number SR–Phlx–2012–13. 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 a.m. and 3 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; 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–2012–13 and should be submitted on or before March 7, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–3469 Filed 2–14–12; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66367; File No. SR–Phlx–2012–15]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Rebates and Fees for Adding and Removing Liquidity in Select Symbols

February 9, 2012.

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 January 30, 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 amend the Rebates and Fees for Adding and Removing Liquidity in Select Symbols in Section I, Part A of the Exchange's Fee Schedule.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on February 1, 2012.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Section I of the Fee Schedule, entitled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols,'' at Part A, entitled ''Single contra-side orders,'' to amend the Customer Fee for Removing Liquidity to increase the fee in order to recoup additional costs associated with paying rebates to attract additional order flow.

Currently, Section I of the Fee Schedule, which applies to certain select symbols,[3] is comprised of a Part A, Single contra-side order fees, and a Part B, Complex Order fees.[4] There are currently several categories of market participants: Customers, Directed Participants,[5] Specialists,[6] Registered Options Traders,[7] SQTs,[8] RSQTs,[9] Broker-Dealers, Firms and Professionals.[10] Currently, the Exchange assesses the following Single contra-side Fees for Removing Liquidity:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Select Symbols are defined as options overlying the following symbols: AA, AAPL, ABX, AMD, AMR, AMZN, AXP, BAC, C, CAT, CIEN, CSCO, DELL, DIA, EBAY, EK, F, FAS, FAZ, FXI, GDX, GE, GLD, GLW, GS, HAL, IBM, INTC, IWM, JPM, LVS, MGM, MSFT, MU, NEM, NOK, NVDA, ORCL, PFE, PG, POT, QCOM, QQQ, RIG, RIMM, RMBS, SBUX, SDS, SIRI, SLV, SLW, SNDK, SPY, T, TBT, TZA, UAL, UNG, USO, UUP, V, VALE, VXX, VZ, WYNN, X, XLF, XOM, XOP and YHOO (''Select Symbols''). These symbols are Multiply-Listed.

[4] The Rebates and Fees for Adding and Removing Liquidity in Select Symbols apply only to electronic orders.

[5] A Directed Participant is a Specialist, SQT, or RSQT that executes a Customer order that is directed to them by an Order Flow Provider and is executed electronically on PHLX XL II.

[6] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[7] A Registered Options Trader (''ROT'') includes a Streaming Quote Trader (''SQT''), a Remote Streaming Quote Trader (''RSQT'') and a Non-SQT ROT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014(b)(i) and (ii).

[8] An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

[9] An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

[10] The Exchange defines a ''professional'' as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) (hereinafter ''Professional'').

%	Customer	Directed participant	Specialist, ROT, SQT and RSQT	Firm	Broker-dealer	Professional
Fee for Removing Liquidity	$0.31	$0.35	$0.37	$0.45	$0.45	$0.45

The Exchange proposes to increase the Customer Fee for Removing Liquidity for Single contra-side orders from $0.31 per contract to $0.39 per contract. The Exchange is not proposing to amend any other rebates or fees in Section I.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on February 1, 2012.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act [12] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that its proposal to increase the Single contra-side Customer Fee for Removing Liquidity is reasonable because the Customer would pay a lower fee as compared to all other market participants except market makers,[13] which includes Directed Participants. Market makers have obligations to the market, which do not apply to Firms, Professionals and Broker-Dealers.[14] Also, Directed Participants have higher quoting obligations as compared to other market makers.[15] In addition, the Exchange is filing this proposal to recoup costs associated with paying Customers higher rebates to attract order flow to the Exchange.[16] Customers will continue to receive the highest Rebate for Adding Liquidity, which rebate incentivizes Broker-Dealers to route Customer orders to the Exchange, which in turn should increase liquidity and benefit all market participants. Also, the fee is within the range of fees assessed by NYSE Arca, Inc. (''NYSE Arca'') [17] and NASDAQ Stock Market LLC.[18]

The Exchange believes it is equitable and not unfairly discriminatory to increase the Customer Fee for Removing Liquidity because, as mentioned, compared to other participants, except market makers,[19] Customers would pay the lowest Fee for Removing Liquidity and Customers would also receive the highest Rebate for Adding Liquidity as compared to other market participants.[20] In addition, as previously mentioned, the Exchange is filing this proposal to recoup costs associated with paying Customers higher rebates to attract order flow to the Exchange.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the fees it charges and rebates it pays for options overlying the various Select Symbols remain competitive with fees and rebates charged/paid by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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.

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.[21] 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*. Please include File No. SR–Phlx–2012–15 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–2012–15. 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/*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] A ''market maker'' includes Specialists (*see* Rule 1020) and ROTs (Rule 1014(b)(i) and (ii), which includes SQTs (*see* Rule 1014(b)(ii)(A)) and RSQTs (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers. *See* note 5.

[14] *See* Exchange Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[15] *See* Exchange Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[16] The Exchange recently increased the Rebate for Adding Liquidity for Professionals. *See* Securities Exchange Act Release No. 65940 (December 12, 2011), 76 FR 78322 (December 16, 2011) (SR–Phlx–2011–162).

[17] *See* NYSE Arca's Fee Schedule. A customer executing an electronic order is assessed a $0.45 per contract fee to remove liquidity in Penny Pilot Issues.

[18] *See* NASDAQ Stock Market LLC's Rules at Chapter XV, Section 2. A NASDAQ Options Market (''NOM'') Participant is assessed a $0.45 per contract fee for removing liquidity electronically in Penny Pilot Options and non-Penny Pilot Options.

[19] *See* note 13.

[20] The Exchange recently decreased the Professional Rebate for Adding Liquidity for Single contra-side orders to $0.23 per contract. The rule change was filed as immediately effective with an operative date of January 3, 2012. *See* SR–Phlx–2011–184.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

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 a.m. and 3 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–2012–15 and should be submitted on or before March 7, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–3536 Filed 2–14–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66369; File No. SR–NASDAQ–2012–024]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ's Pre-Market Investor Program

February 10, 2012.

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 1, 2012, The NASDAQ Stock Market LLC (''NASDAQ'' 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

NASDAQ is proposing to modify its NASDAQ's Pre-Market Investor Program. NASDAQ proposes to implement the proposed rule change on February 1, 2011. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at NASDAQ's principal office, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Last year, NASDAQ introduced a Pre-Market Investor Program to encourage greater use of NASDAQ's facilities for trading before the market open at 9:30 a.m. and through the trading day.[3] The goal of the program is to encourage the development of a deeper, more liquid trading book during pre-market hours, while also recognizing the correlation observed by NASDAQ between levels of liquidity provided during pre-market hours and levels provided during regular trading hours. While maintaining the structure of the existing program, NASDAQ is now proposing to modify the program to also encourage greater use of NASDAQ's facilities for trading after the market close at 4 p.m. In connection with the change, NASDAQ will also rename the program as the ''Extended Hours Investor Program'' (''EHIP'').

Under the program, a member is required to designate one or more market participant identifiers (''MPIDs'') for use under the program.[4] The member will then qualify for an extra rebate of $0.0002 per share executed[5] with respect to all displayed liquidity provided through a designated MPID that executes at a price of $1 or more during the month if the following conditions are met:

(1) The MPID's ''EHIP Execution Ratio''[6] for the month is less than 10. The EHIP Execution Ratio is defined as ''the ratio of (A) the total number of liquidity-providing orders entered by a member through an EHIP-designated MPID during the specified time period to (B) the number of liquidity-providing orders entered by such member through such EHIP-designated MPID and executed (in full or partially) in the Nasdaq Market Center during such time period; provided that: (i) No order shall be counted as executed more than once; and (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders[7] shall be included in the tabulation.'' Thus, the requirement stipulates that a high proportion of potentially liquidity-providing orders entered through the MPID actually execute and provide liquidity. This requirement is designed to focus the availability of the program on members representing retail and institutional customers.

(2) Currently, the member must provide an average daily volume of 2 million or more shares of liquidity during the month using orders that are executed prior to NASDAQ's Opening Cross. NASDAQ has observed that members that provide higher volumes of liquidity-providing orders during the pre-market hours generally do so throughout the rest of the trading day. Accordingly, the program pays a credit with respect to all liquidity-providing orders, but only in the event that comparatively large volumes of such orders execute in pre-market hours. To broaden the focus of the program to include after-hours trading, NASDAQ is proposing to modify this provision to provide an alternative criterion for participation in the program, but without removing or modifying the

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[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 65717 (November 9, 2011), 76 FR 70784 (November 15, 2011) (SR–NASDAQ–2011–150).

[4] After the initial designation of NASDAQ MPIDs for EHIP use, a member may add or remove such EHIP designations for existing MPIDs, provided that NASDAQ must be appropriately notified of such a change on or before the first trading day of the month when the change is to become effective. A newly established MPID may be designated for EHIP use immediately upon establishment.

[5] Originally, the rebate was set at $0.0001 per share executed, but effective February 1, 2012, NASDAQ increased the rate to $0.0002 per share executed. *See* SR–NASDAQ–2012–020 (January 27, 2012).

[6] Formerly, the PMI Execution Ratio.

[7] ''Market Hours Immediate-or-Cancel'' or ''System Hours Immediate-or-Cancel'' orders.