III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission hereby grants the request.[13] Waiving the 30-day operative delay will allow the Exchange to provide transparency for how the Exchange determined the closing price on November 12, 2012. The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay and, therefore, designates the proposal as operative upon filing.

At any time within 60 days of the filing of such 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.

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 Number SR–NYSE–2012–66 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 Number SR–NYSE–2012–66. 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 Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2012–66 and should be submitted on or before December 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28005 Filed 11–16–12; 8:45 am]

BILLING CODE 8011–01–P

8 15 U.S.C. 78s(b)(3)(A)(iii).

9 17 CFR 240.19b–4(f)(6).

10 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) 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 Commission has determined to waive the five-day prefiling period in this case.

11 17 CFR 240.19b–4(f)(6).

12 17 CFR 240.19b–4(f)(6)(iii).

13 For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

14 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68213; File No. SR–Phlx–2012–129]

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

November 13, 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 October 31, 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 its Routing Fees to adopt new fees which recoup costs incurred by the Exchange when routing to various away markets. The Exchange also proposes to amend Section VII, Section D to memorialize a fee currently assessed to members in its Pricing Schedule.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on November 1, 2012.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.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

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

2 17 CFR 240.19b–4.

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 eliminate the current Routing Fees in Section V of the Pricing Schedule and adopt new Routing Fees which recoup costs that the Exchange incurs for routing and executing orders in equity options to various away markets.

The Exchange's Pricing Schedule at Section V currently includes the following Routing Fees for routing Customer, Professional,[3] Firm, Broker-Dealer, Market Maker[4] and Specialist[5] orders to away markets:

Exchange	Customer	Professional	Firm/broker-dealer/specialist/market maker
NYSE AMEX	$0.11	$0.31	$0.55
BATS Penny	0.55	0.55	0.55
BATS non-Penny	0.86	0.91	0.91
BOX	0.11	0.11	0.55
BX Options	0.11	0.54	0.54
CBOE	0.11	0.31	0.55
CBOE orders greater than 99 contracts in RUT, RMN, NDX, MNX, ETFs, ETNs and HOLDRs	0.29	0.31	0.55
C2	0.55	0.56	0.55
ISE	0.11	0.29	0.55
ISE Select Symbols[13]	0.31	0.39	0.55
NYSE ARCA (Penny Pilot)	0.55	0.55	0.55
NYSE ARCA (Standard)	0.11	0.11	0.55
NOM Penny Pilot Options	0.54	0.54	0.55
NOM Non-Penny Pilot Options	0.86	0.91	0.91

[13] These fees are applicable to orders routed to ISE that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See ISE's Schedule of Fees for the complete list of symbols that are subject to these fees.

The Exchange proposes to adopt new Routing Fees when routing and executing orders in equity options to BATS Exchange, Inc. (''BATS''), BOX Options Exchange LLC (''BOX''), NASDAQ OMX BX, Inc. (''BX Options''), C2 Options Exchange, Incorporated (''C2''), Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange, LLC (''ISE''), NASDAQ Options Market (''NOM''), NYSE Amex LLC (''NYSE Amex'') and NYSE Arca, Inc. (''NYSE Arca'').

Today, the Exchange calculates Routing Fees by assessing certain Exchange costs related to routing orders to away markets plus the away market's transaction fee. The Exchange incurs a fee when it utilizes Nasdaq Options Services LLC (''NOS''), a member of the Exchange and the Exchange's exclusive order router.[6] NOS is utilized by the Exchange's fully automated options trading system, PHLX XL®,[7] to route orders in options listed and open for trading on the PHLX XL system to destination markets. Each time NOS routes to away markets NOS incurs approximately $0.06 per contract in clearing-related cost and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange currently recoups clearing and transaction charges incurred by the Exchange as well as certain other costs incurred by the Exchange when routing to away markets, such as administrative and technical costs associated with operating NOS, membership fees at away markets, and technical costs associated with routing options. Today, the Exchange's Routing Fees include a $0.06 clearing-related cost and another $0.05 per contract fee associated with administrative and technical costs for operating NOS ($0.11 per contract in total) in addition to the away market's transaction fee. The Exchange does not assess actual transaction fees in all cases today, but rather has limited fees in certain circumstances. In those cases the Exchange does not recover all of its costs for routing to the away market. Each time an away market modifies its transaction fees the Exchange files a proposed rule change to amend its Routing Fees to reflect a Routing Fee which equates to the current away market's transaction fee plus an additional $0.11 per contract for costs incurred by the Exchange.[8]

The Exchange proposes to amend its Routing Fees to specify in its rule text that the Exchange will assess the transaction fee that is being assessed by the away market plus a specified fixed fee which represents a cost incurred by the Exchange for routing an order to a destination market. The transaction fee

[3] The term ''professional'' means 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). *See* Rule 1000(b)(14).

[4] A ''Market Maker'' includes Registered Options Traders (''ROTs'') (Rule 1014(b)(i) and (ii), which include Streaming Quote Traders (''SQTs'') (*See* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (''RSQTs'') (*See* Rule 1014(b)(ii)(B)).

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

[6] In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC (''NOS''), a member of the Exchange, as the Exchange's exclusive order router. *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32).

[7] This proposal refers to ''PHLX XL'' as the Exchange's automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as ''Phlx XL II.'' *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from ''Phlx XL II'' to ''PHLX XL'' for branding purposes.

[8] In some cases the Exchange filed a rule change which noted that the Exchange would not assess the actual transaction charge, but a lower amount where the transaction fees at an away market were higher than other markets. All Routing Fees are available on the Exchange's Pricing Schedule at Section V.

would be the actual charge assessed by the away exchange at the time that the order was entered into the Exchange's trading system. This transaction fee would be calculated on an order-by-order basis since different away markets charge different amounts.[9] The Exchange would also assess a fixed fee that represents the cost to the Exchange for routing the order to the away market. In analyzing its costs, the Exchange took into account clearing costs,[10] administrative and technical costs associated with operating NOS, membership fees at away markets and regulatory costs. With respect to BATS, BOX, C2, CBOE, ISE, NYSE Amex and NYSE Arca the Exchange proposes to assess a $0.10 per contract fee in addition to the away market's transaction fee.[11] The Exchange currently assesses $0.11 per contract for costs incurred by the Exchange. This proposal would reduce those fixed costs to $0.10 per contract. While the clearing cost itself was lowered by OCC, the Exchange, in analyzing its actual costs, has determined to assess a $0.10 per contract fixed fee to represent the overall cost to the Exchange for technical, administrative, clearing, regulatory, compliance and other costs, which is in addition to the transaction fee assessed by the away market.[12]

The Exchange also analyzed costs related to routing to BX Options and NOM and determined the costs are lower as compared to other away markets because NOS is utilized by all three exchanges to route orders.[13] Because Phlx, BX Options and NOM all utilize NOS, the cost to the Exchange is less as compared to routing to other away markets. In addition the fixed costs are reduced because NOS is owned and operated by NASDAQ OMX and the three exchanges and NOS share common technology and related operational functions. The Exchange proposes to assess a $0.04 per contract fixed fee in addition to the away market's transaction fee to route to BX Options and NOM. This proposal would reduce the fixed fees assessed today on average to route to BX Options and NOM from $0.11 to $0.04 per contract.

For all Routing Fees, the transaction fee is based on the away market's transaction fee or rebate for particular market participants and in the case that there is no transaction fee or rebate assessed by the away market, the only fee assessed would be the $0.04 or $0.10 per contract fixed fee assessed by the Exchange to recoup its costs. As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

Finally, the Exchange notes in the proposed rule text in the Pricing Schedule that the fee assessed for routing shall be the actual transaction fee assessed or rebate paid by the away market. The Exchange is proposing to pay a market participant a rebate offered by an away market where there is such a rebate. Any rebate available would be netted against a fee assessed by the Exchange. For example, if a Customer order is routed to BOX, and BOX offers a customer rebate of $0.20 per contract, the Exchange would assess a $0.10 per contract fixed fee which would net against the rebate ($0.20 per contract in this example). The market participant for whom the customer contract was routed would receive a $0.10 per contract rebate. Today the market participant does not receive a rebate and only pays the current $0.11 per contract Routing Fee.

The Exchange is also proposing to memorialize a fee that is currently assessed on members and included in Exchange Rule 1092 titled ''Obvious Error and Catastrophic Errors.'' Rule 1092(f)(ii) states that [a]n Options Exchange Official[14] will determine whether a transaction(s) qualifies as a Catastrophic Error. If it is determined that a Catastrophic Error has occurred, the Options Exchange Official will adjust the execution price(s) of the transaction(s) according to Rule 1092. If it is determined that a Catastrophic Error has not occurred, the member requesting the determination will be subject to a charge of $5,000. The Exchange has memorialized its fees within the Pricing Schedule in order that all fees are readily located in one document. The Exchange is proposing to memorialize the Catastrophic Fee pursuant to Rule 1092 in Chapter VII, Part D of the Pricing Schedule for ease of reference.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[15] in general, and furthers the objectives of Section 6(b)(4) of the Act[16] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed Routing Fees are reasonable because they seek to recoup costs that are incurred by the Exchange when routing Customer, Professional, Firm, Broker-Dealer, Specialist and Market Maker orders to away markets on behalf of members. Each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets. The costs to the Exchange include clearing costs, administrative and technical costs associated with operating NOS, membership fees at away markets, and technical costs associated with routing options. The Exchange believes that the proposed Routing Fees would enable the Exchange to recover the costs it incurs to route orders to away markets in addition to transaction fees assessed to market participants for the execution of Customer, Professional, Firm, Broker-Dealer, Specialist and Market Maker orders by the away market.

In addition, the Exchange notes that while it currently assesses a fixed fee of $0.11 per contract for costs incurred by the Exchange, the proposal would reduce the fixed fee to $0.10 per contract for non-NASDAQ OMX exchanges. The Exchange believes that the proposed fee is reasonable because while the per contract clearing fee itself was lowered by OCC (from $0.03 to $0.01 per contract side), the Exchange, in analyzing its actual costs, has determined to assess a $0.10 per contract fee to represent the overall cost to the Exchange for technical, administrative, clearing, regulatory, compliance and other costs, in addition to the transaction fee assessed by the away market. The clearing cost was only one component of the $0.11 per contract fee and other costs, which comprise the proposed $0.10 per contract fee, are not recouped today. Also, the Exchange will assess the actual transaction fees that are in place at the various away markets and will no longer limit those transaction fees as it does today in certain circumstances. The Exchange

[9] This is similar to the methodology utilized by ISE in assessing Routing Fees. *See* ISE's Fee Schedule.

[10] The Options Clearing Corporation (''OCC'') recently amended its clearing fee from $0.03 per contract side to $0.01 per contract side. *See* Securities Exchange Act Release No. 68025 (October 10, 2012), 77 FR 63398 (October 16, 2012) (SR–OCC–2012–18).

[11] The $0.10 per contract fixed fee would apply to all options exchanges other than BX Options and NOM, which are discussed separately in this proposal. The Exchange anticipates that if other options exchanges are approved by the Commission after the filing of this proposal, those exchanges would be assessed the $0.10 per contract fee applicable to ''all other options exchanges.''

[12] The Exchange will assess the actual transaction fees that are in place at the various away markets and will no longer limit those transaction fees as it does today in certain circumstances.

[13] *See* Chapter VI, Section 11 of the BX Options and NOM Rules.

[14] An Option Exchange Official is an Exchange staff member or contract employee designated as such by the Chief Regulatory Officer.

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

[16] 15 U.S.C. 78f(b)(4).

believes that it is reasonable for it to recoup its actual costs associated with routing orders to away markets. Also, market participants whose orders routed to away markets would be entitled to receive rebates offered by away markets, which rebates would net against fees assessed by the Exchange for routing orders. The Exchange believes that the opportunity to collect a rebate, which is not the case today, will reduce Routing Fees.

In addition, the Exchange believes that it is equitable and not unfairly discriminatory to assess a fixed cost of $0.10 per contract, which is mostly comprised of technology, infrastructure and away market non-transaction fee costs, to route orders to non-NASDAQ OMX away markets because the Exchange would be assessing an overall lower fixed fee. While today, the $0.11 per contract fee is mostly comprised of clearing costs, the proposed $0.10 per contract fixed fee is based on costs attributable to routing to non-NASDAQ OMX away markets, which costs are not assessed today. The proposed $0.10 per contract fixed fee would be assessed uniformly on all orders routed to non-NASDAQ OMX markets in addition to the actual away market transaction fee assessed by the destination market.

The Exchange believes that it is equitable and not unfairly discriminatory to assess a fixed cost of $0.04 per contract to route orders to NASDAQ OMX away markets (BX Options and NOM) because the cost, in terms of actual cash outlays, to the Exchange to route to those markets is lower. For example, costs related to routing to BX Options and NOM are lower as compared to other away markets because NOS is utilized by all three exchanges to route orders.[17] NOS and the three NASDAQ OMX options markets have a common data center and staff that are responsible for the day-to-day operations of NOS. Because the three exchanges are in a common data center, Routing Fees are reduced because costly expenses related to, for example, telecommunication lines to obtain connectivity are avoided when routing orders in this instance. The costs related to connectivity to route orders to other NASDAQ OMX exchanges are de minimis. When routing orders to non-NASDAQ OMX exchanges, the Exchange incurs costly connectivity charges related to telecommunication lines and other related costs when routing orders. The proposed fixed fee for routing orders to non-NASDAQ OMX exchanges is therefore increased as compared to the fees for routing orders to NASDAQ OMX exchanges (BX Options and NOM), $0.10 per contract versus $0.04 per contract, respectively. The proposed $0.04 per contract fixed fee would be assessed uniformly on all orders routed to NASDAQ OMX markets in addition to the actual away market transaction fee assessed by the destination market. The Exchange also believes that it is equitable and not unfairly discriminatory for market participants to receive rebates on orders routed to away markets that pay rebates. Today, the Exchange does not pay such rebates when routing orders. The Exchange would pay rebates offered by away markets uniformly to market participants when their orders are routed to a destination market that offers a rebate.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to pass along savings realized by leveraging NASDAQ OMX's infrastructure and scale to market participants when those orders are routed to BX Options and NOM.[18] It is important to note with respect to routing to an away market that orders are routed to away markets based on price first. PHLX XL will route orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) (''NBBO'') price.[19] Market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid incurring the Routing Fees proposed herein.[20]

The Exchange also believes its proposal to add the Catastrophic Error Fee to the Pricing Schedule is reasonable, equitable and not unfairly discriminatory because the Exchange has listed all fees it assesses and rebates paid to its members and member organizations within the Pricing Schedule. The Exchange believes that memorializing all fees and rebates within the Pricing Schedule provides an easy reference for members and member organizations. The Exchange is not establishing a new fee, but rather simply codifying the Catastrophic Error Fee, which is noted in Rule 1092, within the Pricing Schedule.

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. To the contrary, Phlx Routing Fees seek to recoup costs for Routing Orders to other exchanges on behalf of its members. Options Participants may choose to mark the order as ineligible for routing to avoid incurring these fees.[21]

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.[22] 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

[17] *See* Chapter VI, Section 11 of the BX Options and NOM Rules.

[18] Today, the Exchange assesses a $0.11 per contract fixed fee for routing orders to BX Options and NOM. That fee is proposed to be reduced to a $0.04 per contract fixed fee, which would be in addition to the actual transaction fee assessed by the away market.

[19] *See* Rule 1080(m). The Phlx XL II system will contemporaneously route an order marked as an Intermarket Sweep Order (''ISO'') to each away market disseminating prices better than the Exchange's price, for the lesser of: (a) The disseminated size of such away markets, or (b) the order size and, if order size remains after such routing, trade at the Exchange's disseminated bid or offer up to its disseminated size. If contracts still remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the Phlx XL II system will not route the order to the locking or crossing market center, with some exceptions noted in Rule 1080(m).

[20] *See* Rule 1066(h) (Certain Types of Orders Defined) and 1080(b)(i)(A) (PHLX XL and PHLX XL II).

[21] *Id.*

[22] 15 U.S.C. 78s(b)(3)(A)(ii).

Number SR–Phlx–2012–129 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 Number SR–Phlx–2012–129. 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 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–2012–129 and should be submitted on or before December 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28003 Filed 11–16–12; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68211; File No. SR–NYSE–2012–64]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Temporary Suspension of Those Aspects of Rules 36.20 and 36.21 That Would Not Permit Floor Brokers To Use Personal Portable Phone Devices on the Trading Floor Following the Aftermath of Hurricane Sandy Until the Earlier of When Phone Service Is Fully Restored or Friday, November 16, 2012

November 9, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 9, 2012, 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 and II 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor following the aftermath of Hurricane Sandy until the earlier of when phone service is fully restored on Friday, November 16, 2012. The proposed rule change is available on the Exchange's Web site at *www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On Thursday, November 1, 2012, the Exchange filed a rule proposal to temporarily suspend those aspects of Rules 36.20, 36.21, and 36.30 that would not permit Floor brokers and Designated Market Makers ("DMMs") to use personal portable phone devices on the Trading Floor[4] following the aftermath of Hurricane Sandy and during the period that phone service was not fully functional.[5] Pursuant to that filing, all other aspects of those rules remained applicable and the temporary suspensions of Rule 36 requirements were in effect beginning the first day trading resumed following Hurricane Sandy until Friday, November 2, 2012.

On November 5, 2012, although power had been restored to the downtown Manhattan vicinity, other services were not yet fully operational. Among other things, the telephone services provided by third-party carriers to the Exchange were still not fully operational on the Trading Floor, which continued to impact the ability of Floor members to communicate from the Trading Floor as permitted by Rule 36. Accordingly, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20, 36.21, and 36.30 that would not permit Floor brokers and DMMs to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or November 9, 2012,[6] which was subject to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.[7]

Since filing the extension, the Exchange has been advised by its third-party carrier that the damage to the telephone connections is more extensive

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Pursuant to Rule 6A, the Trading Floor is defined as the restricted-access physical areas designated by the Exchange for the trading of securities, but does not include the physical locations where NYSE Amex Options are traded.

[5] *See* Securities Exchange Act Release No. 68137 (Nov. 1, 2012) (SR–NYSE–2012–58).

[6] *See* Securities Exchange Act Release No. 68161 (Nov. 5, 2012) (SR–NYSE–2012–61).

[7] *See supra* note 5 (notice that describes the terms and conditions of the temporary suspension).