

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the “no-action” alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the “no-action” alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement, NUREG-75/097, dated October 1975, for DBNPS.

Agencies and Persons Consulted

In accordance with its stated policy, on October 22, 2010, the staff consulted with the Ohio State official, Ms. Carol O’Claire of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee’s letter dated April 15, 2009. Documents may be examined, and/or copied for a fee, at the NRC’s Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or send an e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland, this 29th day of November 2010.

For the Nuclear Regulatory Commission.
Michael Mahoney,
Project Manager, Plant Licensing Branch III-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-3119; File No. S7-38-10]

Approval of Investment Adviser Registration Depository Filing Fees

AGENCY: Securities and Exchange Commission.

ACTION: Notice of intent to charge revised IARD filing fees for advisers registering with or registered with the Commission.

SUMMARY: The Securities and Exchange Commission (“Commission” or “SEC”) is revising Investment Adviser Registration Depository annual and initial filing fees that will be charged beginning January 1, 2011.

Hearing or Notification of Hearing: An order approving the IARD filing fees will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary. Hearing requests should be received by the SEC by 5:30 p.m. on December 21, 2010. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission’s Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

FOR FURTHER INFORMATION CONTACT: Keith Kanyan, IARD System Manager, at 202-551-6737, or larules@sec.gov, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-8549.

SUPPLEMENTARY INFORMATION: Section 204(b) of the Investment Advisers Act of 1940 (“Advisers Act”) authorizes the Commission to require investment advisers to file applications and other documents through an entity designated by the Commission, and to pay reasonable costs associated with such filings.¹ In 2000, the Commission designated the Financial Industry Regulatory Authority Regulation, Inc.

(“FINRA”) as the operator of the Investment Adviser Registration Depository (“IARD”) system. At the same time, the Commission approved, as reasonable, filing fees.² The Commission later required advisers registered or registering with the SEC to file Form ADV through the IARD.³ Over 11,000 advisers currently use the IARD system to register with the SEC and make state notice filings electronically through the Internet.

Commission staff, representatives of the North American Securities Administrators Association, Inc. (“NASAA”),⁴ and representatives of FINRA periodically hold discussions on IARD system finances. In the early years of operations, SEC-associated IARD revenues exceeded projections while SEC-associated IARD expenses were lower than estimated, resulting in a surplus. In 2005, FINRA wrote a letter to SEC staff recommending a waiver of annual fees for a one-year period.⁵ The Commission concluded that this was appropriate and waived annual fees.⁶ In 2006, 2008, and 2009 FINRA wrote to the staff again, recommending a two-year, a nine-month, and a five-month waiver, respectively, of all fees to continue to reduce the surplus.⁷ The Commission agreed and issued orders waiving all IARD fees.⁸ At the conclusion of the 2009 waiver, FINRA wrote to the staff again, recommending reduced levels of fees be charged in

² Designation of NASD Regulation, Inc., to Establish and Maintain the Investment Adviser Registration Depository; Approval of IARD Fees, Investment Advisers Act Release No. 1888 (July 28, 2000) [65 FR 47807 (Aug. 3, 2000)]. FINRA was formerly known as NASD.

³ Electronic Filing by Investment Advisers; Amendments to Form ADV, Investment Advisers Act Release No. 1897 (Sept. 12, 2000) [65 FR 57438 (Sept. 22, 2000)].

⁴ The IARD system is used by both advisers registering or registered with the SEC and advisers registered or registering with one or more state securities authorities. NASAA represents the state securities administrators in setting IARD filing fees for state-registered advisers.

⁵ NASD letter dated September 9, 2005, available at <http://www.sec.gov/rules/other/nasdlet090905.pdf>.

⁶ Approval of Investment Adviser Registration Depository Filing Fees, Investment Advisers Act Release No. 2439 (Oct. 7, 2005) [70 FR 59789 (Oct. 13, 2005)].

⁷ NASD letter dated October 13, 2006 and FINRA letters dated October 10, 2008 and July 8, 2009 available at <http://www.sec.gov/rules/other/2006/nasdletter101306-iardfee.pdf>, <http://www.sec.gov/rules/other/2008/finraletter101008-iardfees.pdf>, and <http://www.sec.gov/rules/other/2009/finraletter070809-iardfees.pdf>, respectively.

⁸ Approval of Investment Adviser Registration Depository Filing Fees, Investment Advisers Act Release No. 2564 (Oct. 26, 2006), Investment Advisers Act Release No. 2806 (Oct. 30, 2008) [73 FR 65900 (Nov. 5, 2008)], and Investment Advisers Act Release No. 2909 (July 31, 2009) [74 FR 39352 (Aug. 6, 2009)].

¹ 15 U.S.C. 80b-4(b).

2010.⁹ The Commission concluded this was appropriate and issued an order reducing the level of fees charged for one year.¹⁰ As a result of the four waivers and reduced fee levels, the surplus was reduced from \$9 million in 2005 to a level of approximately \$3 million.

FINRA has again written to Commission staff, recommending revised annual and initial IARD filing fees commence on January 1, 2011.¹¹ The new recommended fee levels would increase the fee for advisers with assets under management of \$100 million or higher, but would not change the fee levels for advisers with assets under management under \$100 million.¹² The recommended annual filing fees due beginning January 1, 2011 are \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$225 for advisers with assets under management of \$100 million or higher. The recommended initial IARD filing fees due beginning January 1, 2011 are \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$225 for advisers with assets under management of \$100 million or higher. Based on projections of expected revenues and expenses and taking into account an expected reduction in the number of advisers registered or reporting to the SEC as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act,¹³ the Commission believes these revised fee levels would be reasonable, as the Commission projects that they will provide adequate funding to cover IARD

system expenditures.¹⁴ This reduction in fees is expected to reduce aggregate filing fees that SEC-registered advisers would incur by approximately \$2 million annually compared to the filing fees that would be collected based on the fee levels established in 2000. The revised filing fees will apply to all annual updating amendments filed by SEC-registered advisers beginning January 1, 2011 and to all initial applications for registration filed by advisers applying for SEC registration beginning January 1, 2011. The Commission will reassess the fee levels and issue orders, if necessary, to adjust these levels.

By the Commission.

Dated: December 2, 2010.

Elizabeth M. Murphy,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63412; File No. SR-Phlx-2010-164]

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

December 2, 2010.

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 November 24, 2010, 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 [sic] to amend its fees governing pricing for Exchange members using the Phlx XL II system,³

¹⁴ The fee levels for advisers with assets under management under \$100 million are not changed as the number of advisers in these categories are expected to fall as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ For a complete description of Phlx XL II, see Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The instant proposed fees will apply only

for routing certain equity and index option Customer orders to away markets for execution.

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for trades settling on or after December 1, 2010.

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, at the Commission’s Public Reference Room, and on the Commission’s Web site at <http://www.sec.gov>.

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 the proposed rule change is to recoup costs that the Exchange incurs for routing and executing certain Customer orders in equity and index options to away markets.

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.⁴ NOS is currently utilized by the Phlx XL II system solely to route orders in options listed and open for trading on the Phlx XL II system to destination markets.

Currently, the Exchange’s Fee Schedule includes Routing Fees for both Customer and Professional orders. The Exchange proposes to establish a Routing Fee of \$0.24 per contract in Customer option orders that are routed to the Chicago Board Options Exchange, Incorporated (“CBOE”). This would apply to orders greater than 99 contracts

to option orders entered into, and routed by, the Phlx XL II system.

⁴ See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).

⁹ FINRA letter dated September 29, 2009, available at <http://www.sec.gov/rules/other/2009/finraletter092909-iardfees.pdf>.

¹⁰ Approval of Investment Adviser Registration Depository Filing Fees, Investment Advisers Act Release No. 2959 (Dec. 10, 2009) [74 FR 66710 (Dec. 16, 2009)].

¹¹ FINRA letter dated November 12, 2010 available at <http://www.sec.gov/rules/other/2010/finraletter111210-iardfees.pdf>.

¹² The revised fee level for advisers in the largest category would newly include advisers that report assets under management of exactly \$100 million (not just over \$100 million). We are making this revision to track the new mid-sized adviser category for advisers reporting assets under management of \$25 million up to, but not including, \$100 million. See section 410 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376 (2010)).

¹³ The threshold, for most advisers, to be eligible for SEC registration will be increased from \$25 million to \$100 million in assets under management. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376 (2010)).