

#### 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-NSX-2012-20 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-NSX-2012-20. 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-NSX-2012-20 and should be submitted on or before December 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-28004 Filed 11-16-12; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-68217; File No. SR-Phlx-2012-130]**

#### **Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to SQT and RSQT Evaluations**

November 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on October 31, 2012, NASDAQ OMX PHLX LLC ("Phlx" 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**

The Exchange proposes to amend Rule 510 titled "SQT and RSQT Performance Evaluation" to provide a different method for reviewing quote submissions in evaluating member organizations to determine whether they have fulfilled performance standards relating to the quality of markets.

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, 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 the proposed rule change is to amend a standard by which Streaming Quote Traders<sup>3</sup> and Remote Streaming Quote Traders<sup>4</sup> are evaluated 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, observance of ethical standards, and administrative factors. Specifically, with respect to quote submission, the Exchange is proposing to amend its methodology for evaluating a factor of the Performance Evaluation with quote submissions.

By way of background, Rule 510 establishes specific criteria for each option assigned to an SQT or RSQT that would be regularly evaluated by the Exchange. The Exchange periodically conducts an evaluation of member organizations that have SQTs and RSQTs, as defined in Exchange Rule 1014,<sup>5</sup> to determine whether they have fulfilled performance standards relating to, among other things, efficient quote submission to the Exchange.<sup>6</sup> The Exchange may review the Performance Evaluations and consider other relevant information including, but not limited to, trading data, regulatory history and

<sup>3</sup> A Streaming Quote Trader ("SQT") is defined in Exchange Rule 1014(b)(ii)(A) as an Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

<sup>4</sup> A Remote Streaming Quote Trader ("RSQT") is defined Exchange Rule in 1014(b)(ii)(B) as a 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.

<sup>5</sup> Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders" provides that transactions of a Specialist and a ROT should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those members should not enter into transactions or make bids or offers that are inconsistent with such a course of dealings. See Rule 1014.

<sup>6</sup> This would include quotes that are submitted through a third party vendor.

<sup>17</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.

such other factors and data as may be pertinent in the circumstances.<sup>7</sup>

With respect to Performance Evaluations, Commentary .01 to Rule 510 specifies that the Exchange will evaluate Minimum Performance Standards on a monthly basis for each SQT and RSQT. Among other factors, the Exchange would review the percentage of total quotes that represent the PBBO, quoting requirements pursuant to Rule 1014, the number of requests for a quote spread parameter and efficient quote submission.

This proposal seeks to amend the method by which the Exchange reviews efficient quote submission. Today the Exchange considers how an SQT or RSQT optimizes the submission of quotes through the Specialized Quote Feed,<sup>8</sup> by evaluating the number of individual quotes per quote block<sup>9</sup> received by the Exchange. The Exchange believes that this measure of efficiency may be outdated because it focuses more on technological “load balance” that may be unrelated to actual number of quotes submitted. The Exchange proposes to replace this measure with quote-to-trade and quote-to-contracts traded ratios to evaluate how an SQT or RSQT optimizes the submission of quotes submitted to the Exchange pursuant to Rule 1014. The Exchange believes that this method would be more useful in that it would allow the Exchange to better evaluate the efficiency with which an SQT or RSQT submits quotes and the quality of those quotes. For example, the Exchange would 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 Exchange believes that this information would provide the Exchange with additional data that is not captured today. The number of contracts executed would be analyzed in addition to the number of quotes received by the Exchange. Today, only quotes are analyzed. The executed contract to quote ratio would provide the Exchange with efficiency information. For example, an SQT could be evaluated in comparison to other liquidity providers to determine how much of their quote usage is actually resulting in liquidity

<sup>7</sup> See Rule 510(b). If the Exchange finds any failure by the SQTs and RSQTs to meet Minimum Performance Standards, the Exchange may restrict assignments or suspend or terminate an assignment or registration, after written notice and after opportunity for an informal meeting.

<sup>8</sup> A Specialist, RSQT or SQT may establish an option pricing model via a specialized connection, which is known as a specialized quote feed (“SQF”). See Commentary .01 to Rule 1080.

<sup>9</sup> A block contains up to 200 quotes.

being accessed by participants in the marketplace. The trade count to quote ratio would provide an additional subset of information that would reflect participation at the NBBO. This information is relevant because smaller participants may execute lesser size, but may provide value due to their presence at the top of the market.

The Exchange believes that updating the methodology utilized to review quote submissions with different statistical information, specifically quote-to-trade and quote-to-contracts traded ratios, would allow the Exchange to obtain more precise information with which to evaluate SQTs and RSQTs and determine Performance Evaluations.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>11</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would be beneficial because it would provide the Exchange with a better means to evaluate quote submissions in comparison to other liquidity providers to evaluate how much their quote usage is actually resulting in liquidity being accessed by participants in the marketplace. The trade count to quote ratio would provide an additional subset of information that would reflect participation at the NBBO. This information, which relates to efficiency, would allow the Exchange to obtain more precise information with which to evaluate the performance of SQTs and RSQTs, particularly market participants that execute at a lesser size. The information would allow the Exchange to evaluate the value provided to the marketplace. The Exchange believes that the quote-to-trade and quote-to-contract data would provide valuable information to utilize in evaluations as compared to the number of individual quotes per quote block because the Exchange believes the proposed information would provide better metrics overall.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

## 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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-2012-130 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-2012-130. 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-2012-130 and should be submitted on or before December 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68216; File No. SR-Phlx-2012-125]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to References in the Exchange's Pricing Schedule With Respect to Non-Electronic Transactions

November 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on October 31, 2012, NASDAQ OMX PHLX LLC ("Phlx" 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

The Exchange proposes to amend the Exchange's Pricing Schedule to clarify certain references to the Exchange's trading floor.

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, 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 the proposed rule change is to amend certain text within the Pricing Schedule which refers to the Exchange's trading floor. The Exchange makes reference in its Pricing Schedule to trades which are electronic, submitted into PHLX XL<sup>®</sup>,<sup>3</sup> the Exchange's fully automated options trading system, and trades which are non-electronic, submitted into the Options Floor Broker Management System<sup>4</sup> or executed in open outcry.

<sup>3</sup> 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.

<sup>4</sup> The Options Floor Broker Management System ("FBMS") is a component of the Exchange's system designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. FBMS also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange,

The Exchange is proposing to clarify its Pricing Schedule by referring to transactions that are non-electronic as transactions "originating (originates or originated) on the Exchange floor" or "floor transactions" to eliminate any confusion. The Exchange would eliminate the other various references to floor trading such as "non-electronic," "FBMS" and "open outcry." The Exchange believes the proposed language provides clarity to the Pricing Schedule by utilizing consistent terminology. The Exchange believes this is a non-substantive change.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that clarifying the current rule text in the Pricing Schedule by adopting consistent terms to refer to floor transactions would simplify the Pricing Schedule and conform the rule text as it relates to floor transactions. Each of the terms, "non-electronic," "FBMS" and "open outcry," refer to transaction originating on the Exchange's trading floor as compared to electronic transactions entered into PHLX XL. The Exchange believes that utilizing the terms "originating (originates or originated) on the Exchange floor" and "floor transactions" will eliminate any potential confusion. The proposed amendment is non-substantive.

##### 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.

beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. See Exchange Rule 1080, Commentary .06.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>12</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.