

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82813; File No. SR–Phlx–2018–19]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Data Feeds

March 6, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on February 22, 2018, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 relocate the data feeds currently located at Rule 1000(b)45(C)(i) through (iv) to Rule 1070, which is currently reserved, and entitle it “Data Feeds.”

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.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 Exchange proposes to relocate the data feeds currently listed in Rules

1000(b)45(C)(i) through (iv) to Rule 1070, which is currently reserved, and, correspondingly, entitle the rule “Data Feeds.”

The data feed offerings were recently added to the Exchange's rulebook (“Rulebook”) as part of the “System” definition in Rule 1000(b)45.<sup>3</sup> The Exchange, however, considers it is appropriate to move these data feed offerings to a separate rule to better organize its Rulebook and facilitate future cross-references. The Exchange notes that the changes proposed in this filing are of a non-substantive nature.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</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, by improving the way its Rulebook is organized, providing ease of reference in locating data feed offerings and providing greater transparency to its rules. As previously stated, the proposed rule relocation is non-substantive and is concerned solely with the administration of the Exchange.

##### 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's proposal does not impose an undue burden on competition, rather the proposal seeks to improve its Rulebook's clarity and make non-substantive rule changes.

##### 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

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup>

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)<sup>8</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative on filing. The Exchange stated that the proposed rule change promotes the protection of investors and the public interest by improving the organization and clarity of the Exchange's Rulebook. Waiver of the operative delay would allow the Exchange, without delay, to reorganize its Rulebook in a manner that improves clarity and readability. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>9</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 change should be approved or disapproved.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 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 Exchange has satisfied this requirement.

<sup>8</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>9</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 82577 (January 24, 2018), 83 FR 4354 (January 30, 2018) (SR–Phlx–2018–09).

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

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

#### 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-2018-19 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2018-19. 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 website (<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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2018-19, and should be submitted on or before March 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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

**[Release No. 34-82809; File No. SR-NYSEAMER-2018-06]**

#### **Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE American Options Fee Schedule**

March 6, 2018.

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 February 23, 2018, NYSE American LLC (the "Exchange" or "NYSE American") 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.

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

The Exchange proposes to modify the NYSE American Options Fee Schedule ("Fee Schedule"). The Exchange proposes to implement the fee change effective March 1, 2018. The proposed change is available on the Exchange's website at [www.nyse.com](http://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 the Statutory Basis for, the Proposed Rule Change*

##### 1. Purpose

The purpose of this filing is to modify the Fee Schedule, effective March 1, 2018. Specifically, the Exchange proposes to modify the Messages to Contracts Traded Ratio Fees by modifying the number of messages permitted by an ATP holder before excessive messages are charged.

The Exchange proposes to modify the calculation basis for the Messages to Contracts Traded Ratio Fees ("Messages Fee"), which are assessed as part of the Monthly Excessive Bandwidth Utilization Fees.<sup>4</sup> Currently, the Exchange charges \$0.005 per 1,000 messages (including orders or quotes) in excess of 1.5 billion messages in a calendar month if the ATP Holder does not execute at least 1 contract for every 1,500-5,000 messages entered, as determined by the Exchange.<sup>5</sup> The Exchange proposes to modify the threshold and to charge for messages in excess of 3 billion messages per calendar month.

During the period of recent volatility and activity, the Exchange noted a significantly higher number of messages generated without a proportional amount of executed volume, especially in less active-option issues. Concurrently, the Exchange saw no degradation in system performance because of prudent upgrades and expansion of the trading system in the past year. Thus, the Exchange believes that the proposal to increase the threshold to incur the monthly Messages Fee would continue to encourage market participants to be rational and efficient in the use of the Exchange's system capacity. The Exchange believes that the increased threshold should also reduce the possibility of charging ATP Holders a Messages Fee for messages designed to help maintain accurate and liquid markets with more narrow spreads.

<sup>4</sup> See Fee Schedule, Section II (Monthly Excessive Bandwidth Utilization Fees) ("EBUF") (describing both the Order to Trade Ratio Fee (Section II.A) and the Messages to Contracts Traded Ratio Fee (Section II.B), which comprises the EBUF, and noting that if an ATP Holder is liable for either or both fees in a given month, that firm would only be charged the greater of the two fees). The Exchange is not proposing to modify the Order to Trade Ratio Fees.

<sup>5</sup> Currently, the Exchange has set the ratio at 1 contract for every 5,000 messages.

<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>10</sup> 17 CFR 200.30-3(a)(12).