

(the "Act"),<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</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 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 the proposal facilitates the fair and orderly execution of the closing transactions in an unusual market situation and thus ultimately served to protect investors and the public interest.

#### *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 that is 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 solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2010-09 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-2010-09. This file number should be included on the subject line if e-mail 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 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 Number SR-NYSE-2010-09 and should be submitted on or before March 19, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-3946 Filed 2-25-10; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61558; File No. SR-Phlx-2010-16]

### **Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modification of Fees**

February 22, 2010.

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 January 28, 2010, NASDAQ OMX PHLX, Inc. ("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 substantially 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: (i) Amend its Monthly Cap on equity options transaction fees; (ii) amend the calculation of the Monthly Cap; and (iii) amend the fee schedule to reflect current appeal fees and make other technical modifications.

While changes to the Exchange's Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated this proposal to be operative for trades settling on or after February 1, 2010.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to 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>12</sup> 17 CFR 200.30-3(a)(12).

## 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 decrease the current Monthly Cap on equity options transactions from \$900,000 to \$750,000. The Monthly Cap is currently applicable to ROTs<sup>3</sup> and specialists.<sup>4</sup> The Exchange believes that by reducing the Monthly Cap, a greater number of members may benefit from the Monthly Cap and the Exchange will attract additional order flow.

Additionally, the Exchange proposes to amend the calculation of the Monthly Cap by aggregating the trading activity of separate ROTs and specialist member organizations if there is at least 75% common ownership between the member organizations as reflected on each member organizations' Form BD, Schedule A. The Exchange believes that this aggregation will create an additional incentive for members to transact more business on the Exchange.

The Exchange also proposes to memorialize certain appeal fees on its Fee Schedule. Currently the Exchange assesses a forum fee of \$100 pursuant to Exchange Rule 60, Commentary (a).06.<sup>5</sup> This forum fee is assessed when a member contests a citation imposed pursuant to Rule 60 and the citation is upheld by the reviewing body. Additionally, the Exchange assesses a \$250 fee on members seeking a review of an Options Exchange Official ruling

<sup>3</sup> A ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account.

<sup>4</sup> This monthly cap is not applicable to electronic trading in Standard and Poor's Depository Receipts/SPDRs ("SPY"), PowerShares QQQ Trust ("QQQQ")®, Ishares Russell 2000 ("TWM") and Citigroup Inc. ("C").

<sup>5</sup> See Securities Exchange Act Release No. 61207 (December 18, 2009), 74 FR 69185 (December 30, 2009) (SR-Phlx-2009-84).

pursuant to Exchange Rule 124.<sup>6</sup> Specifically, a member or member organization seeking the Referee's review of a Floor Official ruling concerning the nullification or adjustment of a trade would be assessed a fee of \$250 for each Floor Official ruling they seek to have reviewed if the Referee upholds the Floor Official decision. No fee would be assessed to the member or member organization seeking a review if the Floor Official decision is overturned or modified. These fees do not currently appear on the Exchange's Fee Schedule. The Exchange proposes to list these fees, which are currently in effect, on the Fee Schedule in order to provide additional notice to members of these fees, which exist in the Exchange Rules.

The Exchange also proposes to make a technical modification to the Fee Schedule by moving the location of the Options Regulatory Fee on the Fee Schedule and creating a separate text box for that fee for purposes of clarity. The proposed changes to the Fee Schedule will be effective for transactions settling on or after February 1, 2010.

#### 2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>8</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that members will benefit from the reduced Monthly Cap and the proposed amendment to the calculation of the monthly cap in that a greater number of members will be able to qualify for the Monthly Cap and this would decrease fees to members. Also, the addition of the appeal fees should provide additional notice to members of these fees.

### 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.

<sup>6</sup> See Securities Exchange Act Release No. 53548 (March 24, 2006), 71 FR 16389 (March 31, 2006) (SR-Phlx-2005-42).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

### 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<sup>9</sup> and paragraph (f)(2) of Rule 19b-4<sup>10</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-16 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-2010-16. This file number should be included on the subject line if e-mail 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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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 Number SR-Phlx-2010-16 and should be submitted on or before March 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-3947 Filed 2-25-10; 8:45 am]

**BILLING CODE 8011-01-P**

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2009-0052]

### Privacy Act of 1974, as Amended; Computer Matching Program (SSA/U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE)— Match #1306

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a renewal of an existing computer matching program that is scheduled to expire on March 19, 2010.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with OCSE.

**DATES:** We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefaxing to (410) 965-0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Deputy Commissioner for Budget, Finance and Management as shown above.

#### SUPPLEMENTARY INFORMATION:

##### A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

- (1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
- (2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;
- (3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

##### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: February 18, 2010.

**Michael G. Gallagher,**

Deputy Commissioner for Budget, Finance and Management.

### Notice of Computer Matching Program, SSA with HHS/ACF/OCSE

#### A. Participating Agencies

SSA and HHS/ACF/OCSE.

#### B. Purpose of the Matching Program

The purpose of this matching program is to establish the terms, conditions, and safeguards under which OCSE will provide us with quarterly wage (QW) and unemployment insurance (UI) information from the National Directory of New Hires (NDNH) to allow us to determine eligibility of applicants for Low-Income subsidy assistance under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108-173). Under this agreement, we will use the QW and UI information to determine the eligibility of applicants for Low-Income subsidy assistance and existing Low-Income subsidy beneficiaries whose eligibility is being redetermined during periodic screening and routine reviews.

#### C. Authority for Conducting the Matching Program

The legal authority for this agreement is as follows:

1. Section 453(j)(4) of the Social Security Act (Act) (42 U.S.C. 653(j)(4)) provides authority for OCSE to provide us with information from NDNH;
2. Section 1631(f) of the Act (42 U.S.C. 1383) provides authority for Federal agencies to provide information to us, allowing us to determine "eligibility for or amount of benefits, or verifying other information with respect thereto;" and
3. Section 1860D-14(a)(3) of the Act (42 U.S.C. 1395w-114) provides authority for us to determine whether Part D eligible persons are eligible for prescription drug subsidy assistance under Section 1860D-14 of the Act.

#### D. Categories of Records and Persons Covered by the Matching Program

1. Specified Data Elements Used in the Match:

On the basis of certain identifying information extracted from our Medicare Database, SSA and OCSE will conduct a computerized comparison of the QW payment and UI benefit information in the NDNH maintained by OCSE in its Location and Collection (LCS) system of records.

2. Systems of Records:

OCSE will provide us with electronic files containing QW and UI data from its system of records, the LCS (ACF/OCSE,

<sup>11</sup> 17 CFR 200.30-3(a)(12).