

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>13</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to lower fees as an incentive for existing Exchange members and member organizations to continue to transact business on PSX, even after closing their options operations.

The Exchange believes that the proposal is equitable because the waiver applies uniformly to any existing members and member organizations that cease options trading on the Exchange, but determine to remain active PSX Participants.

### 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>14</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 should be approved or disapproved.

members or member organizations and have previously paid those fees. In addition, the monthly Account Fee would not be applicable to PSX Participants as MPIDs are used to identify member firms' participation, not account numbers.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

## 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-2011-43 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-2011-43. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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-2011-43 and should be submitted on or before May 5, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64284; File No. SR-Phlx-2011-48]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Provisions Regarding the Dress Code and Trade Verification

April 8, 2011.

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 April 6, 2011, 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 is filing with the Commission a proposal to amend Phlx Rule 1054 (Verification of Contracts and Reconciliation of Uncompared Trades) and Regulation 6 (Dress) of Rule 60 (Order and Decorum Code)<sup>3</sup> to delete obsolete provisions and update and modernize these sections.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, and

<sup>15</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.

<sup>3</sup> The Exchange's Order and Decorum regulations are part of the Exchange's Options Floor Procedure Advices ("OFFAs" or "Advices"), which may correspond to Exchange rules, and contain the Exchange's minor rule plan ("MRP" or "Minor Rule Plan") in respect of options trading. The Minor Rule Plan consists of Advices with preset fines, pursuant to Rule 19d-1(c) under the Act. 17 CFR 240.19d-1(c). The Exchange is not, by this filing, amending the fine schedule for Regulation 6 in OFFA.

Similarly to OFFAs, the Exchange also has Equity Floor Procedure Advices ("EFPAs") in respect of equity trading, which are not amended by this filing.

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 Rule 1054 and Regulation 6 to delete obsolete provisions and update and modernize these sections.

The Exchange's Order and Decorum regulations pursuant to Rule 60 of the Option Floor Procedure Advices,<sup>4</sup> with corresponding fine schedules, were originally codified in 1989.<sup>5</sup> The dress code in Regulation 6 of Rule 60 in OFPA, which indicates dress norms for individuals on the options floor (the "Dress Code") was omitted inadvertently in the 1989 filing and was added the year thereafter.<sup>6</sup> The last proposal in 2007 to amend the Dress Code adopted a business casual code and indicated what business attire was deemed acceptable on the trading floor.<sup>7</sup>

<sup>4</sup> Order and Decorum regulations relate to administration of health, safety, welfare and general order and decorum on the Exchange.

<sup>5</sup> See Securities Exchange Act Release No. 27072 (August 8, 1989), 54 FR 32550 (SR-Phlx-89-41) (notice of filing and immediate effectiveness).

<sup>6</sup> See Securities Exchange Act Release No. 28499 (October 10, 1990), 55 FR 41290 (SR-Phlx-90-29) (approval order).

<sup>7</sup> See Securities Exchange Act Release No. 55492 (March 20, 2007), 72 FR 14321 (March 27, 2007) (SR-Phlx-2006-61) (notice of filing).

Regulation 6 currently states:

Acceptable Business Casual Dress (*Men*):

- Casual slacks (*i.e.* khakis, dockers, corduroy fabric).
- Ties are optional, but must be neat, clean, and properly tied. If a tie is torn or frayed, you will be asked to remove it.

- Traditional collared shirts, polo shirts, golf shirts (shirts may be long or short sleeved). Shirts must be neat and clean. All shirts must be tucked in. Shirts must be buttoned at least to the second button from the top.
- Dress shoes, casual shoes, loafers, athletic shoes and boots (note: pant legs may not be tucked into boots). All shoes must be neat and clean.
- Traditional business attire is always acceptable. Blazers may be worn in lieu of

The Exchange does not propose by this filing to eliminate its Regulation 6. Rather, in light of the Exchange options market combining on-floor auction trading with an extensive electronic market, the Exchange proposes to eliminate the specifics of the Dress Code from Regulation 6 and set forth a procedure whereby the Exchange will communicate the specifics of the Dress Code to members<sup>8</sup> and post them on the options floor. The Exchange believes that in this way it would be able to address obsolete or unused Dress Code requirements<sup>9</sup> and most efficiently address any needed changes and updates, subject to notification of Exchange members regarding such requirements.

Specifically, the Exchange proposes to amend Regulation 6 to indicate that the Dress Code outlining acceptable and unacceptable dress for members and their staff, as well as any changes to the Dress Code, will be communicated to members by the Exchange in writing.<sup>10</sup> In addition, to further provide notification to on-floor traders, the Dress Code will be posted on the options trading floor of the Exchange. Moreover, to make sure that members have proper notification regarding changes, the

trading jackets. • Trading jackets or blazers must be worn at all times on the trading floor. Identification badges must be properly displayed at chest level.

- Sweaters worn over a collared shirt, turtle-necks worn under a collared shirt. Acceptable Business Casual Dress (*Women*): • Dresses or casual slacks (*i.e.* khakis, dockers, corduroy fabric).
- Shirts, sweaters, shells, turtle-necks, blouses, polo shirts, golf shirts (long or short sleeved).
- Dress shoes, casual shoes, loafers, athletic shoes and boots (*note*: pant legs may not be tucked into boots). All shoes must be neat and clean. Inappropriate Casual Dress (*Men & Women*): • Denim clothing of any kind (*i.e.* pants, skirts, dresses, shirts, vests, blouses).
- Sweat shirts, sweat pants, other sweat apparel of any kind and sport jerseys.
- Shorts, gym shorts, skorts, culottes, beach wear, workout attire or miniskirts.
- T-shirts of any kind.
- Stirrup pants or other excessively tight or revealing clothing (*i.e.* bike shorts, leggings, sheer blouses, stretch pants).
- Tank tops, halter tops, tube tops, tops with spaghetti straps, backless tops, crop tops (*note*: no bare midriffs).
- Clothing with any inappropriate, or oversized logos (cartoon logos, oversized sports logos or inappropriately suggestive logos).
- Slippers, sandals of any kind or open toed shoes.
- Military fatigues, cargo pants, surgical scrubs, bib overalls.
- Clothing which is torn, soiled or in need of repair.
- Clothing and/or accessories which disrupt business operations or which draw excessive attention to an employee.
- Hats or headgear unless worn for religious purposes.

<sup>8</sup> This includes, per current use, members, member organizations, participants, and participant organizations. As such, the Exchange is deleting obsolete or unused references to Floor Manager, Post Supervisor, and Firm Representative from Regulation 6.

<sup>9</sup> As an example, the current Dress Code discusses items that are essentially out of use such as skorts and culottes.

<sup>10</sup> The Exchange intends to communicate the Dress Code to members within one week of the date of effectiveness of this proposal.

Exchange proposes that changes to the Dress Code will only be effective three business days after such changes are communicated to Exchange members. By communicating guidelines as needed regarding acceptable apparel while on the trading floor, the Exchange intends to encourage the membership (and their associated persons) to comply with the Dress Code requirements.

Rule 1054 regarding the procedure for verification and reconciliation of options trades has been in existence for more than thirty years.<sup>11</sup> During that time the rule has seen little substantive (material) modification.<sup>12</sup> As such, the rule still has obsolete legacy language discussing the printing and distribution of carbon copy trade contracts. The Exchange therefore proposes to eliminate reference to obsolete or unused language in Rule 1054, particularly in light of having both on-floor and electronic markets, while preserving most of the rule.

Specifically, after eliminating reference to carbon copy trade contracts, the Exchange proposes to state that a member organization which is a clearing member of the Options Clearing Corporation shall be obligated to compare all trades made through or on behalf of such member as soon as possible after such trades are made or after receiving notification thereof. In addition, as currently required by the rule, such member would have to reconcile all uncomparated trades and advisory trades and report all reconciliations, corrections and adjustments to the Exchange in accordance with such procedures as

<sup>11</sup> Rule 1054 was formerly known as Rule 1074. See Securities Exchange Act Release No. 13591 (June 2, 1977) (SR-PBW-76-10) (approval order regarding, among things, renumbering Rule 1074 as 1054).

Rule 1054 states: At the time of execution, a carbon copy trade contract will be printed and distributed by the Exchange to the respective purchasing and selling members. Promptly upon receipt of such contract, a member organization which is a clearing member of the Options Clearing Corporation shall be obligated to verify the information shown on the contract, to reconcile all uncomparated trades and advisory trades shown on the uncomparated trade contract and to report all reconciliations, corrections and adjustments to the Exchange in accordance with such procedures as may be established by the Exchange from time to time. Such reconciliation report shall be filed with the Exchange prior to such cut-off hour as the Exchange may prescribe and shall be binding on the clearing member on whose behalf it is filed. The Exchange will consider all trades as executed and compared as of such cut-off hour.

<sup>12</sup> The last modification of the rule, as an example, was for the purpose of deleting Commentary .01 to Rule 1054 relating to use of certain technology for the trading of Dell options. See Securities Exchange Act Release No. 42143 (November 16, 1999), 64 FR 66224 (SR-Phlx-99-22) (November 24, 1999) (notice of filing and immediate effectiveness).

may be established by the Exchange from time to time. The current rule requirement that such reconciliation report shall be filed with the Exchange prior to such cut-off hour as the Exchange may prescribe and shall be binding on the clearing member on whose behalf it is filed is not changed.

The Exchange believes that the proposed Rule 1054 changes not only deletes obsolete provisions and updates the rule but also brings the rule into conformity with current options trading practices.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by deleting obsolete provisions and updating and modernizing its Regulation 6 regarding the Exchange's Dress Code and Rule 1054 regarding verification and reconciliation of options trades.

### 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

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)<sup>15</sup> of the Act and Rule 19b-4(f)(6)(iii) thereunder<sup>16</sup> 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.

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. 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2011-48 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-2011-48. 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

change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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. 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-2011-48 and should be submitted on or before May 5, 2011.

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

**Cathy Ahn,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64276; File No. SR-Phlx-2011-13]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to Amendments to NASDAQ OMX PHLX LLC's Limited Liability Company Agreement, By-Laws, Rules, Advices and Regulations

April 8, 2011.

## I. Introduction

On February 16, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend the Exchange's Limited Liability Company Agreement, By-Laws, Rules, Advices and Regulations to alter its governance process and to make other non-substantive conforming changes. The proposed rule change was published for comment in the **Federal Register** on March 4, 2011.<sup>3</sup> The Commission received no comment letters regarding the proposal.

<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.

<sup>3</sup> See Securities Exchange Act Release No. 63981 (February 25, 2011), 76 FR 12180 (March 4, 2011) ("Notice").

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii). 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 at least five business days prior to the date of filing of the proposed rule