

open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes this proposed rule change is a reasonable modification designed to provide additional flexibility for TPHs to obtain executions on behalf of their customers while continuing to provide meaningful, competitive Auctions. The Exchange also believes that that proposed rule change will ultimately enhance competition in the AIM Auctions and provide customers with additional opportunities for price improvement. The rule change is consistent with changes made by other exchanges and it serves to remove impediments to and to perfect the mechanism for a free and open market and a national market system by allowing more price improvement auctions to occur on C2.

#### *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*

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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 change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup> 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.

### **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-C2-2011-042 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-C2-2011-042. 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 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 offices 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-C2-2011-042, and should be submitted on or before January 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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

[FR Doc. 2012-03 Filed 1-6-12; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-66079; File No. SR-Phlx-2011-178]

### **Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to Stock Execution Clerks**

January 3, 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 December 20, 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, pursuant to Section 19(b)(1) of the Act<sup>3</sup> and Rule 19b-4 thereunder,<sup>4</sup> proposes to eliminate the stock execution clerk category from its Rules.

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, on the Commission's Web site at <http://www.sec.gov/>, 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

<sup>16</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> 15 U.S.C. 78s(b)(1).

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

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

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to eliminate the category of stock execution clerk from the Exchange's Rules. This registration capacity is outdated and no longer necessary.

A stock execution clerk is currently defined in Exchange Rule 1090 as any clerk other than a specialist clerk on the Exchange trading floor who functions as an intermediary in a transaction (i) Consummated on the Exchange; (ii) entered verbally for execution other than on the Exchange; or (iii) entered into a third party system designed to execute transactions other than on the Exchange.<sup>5</sup> A stock execution clerk is intended to provide a service to Exchange members on the Options Floor by accepting orders for the purchase and sale of securities underlying options transactions. Once such orders are accepted, the stock execution clerk forwards such orders to the appropriate marketplace for execution. The transactions executed are typically hedging transactions in underlying stocks for Exchange specialists and Registered Options Traders.<sup>6</sup> Any member or member organization engaged as a stock execution clerk is required to register that person as such with the Exchange's Membership Department. A stock execution clerk that performs any function other than a solely clerical or ministerial function shall, prior to performing any function as a stock execution clerk, (i) Comply with the registration requirement(s) set forth in Exchange Rule 604, where applicable; (ii) disclose in detail to the Exchange, on an annual basis, the

<sup>5</sup> See Exchange Rule 1090, Commentary .01(a). Further, no stock execution clerk shall: (i) Act as an intermediary in any transaction other than under the direct supervision of a member; (ii) enter into any clearing transaction or participate in any clearing process; (iii) have discretion or independent authority over any account or transaction. See Exchange Rule 1090, Commentary .01(d).

<sup>6</sup> A Registered Options Trader ("ROT") includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. A Registered Option Trader is defined in Exchange Rule 1014(b) as 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. See Exchange Rule 1014(b)(i) and (ii).

specific nature of such additional function(s); and (iii) in accordance with Exchange Rule 748, submit to the Exchange written supervisory procedures relating to such member or member organization's activities as a stock execution clerk.<sup>7</sup>

In 1999, the Exchange adopted Exchange Rule 620 entitled "Trading Floor Registration" and required all trading floor personnel, including clerks, interns, stock execution clerks and other associated persons of a member to register with the Exchange in order to more efficiently monitor individuals on the Exchange's trading floor and their current status.<sup>8</sup> In 2001, the Exchange adopted Rule 1090 entitled "Clerk" to specifically define a clerk as any registered on-floor person employed by or associated with a member or member organization who is not a member and is not eligible to effect transactions on the Options Floor as a Specialist, Registered Options Trader, or Floor Broker in order to identify a category of all persons that are not members of the Exchange and who are not eligible to effect transactions, but are located on the Exchange's Options Floor.<sup>9</sup> Further, the Exchange specifically identified two types of clerks, a stock execution clerk and a specialist clerk.<sup>10</sup> In that rule change, the Exchange noted that stock execution clerks must clear transactions through a NASD (now the Financial Industry Regulatory Authority or "FINRA") member firm, and determine whether their activities as stock execution clerks require them to be registered as NASD (now FINRA) members.<sup>11</sup> The Exchange intended that the activities of stock execution clerks should be conducted consistently with the Act and the rules and regulations thereunder.

The Exchange is proposing to eliminate this registration category because there are no clerks registered as a stock execution clerks today on the trading floor. There are still persons registered as clerks and specialist clerks pursuant to Rule 1090, but there are not individuals performing the duties of a

<sup>7</sup> See Exchange Rule 1090, Commentary .01(b).

<sup>8</sup> See Securities Exchange Act Release No. 42365 (January 28, 2000), 65 FR 5922 (February 7, 2000) (SR-Phlx-99-46).

<sup>9</sup> See Securities Exchange Act Release No. 46505 (September 17, 2002), 67 FR 60273 (September 25, 2002) (SR-Phlx-2001-104). The Exchange notes that only Exchange members may bid for and offer securities in the open market on the Exchange Floor. See Exchange Rule 104.

<sup>10</sup> See Rule 1090 at Commentary .01 and 02.

<sup>11</sup> See Securities Exchange Act Release No. 46505 (September 17, 2002), 67 FR 60273 (September 25, 2002) (SR-Phlx-2001-104). See also Section 15(b)(8) of the Act.

stock execution clerk at the Exchange, nor has there been for some time.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>13</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 eliminating a registration category that is no longer necessary. Today, the function of a stock execution clerk has become largely automated. The transactions that were handled by stock execution clerks take place off-floor today and mostly occur electronically. This type of business is not conducted on the Exchange's trading floor today. For these reasons and in the interest of maintaining current and updated Rules, the Exchange believes that eliminating the stock execution clerk category provides greater clarity to members.

*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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the 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

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

<sup>13</sup> 15 U.S.C. 78f(b)(5).

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 No. SR-Phlx-2011-178 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 No. SR-Phlx-2011-178. 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 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 No. SR-Phlx-2011-178 and should be submitted on or before January 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-95 Filed 1-6-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66082; File No. SR-C2-2011-041]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule With Respect to Public Customer Maker/Taker Fee (Rebate) and Connectivity Charges

January 3, 2012.

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 December 20, 2011, the C2 Options Exchange, Incorporated ("Exchange" or "C2") 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

C2 proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, 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 Exchange proposes to amend its Fees Schedule. First, the Exchange proposes to amend its Maker and Taker fees and rebates with regards to Public Customer complex orders. Currently, the Exchange provides a Maker rebate of \$0.25 per contract for such orders, and assesses no Taker fee. However, for competitive reasons, the Exchange desires to offer improved pricing for Public Customer complex orders. The International Securities Exchange, LLC ("ISE") provides rebates of \$0.30 per contract for both Makers and Takers for complex orders that trade with non-customer orders in select high-volume, competitive classes.<sup>3</sup> The Exchange hereby proposes to provide a rebate of \$0.35 per contract for both Makers and Takers for complex orders, regardless of with whom such orders trade. By providing a higher rebate, and not limiting with whom such orders can trade nor in which classes the new rebates apply, the Exchange intends to attract a higher volume of customer trades and thereby provide other market participants with higher liquidity and greater trading opportunities.

The Exchange also proposes to increase the fees charged for access to a Network Access Port (1 Gigabyte) to \$500 per month for regular access and \$1000 per month for Sponsored User access. The Exchange recently made a sizable investment to upgrade the equipment involved in the Network Access Port, and thereby proposes to increase the fees in order to recoup such costs and maintain such equipment in the future. The Exchange currently charges a different rate for regular access and Sponsored User access, and merely proposes to increase the rates in equal proportion. Moreover, this change in Network Access Port fees is in line with the amounts assessed for similar access at other exchanges. ISE assesses a fee of \$500 for network access up to and including 1 gigabyte.<sup>4</sup> Chicago Board Options Exchange, Incorporated ("CBOE") also recently submitted a proposed rule change to increase the fees charged for access to a Network Access Port (1 Gigabyte) to \$500 per

<sup>14</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 ISE Fee Schedule, page 18 (footnote 3).

<sup>4</sup> See ISE Schedule of Fees, page 9.