

Section 6(b) of the Act.³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁴ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, and with Section 6(b)(4) of the Act⁵, which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Assessing a higher fee for 10 Gbps connectivity than for 1 Gbps connectivity is reasonable because 10 Gbps connectivity is more robust than 1 Gbps connectivity, and is equitable and not unfairly discriminatory because 10 Gbps connectivity requires more costly equipment and maintenance, and the Exchange must recoup the costs related to providing 10 Gbps connectivity. Further, CBSX market participants may still elect for the less-expensive 1 Gbps connectivity. Finally, the amount of the fee for 10 Gbps connectivity is less than the amount of the fees for 10 Gbps connectivity assessed by other exchanges.⁶

Assessing higher fees for Sponsored Users is equitable and not unfairly discriminatory because Sponsored Users are able to access the Exchange and use the equipment provided without possessing a trading permit. As such, Trading Permit Holders who have a trading permit will have a higher level of commitment to transacting business on CBSX and using Exchange facilities than Sponsored Users. Finally, these increases maintain the same proportionate amounts that are paid by regular users relative to Sponsored Users.

Clarifying that the current \$250 monthly fee for a Network Access Port (\$500 for Sponsored Users) is for a 1 Gbps connection removes impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, protects investors and the public interest by eliminating any confusion about which

connection will be assessed which fee (now that CBSX will be offering both the 1 Gbps and 10 Gbps connection options).

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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 proposed rule change.

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)⁷ of the Act and paragraph (f) of Rule 19b-4⁸ thereunder. 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.

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. Please include File Number SR-CBOE-2012-052 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-CBOE-2012-052. 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 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-CBOE-2012-052, and should be submitted on or before July 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-14164 Filed 6-11-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67123; File No. SR-Phlx-2012-75]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

June 5, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that, on May 30, 2012, 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

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78f(b)(4).

⁶ See New York Stock Exchange Price List, page 13, which lists monthly prices of \$12,000-61,500 for different types of 10 Gbps connectivity (along with initial charges of \$10,000-50,000) and International Securities Exchange Schedule of Fees, page 9, which lists a low-latency Ethernet network access fee of \$7,000 per month.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f).

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 certain Routing Fees to recoup costs incurred by the Exchange in routing to The NASDAQ Options Market LLC (“NOM”).

While the changes proposed herein are effective upon filing, the Exchange has designated these changes to be operative on June 1, 2012.

The text of the proposed rule change is available on the Exchange’s Web site

at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXfilings>, 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 this filing is to recoup costs that the Exchange incurs for routing and executing certain orders in equity and index options to NOM. The Exchange’s Pricing Schedule at Section V currently includes the following Routing Fees for routing Customer, Professional, Firm, Broker-Dealer and Market Maker³ orders to away markets.

Exchange	Customer	Professional	Firm/broker-dealer/market maker
NYSE AMEX	\$0.11	\$0.31	\$0.55
BATS Penny	0.55	0.55	0.55
BATS non-Penny	0.86	0.91	0.91
BOX	0.11	0.11	0.55
CBOE	0.11	0.31	0.55
CBOE orders greater than 99 contracts in RUT, RMN, NDX, MNX, ETFs, ETNs and HOLDRs	0.29	0.31	0.55
C2	0.55	0.56	0.55
ISE	0.11	0.29	0.55
ISE Select Symbols	0.31	0.39	0.55
NYSE ARCA (Penny Pilot)	0.55	0.55	0.55
NYSE ARCA (Standard)	0.11	0.11	0.55
NOM	0.54	0.54	0.55
NOM (NDX and MNX)	0.56	0.56	0.55

The Exchange is proposing to amend the current “NOM (NDX and MNX)”

Routing Fees by renaming those fees as “NOM-MNX.” The Exchange is

proposing to adopt separate Routing Fees for NOM-NDX as follows:

Exchange	Customer	Professional	Firm/broker-dealer/market maker
NOM-NDX	\$0.11	\$0.81	\$0.81

NOM recently amended its fees relating to options on the Nasdaq 100 Index traded under the symbol NDX to assess Professionals, Firms, Non-NOM Market Makers and NOM Market Makers (“Non-Customers”) a \$0.70 per contract Fee for Removing Liquidity.⁴ The Exchange is proposing to amend its Routing Fees to adopt new NDX NOM Routing Fees to account for the revised

Customer and Non-Customer NOM NDX Fees to Remove Liquidity and other routing costs incurred by the Exchange when routing to NOM.

In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC (“NOS”), a member of the Exchange, as the Exchange’s exclusive order router.⁵ NOS is utilized by the Exchange’s fully

automated options trading system, PHLX XL[®],⁶ solely to route orders in options listed and open for trading on the PHLX XL system to destination markets. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange

³For the purposes of Routing Fees, a Market Maker includes Specialists (see Rule 1020) and ROTs (Rule 1014(b)(i) and (ii), which includes SQTs (see Rule 1014(b)(ii)(A)) and RSQTs (see Rule 1014(b)(ii)(B)).

⁴See SR-NASDAQ-2012-068. NOM is not assessing a Customer a Fee to Remove Liquidity in NDX. NOM previously assessed the following Fees for Removing Liquidity for NDX and MNX: \$0.50 per contract for Customers, \$0.50 per contract for

Professionals, \$0.50 per contract for Firms, \$0.50 per contract for Non-NOM Market Makers and \$0.40 per contract for NOM Market Makers. The Exchange recently adopted separate fees for NDX as noted herein.

⁵See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).

⁶This 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.

currently recoups clearing and transaction charges incurred by the Exchange as well as certain other costs incurred by the Exchange when routing to away markets, such as administrative and technical costs associated with operating NOS, membership fees at away markets, and technical costs associated with routing.⁷

The Exchange also proposes to amend Section V to relocate note 13 to reference the ISE Select Symbols Routing Fee and remove the stray asterisk that is currently next to the ISE Select Symbols title. The Exchange believes that the asterisk is more appropriately placed near the fee it is describing.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed amendment to the current NOM Routing Fees to rename the current fees to apply solely to options on the one-tenth value of the Nasdaq 100 Index traded under the symbol MNX and adopt separate fees for NDX orders routed to NOM is reasonable because the two separate categories take into account the different fees for removing liquidity assessed by NOM for MNX and NDX. The Exchange seeks to recoup costs incurred when routing orders to NOM on behalf of its members.

The Exchange believes that the proposed amendment to the current NOM Routing Fees to rename those fees as "NOM-MNX" and not otherwise amend those fees but adopt separate Routing Fees for NDX options routed to NOM is equitable and not unfairly discriminatory because the Exchange will uniformly apply the NOM-MNX

and NOM-NDX Routing Fees to its members.

The proposed NOM Routing Fees for NDX are reasonable because they seek to recoup costs that are incurred by the Exchange when routing Customer, Professional, Firm, Broker-Dealer and Market Maker orders to NOM on behalf of members. Each destination market's transaction charge varies and there is a standard clearing charge for each transaction incurred by the Exchange along with other administrative and technical costs that are incurred by the Exchange. The Exchange believes that the proposed Routing Fees would enable the Exchange to recover the remove fees assessed to Non-Customers by NOM for NDX options, plus clearing and other administrative and technical fees for the execution of Customer and Non-Customer orders when routed to NOM. The Exchange also believes that the proposed NOM NDX Routing Fees are equitable and not unfairly discriminatory because they would be uniformly applied to all Non-Customer NDX orders that are routed to NOM and to cover the costs for Customer NDX orders that are routed to NOM.

The Exchange believes that the proposed technical amendment to relocate the note in Section V is reasonable, equitable and not unfairly discriminatory because it will further clarify the note and the ISE Select Symbols Routing Fee.

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.¹⁰ 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.

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. Please include File Number SR-Phlx-2012-75 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-2012-75. 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-Phlx-

⁷ The Exchange is therefore adopting NOM's Fees for Removing Liquidity of \$0.70 per contract for Professional, Firm, Non-NOM Market Maker and NOM Maker Makers orders, a \$0.06 clearing cost and another \$0.05 per contract associated with administrative and technical costs associated with operating NOS, a total of \$0.81 per contract. The Exchange would only assess a Customer the 0.06 clearing cost and another \$0.05 per contract associated with administrative and technical costs associated with operating NOS (a total of \$0.11 per contract) because a Customer is not assessed a Fee for Removing Liquidity on NOM.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

2012-75 and should be submitted on or before July 3, 2012.

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

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-14189 Filed 6-11-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67144; File No. SR-CBOE-2012-053]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Trades for Less Than \$1

June 6, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 1, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 proposing to extend its program that allows transactions to take place at a price that is below \$1 per option contract through June 28, 2013. The text of the proposed rule change is available on the Exchange's Web site (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 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 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

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 6.54, *Accommodation Liquidations (Cabinet Trades)*, which sets forth specific procedures for engaging in cabinet trades. Rule 6.54 currently provides for cabinet transactions to occur via open outcry at a cabinet price of \$1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of \$1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a PAR Official/OBO, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the PAR Official/OBO cabinet book (which resting cabinet book orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at \$1 per option contract.

The Exchange has temporarily amended the procedures through June 29, 2012 to allow transactions to take place in open outcry at a price of at least \$0 but less than \$1 per option contract.⁵

These lower priced transactions are traded pursuant to the same procedures applicable to \$1 cabinet trades, except that (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also available for trading in option classes participating in the Penny Pilot Program.⁶ The Exchange believes that allowing a price of at least \$0 but less than \$1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to market conditions which may result in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of \$100 and the underlying stock might now be trading at \$30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the \$1 cabinet price (e.g., the series might be quoted no bid).⁷

2009)(SR-CBOE-2009-034)(extending the amended procedures on a temporary basis through June 1, 2010), 62192 (May 28, 2010), 75 FR 31828 (June 4, 2010)(SR-CBOE-2010-052)(extending the amended procedures on a temporary basis through June 1, 2011); 64403 (May 4, 2011), 76 FR 27110 (May 10, 2011)(SR-CBOE-2011-048)(extending the amended procedures on a temporary basis through December 30, 2011); and 65872 (December 2, 2011), 76 FR 76788 (December 8, 2011)(SR-CBOE-2011-113)(extending the amended procedures on a temporary basis through June 29, 2012).

⁶ Currently the \$1 cabinet trading procedures are limited to options classes traded in \$0.05 or \$0.10 standard increment. The \$1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

⁷ As with other accommodation liquidations under Rule 6.54, transactions that occur for less than \$1 are not disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 6.54, the transactions are exempt from the Consolidated Options Audit Trail ("COATS") requirements of Exchange Rule 6.24, *Required Order Information*. However, the Exchange maintains quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than \$1 must be reported to the Exchange following the close of each business day. The rule also provides that transactions for less than \$1 will be reported for clearing utilizing forms, formats and procedures established by the Exchange from time to time. In this regard, the Exchange initially intends to have clearing firms directly report the transactions to The Options Clearing Corporation ("OCC") using OCC's position adjustment/transfer procedures. This manner of reporting transactions for clearing is similar to the procedure that CBOE currently

Continued

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release Nos. 59188 (December 30, 2008), 74 FR 480 (January 6, 2009)(SR-CBOE-2008-133)(adopting the amended procedures on a temporary basis through January 30, 2009), 59331 (January 30, 2009), 74 FR 6333 (February 6, 2009)(extending the amended procedures on a temporary basis through May 29, 2009), 60020 (June 1, 2009), 74 FR 27220 (June 8,