

to eliminate OCC's pledge program in its entirety.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC 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

The purpose of this proposed rule change is to correct an administrative oversight in rule filing SR-OCC-2012-10, a rule filing intended to eliminate OCC's pledge program in its entirety.

In SR-OCC-2012-10, OCC proposed to eliminate its pledge program, which was primarily contained within OCC Rule 614, "Pledge Program." The Commission approved SR-OCC-2012-10 on August 22, 2012. OCC subsequently learned that it inadvertently made an administrative oversight in Item 1 of SR-OCC-2012-10 and did not include the entire text of Rule 614 as "material proposed to be deleted."

OCC now proposes to eliminate the remaining language of Rule 614, which was intended to be deleted in SR-OCC-2012-10.

The proposed changes to OCC's Rules are consistent with the purposes and requirements of Section 17A of the Act<sup>4</sup> because they will allow OCC to remove a rarely used operational function and focus its resources on core clearing operations. Moreover, OCC believes that elimination of the Program will not materially affect clearing members given its limited and infrequent use. The proposed rule change is not inconsistent with any rules of OCC, including any proposed to be amended.

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

OCC does not believe that the proposed rule change would impose any burden on competition.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i)<sup>5</sup> of the Act and Rule 19b-4(f)(1)<sup>6</sup> thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. Notwithstanding the foregoing, OCC will delay implementation of the rule change until it is deemed certified under CFTC Regulation § 40.6. 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2012-13 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-OCC-2012-13. 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 filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at <http://www.optionsclearing.com/about/publications/bylaws.jsp>. 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-OCC-2012-13 and should be submitted on or before October 9, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

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

[FR Doc. 2012-22786 Filed 9-14-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67830; File No. SR-Phlx-2012-112]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rebates and Fees for Adding and Removing Liquidity in Select Symbols

September 11, 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 August 31, 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 and III below, which Items have been

<sup>7</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>5</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>6</sup> 17 CFR 240.19b-4(f)(1).

<sup>4</sup> 15 U.S.C. 78q-1.

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 the Exchange's Pricing Schedule at Section I titled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols."<sup>3</sup> Specifically, the Exchange proposes to amend certain Simple Order Fees for Removing Liquidity. The Exchange also proposes various technical amendments to the Pricing Schedule.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on September 4, 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 the proposed rule change is to amend Section I of the Exchange's Pricing Schedule. Specifically, the Exchange is proposing to amend Section I of the Pricing Schedule to increase certain Simple Order Fees for Removing Liquidity. Despite the increase to these fees, the Exchange believes that the fees remain competitive with fees assessed by other options exchanges.

<sup>3</sup> The rebates and fees in Section I apply to certain Select Symbols which are listed in Section I of the Pricing Schedule.

The Exchange is also proposing to make technical amendments to Section I of the Pricing Schedule.

The Exchange is proposing to amend Section I, Part A of the Pricing Schedule to increase the Simple Order Fees for Removing Liquidity for Customers from \$0.39 per contract to \$0.43 per contract and increase the Simple Order Fees for Removing Liquidity for Specialists<sup>4</sup> and Market Makers<sup>5</sup> from \$0.39 to \$0.45 per contract.

Also, the Exchange is proposing to make technical corrections in Section I, Part A by replacing "\$0.00" with "N/A" for several categories. This is not a change to these fees, but a technical amendment since in these instances "N/A" better reflects that a fee is not relevant for this category rather than "\$0.00" which simply reflects that no fee is currently being charged for this category.

##### **2. Statutory Basis**

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</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 its proposal to increase the Simple Order Fees for Removing Liquidity for Customers, from \$0.39 to \$0.43 per contract, and the Simple Order Fees for Removing Liquidity for Specialists and Market Makers, from \$0.39 to \$0.45 per contract, is reasonable because the increases remain competitive with fees assessed by other options exchanges.<sup>8</sup>

The Exchange believes that its proposal to increase the Simple Order Fees for Removing Liquidity for Customers, Specialists and Market Makers is equitable and not unfairly discriminatory because the Exchange would assess all market participants, except Customers, a \$0.45 per contract Simple Order Fee for Removing Liquidity. The Exchange proposes to assess a lower Simple Order Fee for Removing Liquidity to Customers of \$0.43 per contract as compared to \$0.45

<sup>4</sup> A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

<sup>5</sup> A "Market Maker" includes Registered Options Traders ("ROTs") (Rule 1014(b)(i) and (ii)), which include Streaming Quote Traders ("SQTs") (See Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders ("RSQTs") (See Rule 1014(b)(ii)(B)).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> NYSE Arca, Inc. assesses Customers, Firms, Broker-Dealers and Market Makers a \$0.45 take fee. See NYSE Arca, Inc.'s Fee Schedule.

per contract for all other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants.

The Exchange believes that the technical amendments proposed to Section II, Part A are reasonable, equitable and not unfairly discriminatory because the amendments are not substantive but rather technical amendments to provide more detail in the Pricing Schedule for greater clarity.

The Exchange operates in a highly competitive market, comprised of ten exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

#### *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>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 should be approved or disapproved.

<sup>9</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 (*h* <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-2012-112 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-2012-112. 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-2012-112 and should be submitted on or before October 9, 2012

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-22789 Filed 9-14-12; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67842; File No. SR-NASDAQ-2012-090]

##### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to Amend Rule 4626—Limitation of Liability**

September 12, 2012.

On July 23, 2012, The NASDAQ Stock Market LLC ("NASDAQ" 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 Exchange Rule 4626—Limitation of Liability. The proposed rule change was published for comment in the **Federal Register** on August 1, 2012.<sup>3</sup> The Commission received eleven comment letters on this proposal.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up

<sup>10</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. 67507 (July 26, 2012), 77 FR 45706.

<sup>4</sup> See letters to Elizabeth M. Murphy, Secretary, Commission, from Sis DeMarco, Chief Compliance Officer, Triad Securities Corp., dated August 20, 2012; Eugene P. Torpey, Chief Compliance Officer, Vandham Securities Corp., dated August 21, 2012; John C. Nagel, Managing Director and General Counsel, Citadel LLC, dated August 21, 2012; Benjamin Bram, Watermill Institutional Trading LLC, dated August 22, 2012; Daniel Keegan, Managing Director, Citigroup Global Markets Inc., dated August 22, 2012; Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated August 22, 2012; Mark Shelton, Group Managing Director and General Counsel, UBS Securities LLC, dated August 22, 2012; Andrew J. Entwistle and Vincent R. Cappucci, Entwistle & Cappucci LLP, dated August 22, 2012; Douglas G. Thompson, Michael G. McLellan, and Robert O. Wilson, Finkelstein Thompson LLP, Christopher Lovell, Victor E. Stewart, and Fred T. Isquith, Lovell Stewart Halebian Jacobson LLP, Jacob H. Zamansky and Edward H. Glenn, Zamansky & Associates LLC, dated August 22, 2012; James J. Angel, Associate Professor of Finance, Georgetown University, McDonough School of Business, dated August 23, 2012; and Leonard J. Amoroso, General Counsel, Knight Capital Group, Inc., dated August 29, 2012.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is September 15, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which relates to a voluntary accommodation policy for claims arising from systems difficulties that NASDAQ experienced during the initial public offering of Facebook, Inc. on May 18, 2012, the comment letters that have been submitted in connection with this proposed rule change, and any response to the comment letters submitted by the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates October 30, 2012, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NASDAQ-2012-090).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-22846 Filed 9-14-12; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67827; File No. SR-CBOE-2012-085]

##### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Complex Order Auctions**

September 11, 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 August 30, 2012, Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

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

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