reasonable because it will result in a fee reduction for members that provide the market quality benefits associated with QMM status.

Finally, NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that the proposed rule change reflects this competitive environment because it is designed to reduce fees for members that enhance the quality of NASDAQ's market.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. By reducing fees for order execution and order entry ports, the proposal is a manifestation of the continued intense level of competition in the market for order execution.

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

Written comments were neither solicited nor 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.[14] 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.

[14] 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 email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2012–126 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–NASDAQ–2012–126. 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–NASDAQ–2012–126 and should be submitted on or before December 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28000 Filed 11–16–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68215; File No. SR–NSX–2012–20]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee and Rebate Schedule

November 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2012 National Stock Exchange, Inc. (''NSX'' or ''Exchange'') 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

The Exchange is proposing to amend its Fee and Rebate Schedule (the ''Fee Schedule'') issued pursuant to Exchange Rule 16.1(a) to adopt separate regulatory fees for Order Delivery participants to: (1) Charge a flat fee per quotation update; (2) charge a separate flat fee per quotation update during a new Order Delivery participant's first three (3) months of participation; and (3) implement an Onboarding Fee for new Order Delivery participants. The text of the proposed rule change is available on the Exchange's Web site at *www.nsx.com*, at the Exchange's principal office, 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

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend Section IV of its Fee Schedule to adopt a separate Regulatory Fee for Order Delivery participants to: (1) Charge a flat fee per quotation update; (2) charge a separate flat fee per quotation update during a new Order Delivery participant's first three (3) months of participation; and (3) implement an Onboarding Fee for new Order Delivery participants. Proceeds from the new regulatory fees will be used to fund the NSX's regulatory oversight of Order Delivery participants.

Quotation Update Fee for Existing Order Delivery Participants

The Exchange proposed to charge a flat fee of $0.000444 per each Order Delivery participant's quotation update.[3] The Exchange will earmark and use all regulatory fees raised through the quotation update fee to support the regulatory oversight of the Order Delivery function.

The quotation update fee rate is reasonable since it is designed to correlate with the total regulatory costs associated with overseeing the Order Delivery trading program based on current Order Delivery participants' historic quotation activities. The Exchange will calculate, on a quarterly basis, the percentage of the Exchange's quotation activity that is accounted for by Order Delivery participants. The Exchange will consider any changes in the level of Order Delivery activity as well as any changes in the market, surveillance and system requirements required to effectively perform the surveillance function in determining whether to adjust the quotation update fee.

The Order Delivery functionality allows electronic communication networks (''ECNs'') to make quotations available through the consolidated quotation feed without the risk of double execution. The Exchange is the only market center to provide this service. This market structure has a higher cost structure than automated matching engines due to its increased operational, technology and regulatory demands. The Exchange currently does not charge execution fees for orders executed using the Order Delivery Mode.

The Exchange also notes that this proposed fee is similar to a quotation update fee imposed by FINRA on ADF Participants.[4] The Exchange's Order Delivery program is similar to the ADF offering. Therefore, the Exchange believes that a separate regulatory fee based on quotation updates is a reasonable manner in which to fund its regulatory program.

Fees for New Order Delivery Participants

The Exchange also proposed to adopt the following separate fees for new Order Delivery Participants: (1) A higher flat fee per quotation update during a new Order Delivery participant's first three (3) months of participation; and (2) a one-time Onboarding Fee of $5,000.00.

The Exchange proposes a separate flat fee per quotation update of $0.006667 during a new Order Delivery participant's first three (3) months of participation. This quotation update fee would be in lieu of the proposed standard quotation update fee of $0.000444 for existing Order Delivery participants. This is because the Exchange expends an increased regulatory focus over a new Order Delivery participant's activities to ensure compliance with Exchange Rule 11.13 and to gain familiarity with their quoting activities. The Exchange will earmark and use all regulatory fees raised through the quotation update fee to support the regulatory oversight of the Order Delivery function. The Exchange believes that charging a higher quotation update fee for new Order Delivery participants during their first three months of operation is reasonable, and is an equitable means to cover the increase regulatory oversight costs of their activities without being unfairly discriminatory among the ETP Holders.

The Exchange proposes a one-time Onboarding Fee of $5,000.00. The Exchange incurs increased costs when onboarding a new Order Delivery participant. These costs include establishing connectivity and administering the application process. The Exchange also conducts enhanced due diligence of the Order Delivery participant's systems to ensure its ability to comply with Exchange Rule 11.13, including the Order Delivery applicant's ability to comply with the Exchange's eligibility requirements. The Onboarding Fees will also be used by the Exchange to support the regulatory oversight of the Order Delivery function. The Exchange believes that adopting a one-time fee is reasonable for new Order Delivery participants, and an equitable distribution of regulatory costs that does not unfairly discriminate against the Order Delivery applicant or existing ETP Holders.

Operative Date and Notice

The Exchange currently intends to make the proposed modifications, which are effective on filing of this proposed rule, operative as of commencement of trading on November 2, 2012.[5] Pursuant to Exchange Rule 16.1(c), the Exchange will ''provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange'' through the issuance of a Regulatory Circular of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's Web site (*www.nsx.com*).

2. Statutory Basis

The Exchange believes that the proposed fixed quotation update fee for existing Order Delivery participants is consistent with the provisions of Section 6(b) of the Act,[6] in general, and Section 6(b)(4) of the Act,[7] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using the facilities of the Exchange. Order Delivery Mode imposes on the Exchange greater regulatory and operational costs than Auto-Ex Mode, because Order Delivery is a model that requires increased regulatory procedures to ensure effective oversight of compliance with applicable SEC and SRO rules. By imposing a quotation update fee based on each Order Delivery participant's quotation activity, this fee equitably

[3] A ''quotation update'' includes any change to the price, size or side of a quotation or submission of an updated quote with the same price, size or side. A quotation update does not include posting of a new quote to replace a quote that was fully executed.

[4] *See* Securities Exchange Act Release No. 47331 (February 10, 2003), 68 FR 7635 (February 14, 2003) (SR–NASD–2003–09), *see also,* Securities Exchange Act Release No. 55379 (March 1, 2007), 72 FR 10283 (March 7, 2007) (SR–NASD–2007–017). While the Exchange proposes a fixed quotation update fee for existing Order Delivery participants and a separate quotation update fee for a new applicant, FINRA's quotation update fee is tiered based on the ADF Participant's trading volumes.

[5] Because the proposed changes are effective November 2, 2012, trading activity occurring on November 1, 2012 will be excluded from the proposed fees.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

allocates costs based on their overall quotation activity. The Exchange is the only market center to offer Order Delivery to market participants, which allows ECNs to make quotations available through the consolidated quotation feed without the risk of double execution. This market structure has a higher cost structure than automated matching engines due to its increased operational, technology and regulatory demands. The Exchange currently does not charge execution fees for orders executed using the Order Delivery Mode. Therefore, the Exchange believes this fee structure is a reasonable means for the NSX to recover the regulatory costs of Order Delivery. Moreover, the Exchange believes that the proposed fixed quotation update fee for existing Order Delivery participants is consistent with the provisions of Section 6(b)(5) of the Act,[8] in that the proposed regulatory fee is not unfairly discriminatory because it is based on an ETP Holder's quotation activity in Order Delivery. Order Delivery participants are eligible to submit (or not submit) liquidity adding and quotes, and may do so at their discretion in the daily volumes they choose during any given trading day.

Furthermore, the Exchange also believes that the proposed fixed quotation update fee for new Order Delivery participants during their first three (3) months of operation is consistent with the provisions of Section 6(b) of the Act,[9] in general, and Section 6(b)(4) of the Act,[10] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using the facilities of the Exchange. Oversight of a new Order Delivery participant's activities imposes on the Exchange greater regulatory and operational costs than it does for existing Order Delivery participants, because the Exchange expends an increased regulatory focus over a new Order Delivery participant's activities to ensure compliance with Exchange Rule 11.13 and to gain familiarity with their quoting activities. The Exchange believes that charging a higher quotation update fee for new Order Delivery participants during their first three (3) months of operation is a reasonable means to cover the increase regulatory oversight costs of their activities require. By imposing a quotation update fee based on each Order Delivery participant's quotation activity, this fee equitably allocates costs based on their overall quotation activity. Again, the Exchange is the only market center to offer Order Delivery to market participants which allows ECNs to make quotations available through the consolidated quotation feed without the risk of double execution. This market structure has a higher cost structure than automated matching engines due to its increased operational, technology and regulatory demands. The Exchange currently does not charge execution fees for orders executed using the Order Delivery Mode. Therefore, the Exchange believes this fee structure is a reasonable means for the NSX to recover the regulatory costs of Order Delivery. Moreover, the Exchange believes that the proposed fixed quotation update fee for new Order Delivery participants during their first three (3) months of operation is consistent with the provisions of Section 6(b)(5) of the Act,[11] in that the proposed regulatory fee is not unfairly discriminatory because it is based on an ETP Holder's quotation activity in Order Delivery. New Order Delivery participants require increased regulatory oversight relative to existing participants due to the Exchange's focus on their trading activity, ensuring compliance with SEC and SRO rules as well as Exchange staff developing familiarity with the new participant's trading behavior. Also, Order Delivery participants are eligible to submit (or not submit) liquidity adding and quotes, and may do so at their discretion in the daily volumes they choose during any given trading day.

Lastly, the Exchange believes that the proposed one-time Onboarding Fee for new Order Delivery participants is also consistent with the provisions of Section 6(b) of the Act,[12] in general, and Section 6(b)(4) of the Act,[13] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using the facilities of the Exchange. Onboarding a new Order Delivery participant imposes on the Exchange increased regulatory and operational costs. These costs include establishing connectivity and administering the application process. The Exchange also conducts extensive due diligence and increased regulatory procedures to ensure effective oversight of compliance with applicable SEC and SRO rules, including review of an Order Delivery participant's systems to ensure their ability to comply with Exchange Rule 11.13's automated response time requirements. By imposing a one-time Onboarding Fee for new Order Delivery participants, this fee equitably allocates costs based on the increased regulatory review of the new participant's ability to comply with SEC and SRO rules relating to Order Delivery. The Exchange currently does not charge execution fees for orders executed using the Order Delivery Mode. Therefore, the Exchange believes this one-time Onboarding Fee is a reasonable means for the NSX to recover the regulatory costs associated with onboarding new Order Delivery participants. Moreover, the Exchange believes that the proposed one-time Onboarding Fee for new Order Delivery participants is consistent with the provisions of Section 6(b)(5) of the Act,[14] in that the proposed regulatory fee is not unfairly discriminatory because it applies to all new Order Delivery participant's equally and all ETP Holders who meet the criteria of Exchange Rule 11.13 are eligible to become Order Delivery 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 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 has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [15] and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because, as provided in (f)(2), it changes ''a due, fee or other charge applicable only to a member'' (known on the Exchange as an ETP Holder). 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.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4.

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–NSX–2012–20 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–NSX–2012–20. 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–NSX–2012–20 and should be submitted on or before December 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28004 Filed 11–16–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68217; File No. SR-Phlx–2012–130]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to SQT and RSQT Evaluations

November 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on October 31, 2012, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') 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

The Exchange proposes to amend Rule 510 titled ''SQT and RSQT Performance Evaluation'' to provide a different method for reviewing quote submissions in evaluating member organizations to determine whether they have fulfilled performance standards relating to the quality of markets.

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, 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 a standard by which Streaming Quote Traders [3] and Remote Streaming Quote Traders [4] are evaluated to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, efficient quote submission to the Exchange (including quotes submitted through a third party vendor), competition, observance of ethical standards, and administrative factors. Specifically, with respect to quote submission, the Exchange is proposing to amend its methodology for evaluating a factor of the Performance Evaluation with quote submissions.

By way of background, Rule 510 establishes specific criteria for each option assigned to an SQT or RSQT that would be regularly evaluated by the Exchange. The Exchange periodically conducts an evaluation of member organizations that have SQTs and RSQTs, as defined in Exchange Rule 1014,[5] to determine whether they have fulfilled performance standards relating to, among other things, efficient quote submission to the Exchange.[6] The Exchange may review the Performance Evaluations and consider other relevant information including, but not limited to, trading data, regulatory history and

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Streaming Quote Trader (''SQT'') is defined in Exchange Rule 1014(b)(ii)(A) as an Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

[4] A Remote Streaming Quote Trader (''RSQT'') is defined Exchange Rule in 1014(b)(ii)(B) as a ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

[5] Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders'' provides that transactions of a Specialist and a ROT should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those members should not enter into transactions or make bids or offers that are inconsistent with such a course of dealings. *See* Rule 1014.

[6] This would include quotes that are submitted through a third party vendor.