

continue to have regulatory authority over the Exchange, as is currently the case, as well as jurisdiction over CBOE Holdings with respect to activities related to the Exchange.¹¹

The Exchange is proposing no changes to its existing operational and trading structure in connection with the Transaction. Upon Closing, the Exchange will operate in essentially the same manner as it operates today. Therefore, the Exchange believes it will continue to satisfy the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

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

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of CBOE Holdings—specifically a change in composition of the CBOE Holdings Board in connection with a corporate transaction—and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

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

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 Exchange consents, the Commission will:

A. By order approve or disapprove such 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 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-C2-2016-022 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-C2-2016-022. 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-C2-2016-022, and should be submitted on or before December 6, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79261; File No. SR-Phlx-2016-110]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .14 to Rule 3317 (Compliance With Regulation NMS Plan To Implement a Tick Size Pilot)

November 8, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 31, 2016, NASDAQ PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, 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 Commentary .14 to Rule 3317 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to provide the SEC with notice of its efforts to re-program its systems to eliminate a re-pricing functionality for certain orders in Test Group Three securities in connection with the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan" or "Pilot").³

The text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

* * * * *

NASDAQ PHLX Rules

* * * * *

3317. Compliance With Regulation NMS Plan To Implement a Tick Size Pilot

(a) through (d) No Change.

Commentary

.01-.13 No change.

.14 Until [October 31, 2016]

November 14, 2016, the treatment of Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order").

¹¹ See, e.g., CBOE Holdings Certificate Article Fourteenth.

¹² 17 CFR 200.30-3(a)(12).

Post-Only Orders that are entered through the OUCH or FLITE protocols in Test Group Three securities shall be as follows:

Following entry, and if market conditions allow, a Price to Comply Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Price to Display Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Display Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO up (down) to the Order's limit price.

Following entry, and if market conditions allow, the Post-Only Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO or the best price on the Exchange Book, as applicable until such time as the Post-Only Order is able to be ranked and displayed at its original entered limit price.

* * * * *

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

On September 7, 2016, the Exchange filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change ("Proposal") to adopt paragraph (d) and Commentary .12 to Exchange Rule 3317 to describe changes to system functionality necessary to implement the Plan. The

Exchange also proposed amendments to Rule 3317(a) and (c) to clarify how the Trade-at exception may be satisfied. The SEC published the Proposal in the **Federal Register** for notice and comment on September 20, 2016.⁴ Phlx subsequently filed three Partial Amendments to clarify aspects of the Proposal. The Commission approved the Proposal, as amended, on October 7, 2016.⁵

In SR-Phlx-2016-92, Phlx had initially proposed a re-pricing functionality for Price to Comply Orders, Non-Displayed Orders, and Post-Only Orders entered through the OUCH and FLITE protocols in Group Three securities.⁶ Phlx subsequently determined that it would not offer this re-pricing functionality for Price to Comply Orders, Non-Displayed Orders, and Post-Only Orders entered through the OUCH and FLITE protocols in Group Three securities. As part of Partial Amendment No. 2 to SR-Phlx-2016-92, Phlx proposed to delete the relevant language from Rule 3317 related to this re-pricing functionality.

In that amendment, Phlx noted that this change would only impact the treatment of Price to Comply Orders, Non-Displayed Orders, and Post-Only orders that are submitted through the OUCH and FLITE protocols in Test Group Three Pilot Securities, as these types of Orders that are currently submitted to Phlx through the RASH or FIX protocols are already subject to this re-pricing functionality and will remain subject to this functionality under the Pilot.

In the Amendment, Phlx further noted that its systems are currently programmed so that Price to Comply Orders, Non-Displayed Orders and Post-Only Orders entered through the OUCH and FLITE protocols in Test Group Three Securities may be adjusted repeatedly to reflect changes to the

⁴ See Securities Exchange Act Release No. 78835 (September 14, 2016), 81 FR 64552 (September 20, 2016) (SR-Phlx-2016-92).

⁵ See Securities Exchange Act Release No. 79074 (October 7, 2016) (SR-Phlx-2016-92).

⁶ As originally proposed, Rule 3317(d)(2) stated that Price to Comply Orders in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price. Rule 3317(d)(3) stated that, if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO up (down) to the Order's limit price. Rule 3317(d)(4) stated that, if market conditions allow, the Post-Only Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO or the best price on the Phlx Book, as applicable until such time as the Post-Only Order is able to be ranked and displayed at its original entered limit price.

NBBO and/or the best price on the Phlx book. Phlx stated that it is re-programming its systems to remove this functionality for Price to Comply Orders, Non-Displayed Orders and Post-Only Orders entered through the OUCH and FLITE protocols in Test Group Three Securities. In the Amendment, Phlx stated that it anticipated that this re-programming shall be completed no later than November 30, 2016. If it appears that this functionality will remain operational by October 17, 2016, Phlx indicated that it would file a proposed rule change with the SEC and will provide notice to market participants sufficiently in advance of that date to provide effective notice. The rule change and the notice to market participants will describe the current operation of the Phlx systems in this regard, and the timing related to the re-programming.

On October 17, 2016, Phlx filed a proposal to extend the date by which it would complete the re-programming of its systems to eliminate the re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols.⁷ In that proposal, Phlx stated that it anticipated that this re-programming shall be complete on or before October 31, 2016.⁸

At this time, Phlx is still determining how to modify its systems to eliminate the current re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols. Phlx is therefore submitting this proposal to extend the date by which the current re-pricing functionality will be eliminated. Phlx anticipates that the re-programming to eliminate the current re-pricing functionality shall be completed on or before November 14, 2016.

Therefore, the current treatment of Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols

⁷ See Securities Exchange Act Release No. 79156 (October 25, 2016) (SR-Phlx-2016-106). Subsequent to the approval of SR-Phlx-2016-92, Phlx became aware that this re-pricing functionality also applies to Price to Display Orders that are entered through the OUCH and FLITE protocols in Test Group Three Securities, and included those Orders as part of SR-Phlx-2016-106 accordingly. Price to Display Orders will be treated in the same manner as Price to Comply Orders under the re-pricing functionality.

⁸ *Id.*

in Test Group Three securities shall be as follows:

Following entry, and if market conditions allow, a Price to Comply Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Price to Display Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Display Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO up (down) to the Order's limit price.

Following entry, and if market conditions allow, a Post-Only Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO or the best price on the Phlx Book, as applicable until such time as the Post-Only Order is able to be ranked and displayed at its original entered limit price.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ 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. The purpose of this filing is to inform the SEC and market participants of the status of Phlx's attempts to re-program its systems to remove the re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, and the current treatment of such orders pending the removal of this functionality. This proposal is consistent with the Act because it provides the SEC and market participants with notice of Phlx's efforts in this regard, and is being submitted in connection with the statements made by Phlx in SR-Phlx-2016-92 and SR-

Phlx-2016-106 in proposing the removal of this functionality.

Phlx also believes that the proposal is consistent with the Act because the re-pricing functionality will not significantly impact the data gathered pursuant to the Pilot. Phlx notes that this re-pricing functionality only affects Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols for Test Group Three securities until the re-pricing functionality is eliminated, and only becomes relevant when an Order in a Test Group Three security would cross a Protected Quotation of another market center. Phlx has analyzed data relating to the frequency with which Orders in Test Group Three securities are entered with a limit price that would cross a Protected Quotation of another market center, and believes that the re-pricing functionality will be triggered infrequently once Test Group Three becomes fully operational.¹¹ The Exchange also notes that it is diligently working to eliminate the current re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, and that it anticipates this re-programming to be complete on or before November 14, 2016.

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. The purpose of this proposal is to provide the SEC and market participants with notice of Phlx's efforts to remove its re-pricing functionality in Test Group Three securities for Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols, consistent with its statements in SR-Phlx-2016-92 and SR-Phlx-2016-106.

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.

¹¹ For example, on October 31, 2016, in the one hundred Test Group Three securities that are currently live, 0.06% of orders that were entered on the NASDAQ Stock Market LLC in those securities were entered at a price that crossed the NBBO.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that this proposed change will be in operative as of October 31, 2016, the date that Test Group Three securities are fully implemented and are subject to the quoting and trading restrictions of the Plan and, therefore, the relevant language in Rule 3317.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rules immediately thereby preventing delays in the implementation of the Plan. The Commission notes that the Pilot started implementation on October 3, 2016, Test Group Three securities were fully phased into the Pilot on October 31, 2016, and waiving the 30-day operative delay would ensure that the rules of the Exchange would be in place during implementation. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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-2016-110 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2016-110. 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-2016-110, and should be submitted on or before December 6, 2016.

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

Brent J. Fields,

Secretary.

[FR Doc. 2016-27366 Filed 11-14-16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79270; File No. SR-NASDAQ-2016-153]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7014 and the Nasdaq Growth Program

November 8, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 1, 2016, The NASDAQ Stock Market LLC ("Nasdaq" 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 proposes to amend Nasdaq Rule 7014, Market Quality Incentive Programs, to modify the volume threshold for the method under which members may currently qualify for the Nasdaq Growth Program ("Program"). The Exchange also proposes to add another method through which members may qualify for the Program, and to modify the manner in which a member's Growth Baseline is updated.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.com>, 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 Exchange proposes to amend Nasdaq Rule 7014, Market Quality Incentive Programs, to modify the volume threshold for the method under which members may currently qualify for the Program. The Exchange also proposes to add another method through which members may qualify for the Nasdaq Growth Program ("Program"), and to modify the manner in which a member's Growth Baseline is updated.

Nasdaq recently introduced the Nasdaq Growth Program.³ The purpose of the Program is to provide a credit per share executed for members that meet certain growth criteria. The credit is designed to provide an incentive to members that do not qualify for other credits under Rule 7018 in excess of the Program credit to increase their participation on the Exchange. The Program will provide a member a \$0.0025 per share executed credit in securities priced \$1 or more per share if the member meets certain criteria. The credit will be provided in lieu of other credits provided to the member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity under Rule 7018, if the credit under the Nasdaq Growth Program is greater than the credit attained under Rule 7018. To be eligible for the credit a member must: (i) Add greater than 750,000 shares a day on average during the month through one or more of its Nasdaq Market Center MPIDs; and (ii) increase its shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs as a percent of Consolidated Volume by 25% versus the member's Growth Baseline.⁴

³ See Securities Exchange Act Release No. 78977 (September 29, 2016), 81 FR 69140 (October 5, 2016) (SR-NASDAQ-2016-132).

⁴ As part of this proposed rule change, Nasdaq is amending the rule text to add the conjunctive "and" between these two conditions to make clear that a member must satisfy both conditions in order to qualify for the Program.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.