

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2016–004 and should be submitted on or before April 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77443; File No. SR–Phlx–2016–37]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Rule 756

March 25, 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 March 18, 2016, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“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 delete Rule 756 from the Phlx rules.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxphlx.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 purpose of this proposed rule change is to delete Rule 756, which deals with accounts of general partners. As discussed below, the Exchange has determined that these rules are anachronistic and no longer serve a purpose. Consequently, the Exchange is proposing to eliminate the rules from the rulebook to avoid any confusion that may be caused by retaining them.

Rule 756

Rule 756 concerns the accounts of general partners. The rule requires that no member organization that is a partnership shall carry an account for a general partner of another member organization that is a partnership without the prior written consent of another general partner of such other organization. It also requires that duplicate reports and monthly statements shall be sent to a general partner of the organization (other than the partner for whom the account is carried) designated in such consent.

Further, the rule requires that all clearance transactions for a general partner of another member organization that is a partnership shall be reported by the clearing firm to a general partner of such other organization who has no interest in such transactions.

The Exchange believes that the rule is no longer relevant. The rule was adopted at a time when the Exchange had a general partner membership classification. That classification is no longer in existence. Accordingly, the Exchange does not believe the rule serves a regulatory purpose and it is accordingly proposing to delete the rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating

transactions in securities, 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 Exchange believes the proposed changes are consistent with just and equitable principles of trade because they delete outdated and potentially confusing rules. The rule that the Exchange proposes to delete is anachronistic and does not have application to the Exchange’s current function. Thus, removing it from the rules promotes clarity and eliminates potential confusion caused by allowing it to remain.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather it is designed to promote competition among exchanges by removing archaic rules in comparison to the rules of other exchanges. Last, the proposed changes promote clarity in the application of the Exchange’s rules by eliminating unneeded rules.

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

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) of the Act⁵ and Rule 19b–4(f)(6) thereunder.⁶

A proposed rule change filed pursuant to Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of its filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. In the instant filing, the Commission waives this requirement.

¹³ 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).

time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to delete unnecessary and outdated rule text and therefore reduce confusion in the application of the Exchange's rules. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.⁷

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-2016-37 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-2016-37. 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>).

⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2016-37 and should be submitted on or before April 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77449; File No. SR-Phlx-2016-10]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Professional Customer Definition

March 25, 2016.

I. Introduction

On January 21, 2016, NASDAQ PHLX LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the methodology for counting average daily order submissions in listed options to determine whether a person or entity meets the definition of

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

a Professional³ ("Professional order counting"). The Commission published the proposed rule change for comment in the **Federal Register** on February 10, 2016.⁴ The Exchange filed Amendment No. 1 to the proposed rule change on March 21, 2016.⁵ The Commission received no comments on this proposal. This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to amend the definition of Professional in Rule 1000(b)(14) to clarify the calculation of certain types of orders for purposes of Professional order counting.⁶

Background

On Phlx, public customers are granted certain marketplace advantages over other market participant orders, including non-customer orders and quotes from specialists and Registered Options Traders ("ROTs").⁷ These advantages include priority over other market participant orders at the same

³ The term "Professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Phlx Rule 1000(b)(14); see also Securities Exchange Release 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (ISE-2006-26) ("ISE Approval Order").

⁴ See Securities Exchange Act Release No. 77054 (February 4, 2016), 81 FR 7166 ("Notice").

⁵ In Amendment No. 1, the Exchange changed how complex orders will be counted with respect to Professional order counting. Amendment No. 1 modified the proposal to provide that a complex order comprised of nine legs or more will count as multiple orders with each option leg counting as its own separate order while complex orders with eight legs or less will count as a single order. The Exchange previously proposed that complex orders comprised of five legs or more count as multiple orders while complex orders with four legs or less count as a single order. In addition, any complex order with nine or more legs that is canceled and replaced would count as multiple new orders. The Exchange previously proposed that complex orders with five legs or more that were canceled and replaced would count as multiple new orders. Finally, Amendment No.1 also added clarifying rule text to make clear that single-strike algorithms are treated the same as cancel and replace orders and therefore each cancel and replace order will count as a new order when tracking the NBBO. Finally, the Exchange clarified that an order that cancels and replaces a subordinate order on the same side and series as the parent order will count as one order. To promote transparency of its proposed amendment, when Phlx filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR-Phlx-2016-10 (available at <http://www.sec.gov/comments/sr-phlx-2016-10/phlx201610-1.pdf>). The Exchange also posted a copy of its Amendment No. 1 on its Web site when it filed the amendment with the Commission.

⁶ See Notice, *supra* note 4, at 7166.

⁷ See *id.* at 7169.