proposed rule change (SR–BX–2010–043) be, and hereby is, approved.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–19649 Filed 8–9–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62639; File No. SR–Phlx–2010–89]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Order Approving a Proposed Rule Change Relating to Pricing for Direct Circuit Connections

August 4, 2010.

On June 24, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or 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 establish pricing for 10Gb direct circuit connections and codify pricing for 10Gb direct circuit connections for customers who are not co-located in Phlx's datacenter. The proposed rule change was published for comment in the **Federal Register** on July 2, 2010.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

In its proposal, Phlx proposed to establish fees for direct 10Gb circuit connections, and codify fees for direct circuit connections capable of supporting up to 1Gb, for customers who are not co-located at the Exchange's datacenter. Phlx represented that it already makes available to co-located customers a 10Gb circuit connection and charges for each a $1,000 initial installation charge as well as an ongoing monthly fee of $5,000. The Exchange proposed to establish the same fees for non-co-located customers with a 10Gb circuit connection.[4]

Phlx represented that it also already makes available to both co-located and non-co-located customers direct connections capable of supporting up to 1Gb, with per connection monthly fees of $500 for co-located customers and $1000 for non co-located customers. According to the Exchange, monthly fees are higher for non-co-located customers because direct connections require Phlx to provide cabinet space and middleware for those customers' third-party vendors to connect into the datacenter and, ultimately, to the trading system. Finally, the Exchange represented that for non-co-located customers, it charges an optional installation fee of $925 if the customer chooses to use an on-site router.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and with Section 6(b)(5) of the Act,[7] which requires, among other things, that the rules of a national securities exchange be 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed fees for 10Gb and 1Gb direct circuit connections are reasonable and equitably allocated insofar as they are applied on the same terms to similarly-situated market participants. In addition, the Commission believes that the connectivity options described in the proposed rule change are not unfairly discriminatory because Phlx makes the 10Gb and 1Gb direct circuit connections uniformly available to all non-co-located customers who voluntarily request them and pay the fees as detailed in the proposal. As represented by Phlx, these fees are uniform for all such customers and are either the same as fees charged to co-located customers, or vary due to different costs incurred by Phlx associated with providing service to the two different customer types. Finally, the Commission believes that the proposal will further the protection of investors and the public interest because it will provide greater transparency regarding the connectivity options available to market participants.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Phlx–2010–89) be, and hereby is, approved.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–19650 Filed 8–9–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62631; File No. SR–Phlx–2010–102]

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

August 3, 2010.

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 July 21, 2010, NASDAQ OMX PHLX, Inc. ("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 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 its fees governing pricing for Exchange members using the Phlx XL II system,[3] for routing standardized equity and index option customer and professional orders to away markets for execution.

---

[9] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62394 (July 2, 2010), 75 FR 38583 ("Notice").

[4] According to the Exchange, Phlx provides an additional 1Gb copper connection option for co-located customers. Phlx represented that, given the technological constraints of copper connections over longer distances, it does not offer a copper connection option to users outside of its datacenter.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] For a complete description of Phlx XL II, *see* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32). The instant proposed fees will apply only to option orders entered into, and routed by, the Phlx XL II system.