

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 15	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2012 - * 84	Amendment No. (req. for Amendments *)				
Proposed Rule Change by NASDAQ OMX PHLX LLC. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934								
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>			
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	19b-4(f)(1) <input type="checkbox"/>	19b-4(f)(2) <input type="checkbox"/>	19b-4(f)(3) <input type="checkbox"/>	19b-4(f)(4) <input type="checkbox"/>	19b-4(f)(5) <input type="checkbox"/>	19b-4(f)(6) <input checked="" type="checkbox"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>							
<b>Description</b> Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). a proposed rule change to clarify the functioning of the Post-Only Order in NASDAQ OMX PSX								
<b>Contact Information</b> Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change. First Name * John Last Name * Yetter Title * Vice President E-mail * john.yetter@nasdaqomx.com Telephone * (301) 978-8497 Fax (301) 978-8472								
<b>Signature</b> Pursuant to the requirements of the Securities Exchange Act of 1934,  has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer. Date 06/22/2012 By Edward S. Knight Executive Vice President & General Counsel (Name *) (Title *)  NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed. Edward S Knight,								

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information (required)**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> NASDAQ OMX PHLX LLC (“Phlx”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to clarify the functioning of the Post-Only Order in NASDAQ OMX PSX (“PSX”).

The text of the proposed rule change is below. Proposed new language is underlined; deletions are bracketed.

**Rule 3301. Definitions**

The following definitions apply to the Rule 3200 and 3300 Series for the trading of securities on PSX.

(a) – (e) No change.

(f) The term "Order Type" shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:

(1) – (9) No change.

(10) "Post-Only Orders" are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced and displayed by the System to one minimum price increment (i.e., \$0.01 or \$0.0001) below the current low offer (for bids) or above the current best bid (for offers)[, unless the value of price improvement associated with executing against a resting order equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the book and subsequently provided liquidity, in which case the order will execute]; and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the national best bid or offer as reflected in the protected quotation of another market center, the order will be priced to the current best offer (for bids) or to the current best bid (for offers) and displayed by the System to one minimum price increment (i.e., \$0.01 or \$0.0001) below the current low offer (for bids) or above the current best bid (for offers).

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

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

(g) – (i) No change.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of Phlx pursuant to authority delegated by the Board of Directors of Phlx on August 19, 2011. No further action is required to be taken for this filing to be submitted. If the Commission waives the pre-operative delay provided for in Rule 19b-4(f)(6),<sup>3</sup> Phlx proposes to implement the proposed rule change immediately.

Questions regarding this rule filing may be directed to John M. Yetter, Vice President and Deputy General Counsel, The NASDAQ OMX Group, Inc., at (301) 978-8497 (telephone) or (301) 978-8472 (fax).

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

a. Purpose

Phlx proposes to clarify the functionality associated with its existing Post-Only Order on PSX. Last year, Phlx submitted a proposed rule change that changed the functionality of this order type.<sup>4</sup> In the course of describing and clarifying the order's then-existing functionality, however, SR-Phlx-2011-70 erroneously characterized one aspect of the functioning of the order and, as a result, introduced erroneous language into the rule text describing the rule.

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<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> Securities Exchange Act Release No. 64563 (May 27, 2011), 76 FR 32255 (June 3, 2011) (SR-Phlx-2011-70).

If a Post-Only Order would lock an order on PSX at the time of entry, the order is re-priced and displayed by the System to one minimum price increment (i.e., \$0.01 or \$0.0001) below the current low offer (for bids) or above the current best bid (for offers). Thus, if the best bid and best offer on the PSX book were \$10.00 x \$10.05, and a market participant entered a Post-Only Order to buy at \$10.05, the order would be re-priced and displayed at \$10.04. However, SR-Phlx-2011-70 erroneously stated that if a Post-Only Order would cross an order on the System, the order would be repriced as described above unless the value of price improvement associated with executing against a resting order equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the book and subsequently provided liquidity, in which case the order will execute. In fact, in a case where the order crosses an order on the System, the order will be repriced, and will not execute. Accordingly, Phlx is deleting language from the rule that states otherwise.<sup>5</sup>

The error occurred because the functionality to consider pricing was described in the original filing to establish a Post-Only Order on The NASDAQ Stock Market LLC (“NASDAQ”) and was implemented on that market, but was not fully reflected in the text of NASDAQ Rule 4751.<sup>6</sup> Subsequently, Phlx adopted identical rule text when it established PSX as its new facility for trading cash equity securities, but did not implement the price consideration functionality due to its inconsistency with model of allocating executions of incoming orders among posted orders pro rata based on their

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<sup>5</sup> Phlx is also correcting a typographical error in the rule text.

<sup>6</sup> See Securities Exchange Act Release No. 59392 (February 11, 2009), 74 FR 7943 (February 20, 2009) (SR-NASDAQ-2009-006).

size.<sup>7</sup> In May 2011, NASDAQ filed a proposed rule change to modify the repricing behavior of its Post-Only Order, and added rule language to clarify the existing price-consideration functionality of its order.<sup>8</sup> When Phlx opted to make a corresponding change to the repricing behavior of its Post-Only Order, it was assumed that a corresponding change to describe price consideration behavior was also required. In fact, no such change was needed since the behavior of the PSX order is not identical to that of the NASDAQ order.

b. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>9</sup> in general, and with Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and 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. Phlx believes that the change is necessary to reflect accurately the functioning of PSX's Post-Only Order.

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

Phlx does not believe that the proposed rule change will result in any burden on

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<sup>7</sup> Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-Phlx-2010-79).

<sup>8</sup> Securities Exchange Act Release No. 64552 (May 26, 2011), 76 FR 31998 (June 2, 2011) (SR-NASDAQ-2011-070).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>12</sup> in that the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided the self-regulatory organization has given the Commission written notice of its 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. Phlx provided such notice on June 1, 2012. Phlx requests that the Commission waive the 30-day operative delay provided for in Rule 19b-4(f)(6)(iii)<sup>13</sup> because doing so will allow the rule text describing the Post-Only Order to describe its functionality accurately without delay.

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.



**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-Phlx-2012-84)

June \_\_, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify the Functioning of the Post-Only Order in NASDAQ OMX PSX.

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 June 22, 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 the Substance of the Proposed Rule Change

The Exchange proposes to clarify the functioning of the Post-Only Order in NASDAQ OMX PSX (“PSX”). If the Commission waives the pre-operative delay provided for in Rule 19b-4(f)(6),<sup>3</sup> Phlx proposes to implement the proposed rule change immediately. The text of the proposed rule change is available at <http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx/>, at Phlx’s principal office, and at the Commission’s Public Reference Room.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

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

Phlx proposes to clarify the functionality associated with its existing Post-Only Order on PSX. Last year, Phlx submitted a proposed rule change that changed the functionality of this order type.<sup>4</sup> In the course of describing and clarifying the order's then-existing functionality, however, SR-Phlx-2011-70 erroneously characterized one aspect of the functioning of the order and, as a result, introduced erroneous language into the rule text describing the rule.

If a Post-Only Order would lock an order on PSX at the time of entry, the order is re-priced and displayed by the System to one minimum price increment (i.e., \$0.01 or \$0.0001) below the current low offer (for bids) or above the current best bid (for offers). Thus, if the best bid and best offer on the PSX book were \$10.00 x \$10.05, and a market participant entered a Post-Only Order to buy at \$10.05, the order would be re-priced and displayed at \$10.04. However, SR-Phlx-2011-70 erroneously stated that if a Post-Only Order would cross an order on the System, the order would be repriced as described

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<sup>4</sup> Securities Exchange Act Release No. 64563 (May 27, 2011), 76 FR 32255 (June 3, 2011) (SR-Phlx-2011-70).

above unless the value of price improvement associated with executing against a resting order equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the book and subsequently provided liquidity, in which case the order will execute. In fact, in a case where the order crosses an order on the System, the order will be repriced, and will not execute. Accordingly, Phlx is deleting language from the rule that states otherwise.<sup>5</sup>

The error occurred because the functionality to consider pricing was described in the original filing to establish a Post-Only Order on The NASDAQ Stock Market LLC (“NASDAQ”) and was implemented on that market, but was not fully reflected in the text of NASDAQ Rule 4751.<sup>6</sup> Subsequently, Phlx adopted identical rule text when it established PSX as its new facility for trading cash equity securities, but did not implement the price consideration functionality due to its inconsistency with model of allocating executions of incoming orders among posted orders pro rata based on their size.<sup>7</sup> In May 2011, NASDAQ filed a proposed rule change to modify the repricing behavior of its Post-Only Order, and added rule language to clarify the existing price-consideration functionality of its order.<sup>8</sup> When Phlx opted to make a corresponding change to the repricing behavior of its Post-Only Order, it was assumed that a corresponding change to describe price consideration behavior was also required. In fact,

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<sup>5</sup> Phlx is also correcting a typographical error in the rule text.

<sup>6</sup> See Securities Exchange Act Release No. 59392 (February 11, 2009), 74 FR 7943 (February 20, 2009) (SR-NASDAQ-2009-006).

<sup>7</sup> Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-Phlx-2010-79).

<sup>8</sup> Securities Exchange Act Release No. 64552 (May 26, 2011), 76 FR 31998 (June 2, 2011) (SR-NASDAQ-2011-070).

no such change was needed since the behavior of the PSX order is not identical to that of the NASDAQ order.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>9</sup> in general, and with Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and 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. Phlx believes that the change is necessary to reflect accurately the functioning of PSX's Post-Only Order.

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

Phlx 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.

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.

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<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

### 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)(ii) of the Act<sup>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</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.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2012-84 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-2012-84. This file number should be included on the subject line if e-mail 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 website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-2012-84, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).