I. Purpose

The Exchange proposes to amend its Pricing Schedule to assess joint back office (“JBO”) participants pricing the same as Broker-Dealers and require JBO participants to utilize a new origin code for members and member organizations to notify the Exchange in writing and indicate which accounts are used to segregate orders of JBO participants from other Firm orders.

The origin code will simplify the process of identifying JBO orders for purposes of pricing only. Members and member organizations would be required to mark their JBO orders in accordance with the technical specifications definitions which are provided by the Exchange. This rule change will not impact the manner in which JBO orders are treated for purposes of other Exchange Rules including but not limited to priority in the Exchange’s trading system. With this proposal, JBO orders will continue to be cleared in the Firm range at OCC. Today, JBO orders are assessed

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 Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Pricing Schedule to assess joint back office (“JBO”) participants pricing the same as Broker-Dealers and require JBO participants to utilize a new origin code for members and member organizations to notify the Exchange in writing and indicate which accounts are used to segregate orders of JBO participants from other Firm orders.

The origin code will simplify the process of identifying JBO orders for purposes of pricing only. Members and member organizations would be required to mark their JBO orders in accordance with the technical specifications definitions which are provided by the Exchange. This rule change will not impact the manner in which JBO orders are treated for purposes of other Exchange Rules including but not limited to priority in the Exchange’s trading system. With this proposal, JBO orders will continue to be cleared in the Firm range at OCC. Today, JBO orders are assessed
transaction fees and paid rebates the same as Firms.

Non-member JBO orders are excluded from the Monthly Firm Fee Cap and firm facilitation waiver. While member JBO Orders are eligible for the Monthly Firm Fee Cap and facilitation waiver today, there are currently no members who send JBO orders that have met the qualifications for and have been afforded the benefit of either the Monthly Firm Fee Cap or firm facilitation waiver. With this proposal, the Exchange proposes to exclude all JBO orders, member or non-member, from the Monthly Firm Fee Cap and facilitation waiver. JBO participants would be assessed fees and paid rebates the same as Broker-Dealers as of July 1, 2014.

The Exchange proposes to amend the Exchange’s Pricing Schedule to define the term JBO in the preface as follows: “The term “Joint Back Office” or “JBO” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer.” Further a footnote describing a JBO is included in the Preface to the Pricing Schedule. JBO Orders may be entered electronically or on the Exchange’s trading floor.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)(5) of the Act in general and further the objectives of Section 6(b)(5) of the Act 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. Adding an origin code to JBO orders is a more efficient manner in which to identify those orders separate and apart from other orders entered on Phlx. In addition, JBO orders will continue to clearly be able to discern the pricing associated with clearly identified JBO orders. This will eliminate any potential confusion, thereby removing a potential impediment to and perfecting the mechanism for a free and open market and a national market system, and, in general, protecting investors and the public interest. The Exchange believes that automating this process of manually identifying JBO Orders will promote just and equitable principles of trade by creating a feasible method of distinguishing JBO orders entered into the Exchange’s Trading System. The Exchange believes that automating this process is a more efficient manner in which to identify and bill these type of orders.

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, in general, and with Section 6(b)(4) and 6(b)(5) of the Act. In particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that its proposal to assess pricing for JBO orders the same as for Broker-Dealers is reasonable because the Exchange believes that the business of a JBO is similar to that of an away market maker and other Broker-Dealers. A JBO participant maintains a JBO arrangement with a JBO Broker pursuant to Section 220.7 of Regulation T. A JBO participant could be a member, member organization or non-member organization. The transactions at issue are not being done for the member or member organization’s proprietary account. Similarly, an away market maker is a member of another national securities exchange registered as a market maker in an options class(es). An away market maker is considered to be a Broker-Dealer as the market maker is not subject to market making obligations on the Exchange similar to other Phlx Market Makers. The Chicago Board Options Exchange, Incorporated (“CBOE”) assesses manual equity option JBO orders fees the same as broker-dealer and electronic equity option JBO orders fees the same as a Professional. The Exchange believes that its proposal to assess JBO orders pricing the same as Broker-Dealers is equitable and not unfairly discriminatory because the Exchange will uniformly assess JBO orders the same fees and pay the same rebates as today are assessed and paid to a Broker-Dealer.

The Exchange believes that it is reasonable to exclude all JBO orders (member and non-member) from the Monthly Firm Fee Cap and facilitation waiver because JBO Orders will be assessed fees and paid rebates the same as Broker-Dealers and therefore should not be able to benefit from Firm pricing. The Exchange believes that it is equitable and not unfairly discriminatory to exclude all JBO orders (member and non-member) from the Monthly Firm Fee Cap and facilitation waiver because the waiver because the Exchange will uniformly assess JBO orders the same fees and pay the same rebates as today are assessed and paid to a Broker-Dealer. All JBO Orders would be excluded from the Monthly Firm Fee Cap and facilitation waiver uniformly.

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 Exchange is assessing fees to all JBOs (member and non-member) in a similar manner with this proposal. JBO participants would be assessed fees and paid rebates the same as Broker-Dealers. The Exchange believes that assessing JBO Orders the same as Broker-Dealers does not impose a burden on competition because a JBO participant’s business is similar to that of a Broker-Dealer and should therefore be priced the same. JBO Orders are not being transacted for the member or member organization’s proprietary account. Rather, JBO participants maintain JBO arrangements with a JBO Broker pursuant to Section 220.7 of Regulation T. Also, today Firms and Broker-Dealer fees are the same.

Further, utilizing an origin code to identify JBO Orders does not impose an unfair burden on competition. The Exchange believes that automating the process of manually identifying JBO Orders by creating an identifiable method of distinguishing JBO orders entered into the Exchange’s Trading System would assist the Exchange in regulating its market. In addition, CBOE utilizes an origin code today to identify JBO Orders.

The Exchange’s proposal would exclude both member and non-member JBO Orders from the Monthly Firm Fee Cap and firm facilitation waiver. Today, member JBO Orders are eligible for the Monthly Firm Fee Cap and firm facilitation waiver, although there are currently no members who send JBO facilitation waiver, although there are currently no members who send JBO orders that meet the qualifications for and have been afforded the benefit of either the Monthly Firm Fee Cap or Firm facilitation waiver. The Exchange believes this proposal does not create an undue burden on competition because both member and non-member JBO Orders would be treated equally.

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)(ii) of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder.

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 furtherance of the purposes of the Act.

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);
- Send an email to rule-comments@sec.gov. Please include File Number SR–Phlx–2014–28 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–2014–28, and should be submitted on or before May 30, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.16

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Shares of the Calamos Focus Growth ETF of the Calamos ETF Trust

May 5, 2014.

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 April 21, 2014, The NASDAQ Stock Market LLC (“NASDAQ” or the “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 Nasdaq. 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

Nasdaq proposes to list and trade the shares of the Calamos Focus Growth ETF, formerly known as the Calamos Select Growth ETF (the “Fund”) of the Calamos ETF Trust (the “Trust”) under Nasdaq Rule 5735 (“Managed Fund Shares”). The shares of the Fund are

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–2014–28, and should be submitted on or before May 30, 2014.


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