

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87489; File No. SR-Phlx-2019-47)

November 7, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 3304(a)

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 29, 2019, 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 amend Rule 3304(a), as described below. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on November 4, 2019.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 3304(a), which lists the proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. Presently, the Exchange's trading system utilizes proprietary market data as the Primary Source of quotation data for the following markets that provide a reliable direct feed: NYSE American, Nasdaq BX, CBOE EDGA, CBOE EDGX, CHX, NYSE, NYSE Arca, Nasdaq, Nasdaq PSX, CBOE BYX, and CBOE BZX. For each of these markets, the Exchange uses SIP data as the Secondary Source of quotation data.³ For other markets, namely NYSE National, FINRA ADF, and IEX, the Exchange utilizes SIP data as the Primary Source; there is no Secondary Source for those markets. The Exchange proposes to amend Rule 3304(a) to state that going forward, the Exchange will utilize SIP data, rather than a direct feed, as its Primary Source of data for CHX (now known as NYSE Chicago⁴), with no Secondary Source utilized for that data. The Exchange proposes this amendment to reflect the fact that NYSE Chicago is migrating to a new technology platform and that, after November 1, 2019, it has announced that it will cease offering the NYSE Chicago Book Feed that currently serves as its direct feed to the Exchange.⁵

³ Pursuant to Rule 3304(a), the Primary Source of data is used unless it is delayed by a configurable amount compared to the Secondary Source of data. The Exchange reverts to the Primary Source of data once the delay has been resolved.

⁴ The Exchange also proposes to update the Rule to reflect the fact that the Chicago Stock Exchange is now known as NYSE Chicago.

⁵ See <https://www.nyse.com/market-data/real-time#chicago>.

Although the Exchange understands that NYSE Chicago plans to offer new data feeds to replace the NYSE Chicago Book Feed, the Exchange has yet to decide whether it will utilize them.⁶

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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 Exchange believes that it is necessary to amend its Rules to account for the fact that, after November 1, 2019, NYSE Chicago will no longer offer the direct feed to which the Exchange currently subscribes. The Exchange notes that it already utilizes the SIP as its sole source of quote data for NYSE National and IEX – as well as the FINRA ADF, without issue. In the event that the Exchange determines that its proposal to utilize SIP data is inadequate for its purposes, then the Exchange may choose to subscribe to one or more of the replacement proprietary data feeds that NYSE Chicago plans to offer beginning on November 4, 2019.

Lastly, the Exchange believes that it is consistent with the public interest and the protection of investors to update the names of the exchanges listed in Rule 3304(a) as this change will make it easier for market participants to identify the exchanges for which the Exchange uses the direct feed and/or SIP for the purposes described in the Rule.

⁶ See id. If and when the Exchange decides to subscribe to these replacement NYSE Chicago direct data feed products, the Exchange will file a proposal to amend Rule 4759 [sic] accordingly.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

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 proposed rule change is not designed to address any competitive issue; instead, it is merely intended to reflect the fact that the Exchange will no longer consume the NYSE Chicago Book Feed, which NYSE Chicago plans to discontinue after November 1, 2019. The Exchange does not expect that its decision to utilize the SIP, going forward, to obtain NYSE Chicago quote data will have any competitive impacts. As noted above, the Exchange presently utilizes the SIP as its sole source of quote data for several other exchanges, including NYSE National and IEX.

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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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. The Exchange has requested that the Commission waive the pre-filing requirement. The Commission hereby waives that requirement.

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ normally does not become operative for 30 days from the date of filing. However, Rule 19b-4(f)(6)(iii)¹² permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can amend Rule 3304(a) prior to the discontinuation of the NYSE Chicago Book Feed. The Exchange states that waiver of the operative delay would prevent Rule 3304(a) from being inaccurate and causing confusion among investors and the public. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹³

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 change should be approved or disapproved.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2019-47 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-2019-47. 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 website (<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, 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2019-47 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.¹⁴

Jill M. Peterson
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).