

As discussed above, the Exchange believes that proposed fees for non co-location services are comparable to the same service provided to co-locations customers. Additionally, such costs are constrained by the robust competition for order flow among exchanges and non-exchange markets, because non co-location exists to advance that competition, and excessive fees for non co-location services would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

Other exchanges charge the customer for fixed costs to house routers and other equipment to conduct its business on the premises; however, they are in a co-location relationship. For instance, the International Stock Exchange ("ISE") charges 4.75% of ISE's equipment costs for equipment lease maintenance.⁶ The Chicago Board Options Exchange (CBOE) charges \$100 per month for each Shelf for Equipment.⁷ The Chicago Stock Exchange, Inc. ("CHX") charges \$45 per month plus a one-time set up of \$150 for 1 U of space. An additional Rack Mount will cost an extra \$45 per month and a one-time fee of \$150.⁸ Since the Exchange seeks to charge a comparable price for its non co-located customers for the similar service, the Exchange believes, based on the charges of BX and the other exchanges mentioned above, that \$150 per month is a comparable price.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act.⁹ 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 e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2011-023 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-BX-2011-023. 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 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 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-BX-2011-023 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Cathy H. Ahn,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64455; File No. SR-MSRB-2011-06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Rule Change Consisting of Fee Changes to Its Historical Transaction Data Reports

May 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 27, 2011, the Municipal Securities Rulemaking Board ("Board" or "MSRB") 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 MSRB. 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 Municipal Securities Rulemaking Board ("MSRB" or "Board") has filed with the SEC a proposed rule change relating to the MSRB's Historical Transaction Data Reports (the MSRB "Historical Data Product"). The proposed rule change would increase the fee for a one calendar year data set of the Historical Data Product from \$600 to \$2,500, which the MSRB believes is a fair and reasonable fee for such municipal securities transaction data. Additionally, the MSRB proposes a one-time set-up fee of \$2,000 to be charged to each Historical Data Product purchaser to partially offset administrative costs (the "set-up fee"); provided, however, that the MSRB would not impose the set-up fee on any prior purchaser of the Historical Data Product or current subscriber to an MSRB Subscription Service, including the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service,

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁶ See ISE Schedule of Fees, page 10, at http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf.

⁷ See CBOE Fee schedule, page 8 <http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf>.

⁸ See CHX Fee Schedule, page 9, at http://www.chx.com/content/participant_information/Downloadable_Docs/Rules/CHX_Fee_Schedule_04252011.pdf.

⁹ 15 U.S.C. 78s(b)(3)(a)(iii).

Short-Term Obligation Rate Transparency Subscription Service, Primary Market Disclosure Subscription Service, or Continuing Disclosure Subscription Service.³ The MSRB has filed the proposal as a fee change, pursuant to Section 19(b)(3)(A)(ii)⁴ of the Act and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposal effective upon filing with the Commission.

The text of the proposed rule change is available on the MSRB's Web site at <http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2011-Filings.aspx>, at the MSRB's principal office, 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 MSRB 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 Board 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 the proposed rule change is to align the MSRB's Historical Data Product charges with other fees established by the MSRB, and to partially offset the cost of operating and maintaining the MSRB's Market Information Transparency Programs and the MSRB Real-Time Transaction Reporting System ("RTRS"). Since the Historical Data Product was first approved by the SEC in 2004,⁶ the MSRB has not increased the fee for the product. It has remained at a nominal level for over six years. The MSRB currently charges an annual fee of \$10,000 for a subscription to the MSRB Real-Time Transaction Data Subscription Service, and an annual fee

of \$5,000 for a subscription to the delayed transaction service, the MSRB Comprehensive Transaction Data Subscription Service, which includes three delayed transaction reports—the T+1 Report, T+5 Report, and T+20 Report.

The proposed rule change would increase the fee for a one calendar year data set of the Historical Data Product from \$600 to \$2,500, which the MSRB believes is a fair and reasonable fee for such municipal securities transaction data. Additionally, the MSRB proposes a one-time set-up fee of \$2,000 to be charged to each Historical Data Product purchaser to partially offset administrative costs (the "set-up fee"); provided, however, that the MSRB would not impose the set-up fee on any prior purchaser of the Historical Data Product or current subscriber to an MSRB Subscription Service, including the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service, Short-Term Obligation Rate Transparency Subscription Service, Primary Market Disclosure Subscription Service, or Continuing Disclosure Subscription Service.

The transaction information provided in the Historical Data Product is the same as that currently provided in the MSRB's Comprehensive Transaction Data Subscription Service, including the trade date, the CUSIP number of the issue traded, a short description of the issue, the size of the transaction (including the exact par amount reported to the MSRB on transaction amounts greater than one million dollars), the time of trade as reported by the dealer, the price of the transaction, the dealer-reported yield (if any), and a designation as to whether the transaction is a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade. The same information provided through the Historical Data Product will remain available to the public for free on the MSRB's Electronic Municipal Market Access ("EMMA") web portal. The Historical Data Product will continue to be provided on CD-ROM⁷ pursuant to the terms of the purchase agreement.⁸

³ The MSRB could, in its discretion and consistent with the stated policy for certain other subscription services offered by the MSRB, waive the Historical Data Product set-up fee for not-for-profit organizations, academic institutions, or other entities or persons who desire the service for non-profit or research purposes.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ See Exchange Act Release No. 50689 (November 18, 2004) (File No. SR-MSRB-2004-05).

⁷ As technology evolves or if the volume of information included in the Historical Data Product increases, the MSRB may in the future decide to use a different medium for delivering the Historical Data Product.

⁸ Purchasers are subject to all of the terms of the purchase agreement to be entered into between the MSRB and each purchaser, including proprietary and intellectual property rights of third parties in information provided by such third parties that is made available through the product.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(J) of the Securities Exchange Act of 1934 (the "Act"), which requires, in pertinent part, that the MSRB's rules shall:

Provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

The MSRB believes that the proposed rule change provides for commercially reasonable fees to partially offset costs associated with operating RTRS and the market information transparency programs operated by the MSRB and producing and disseminating transaction products to purchasers.

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

The Board 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 since it will apply equally to all persons who chose to purchase the Historical Data Product, and those who chose not to pay the charge may view the same information for free on the Board's EMMA Web site.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change took effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and Rule 19b-4(f)(2) thereunder. The MSRB designated the proposed rule change as establishing or changing a fee or charge of the MSRB.

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.⁹

⁹ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

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-MSRB-2011-06 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-MSRB-2011-06. 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 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 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the MSRB's offices.

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-MSRB-2011-06 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64441; File No. SR-Phlx-2011-60]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC To Modify Fees for Non Co-Location Services

May 9, 2011.

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 28, 2011, NASDAQ OMX PHLX LLC ("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 modify fees for non co-location services. While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2011.

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 Exchange is amending the Phlx Fee Schedule, Section VI entitled "Direct Connectivity to Phlx" to establish pricing for customers who are not co-located in the Exchange's data center, but require shared cabinet space and power for optional routers, switches, or modems to support their direct circuit connections. The Exchange proposes to assess customers who are not co-located in the Exchange's data center monthly fees for space based on a height unit of approximately two inches high, commonly call a "U" space and a maximum power of 125 Watts per U space.

Currently, non co-located customers are assessed fees for direct circuit connection to the Exchange, as well as installation of an optional on-site cable router.³ However, there is no charge to non co-located customers for the space and utility cost to maintain the optional router. As more and more non co-located customers seek to utilize the optional router, the Exchange must utilize more space and utilities to accommodate the influx. It has become a necessity for the Exchange to offset the space and utility cost to maintain the optional router in the same manner as has been established for co-located customers. Additionally, the optional router may include other networks devices (e.g., switches or modems) to operate the customer's business.

While co-located customers are assessed the same per U fee, the co-located customers are assessed in increments of a 4U Block at \$600 per month. The Exchange seeks to establish and make transparent the fees imposed for space and utility costs to non co-located customers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Section 6(b)(4) of

³ See NASDAQ OMX PHLX LLC Fee Schedule, Section VI, Access Service, Cancellation, Membership, Regulatory and Other Fees, Direct Connectivity to Nasdaq, Release No. 62639 (August 4, 2010), 75 FR 48391 (August 10, 2010) (SR-PHLX-2010-89).

⁴ 15 U.S.C. 78f.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.