Dated: March 12, 2012.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2012–6419 Filed 3–13–12; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 15g–6; OMB Control No. 3235–0395; SEC File No. 270–349.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in the following rule: Rule 15g–6—Account statements for penny stock customers (17 CFR 240.15g–6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15g–6 requires brokers and dealers that sell penny stocks to provide their customers monthly account statements containing information with regard to the penny stocks held in customer accounts. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

The Commission estimates that approximately 209 broker-dealers will spend an average of 78 hours annually to comply with this rule. Thus, the total compliance burden is approximately 16,302 burden-hours per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to *PRA_Mailbox@sec.gov*.

Dated: March 12, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6318 Filed 3–14–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66551; File No. SR–Phlx–2012–27]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Complex Order Fees and Rebates for Adding and Removing Liquidity in Select Symbols

March 9, 2012.

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 March 1, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Section I of the Exchange's Fee Schedule titled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols,'' by amending the transaction fees and rebates for Complex Orders and proposing a new rebate.

The Exchange has designated these changes to be operative on March 1, 2012.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings*, 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 proposed rule change will increase certain Complex Order[3] rebates, create a new rebate and also increase certain fees. The proposed changes will enable the Exchange to continue to reward market participants that add liquidity to the Exchange and allow the Exchange to compete more effectively respecting Complex Orders. The Complex Order fees and rebates being amended appear in Section I of the Exchange's Fee Schedule, entitled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols.''[4]

The Exchange proposes to: (1) Amend the Customer Rebate for Adding Liquidity, (2) create a new Rebate for Removing Liquidity, (3) amend the Fee for Removing Liquidity for all participants that are assessed such a fee, and (4) create a volume tier for certain

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

[2] 17 CFR 240.19b–4.

[3] A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i).

[4] The Select Symbols are listed in Section I of the Fee Schedule.

market participants that transact significant volumes of Complex Orders on the Exchange. Currently, the Exchange's Complex Order fees and rebates are as follows:

	Customer	Directed participant	Market maker	Firm	Broker-dealer	Professional
Rebate for Adding Liquidity	$0.30	$0.00	$0.00	$0.00	$0.00	$0.00
Fee for Adding Liquidity	0.00	0.10	0.10	0.20	0.20	0.20
Fee for Removing Liquidity	0.00	0.30	0.32	0.35	0.35	0.35

First, the Exchange is amending the Customer Complex Order Rebate for Adding Liquidity. Specifically, the Exchange proposes to increase the Customer Complex Order Rebate to Add Liquidity from $0.30 per contract to $0.32 per contract to further incentivize market participants to route Customer Complex Orders to the Exchange.

Second, the Exchange proposes to create a new Customer Complex Order rebate to attract additional Customer Complex Orders to the Exchange. The new rebate, entitled ''Rebate for Removing Liquidity,'' will pay a rebate of $0.06 per contract for each contract of liquidity removed by an order designated as a Customer Complex Order. The Exchange currently pays no rebate and assesses no fee for removing Customer Complex Order liquidity. The Exchange will pay no rebate for other market participants removing Complex Order liquidity. This is similar to the existing Complex Order Rebate for Adding Liquidity where the Exchange offers a rebate only with respect to Customer Complex Orders. The Exchange believes that increasing the Customer Complex Order Rebate for Adding Liquidity and creating a new Customer Rebate for Removing Liquidity will incentivize market participants to transact Customer Complex Orders on the Exchange.

Third, the Exchange proposes to increase the Complex Order Fees for Removing Liquidity for the Directed Participant,[5] Market Maker,[6] Firm, Broker-Dealer and Professional[7] categories. The fee for Directed Participant transactions would increase from $0.30 to $0.32 per contract; the fee for Market Makers would increase from $0.32 to $0.37 per contract; the fee for Firms would increase from $0.35 to $0.38 per contract; the fee for Broker-Dealers would increase from $0.35 to $0.38 per contract; and the fee for Professionals would increase from $0.35 to $0.38 per contract. As a result, the new Complex Order Fees for Removing Liquidity would be as follows:

%	Customer	Directed participant	Market maker	Firm	Broker-dealer	Professional
Fee for removing liquidity	$0.00	$0.32	$0.37	$0.38	$0.38	$0.38

Finally, the Exchange will provide a new volume incentive to Market Makers. The Exchange has four categories of market makers: Specialists,[8] ROTs,[9] SQTs [10]and RSQTs.[11] The Exchange proposes to offer a volume incentive to Market Makers that execute more than 25,000 contracts per day in a month of Complex Orders, either adding or removing liquidity, in Select Symbols. Market Makers that meet the aforementioned volume criteria will receive a $0.01 per contract reduction of both the Directed Participant and Market Maker Complex Order Fees for Removing Liquidity, as applicable, on all of their transactions for the month. For example, assume Market Maker ABCD executes 30,000 contracts per day of Complex Orders, including 5,000 contracts of Complex Orders that would be assessed the Directed Participant fee and 5,000 contracts per day of Complex Orders that would be assessed the Market Maker fee. In that case, Market Maker ABCD's Directed Participant Complex Orders transactions in the month would be assessed a Directed Participant Fee for Removing Liquidity of $0.31 per contract instead of the new $0.32 per contract, and Market Maker ACBD's Market Maker Complex Orders would be assessed a Market Maker Fee of $0.36 per contract instead of the new $0.37 per contract. For the purposes of the $0.01 reduction in the aforementioned fees, the Exchange also proposes to aggregate the trading activity of Market Makers where there is at least 75% common ownership between member organizations.

The Exchange is not proposing any amendments to Parts A or C of Section I of the Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(4) of the Act [13] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and

[5] The term ''Directed Participant'' applies to transactions for the account of a Specialist, Streaming Quote Trader (''SQT'') or Remote Streaming Quote Trader (''RSQT'') resulting from a Customer order that is (1) directed to it by an order flow provider, and (2) executed by it electronically on Phlx XL II.

[6] A ''Market Maker'' includes Specialists (*see* Rule 1020) and Registered Options Traders (''ROTs'') (Rule 1014(b)(i) and (ii), which includes SQTs (*see* Rule 1014(b)(ii)(A)) and RSQTs (*see* Rule 1014(b)(ii)(B)).

[7] The term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[8] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[9] A ROT includes a SQT, a RSQT and a Non-SQT ROT, which by definition is neither a SQT or a RSQT. A Registered Option Trader is defined in Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Rule 1014 (b)(i) and (ii).

[10] An SQT is defined in Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

[11] An RSQT is defined is Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

other persons using its facilities. The Exchange also believes that it is an equitable allocation of reasonable rebates among Exchange members and other persons using its facilities.

Customer Rebates

Customer Complex Orders are becoming an increasingly important segment of options trading. The Exchange believes that it is reasonable to increase the current Customer Complex Order Rebate for Adding Liquidity to $0.32 per contract and create a new Customer Complex Order Rebate for Removing Liquidity of $0.06 per contract, because the Exchange seeks to incentivize market participants to direct and transact a greater number of Customer Complex Orders at the Exchange. Creating these incentives and attracting Customer Complex Orders to the Exchange, in turn, benefits all market participants through increased liquidity at the Exchange. A higher percentage of Customer Complex Orders leads to increased Complex Order auctions and better opportunities for price improvement.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to only offer rebates to Customers and not other market participants. Customer Complex Order flow brings unique benefits to the marketplace in terms of liquidity and order interaction. It is an important Exchange function to provide an opportunity to all market participants to trade against Customer Complex Orders. The Exchange believes that it is equitable and not unfairly discriminatory to increase the current Customer Complex Order Rebate for Adding Liquidity to $0.32 per contract and create a new Customer Complex Order Rebate for Removing Liquidity of $0.06 per contract, because the Exchange will uniformly pay these rebates to all Customer orders from any member organization.

Fee for Removing Liquidity

The Exchange believes that it is reasonable to increase the Complex Order Fees for Removing Liquidity for Directed Participants, Market Makers, Firms, Broker-Dealers and Professionals so that the Exchange can offer increased rebates to Customers. As previously noted, the Exchange is proposing to increase the Customer Complex Order Rebate for Adding Liquidity and offer a new Customer Complex Order Rebate for Removing Liquidity.

The Exchange believes that it is equitable and not unfairly discriminatory to increase the Complex Order Fees for Removing Liquidity for Directed Participants, Market Makers, Firms, Broker-Dealers and Professionals because, the Exchange is increasing these fees for all market participants, except Customers who are not assessed a fee, to position itself to offer greater Customer Complex Order rebates. The Exchange is consistently assessing lower Complex Order Fees for Removing Liquidity to Directed Participants and Market Makers as compared to Firms, Broker-Dealers and Professionals, because of the requisite quoting obligations applicable to Market Makers. Market Makers [14] have burdensome quoting obligations to the market which do not apply to Firms, Professionals and Broker-Dealers. Also, Market Makers that receive Directed Orders [15] have higher quoting obligations compared to other Market Makers and therefore are assessed a lower fee when they transact with a Customer order that was directed to them for execution as compared to Market Makers. Firms, Broker-Dealers and Professionals are being assessed the same $0.38 per contract fees. Customers are not assessed a Fee for Removing Liquidity, as is the case on competing exchanges.[16]

With respect to the proposed Complex Order Fees for Removing Liquidity for Directed Participant transactions as compared to Market Maker transactions, the Exchange provides a deeper analysis below and its basis for proposing a $0.32 per contract Complex Order Directed Participant Fee for Removing Liquidity and a $0.37 per contract Complex Order Market Maker Fee for Removing Liquidity. In summary, the Exchange's Fees for Removing Liquidity, for both Single contra-side and Complex Order transactions, for the Directed Participant categories are two cents lower than the Fees for Removing Liquidity for the Market Maker categories.[17] As explained above, Market Makers that receive Directed Orders have higher quoting obligations as compared to other Market Makers and therefore are assessed a lower fee. The fee differentials today reflect the additional obligation of a Market Maker that accepts directed orders when compared to a Market Maker that does not accept directed orders for both Single contra-side and Complex Order transactions. The Exchange is now proposing to increase the differential between the Directed Participant and Market Maker transaction fees from $0.02 per contract to $0.05 per contract for Complex Order transactions to also reflect the increased costs that are incurred by such Market Makers that enter into order flow arrangements at a cost and without the benefit of a guaranteed allocation. Market Makers that accept Directed Orders transacting Single contra-side orders today are entitled to a guaranteed allocation which is why the Exchange is distinguishing between these types of orders in assessing fees between the Market Maker and Directed Participant categories. The Exchange will discuss below its rationale for why the proposal is reasonable, equitable and not unfairly discriminatory. The Exchange believes that in order to attract Customer Complex Orders in an intensely competitive environment it must continue to adjust its fees and rebates, which benefits all market participants for the good of investors.

The Directed Participants and Market Makers Categories

Specialists, ROTs, SQTs and RSQTs are Market Makers. Such Market Makers may also be categorized as Directed Participants when such Market Makers execute against a Customer order directed to that Market Maker for execution by an Order Flow Provider (''OFP'').[18] For example, Market Maker A is assessed the Directed Participant category fee for trading against a Customer order directed to it for execution by an OFP. Market Maker A is not assessed the Directed Participant category fee for executing a Customer order directed to different Market Maker, but rather is assessed the Market Maker category fee.[19] It is important to note that a Market Maker, at the time of the trade, is unaware of the identity of the contra-party to the trade. In other words, it is only sometime after the trade occurs that the Market Maker learns whether the Market Maker or Directed Participant fees will be assessed on a particular transaction.[20]

[14] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[15] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[16] *See* the Chicago Board Options Exchange Incorporated's (''CBOE'') Fees Schedule.

[17] Today, the Exchange assesses Directed Participants a fee of $0.36 per contract and Market Makers a fee of $0.38 per contract for Single contra-side transactions and the Exchange assesses Directed Participants a fee of $0.30 per contract and Market Makers a fee of $0.32 per contract for Complex Order transactions.

[18] The term ''Order Flow Provider'' (''OFP'') means any member or member organization that submits, as agent, orders to the Exchange. *See* Rule 1080(l)(i)(B).

[19] Neither a Market Maker nor a Directed Participant is entitled to a rebate for transacting a Customer Complex Order today.

[20] This distinction holds true today for Market Makers and Directed Participants executing either Single contra-side transactions (Part A of Section I

The proposed amendments to the Fees for Removing Liquidity apply only to Complex Orders.[21] Market Makers receive no allocation guarantee when a Customer Complex Order is directed to them by an OFP and the order is executed.[22] Also, only Customer Complex Order flow which is directed to a Market Maker by an OFP and is executed by that particular Market Maker is eligible for the Directed Participant fees for Complex Orders.[23] When a Market Maker executes against a Customer Complex Order the Market Maker may do so by responding to an auction,[24] executing against an order on the Complex Order Book (''CBOOK''), or sweeping a resting Customer Complex Order.[25] The Customer Complex Order may also be executed against existing quote and or limit orders on the limit order book for the individual components of the Complex Order.[26] In each of these cases, the order will trade based on the best price or prices available pursuant to Exchange Rules.[27] Therefore, in order to enjoy the benefits of trading against a directed Complex Customer order by receiving a lower transaction fee (the Directed Participant Complex Order Fee for Removing Liquidity), the transaction must: (i) Occur at the best price; and (ii) be directed, by an OFP, to the particular Market Maker that executed the order.

Currently, on the Exchange, an average of 14.5% of Customer Complex directed orders trade with the Market Maker to which they are directed.[28] All market participants may compete equally for Customer Complex Order executions, even if that Customer Complex Order is directed to a specific Market Maker. All Market Makers have the ability to incentivize an OFP to direct or preference an order if they desire to enter into, for example, a payment for order flow arrangement with an OFP. A Market Maker that pays for such Customer Complex Order flow cannot control whether it executes an order directed to it, because that Market Maker must compete equally against other market participants and as previously stated must be at the best price. While all market participants enjoy the benefits of the liquidity that such order flow brings to the market, not all market participants incur the additional expense of paying an OFP for such order flow. The Exchange believes that this additional expense should be considered in assessing fees to Market Makers that attract directed order flow to the Exchange for the benefit of all market participants.

A Market Maker that executes a Customer Complex Order on a non-directed basis pays a fee of $0.32 per contract today (Market Maker Complex Order Fee for Removing Liquidity). A Market Maker that executes a Customer Complex Order on a directed basis pays a fee of $0.30 per contract today (Directed Participant Complex Order Fee for Removing Liquidity) plus the additional cost associated with the order flow. The Exchange believes that the Customer Complex Order rebates may partially compensate Market Makers for payments they owe to the OFP for the Customer order flow.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to raise the Market Maker Complex Order Fee for Removing Liquidity from $0.32 to $0.37 per contract and raise the Directed Participant Complex Order Fee for Removing Liquidity from $0.30 to $0.32 per contract. Generally, a Market Maker will be assessed the Market Maker Fee for Removing Liquidity in Complex Orders when the Market Maker is not executing a Customer order intended for that Market Maker. Moreover, in a given month the effective Complex Order Fee for Removing Liquidity for a Market Maker that also has executions subject to the Directed Participant rate is approximately $0.02 below the Market Maker Complex Order Fee for Removing Liquidity.[29]

The Exchange bases its belief that the proposed fees are reasonable, in part, on an analysis of the level of price improvement currently received by Customer Complex Orders trading in an auction process. Based on an analysis of the week of October 10, 2011, Customer Complex Orders received price improvement 29% of the time and the average level of price improvement was $0.059 per option or $5.90 per contract for options receiving price improvement. Market Makers compete in offering price improvement in auctions. The significant difference in magnitude between the proposed $0.03 per contract increased fee differential (between Market Makers and Directed Participants) and the extent of price improvement supports the Exchange's belief that the proposed fee is reasonable and will have a negligible impact on Directed and non-Directed Market Makers.

New Volume Discount

The Exchange is further incentivizing Market Makers by providing an opportunity to lower the Market Maker and Directed Participant Complex Order Fees for Removing Liquidity, as applicable, when a Market Maker executes more than 25,000 Complex Order contracts (either adding or removing liquidity) per day in a month. The Exchange proposes to reduce, by $0.01 per contract, the Market Maker and Directed Participant Complex Order Fees for Removing Liquidity, as applicable on all of their transactions for the month (''Added Incentive''). The Exchange believes that the Added Incentive will encourage all Market Makers to transact additional order flow at the Exchange because of the fee reduction. All Market Maker Complex Order contracts will be counted toward the 25,000 contracts per day in a month. The Exchange also believes that this Added Incentive to Market Makers that pay for directed orders will encourage those Market Makers to continue to pay for such orders and provide liquidity to

of the Fee Schedule) or Complex Orders (Part B of Section of the Fee Schedule). When a Single contra-side transaction is executed against the individual components of a Complex Order, the Single contra-side part of the order will be subject to the fees in Part A of the Fee Schedule and the individual components will be subject to the fees in Part B.

[21] The Exchange is not proposing to amend the fees in Section I, Part A applicable to Single contra-side transactions.

[22] Complex Orders can be distinguished from Single contra-side transactions with respect to allocation guarantees applicable to Directed Specialists, Directed ROTs, Directed SQTs and Directed RSQTs pursuant to Rule 1014(g)(viii). Directed Specialists, Directed ROTs, Directed SQTs and Directed RSQTs are guaranteed a 40% allocation with respect to Single contra-side transactions eligible as a Directed Order.

[23] All other types of directed non-Customer order flow is not eligible for Directed Participant pricing.

[24] The Complex Order Live Auction (''COLA'') is the auction for eligible Complex Orders. *See* Rule 1080, Commentary .08.

[25] A COLA Sweep is when a Phlx XL participant bids and/or offers on either or both sides of the market during the COLA Timer (a timing mechanism which is a counting period not to exceed 5 seconds) by submitting one or more bids or offers that improve the cPPBO (the best net debit or credit price for a Complex Order Strategy based on the PBBO for individual components of such Complex Order Strategy). *See* Rule 1080, Commentary .08.

[26] In this scenario the Customer order is ''legged'' against interest present in the disseminated market.

[27] *See* Rule 1080.

[28] This statistic is based on Customer Complex Order data from September 2011 to January 2012 and ranges from (7.2% to 17.94%). During this period, Customer Complex Orders received by the Exchange were directed on average at least 95% of the time.

[29] For example if a Market Maker, that is the intended recipient of a Customer Complex Order, only executes the Customer Complex Order 14.5% of the time (paying the Directed Participant Complex Order fee of $0.32 per contract), then that Market Maker is paying the proposed Market Maker Complex Order fee of $0.37 per contract the other 85.5% of the time. The effective Complex Order Fee for Removing Liquidity for that Market Maker is $0.3613 in a given month, less than $0.01 below the rate paid by a Market Maker that never receives a Customer Complex Order directed to it for execution. Approximately 80% of Market Makers executing Customer Complex Orders receive an order directed to it for execution.

the market even without a guaranteed allocation in Complex Orders, because the Added Incentive would benefit Market Makers whether directed or not, but, in the instance the Market Maker is assessed a Directed Participant fee, the benefit is greater. The Exchange believes that its proposal to allow Market Makers to aggregate trading activity where there is at least 75% common ownership between member organizations is reasonable, because this would allow member organizations to also obtain the Added Incentive by combining transaction fees where the common ownership is met. The Exchange currently permits such aggregation in the calculation of the Monthly Market Maker Cap.[30] The Exchange believes that permitting member organizations with at least 75% common ownership to aggregate fees to obtain the Added Incentive is equitable and not unfairly discriminatory because the ability to aggregate would apply uniformly to all member organizations that are at least 75% commonly owned, but chose to operate under separate entities.

The Exchange desires to continue to encourage Market Makers to enter into order flow arrangements by assessing a lower Directed Participant Fee for Removing Liquidity, as compared to the Market Maker Fee for Removing Liquidity. The Exchange believes that offering a Directed Participant fee that is a lower Fee for Removing Liquidity than the Market Maker Fee to Remove Liquidity offsets costs incurred by these Market Markers that pay for order flow and assume the risk of possibly being assessed the same Fee for Removing Liquidity as a Market Maker who did not enter into similar arrangements. Today, options exchanges aggressively compete for Complex order flow. In January 2012, based on data from the Options Price Reporting Authority (''OPRA''), the average daily equity options complex order transactions on the various option exchanges totaled 117,539. The combined total for the last six months of 2011 was 593,286. With respect to market share, the six options exchanges handling complex orders had market share in complex orders ranging from 2.4% to 40.1% in January 2012.

The benefit that a Market Maker brings to the Exchange when it pays for order flow is not an insignificant one and this benefit should not go unrewarded. Market Makers who pay for order flow must still compete for that order flow with other Exchange participants in order to reap benefits. This competition provides the Exchange greater execution quality, which also benefits all participants.

The Exchange believes that the proposed Market Maker and Directed Participant Complex Order Fees for Removing Liquidity and the Added Incentive are reasonable, equitable and not unfairly discriminatory because: (i) Market Makers are not entitled to guaranteed allocations for directed Complex Orders;[31] (ii) all Market Makers have an equal opportunity to incentivize an OFP to direct an order to it for execution on the Exchange; (iii) only Customer orders that are directed by an OFP and executed by the intended Market Maker receive the Complex Order Directed Participant fee;[32] (iv) the proposed Directed Participant and Market Maker Complex Order fees are less than the fees assessed to Firms, Professionals and Broker-Dealers because of obligations carried by those Market Makers which do not burden other participants; (v) Market Makers are unaware of the identity of the contra-party at the time of the trade and are also required to execute at the best price, pursuant to Exchange Rules, against an order intended for them by an OFP in order to be assessed the Directed Participant Complex Order Fee for Removing Liquidity (the only benefit) which does not happen more than 80% of the time; (vi) order flow arrangements benefit all market participants equally through added liquidity; and (vii) the Added Incentive will further encourage Market Makers to respond more aggressively in the COLA, with respect to Customer orders, and sweep resting orders in CBOOK thereby improving execution quality of Customer Complex Orders.

The Exchange operates in a highly competitive market, comprised of nine exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates offered to be insufficient. Accordingly, the fees that are assessed by the Exchange and the rebates it pays for options overlying the various Select Symbols in Complex Orders must remain competitive with fees and rebates charged/paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[33] 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.

[30] *See* Section II of the Exchange's Fee Schedule.

[31] Unlike Complex Orders, Single contra-side orders are governed by Rule 1014. Specifically, Directed Orders that are executed electronically shall be automatically allocated as follows: (A) First, to customer limit orders resting on the limit order book at the execution price; (B) Thereafter, contracts remaining in the Directed Order, if any, shall be allocated automatically as follows: (1) The Directed Specialist (where applicable), shall be allocated a number of contracts that is the greater of: (a) the proportion of the aggregate size at the NBBO associated with such Directed Specialist's quote, SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book at the disseminated price represented by the size of the Directed Specialist's quote; (b) the Enhanced Specialist Participation as described in Rule 1014(g)(ii); or (c) 40% of the remaining contracts. *See* Rule 1014(g)(viii). Thereafter, SQTs and RSQTs quoting at the disseminated price, and non-SQT ROTs that have placed limit orders on the limit order book via electronic interface at the Exchange's disseminated price shall be allocated contracts according to a formula specified in Rule 1014(g)(viii). If any contracts remain to be allocated after the specialist, SQTs, RSQTs and non-SQT ROTs with limit orders on the limit order book have received their respective allocations, off-floor broker-dealers (as defined in Rule 1080(b)(i)(C)) that have placed limit orders on the limit order book which represent the Exchange's disseminated price shall be entitled to receive a number of contracts that is the proportion of the aggregate size associated with off-floor broker-dealer limit orders on the limit order book at the disseminated price represented by the size of the limit order they have placed on the limit order book.

[32] Other markets discount their directed fee for other classes of market participants in addition to customers. For example, NYSE Amex assesses a an [sic] options market maker that is non directed a fee of $0.17 per contract and am [sic] options market maker that is directed a fee of $0.15 per contract. *See* NYSE Amex's Fee Schedule. Phlx only assesses the Directed Participant Fee for Removing Liquidity with respect to Customer orders.

[33] 15 U.S.C. 78s(b)(3)(A)(ii).

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 email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2012–27 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–2012–27. This file number should be included on the subject line if email 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 also will be available for inspection and copying at the principal office 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–2012–27 and should be submitted on or before April 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6229 Filed 3–14–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66557; File No. SR–EDGA–2012–06]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGA Rule 11.9

March 9, 2012.

Pursuant to Section 19(b)(2) [sic] of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 24, 2012, the EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') 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 self-regulatory organization. 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 introduce an additional routing option to Rule 11.9 to provide Users[3] with increased access to multiple sources of liquidity and greater flexibility in routing orders. The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's Web site at *www.directedge.com*, at the Exchange's principal office and at the Public Reference Room of the Commission.

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 self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's current list of routing options are codified in Rule 11.9(b)(3). In this filing, the Exchange proposes to amend Rule 11.9(b)(3) to add an additional routing strategy. In connection with the introduction of the subject routing strategy, the Exchange also proposes to amend Rule 11.5(c)(7) so that the definition of a Mid-Point Peg Order is consistent with the functionality of this new routing strategy.

In particular, the Exchange proposes to add the RMPT routing strategy in Rule 11.9(b)(3)(t) to allow an order to access additional sources of liquidity. RMPT is a routing option under which a Mid-Point Peg Order[4] checks the System for available shares and any shares that remain unexecuted are then sent sequentially to destinations on the System routing table that support midpoint eligible orders. This allows orders sent through the RMPT strategy to interact with such midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA book as a Mid-Point Peg Order, unless otherwise instructed by the User.

Consequently, the Exchange also seeks to amend the definition of a Mid-Point Peg Order to allow for order routing pursuant to the RMPT routing strategy. Rule 11.5(c)(7) currently states that ''Mid-Point Peg Orders are not eligible for routing pursuant to Rule 11.9(b)(2) and are not displayed on the Exchange''. The Exchange proposes to carve out an exception to allow Users to elect to route the Mid-Point Peg Order pursuant to the RMPT routing strategy, as defined in Rule 11.9(b)(3)(t), to account for this new routing option. This revised definition allows for greater clarity and consistency between the behavior of the Exchange's order types and routing options, resulting in increased transparency for the User.

The Exchange believes that the proposed introduction of the routing option described above will provide Users with increased access to multiple sources of liquidity and greater flexibility in routing orders without having to develop their own complicated routing strategies.

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[34] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] As defined in Rule 1.5(cc)[sic].

[4] As defined in Rule 11.5(c)(7).