

that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is 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*

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file 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,<sup>10</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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.

Under Rule 19b-4(f)(6) of the Act,<sup>13</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange represents that there currently is a waitlist in some option classes traded on the Exchange and that the Exchange has not filed a

proposed rule change to increase the CQL in these classes in light of the current filing.<sup>14</sup> The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may become operative upon filing, enabling parties currently on the waitlist to begin quoting an option without delay. The Commission agrees and, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date so that the proposal may become operative upon filing.<sup>15</sup>

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-133 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2007-133. 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

<sup>14</sup> Telephone conversation between Patrick Sexton, Associate General Counsel, CBOE, and Sonia Trocchio, Special Counsel, Division of Trading and Markets, Commission (December 6, 2007).

<sup>15</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

available for inspection and copying 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 principal office of the CBOE. 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-CBOE-2007-133 and should be submitted on or before January 8, 2008.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E7-24468 Filed 12-17-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56940; File No. SR-NASDAQ-2007-095]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the Nasdaq Market Center

December 11, 2007.

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 November 30, 2007, The NASDAQ Stock Market LLC ("Nasdaq") 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 substantially by Nasdaq. Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, Nasdaq has designated this proposal as establishing or changing a member due, fee, or other charge, which renders the proposed rule change effective immediately upon filing.

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 7 CFR 240.19b-4.

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

<sup>4</sup> 7 CFR 240.19b-4(f)(2).

<sup>10</sup> CBOE fulfilled this requirement.

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

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

<sup>13</sup> *Id.*

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq proposes to modify pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq will implement this proposed rule change on December 3, 2007. The text of the proposed rule change is available at <http://nasdaq.complinet.com>, Nasdaq, and 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, Nasdaq 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. Nasdaq 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**

Nasdaq is proposing changes to its fees for routing odd lot and mixed lot orders to the New York Stock Exchange ("NYSE") and NYSE Arca. In the case of odd lot orders routed to NYSE Arca, NYSE Arca charges Nasdaq a fee of \$0.03 per share executed for securities listed on an exchange other than Nasdaq and a fee of \$0.004 per share executed for Nasdaq-listed securities.<sup>5</sup> Nasdaq is proposing to pass these fees through directly to its members whose orders are routed to NYSE Arca,<sup>6</sup> but only if the orders are entered into Nasdaq as odd lot orders. Thus, if Nasdaq partially executes an order and routes a remaining odd lot, Nasdaq's normal routing fees would apply to the odd lot.

In the case of odd lot orders and the odd lot portion of partial odd lot orders routed to NYSE, NYSE charges \$0.0004 per share executed for securities other than exchange-traded funds ("ETFs"), and charges its regular execution fee for ETFs.<sup>7</sup> However, various NYSE rules and policies discourage the submission

of odd lots to the NYSE, and Nasdaq therefore believes that it is appropriate to use its fee schedule to discourage the submission of routable odd lot and mixed lot orders into Nasdaq.<sup>8</sup> Specifically, in the case of an odd lot that does not check the Nasdaq book prior to routing, Nasdaq will charge \$0.03 per share executed, while in the case of the odd lot portion of a partial round lot that does not check the book, Nasdaq will charge \$0.01 per share executed. Nasdaq's current routing fees will remain in effect for orders that check the book, since in these cases, the routing of the odd lot to NYSE may be due to the order being partially executed by Nasdaq. A fee of 0.3% of the total transaction cost will apply to orders in securities priced at less than \$1 per share.

##### **2. Statutory Basis**

Nasdaq 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)(4) of the Act,<sup>10</sup> 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 Nasdaq operates or controls.

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

Nasdaq 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.

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

The foregoing proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>11</sup> and Rule 19b-4(f)(2) thereunder,<sup>12</sup> in that the proposed rule change establishes or changes a member due, fee, or other charge imposed by the self-regulatory organization. At any time within 60

days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

### **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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2007-095 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2007-095. 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 inspection and copying in the Commission's Public Reference Room 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 principal office of Nasdaq. 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-

<sup>5</sup> See NYSE Arca Equities Fee Schedule (October 1, 2007) (available at [http://www.nyse.com/pdfs/NYSEArca\\_Equities\\_Fees.pdf](http://www.nyse.com/pdfs/NYSEArca_Equities_Fees.pdf)).

<sup>6</sup> A fee of 0.3% of the total transaction cost would apply to orders in securities priced at less than \$1 per share, which is higher than NYSE Arca's fee for executing such orders but consistent with Nasdaq's fee for routing other orders priced under \$1.

<sup>7</sup> See NYSE 2007 Price List (available at <http://www.nyse.com/pdfs/2007pricelist.pdf>).

<sup>8</sup> Nasdaq also notes that NYSE Arca charges \$0.03 per share for routing odd lot orders in non-Nasdaq securities, and Nasdaq's routing fees will be equal to or lower than this level.

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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

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

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

NASDAQ-2007-095 and should be submitted on or before January 8, 2008.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E7-24466 Filed 12-17-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56938; File No. SR-Phlx-2007-63]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change Relating to Short Interest Reporting

December 10, 2007.

#### I. Introduction

On August 16, 2007, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-Phlx-2007-63 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On September 20, 2007, Phlx amended the proposed rule change.<sup>2</sup> Notice of the proposal was published in the **Federal Register** on October 3, 2007.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### II. Description

The proposed rule change conforms Phlx Rule 786 to rule changes made by other self-regulatory organizations ("SROs") to implement uniform changes to the short interest reporting requirements across SROs.

First, Phlx is making a technical change to the text of Phlx Rule 786, Supplementary Material .01. Supplementary Material .01 provides that, subject to certain limited exceptions, short positions required to be reported under the rule are those resulting from short sales as the term is defined in Rule 200 of Regulation SHO. The term "short sale" is actually defined in Rule 200(a) of Regulation

SHO.<sup>4</sup> Therefore, Phlx is amending the text of Supplementary Material .01 to reference Regulation SHO Rule 200(a), instead of Rule 200, in order to eliminate any confusion.

Second, Phlx is adding a new section, Supplementary Material .02, to Phlx Rule 786. The new language adopts exceptions to the short interest reporting requirement. Phlx is also adding conforming language relating to the new section to Rule 786, Supplementary Material .01. Currently, any transaction that is marked "sell short exempt" is exempt from the reporting requirement. Beginning on July 6, 2007, the "short exempt" marking requirement was eliminated by the Commission.<sup>5</sup> Therefore, beginning on July 6, 2007, all transactions marked short will be covered by Phlx's reporting requirement. However, other SROs have modified their short interest reporting rules to exclude five specific transactions that were previously contained in the now eliminated Rule 10a-1 under the Act.<sup>6</sup> The rule change is designed to conform Phlx's reporting requirement to those of other SROs and increase uniformity for broker-dealers as they comply with various rules across SROs, which should reduce costs and increase efficiency for those broker-dealers.

#### III. Discussion

Section 6(b)(5) of the Act<sup>7</sup> requires, among other things, that the rules of an exchange be 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 rule change is designed to conform Phlx's reporting requirement to those of other SROs and increase uniformity for broker-dealers as they comply with various rules across SROs, which should reduce costs and increase efficiency for those broker-dealers. Accordingly, because the rule change will lead to greater uniformity in SRO rules, the Commission finds that the rule change meets the requirements of Section 6(b)(5) of the Act because 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.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the rule change is consistent with the requirements of the Act, in particular Section 6(b) of the Act<sup>8</sup> and the rules and regulations thereunder.<sup>9</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-Phlx-2007-63) be and hereby is approved.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E7-24465 Filed 12-17-07; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11122 and # 11123]

### Oregon Disaster Number OR-00023

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Oregon (FEMA-1733-DR), dated 12/09/2007.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 12/01/2007 and continuing.

**EFFECTIVE DATE:** 12/10/2007.

*Physical Loan Application Deadline Date:* 02/07/2008.

*EIDL Loan Application Deadline Date:* 09/09/2008.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of Oregon, dated 12/09/2007 is hereby amended to include the following areas as adversely affected by the disaster:

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>2</sup> Amendment No. 1, which replaced the original proposed rule change in its entirety, made clarifying changes to the original proposed rule change.

<sup>3</sup> Securities Exchange Act Release No. 56541 (September 26, 2007), 72 FR 56427 (October 3, 2007) (Phlx-2007-63).

<sup>4</sup> 17 CFR 242.200(a).

<sup>5</sup> See Securities Exchange Act Release No. 55970 (June 28, 2007), 72 FR 36348 (July 3, 2007).

<sup>6</sup> See, e.g., Securities Exchange Act Release No. 56300 (August 22, 2007), 72 FR 49342 (August 28, 2007) (NYSEArca-2007-63).

<sup>7</sup> 15 U.S.C. 78f(b)(5).