

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Monday, November 21, 2011 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Monday, November 21, 2011 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: November 15, 2011.

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-29853 Filed 11-15-11; 4:15 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65721; File No. SR-DTC-2011-07]

### Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change as Modified by Amendment Nos. 1 and 2 Relating To a New Daily Report Subscription for Security Position Reports

November 10, 2011.

#### I. Introduction

On August 24, 2011, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-DTC-2011-07 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> and on August 31, 2011, and September 7, 2011,<sup>3</sup> filed Amendment Nos. 1 and 2, respectively, to the proposed rule change. The proposed rule change enables DTC to add a new Daily Report subscription category to its Security Position Report ("SPR") Service. The proposed rule change was published for comment in the **Federal Register** on September 14, 2011.<sup>4</sup> No comment letters were received. This order approves the proposed rule change.

#### II. Description of the Proposal

SPRs are reports produced by DTC that provide information on the holdings on a specified day of an issuer's security in DTC participant accounts. The SPR service enables an issuer, trustee, or authorized third party to request on a subscription basis a report that reflects each DTC participant's closing position recorded by DTC for a specific issue. Currently, DTC offers subscriptions on a weekly, monthly, dividend record date, and special request (*i.e.*, "as needed") basis.<sup>5</sup> With respect to special request SPRs, the entities requesting these reports tend to be corporate issuers seeking holder

information with respect to their equity securities.

Recently, some authorized users of the SPR service had been ordering the special request SPR on a daily basis in order to satisfy certain tax reporting requirements in non-U.S. markets. DTC's fees for special request SPRs are currently \$120 per CUSIP. Because of the expense associated with ordering SPRs on a daily basis, the non-U.S. issuer/trustee community requested that DTC create a daily report subscription category for SPRs. DTC reviewed this request and determined that it would be feasible for it to offer SPR subscriptions on a daily basis.

Pursuant to this proposed rule change, DTC is updating its Fee Schedule to reflect the new subscription type. Specifically, DTC will charge \$9,450 per year for the first recipient of the Daily SPR for a security issue and \$6,785 for each additional recipient of the Daily SPR for that security. In addition, DTC will charge \$2,785 per year for each additional CUSIP in the same family (*i.e.*, securities whose CUSIP numbers have the same first six characters) of securities, one of which is the subject of an existing Daily Report annual subscription. A one year minimum Daily Report subscription is required to qualify for this new subscription category.

In addition, DTC will offer a new "Commercial Paper Family Report" that will indicate DTC's participants' closing positions as of a specific date in issues of commercial paper. The fee for this report will be \$9,450 per year for the first CUSIP and \$22 per report for each additional CUSIP in the same family (*i.e.*, securities whose CUSIP numbers have the same first six characters) of securities, one of which is the subject of an existing Daily Report annual subscription.

DTC is also updating its SPR Fee Schedule with certain technical changes that are detailed in Exhibit 5 to DTC's filing and that can be viewed online at [http://www.dtcc.com/legal/rule\\_filings/dtc/2011.php](http://www.dtcc.com/legal/rule_filings/dtc/2011.php).

#### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC. In particular, based on DTC's representation that the proposed fees are designed to recover the reasonable costs of providing the securities position listing, the Commission believes the proposal is consistent with DTC's obligations under

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> DTC's amendment of August 31, 2011, clarified that the effective date of the proposed fee schedule would be the date that the Commission approves the proposed rule change. DTC's amendment of September 7, 2011, added a statement that DTC believes that the proposed rule change is consistent with Rule 17Ad-8, 17 CFR 240.17Ad-8.

<sup>4</sup> Securities Exchange Act Release No. 65286 (Sept. 7, 2011), 76 FR 56847.

<sup>5</sup> See Securities Exchange Act Release No. 52393 (Sept. 8, 2005), 70 FR 54598 (Sept. 15, 2005) [File No. SR-DTC-2005-12].

Rule 17Ad-8,<sup>6</sup> which requires DTC upon request to promptly furnish a securities position listing to each issuer whose securities are held in the name of DTC or its nominee and which permits DTC to charge issuers requesting securities position listings a fee designed to recover the reasonable costs of providing the securities position listing to the issuer. By providing the new Daily Report and Commercial Paper Family Report subscription services, DTC is providing the issuer community with various ways to obtain needed shareholder information from DTC.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular Section 17A of the Act,<sup>7</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-DTC-2011-07) be and hereby is approved.<sup>9</sup>

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

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-29670 Filed 11-16-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65727; File No. SR-Phlx-2011-146]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Routing Fees to C2

November 10, 2011.

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 1, 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 amend its Customer and Professional Routing Fees governing pricing for Exchange members using the Phlx XL II system,<sup>3</sup> for routing standardized equity and index option Customer and Professional orders to the C2 Options Exchange, Inc. ("C2") for execution.

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, on the Commission's Web site at <http://www.sec.gov/>, 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to recoup costs that the Exchange incurs for routing and executing Customer and Professional orders in equity and index options to C2.

The Exchange's Fee Schedule includes Routing Fees for routing and executing Customer and Professional orders to away markets. The Exchange currently assesses a Customer Routing Fee of \$0.31 per contract and a Professional Routing Fee of \$0.46 per contract for option orders that are routed to C2.

<sup>3</sup> For a complete description of Phlx XL II, see Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The instant proposed fees will apply only to option orders entered into, and routed by, the Phlx XL II system.

C2 recently amended its Fees Schedule to increase its public customer taker fee from \$.25 to \$.44 and to increase its professional taker fee from \$.33 to \$.45 per contract.<sup>4</sup> The Exchange is proposing to amend both its Customer and Professional Routing Fees to C2 to account for this increase. The Exchange proposes to amend its Fee Schedule to assess a Customer Routing Fee of \$0.50 per contract for option orders that are routed to C2. The Exchange also proposes to amend its Fee Schedule to assess a Professional Routing Fee of \$0.51 per contract for option orders that are routed to C2.

In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC ("NOS"), a member of the Exchange, as the Exchange's exclusive order router.<sup>5</sup> NOS is utilized by the Phlx XL II system solely to route orders in options listed and open for trading on the Phlx XL II system to destination markets. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange is proposing this amendment in order to recoup clearing and transaction charges incurred by the Exchange when Customer<sup>6</sup> and Professional<sup>7</sup> orders are routed to C2.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

##### 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>9</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that these fees are reasonable because they seek to recoup costs that are incurred by the Exchange when routing Customer and

<sup>4</sup> See SR-C2-2011-032.

<sup>5</sup> See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).

<sup>6</sup> The Exchange is proposing to recoup the \$.44 per contract public customer transaction fee for orders routed to C2 along with the \$0.06 clearing fee which is incurred by the Exchange, as explained above. See C2 Fees Schedule.

<sup>7</sup> The Exchange is proposing to recoup the \$.45 per contract professional transaction fee for orders routed to C2 along with the \$0.06 clearing fee which is incurred by the Exchange, as explained above. See C2 Fees Schedule.

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 17 CFR 240.17Ad-8.

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

<sup>2</sup> 17 CFR 240.19b-4.