This collection of information is designed to allow the Commission to maintain an accurate record of all new derivative securities products traded on the SROs that are not deemed to be proposed rule changes and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e). The Commission reviews SRO compliance with Rule 19b–4(e) through its routine inspections of the SROs.

The respondents to the collection of information are SROs (as defined by the Act), all of which are national securities exchanges. As of March 2013, there are seventeen entities registered as national securities exchanges with the Commission. The Commission receives an average total of 3,879 responses per year, which corresponds to an estimated annual response burden of 3,879 hours. At an average hourly cost of $63, the aggregate related cost of compliance with Rule 19b–4(e) is $244,377 (3,879 burden hours multiplied by $63/hour).

Compliance with Rule 19b–4(e) is mandatory. Information received in response to Rule 19b–4(e) shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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, Virginia 22312 or send an email to: PRA_Mailbox@sec.gov.

Dated: March 21, 2013.

Kevin M. O’Neill,
Deputy Secretary.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request


Extension: Rule 19b–4(e) and Form 19b–4(e), SEC File No. 270–447, OMB Control No. 3235–0504.


Rule 19b–4(e) permits a self-regulatory organization (“SRO”) to list and trade a new derivative securities product without submitting a proposed rule change pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)), so long as such product meets the criteria of Rule 19b–4(e) under the Act. However, in order for the Commission to maintain an accurate record of all new derivative securities products traded on the SROs, Rule 19b–4(e) requires an SRO to file a summary form, Form 19b–4(e), to notify the Commission when the SRO begins trading a new derivative securities product that is not required to be submitted as a proposed rule change to the Commission. Form 19b–4(e) should be submitted within five business days after an SRO begins trading a new derivative securities product that is not required to be submitted as a proposed rule change. In addition, Rule 19b–4(e) requires an SRO to maintain, on-site, a copy of Form 19b–4(e) for a prescribed period of time.
Pricing Schedule,\(^3\) to establish a program for Managed Data Solutions ("MDS") in a new section entitled PSX Managed Data Solution Fees ("PSX MDS Fees"). The text of the proposed rule change is provided in Exhibit 5. The text of the proposed rule change is also available on the Exchange’s Web site at http://nasdaqomxphlx.cboe.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

PSX is now proposing to create a new data distribution model known as MDS in MDS Fees to further the distribution of PSX TotalView.\(^4\) This offers a new pricing and administrative option available to firms seeking simplified market data administration for MDS products containing PSX TotalView ("PSX Depth Data"). Proposed PSX MDS Fees is similar to the NASDAQ OMX PSX Pricing Schedule,\(^3\) to establish a program for Managed Data Solutions on ISE.

\(^3\) Phlx is the self-regulatory organization ("SRO") that operates PSX as an equity market on which members of the Exchange may trade. Fees related specifically to PSX are listed in Section VIII of the NASDAQ OMX PSX Pricing Schedule.

\(^4\) Proposed subsection (b) of PSX MDS Fees states that the term “PSX TotalView” shall have the same meaning as set forth in Section VIII. Section VIII, PSX TotalView states that the PSX TotalView entitlement allows a subscriber to see all individual NASDAQ OMX PSX participant orders displayed in NASDAQ OMX PSX, the aggregate size of such orders at each price level, and the trade data for executions that occur within NASDAQ OMX PSX.

2. Statement of Basis


Proposed subsection (b) of PSX MDS Fees states that the term “Distributor” shall have the same meaning as set forth in Section VIII. Section VIII, Market Data Distributor Fee states that a “Distributor” of Exchange data is any entity that receives a feed or data file from one of the Exchange’s data solution providers directly from the Exchange or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All distributors shall execute an Exchange distributor agreement. The Exchange itself is a vendor of its data feed(s) and has executed an Exchange distributor agreement and pays the distributor charge.

\(^5\) See, e.g., Section VIII, PSX TotalView.