

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 31	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2015 - * 87	Amendment No. (req. for Amendments *)
Filing by NASDAQ OMX PHLX LLC. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
			Rule	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>		Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
Description				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="A proposed rule change to amend Chapter VIII of NASDAQ OMX PSX Fees."/>				
Contact Information				
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.				
First Name * <input type="text" value="Jurij"/>		Last Name * <input type="text" value="Trypupenko"/>		
Title * <input type="text" value="Associate General Counsel"/>				
E-mail * <input type="text" value="jurij.trypupenko@nasdaq.com"/>				
Telephone * <input type="text" value="(301) 978-8132"/>		Fax <input type="text" value="(301) 978-8472"/>		
Signature				
Pursuant to the requirements of the Securities Exchange Act of 1934,				
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.				
(Title *)				
Date	<input type="text" value="10/27/2015"/>	<input type="text" value="Executive Vice President and General Counsel"/>		
By	<input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(Name *)				
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.				
<input type="button" value="Digitally Sign and Lock Form"/>				

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Chapter VIII of NASDAQ OMX PSX Fees (“PSX Chapter VIII”), in the section entitled PSX Last Sale Data Feeds and NASDAQ Last Sale Plus Data Feeds (“Last Sale”), with language clarifying that the data consolidation component of the fees for NASDAQ Last Sale Plus (“NLS Plus”), a comprehensive data feed offered by NASDAQ OMX Information LLC,³ will be charged solely to firms that are Internal Distributors and External Distributors (collectively, “Distributors” of the data feed) that receive a NLS Plus direct data feed.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NASDAQ OMX Information LLC is a subsidiary of Nasdaq, Inc. (formerly, The NASDAQ OMX Group, Inc.), separate and apart from The NASDAQ Stock Market LLC. The primary purpose of NASDAQ OMX Information LLC is to combine publicly available data from the three filed last sale products of the exchange subsidiaries of Nasdaq, Inc. and from the network processors for the ease and convenience of market data users and vendors, and ultimately the investing public. In that role, the function of NASDAQ OMX Information LLC is analogous to that of other market data vendors, and it has no competitive advantage over other market data vendors; NASDAQ OMX Information LLC performs precisely the same functions as Bloomberg, Thomson Reuters, and other market data vendors.

⁴ “Internal Distributors” are Distributors that receive NASDAQ Last Sale Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. “External Distributors” are Distributors that receive NASDAQ Last Sale Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity. Internal Distributors and External Distributors are together known as “Distributors”. Proposed BX Rule 7039(b)(1).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of applicable portion of the Exchange's rules is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on July 1, 2015. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Jurij Trypupenko, Associate General Counsel, Nasdaq, Inc., at (301) 978-8132.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The purpose of this proposal is to amend PSX Chapter VIII, Last Sale (b) with language clarifying that the data consolidation component of the fees for NLS Plus will be charged solely to firms that are Distributors that receive an NLS Plus direct data feed.⁵

NLS Plus⁶ allows data distributors to access last sale products offered by each of Nasdaq, Inc.'s three U.S. equity exchanges.⁷ NLS Plus includes all transactions from

⁵ Thus, the fee does not apply to persons that receive the NLS Plus data feed indirectly, through an Internal Distributor or External Distributor.

⁶ See Securities Exchange Act Release Nos. 75763 (August 26, 2015), 80 FR 52817 (September 1, 2015) (SR-Phlx-2015-72) (notice of filing and immediate

these exchanges, as well as FINRA/NASDAQ TRF data that is included in the current NLS product. In addition, NLS Plus features total cross-market volume information at the issue level, thereby providing redistribution of consolidated volume information (“consolidated volume”) from the securities information processors (“SIPs”) for Tape A, B, and C securities.⁸ Thus, NLS Plus covers all securities listed on NASDAQ and New

effectiveness regarding NLS Plus on PSX); 75890 (September 10, 2015), 80 FR 55692 (September 16, 2015) (SR-Phlx-2015-76) (notice of filing and immediate effectiveness regarding fees for NLS Plus on PSX); 75709 (August 14, 2015), 80 FR 50671 (August 20, 2015) (SR-BX-2015-047) (notice of filing and immediate effectiveness regarding NLS Plus on BX); 75830 (September 3, 2015), 80 FR 54640 (September 10, 2015) (SR-BX-2015-054) (notice of filing and immediate effectiveness regarding fees for NLS Plus on BX); 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (SR-NASDAQ-2015-055) (order approving proposed rule change regarding NLS Plus); and 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015) (SR-NASDAQ-2015-088) (notice of filing and immediate effectiveness regarding fees for NLS Plus) (the “NLS Plus fee proposal”).

⁷ The NASDAQ OMX U.S. equity markets include the Exchange, The NASDAQ Stock Market LLC (“NASDAQ”), and NASDAQ OMX BX, Inc. (“BX”) (together known as the “NASDAQ OMX equity markets”). BX and NASDAQ are filing companion proposals similar to this one. NASDAQ’s last sale product, NASDAQ Last Sale, includes last sale information from the FINRA/NASDAQ Trade Reporting Facility (“FINRA/NASDAQ TRF”), which is jointly operated by NASDAQ and the Financial Industry Regulatory Authority (“FINRA”). See Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (SR-FINRA-2014-002). For proposed rule changes submitted with respect to NASDAQ Last Sale, BX Last Sale, and PSX Last Sale, see, e.g., Securities Exchange Act Release Nos. 57965 (June 16, 2008), 73 FR 35178, (June 20, 2008) (SR-NASDAQ-2006-060) (order approving NASDAQ Last Sale data feeds pilot); 61112 (December 4, 2009), 74 FR 65569, (December 10, 2009) (SR-BX-2009-077) (notice of filing and immediate effectiveness regarding BX Last Sale data feeds); and 62876 (September 9, 2010), 75 FR 56624, (September 16, 2010) (SR-Phlx-2010-120) (notice of filing and immediate effectiveness regarding PSX Last Sale data feeds).

⁸ Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation’s (“SIAC”) Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS (“CTA”). Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (“UTP”) Plan. NLS Plus reflects real-time trading activity for Tape C securities and 15-minute delayed information for Tape A and Tape B securities.

York Stock Exchange (“NYSE”) (now under the Intercontinental Exchange (“ICE”) umbrella), as well as US “regional” exchanges such as NYSE MKT, NYSE Arca, and BATS (also known as BATS/Direct Edge).⁹

NLS Plus is currently codified in PSX Chapter VIII, Last Sale (b). The fees for NLS Plus are set forth in PSX Chapter VIII, Last Sale (b)(1) – (b)(3) as follows:

- (1) Firms that receive NLS Plus shall pay the annual administration fees for NLS, BX Last Sale, and PSX Last Sale, and a data consolidation fee of \$350 per month.
- (2) Firms that receive NLS Plus would either be liable for NLS fees or NASDAQ Basic fees.
- (3) In the event that NASDAQ OMX BX and/or NASDAQ OMX PHLX adopt user fees for BX Last Sale and/or PSX Last Sale, firms that receive NLS Plus would also be liable for such fees.¹⁰

The Exchange now proposes to clarify how the data consolidation fee in PSX Chapter VIII, Last Sale (b) will be charged. Specifically, the Exchange proposes to clarify that firms that are Distributors that receive a NASDAQ Last Sale Plus direct data feed and are Distributors shall pay a data consolidation fee of \$350 per month. Thus, only Distributors that receive NLS Plus would be charged the data consolidation fee. As proposed to be amended, PSX Chapter VIII, Last Sale (b)(1) would state:

⁹ Registered U.S. exchanges are listed at <http://www.sec.gov/divisions/marketreg/mrexchanges.shtml>.

¹⁰ Annual administrative fees are in BX Rule 7035, NASDAQ Rule 7035, and NASDAQ OMX PSX Fees Chapter VIII. These remain unchanged at: \$1,000 for NASDAQ, \$1,000 for BX, and \$1,000 for PSX. For purposes of conformity, “administration” is changed to “administrative” in PSX Chapter VIII, Last Sale (b)(1), discussed below.

(1) Firms that receive NLS Plus shall pay the annual administrative fees for NLS, BX Last Sale, and PSX Last Sale. Additionally, Internal Distributors or External Distributors shall pay a data consolidation fee of \$350 per month.¹¹ “Internal Distributors” are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. “External Distributors” are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity.¹²

The NLS Plus fee structure as amended continues to be designed to ensure that vendors could compete with the Exchange by creating a product similar to NLS Plus.¹³ The proposed fee structure reflects the cost of the data feeds underlying NLS Plus (including user fees and annual administrative fees), as well as the incremental cost of the aggregation and consolidation function (the “consolidation function”) for NLS Plus. Accordingly, the Exchange believes that the fee structure would not result in charges for NLS Plus that are lower than the cost to a vendor creating a competing product, including the cost of receiving the underlying data feeds and consolidating them. The data consolidation fee recognizes that NLS Plus is created from data derived from NASDAQ Last Sale, BX Last Sale, PSX Last Sale, and data from the SIPs to which a consolidation function is applied. Charging the consolidation fee will not impede an entity receiving

¹¹ The Exchange notes that those that have received NASDAQ Last Sale Plus directly from the Exchange have all, in fact, been firms. While the NASDAQ Last Sale Plus feed is available to all that subscribe and pay the requisite costs, the Exchange believes that in light of such costs it will continue to experience only firms receiving the feed directly from the Exchange.

¹² PSX Chapter VIII, Last Sale (b)(2) and (b)(3) would remain unchanged.

¹³ For additional discussion regarding potential competition with NLS Plus, see supra note 6 and filings cited therein.

the underlying direct data feeds from creating a competing product to the NLS Plus feed based on combining individual data feeds, and charging its clients a fee that it believes reflects the value of the consolidation function. The Exchange believes that the incremental cost of aggregation to an entity that wants to re-create NLS Plus will be factored into the entity's revenue opportunity and may be inconsequential where the vendor has in place systems to perform these functions as part of creating its proprietary market data products and allocating costs over numerous products and customer relationships. For these reasons, the Exchange believes that vendors could readily offer a product similar to the NLS Plus on a competitive basis at a similar cost.

The amendment to clarify that the consolidation fee applies to Distributors that receive the NLS Plus data feed directly but does not apply to persons that receive NLS Plus indirectly through a Distributor is designed to ensure that the Exchange charges the fee only to those persons that directly benefit from the consolidation function. Specifically, if a person wished to combine the products that underlie NLS Plus and distribute them to customers or internal users, it would incur its own consolidation costs. By purchasing NLS Plus for distribution, a Distributor foregoes these costs and instead opts to pay the Exchange to perform the consolidation function for it. Thus, imposing this fee upon Distributors is a logical corollary to the service being provided. By contrast, imposing the fee upon persons receiving the product through Distributors would effectively impose a duplicative charge, since such persons consume the data but are not in the business of distributing it and therefore do not forego consolidation costs when receiving the product. The Exchange further notes that the consolidation fee for BATS

One, an analogous product of competing exchanges, is charged solely to external distributors of that product.¹⁴

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁵ in general, and with Sections 6(b)(4) and (5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, and does not unfairly discriminate between customers, issuers, brokers or dealers. All recipients of the NLS Plus data offering continue to pay the underlying data feed fees and annual administrative fees for NLS, BX Last Sale, and PSX Last Sale. The Exchange is simply clarifying that the data consolidation component of the fees for NLS Plus will be charged solely to firms that receive a NASDAQ Last Sale Plus direct data feed and are Distributors.

This change is reasonable and consistent with an equitable allocation of fees because it is designed to ensure that the Exchange charges the fee only to those persons that directly benefit from the consolidation function. Specifically, if a person wished to combine the products that underlie NLS Plus and distribute them to customers or internal users, it would incur its own consolidation costs. By purchasing NLS Plus for distribution, a Distributor foregoes these costs and instead opts to pay the Exchange to

¹⁴ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR-BATS-2014-055; SR-BYX-2014-030; SR-EDGA-2014-25; SR-EDGX-2014-25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

¹⁵ 15 U.S.C. 78f.

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

perform the consolidation function for it. Thus, imposing this fee upon Distributors is a logical corollary to the service being provided. The change is also not unfairly discriminatory. Indeed, imposing the fee upon persons receiving NLS Plus indirectly through Distributors would effectively impose a duplicative charge upon them, since such persons consume the data but are not in the business of distributing it and therefore do not forego consolidation costs when receiving the product. The Exchange further notes that the consolidation fee for BATS One, an analogous product of competing exchanges, is charged solely to external distributors of that product.¹⁷ Accordingly, the exchanges that distribute BATS One take an analogous approach, in that they do not charge a consolidation fee to indirect recipients of the product, but rather charge the fee only to a subset of its distributors.

4. 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. The change proposed herein is designed to ensure that the consolidation fee for NLS Plus is appropriately assessed to Distributors of the product that benefit from the consolidation function performed by NASDAQ OMX Information LLC in creating the product and insures that a duplicative charge is not also assessed against indirect recipients of the product. Thus, the change will avoid the imposition of fees on certain product recipients, while not increasing fees for any recipients.

¹⁷ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR-BATS-2014-055; SR-BYX-2014-030; SR-EDGA-2014-25; SR-EDGX-2014-25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. This rule proposal does not burden competition, which is reflected in the offerings of other exchanges that sell alternative data products¹⁸ and in the ability of competing data feed vendors to combine underlying data feeds in direct competition with NLS Plus. NASDAQ OMX Information LLC was constructed specifically to establish a level playing field with market data vendors and to preserve fair competition between them. NASDAQ OMX Information LLC receives NLS, BX Last Sale, and PSX Last Sale from each NASDAQ-operated exchange in the same manner, at the same speed, and reflecting the same fees as for all market data vendors. Therefore, NASDAQ OMX Information LLC has no competitive advantage with respect to these last sale products and NASDAQ commits to maintaining this level playing field in the future. In other words, NASDAQ will continue to disseminate separately the underlying last sale products to avoid creating a latency differential between NASDAQ OMX Information LLC and other market data vendors, and to avoid creating a pricing advantage for NASDAQ OMX Information LLC.

NLS Plus exists in a market for proprietary last sale data products that is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary

¹⁸Id.

data is produced by each individual exchange, as well as other entities, in a vigorously competitive market. Similarly, with respect to the FINRA/NASDAQ TRF data that is a component of NLS and NLS Plus, allowing exchanges to operate TRFs has permitted them to earn revenues by providing technology and data in support of the non-exchange segment of the market. This revenue opportunity has also resulted in fierce competition between the two current TRF operators, with both TRFs charging extremely low trade reporting fees and rebating the majority of the revenues they receive from core market data to the parties reporting trades.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and

low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (e.g., if the software can be downloaded over the internet after being purchased).¹⁹ In NASDAQ's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and are each subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, NASDAQ would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,²⁰ and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

5. 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.

¹⁹ See William J. Baumol and Daniel G. Swanson, "The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power," Antitrust Law Journal, Vol. 70, No. 3 (2003).

²⁰ It should be noted that the costs of operating the FINRA/NASDAQ TRF borne by NASDAQ include regulatory charges paid by NASDAQ to FINRA.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²¹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.
5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2015-87)

October __, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of and Immediate Effectiveness of Proposed Rule Change Regarding NASDAQ Last Sale Plus

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 October 27, 2015, 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 Chapter VIII of NASDAQ OMX PSX Fees (“PSX Chapter VIII”), in the section entitled PSX Last Sale Data Feeds and NASDAQ Last Sale Plus Data Feeds (“Last Sale”), with language clarifying that the data consolidation component of the fees for NASDAQ Last Sale Plus (“NLS Plus”), a comprehensive data feed offered by NASDAQ OMX Information LLC,³ will be charged

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NASDAQ OMX Information LLC is a subsidiary of Nasdaq, Inc. (formerly, The NASDAQ OMX Group, Inc.), separate and apart from The NASDAQ Stock Market LLC. The primary purpose of NASDAQ OMX Information LLC is to combine publicly available data from the three filed last sale products of the exchange subsidiaries of Nasdaq, Inc. and from the network processors for the

solely to firms that are Internal Distributors and External Distributors (collectively, “Distributors” of the data feed) that receive a NLS Plus direct data feed.⁴

The text of the proposed rule change is available on the Exchange’s Website 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.

ease and convenience of market data users and vendors, and ultimately the investing public. In that role, the function of NASDAQ OMX Information LLC is analogous to that of other market data vendors, and it has no competitive advantage over other market data vendors; NASDAQ OMX Information LLC performs precisely the same functions as Bloomberg, Thomson Reuters, and other market data vendors.

⁴ “Internal Distributors” are Distributors that receive NASDAQ Last Sale Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. “External Distributors” are Distributors that receive NASDAQ Last Sale Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity. Internal Distributors and External Distributors are together known as “Distributors”. Proposed BX Rule 7039(b)(1).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to amend PSX Chapter VIII, Last Sale (b) with language clarifying that the data consolidation component of the fees for NLS Plus will be charged solely to firms that are Distributors that receive an NLS Plus direct data feed.⁵

NLS Plus⁶ allows data distributors to access last sale products offered by each of Nasdaq, Inc.'s three U.S. equity exchanges.⁷ NLS Plus includes all transactions from

⁵ Thus, the fee does not apply to persons that receive the NLS Plus data feed indirectly, through an Internal Distributor or External Distributor.

⁶ See Securities Exchange Act Release Nos. 75763 (August 26, 2015), 80 FR 52817 (September 1, 2015) (SR-Phlx-2015-72) (notice of filing and immediate effectiveness regarding NLS Plus on PSX); 75890 (September 10, 2015), 80 FR 55692 (September 16, 2015) (SR-Phlx-2015-76) (notice of filing and immediate effectiveness regarding fees for NLS Plus on PSX); 75709 (August 14, 2015), 80 FR 50671 (August 20, 2015) (SR-BX-2015-047) (notice of filing and immediate effectiveness regarding NLS Plus on BX); 75830 (September 3, 2015), 80 FR 54640 (September 10, 2015) (SR-BX-2015-054) (notice of filing and immediate effectiveness regarding fees for NLS Plus on BX); 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (SR-NASDAQ-2015-055) (order approving proposed rule change regarding NLS Plus); and 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015) (SR-NASDAQ-2015-088) (notice of filing and immediate effectiveness regarding fees for NLS Plus) (the "NLS Plus fee proposal").

⁷ The NASDAQ OMX U.S. equity markets include the Exchange, The NASDAQ Stock Market LLC ("NASDAQ"), and NASDAQ OMX BX, Inc. ("BX") (together known as the "NASDAQ OMX equity markets"). BX and NASDAQ are filing companion proposals similar to this one. NASDAQ's last sale product, NASDAQ Last Sale, includes last sale information from the FINRA/NASDAQ Trade Reporting Facility ("FINRA/NASDAQ TRF"), which is jointly operated by NASDAQ and the Financial Industry Regulatory Authority ("FINRA"). See Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (SR-FINRA-2014-002). For proposed rule changes submitted with respect to NASDAQ Last Sale, BX Last Sale, and PSX Last Sale, see, e.g., Securities Exchange Act Release Nos. 57965 (June 16, 2008), 73 FR 35178, (June 20, 2008) (SR-NASDAQ-2006-060) (order approving NASDAQ Last Sale data feeds pilot); 61112 (December 4, 2009), 74 FR 65569, (December 10, 2009) (SR-BX-2009-077) (notice of filing and immediate effectiveness regarding BX Last

these exchanges, as well as FINRA/NASDAQ TRF data that is included in the current NLS product. In addition, NLS Plus features total cross-market volume information at the issue level, thereby providing redistribution of consolidated volume information (“consolidated volume”) from the securities information processors (“SIPs”) for Tape A, B, and C securities.⁸ Thus, NLS Plus covers all securities listed on NASDAQ and New York Stock Exchange (“NYSE”) (now under the Intercontinental Exchange (“ICE”) umbrella), as well as US “regional” exchanges such as NYSE MKT, NYSE Arca, and BATS (also known as BATS/Direct Edge).⁹

NLS Plus is currently codified in PSX Chapter VIII, Last Sale (b). The fees for NLS Plus are set forth in PSX Chapter VIII, Last Sale (b)(1) – (b)(3) as follows:

(1) Firms that receive NLS Plus shall pay the annual administration fees for NLS, BX Last Sale, and PSX Last Sale, and a data consolidation fee of \$350 per month.

(2) Firms that receive NLS Plus would either be liable for NLS fees or NASDAQ Basic fees.

Sale data feeds); and 62876 (September 9, 2010), 75 FR 56624, (September 16, 2010) (SR-Phlx-2010-120) (notice of filing and immediate effectiveness regarding PSX Last Sale data feeds).

⁸ Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation’s (“SIAC”) Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS (“CTA”). Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (“UTP”) Plan. NLS Plus reflects real-time trading activity for Tape C securities and 15-minute delayed information for Tape A and Tape B securities.

⁹ Registered U.S. exchanges are listed at <http://www.sec.gov/divisions/marketreg/mrexchanges.shtml>.

(3) In the event that NASDAQ OMX BX and/or NASDAQ OMX PHLX adopt user fees for BX Last Sale and/or PSX Last Sale, firms that receive NLS Plus would also be liable for such fees.¹⁰

The Exchange now proposes to clarify how the data consolidation fee in PSX Chapter VIII, Last Sale (b) will be charged. Specifically, the Exchange proposes to clarify that firms that are Distributors that receive a NASDAQ Last Sale Plus direct data feed and are Distributors shall pay a data consolidation fee of \$350 per month. Thus, only Distributors that receive NLS Plus would be charged the data consolidation fee. As proposed to be amended, PSX Chapter VIII, Last Sale (b)(1) would state:

(1) Firms that receive NLS Plus shall pay the annual administrative fees for NLS, BX Last Sale, and PSX Last Sale. Additionally, Internal Distributors or External Distributors shall pay a data consolidation fee of \$350 per month.¹¹ “Internal Distributors” are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. “External Distributors” are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity.¹²

¹⁰ Annual administrative fees are in BX Rule 7035, NASDAQ Rule 7035, and NASDAQ OMX PSX Fees Chapter VIII. These remain unchanged at: \$1,000 for NASDAQ, \$1,000 for BX, and \$1,000 for PSX. For purposes of conformity, “administration” is changed to “administrative” in PSX Chapter VIII, Last Sale (b)(1), discussed below.

¹¹ The Exchange notes that those that have received NASDAQ Last Sale Plus directly from the Exchange have all, in fact, been firms. While the NASDAQ Last Sale Plus feed is available to all that subscribe and pay the requisite costs, the Exchange believes that in light of such costs it will continue to experience only firms receiving the feed directly from the Exchange.

¹² PSX Chapter VIII, Last Sale (b)(2) and (b)(3) would remain unchanged.

The NLS Plus fee structure as amended continues to be designed to ensure that vendors could compete with the Exchange by creating a product similar to NLS Plus.¹³ The proposed fee structure reflects the cost of the data feeds underlying NLS Plus (including user fees and annual administrative fees), as well as the incremental cost of the aggregation and consolidation function (the “consolidation function”) for NLS Plus. Accordingly, the Exchange believes that the fee structure would not result in charges for NLS Plus that are lower than the cost to a vendor creating a competing product, including the cost of receiving the underlying data feeds and consolidating them. The data consolidation fee recognizes that NLS Plus is created from data derived from NASDAQ Last Sale, BX Last Sale, PSX Last Sale, and data from the SIPs to which a consolidation function is applied. Charging the consolidation fee will not impede an entity receiving the underlying direct data feeds from creating a competing product to the NLS Plus feed based on combining individual data feeds, and charging its clients a fee that it believes reflects the value of the consolidation function. The Exchange believes that the incremental cost of aggregation to an entity that wants to re-create NLS Plus will be factored into the entity’s revenue opportunity and may be inconsequential where the vendor has in place systems to perform these functions as part of creating its proprietary market data products and allocating costs over numerous products and customer relationships. For these reasons, the Exchange believes that vendors could readily offer a product similar to the NLS Plus on a competitive basis at a similar cost.

The amendment to clarify that the consolidation fee applies to Distributors that receive the NLS Plus data feed directly but does not apply to persons that receive NLS

¹³ For additional discussion regarding potential competition with NLS Plus, see supra note 6 and filings cited therein.

Plus indirectly through a Distributor is designed to ensure that the Exchange charges the fee only to those persons that directly benefit from the consolidation function.

Specifically, if a person wished to combine the products that underlie NLS Plus and distribute them to customers or internal users, it would incur its own consolidation costs. By purchasing NLS Plus for distribution, a Distributor foregoes these costs and instead opts to pay the Exchange to perform the consolidation function for it. Thus, imposing this fee upon Distributors is a logical corollary to the service being provided. By contrast, imposing the fee upon persons receiving the product through Distributors would effectively impose a duplicative charge, since such persons consume the data but are not in the business of distributing it and therefore do not forego consolidation costs when receiving the product. The Exchange further notes that the consolidation fee for BATS One, an analogous product of competing exchanges, is charged solely to external distributors of that product.¹⁴

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁵ in general, and with Sections 6(b)(4) and (5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, and does not unfairly discriminate between customers, issuers, brokers or dealers. All

¹⁴ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR-BATS-2014-055; SR-BYX-2014-030; SR-EDGA-2014-25; SR-EDGX-2014-25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

¹⁵ 15 U.S.C. 78f.

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

recipients of the NLS Plus data offering continue to pay the underlying data feed fees and annual administrative fees for NLS, BX Last Sale, and PSX Last Sale. The Exchange is simply clarifying that the data consolidation component of the fees for NLS Plus will be charged solely to firms that receive a NASDAQ Last Sale Plus direct data feed and are Distributors.

This change is reasonable and consistent with an equitable allocation of fees because it is designed to ensure that the Exchange charges the fee only to those persons that directly benefit from the consolidation function. Specifically, if a person wished to combine the products that underlie NLS Plus and distribute them to customers or internal users, it would incur its own consolidation costs. By purchasing NLS Plus for distribution, a Distributor foregoes these costs and instead opts to pay the Exchange to perform the consolidation function for it. Thus, imposing this fee upon Distributors is a logical corollary to the service being provided. The change is also not unfairly discriminatory. Indeed, imposing the fee upon persons receiving NLS Plus indirectly through Distributors would effectively impose a duplicative charge upon them, since such persons consume the data but are not in the business of distributing it and therefore do not forego consolidation costs when receiving the product. The Exchange further notes that the consolidation fee for BATS One, an analogous product of competing exchanges, is charged solely to external distributors of that product.¹⁷ Accordingly, the exchanges that distribute BATS One take an analogous approach, in that they do not charge a

¹⁷ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR-BATS-2014-055; SR-BYX-2014-030; SR-EDGA-2014-25; SR-EDGX-2014-25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

consolidation fee to indirect recipients of the product, but rather charge the fee only to a subset of its distributors.

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. The change proposed herein is designed to ensure that the consolidation fee for NLS Plus is appropriately assessed to Distributors of the product that benefit from the consolidation function performed by NASDAQ OMX Information LLC in creating the product and insures that a duplicative charge is not also assessed against indirect recipients of the product. Thus, the change will avoid the imposition of fees on certain product recipients, while not increasing fees for any recipients.

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. This rule proposal does not burden competition, which is reflected in the offerings of other exchanges that sell alternative data products¹⁸ and in the ability of competing data feed vendors to combine underlying data feeds in direct competition with NLS Plus. NASDAQ OMX Information LLC was constructed specifically to establish a level playing field with market data vendors and to preserve fair competition between them. NASDAQ OMX Information LLC receives NLS, BX Last Sale, and PSX Last Sale from each NASDAQ-operated exchange in the same manner, at the same speed, and reflecting the same fees as for all market data vendors. Therefore, NASDAQ OMX Information LLC has no competitive advantage with respect to these

¹⁸

Id.

last sale products and NASDAQ commits to maintaining this level playing field in the future. In other words, NASDAQ will continue to disseminate separately the underlying last sale products to avoid creating a latency differential between NASDAQ OMX Information LLC and other market data vendors, and to avoid creating a pricing advantage for NASDAQ OMX Information LLC.

NLS Plus exists in a market for proprietary last sale data products that is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market. Similarly, with respect to the FINRA/NASDAQ TRF data that is a component of NLS and NLS Plus, allowing exchanges to operate TRFs has permitted them to earn revenues by providing technology and data in support of the non-exchange segment of the market. This revenue opportunity has also resulted in fierce competition between the two current TRF operators, with both TRFs charging extremely low trade reporting fees and rebating the majority of the revenues they receive from core market data to the parties reporting trades.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the

attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (e.g., if the software can be downloaded over the internet after being purchased).¹⁹ In NASDAQ's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and are each subject to

¹⁹ See William J. Baumol and Daniel G. Swanson, "The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power," Antitrust Law Journal, Vol. 70, No. 3 (2003).

significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, NASDAQ would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,²⁰ and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²¹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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.

²⁰ It should be noted that the costs of operating the FINRA/NASDAQ TRF borne by NASDAQ include regulatory charges paid by NASDAQ to FINRA.

²¹ 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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2015-87 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2015-87. 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 website 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 10:00 a.m. and 3:00 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-2015-87 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Robert W. Errett
Deputy Secretary

²² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Proposed new language is underlined. Deletions are [bracketed].

NASDAQ OMX PSX Pricing Schedule

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VIII. NASDAQ OMX PSX FEES**Access Services Fees** [†]

The following charges are assessed by the Exchange for ports to establish connectivity to the NASDAQ OMX PSX market, as well as ports to receive data from the NASDAQ OMX PSX market:

\$400 per month for each port pair, other than Multicast ITCH® data feed pairs, for which the fee is \$1000 per month. The \$400 port pair fee will be waived from January 2012 through March 2012 for a single port pair subscribed to by a member used for routing during this free period. To be eligible for the fee waiver, the member must increase the number of routable ports it has as of December 31, 2011 and must send routable order flow through the designated port pair at some point during the free period, otherwise the monthly fee will apply.

An additional \$200 per month for each Internet port that requires additional bandwidth.

[†] *Access Services fees will be waived for the first full six months during which NASDAQ OMX PSX operates.*

* * * * *

PSX Last Sale and NASDAQ Last Sale Plus Data Feeds

(a) No Change.

(b) NASDAQ Last Sale Plus (“NLS Plus”). NLS Plus is a comprehensive data feed produced by NASDAQ OMX Information LLC. It provides last sale data as well as consolidated volume of NASDAQ U.S. equity markets (NASDAQ OMX BX, Inc. (“BX”), The NASDAQ Stock Market (“NASDAQ”), and PSX) and the NASDAQ/FINRA Trade Reporting Facility (“TRF”). NLS Plus also reflects cumulative volume real-time trading activity across all U.S. exchanges for Tape C securities and 15-minute delayed information for Tape A and B securities. NLS Plus also contains: Trade Price, Trade Size, Sale Condition Modifiers, Cumulative Consolidated Market Volume, End of Day Trade Summary, Adjusted Closing Price, IPO Information, and Bloomberg ID. Additionally, pertinent regulatory information such as Market Wide Circuit Breaker, Reg SHO Short Sale Price Test Restricted Indicator, Trading Action, Symbol Directory, Adjusted Closing Price, and End of Day Trade Summary are included. NLS Plus may be received by itself or in combination with NASDAQ Basic.

- (1) Firms that receive NLS Plus shall pay the annual [administration] administrative fees for NLS, BX Last Sale, and PSX Last Sale[, and]. Additionally, Internal Distributors or External Distributors shall pay a data consolidation fee of \$350 per month. “Internal Distributors” are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. “External Distributors” are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity.
- (2) Firms that receive NLS Plus would either be liable for NLS fees or NASDAQ Basic fees.
- (3) In the event that NASDAQ OMX BX and/or NASDAQ OMX PHLX adopt user fees for BX Last Sale and/or PSX Last Sale, firms that receive NLS Plus would also be liable for such fees.

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