

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 18	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2013 - * 81	Amendment No. (req. for Amendments *)
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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 type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" 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"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

A proposal to adopt Rule 1015 which would create a limited set of exceptions to the Exchange's existing limitation of liability rules

**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 * Jeffrey	Last Name * Davis
Title * Vice President	
E-mail * jeffrey.davis@nasdaqomx.com	
Telephone * (301) 978-8484	Fax (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 07/26/2013	Executive Vice President and General Counsel
By Edward S. Knight	
(Name *)	

Edward S Knight,

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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

Add Remove View

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 \***

Add Remove View

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) NASDAQ OMX PHLX LLC (“Exchange” or “Phlx”), 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> is filing with the Securities and Exchange Commission (“Commission”) a proposal to adopt Rule 1015 (Accommodations) which would create a limited set of exceptions to the Exchange’s existing limitation of liability rules.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The Exchange has designated this proposal as non-controversial pursuant Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>4</sup>, and it requests that the Commission waive the 30-day operative delay.

Proposed new text is underlined. Deleted text is [bracketed].

**NASDAQ OMX PHLX LLC Rules**

\* \* \* \* \*

**Options Rules**

Rule 1015. Accommodations [Reserved]

Notwithstanding the limitations of liability set forth in Exchange Rules 652, 1102A, 1011B, and 3226, the Exchange, subject to the express limits set forth below, may compensate users of NASDAQ OMX PHLX for losses directly resulting from the actual failure of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, Quote/Order.

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

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

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

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

message, or other data, provided that NASDAQ OMX PHLX has acknowledged receipt of the order, Quote/Order, message, or data.

(1) For the aggregate of all claims made by all market participants related to the use of NASDAQ OMX PHLX during a single calendar month, the Exchange's liability shall not exceed the larger of \$500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.

(2) In the event all of the claims arising out of the use of NASDAQ OMX PHLX cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in this Rule, then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Nothing in this rule shall obligate the Exchange to seek recovery under any applicable insurance policy

\* \* \* \* \*

(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 Phlx on July 17, 2013. Phlx staff will advise the Board of Directors of Phlx of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to Jeffrey S. Davis, Deputy General Counsel, The NASDAQ OMX Group, Inc., at (301) 978-8484.

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

a. Purpose

The purpose of this proposed rule change is to adopt Rule 1015, a rule that on a voluntary basis creates an exception to the Exchange's limitation of liability rules under specified circumstances for the trading of standardized options listed and traded on the Exchange. Proposed Rule 1015, entitled "Accommodations", is substantially similar to Exchange Rule 3226, the Accommodations provision currently applicable to the trading of equities on PSX, the Exchange's equities trading facility.<sup>5</sup>

Proposed Rule 1015 states that the Exchange may compensate members for claims in certain circumstances notwithstanding that Exchange Rules 652, 1102A and 1011B, state that the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the actual failure of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Rules 652(c), 1102A and 1011B currently (1) limit the Exchange's liability for the trading of options and (2) establish the Exchange's ability to obtain reimbursement for the costs of defending liability actions (Rule 652), for the trading of certain index options (1102A), and for the trading of certain cash index participations (1011B). Rule 3226 contains a limitation of liability provision and an accommodations provision, but it applies only to equities trading. By placing the Accommodation Policy within the Rule

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<sup>5</sup> See Securities Exchange Act Release No. 62877 (Sept. 9, 2010), 75 FR 56633 (Sept. 14, 2010) (approving SR-PHLX-2010-79).

1000 Series, the Exchange makes the Accommodation rule applicable generally to the trading of all options issued by the Options Clearing Corporation and traded on the Exchange, and not applicable to the trading of equities which are governed by Exchange Rule 3226.

Subsection (1) of the proposed rule states that the Exchange may compensate members for claims made by all market participants related to the use of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Under the proposal, the aggregate of payments for all claims during a single calendar month shall not exceed the larger of \$500,000, or the amount of the recovery obtained by PHLX under any applicable insurance policy.

Proposed subsection (2) specifies how accommodation funds shall be allocated in the event all of the claims submitted during a single calendar month exceed the \$500,000 limit. Specifically, if claims cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in the Rule (\$500,000), then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

Finally, proposed subsection (b)(3) specifies the requirements and procedures applicable to the submission of accommodation claims. Specifically, claims for compensation must be submitted in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Subsection (3) also states that nothing in the proposed rule obligates the Exchange to seek recovery under any applicable insurance policy. If the Exchange does seek recovery and does receive an insurance recovery, the amount of

that recovery limits the accommodation funds available for the incident supporting the recovery.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> in particular, in that 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. The proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to adopt Rule 1015 (Accommodations) under specified circumstances will promote fairness in the market place in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange.

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. Specifically, the Exchange believes that the proposed rule imposes no burden on competition because accommodations policies are not the subject of competition among exchanges. In other words, exchanges, PHLX included, do not compete based on the size or scope of accommodations policies. If such competition existed, the proposed rule

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<sup>6</sup> 15 U.S.C. 78f(b).

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

change would actually be pro-competitive by making the accommodation process more transparent and fair.

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.

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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>9</sup> in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange believes that the Proposal does not significantly affect the protection of investors or the public interest because the Accommodations rule does not impact the operation of any Exchange systems or the execution or reporting of trades. It merely reflects a change in claims administration between the Exchange and its members. The Exchange also believes that the Proposal does not impose any significant burden on competition because, as stated above, the Exchange does not compete on the basis of its Limitations of Liability or Accommodations rules.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange provided such notice on July 18, 2013.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) so that the Exchange may, as soon as possible, reflect the exceptions to its limitation of liability regarding specific compliance functions that are system enforced by the NASDAQ trading system. This is consistent with the policy implications of the Commission's recent administrative action against the operator of the Chicago Board Options Exchange.<sup>10</sup>

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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

Proposed Rule 1015 is, as stated above, substantially similar to Exchange Rule

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<sup>10</sup> See Securities Exchange Act Release No. 69726 (June 11, 2013).

3226, creating parity between options and equities trading. Additionally, proposed Rule 1015 is substantially similar to NASDAQ OMX BX Rule 4626.<sup>11</sup> Finally, the proposal also draws on principles established in earlier forms of NASDAQ Rule 4626.<sup>12</sup>

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.

11. Exhibits

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

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<sup>11</sup> *See* <http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBXTools/PlatformViewer.asp?selectednode=chp%5F1%5F1%5F1%5F5&manual=%2FNASDAQOMXBX%2Fmain%2Fbx%2Deq%2Drules%2F>

<sup>12</sup> *See* <http://nasdaq.cchwallstreet.com/NASDAQTools/PlatformViewer.asp?selectednode=chp%5F1%5F1%5F4%5F1&manual=%2Fnasdaq%2Fmain%2Fnasdaq%2Dequityrules%2F>

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2013-81)

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Rule 1015 Regarding Accommodation Claims

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 July 26, 2013, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 adopt Rule 1015 (Accommodations) which would create a limited set of exceptions to the Exchange’s existing limitation of liability rules. The text of the proposed rule change is below. Proposed additions are underlined.

**NASDAQ OMX PHLX LLC Rules**

\* \* \* \* \*

**Options Rules**

Rule 1015. Accommodations [Reserved]

Notwithstanding the limitations of liability set forth in Exchange Rules 652, 1102A, 1011B, and 3226, the Exchange, subject to the express limits set forth below, may

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

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

compensate users of NASDAQ OMX PHLX for losses directly resulting from the actual failure of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility to correctly process an order, Quote/Order, message, or other data, provided that NASDAQ OMX PHLX has acknowledged receipt of the order, Quote/Order, message, or data.

(1) For the aggregate of all claims made by all market participants related to the use of NASDAQ OMX PHLX during a single calendar month, the Exchange's liability shall not exceed the larger of \$500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.

(2) In the event all of the claims arising out of the use of NASDAQ OMX PHLX cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in this Rule, then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Nothing in this rule shall obligate the Exchange to seek recovery under any applicable insurance policy

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of this proposed rule change is to adopt Rule 1015, a rule that on a voluntary basis creates an exception to the Exchange's limitation of liability rules under specified circumstances for the trading of standardized options listed and traded on the Exchange. Proposed Rule 1015, entitled "Accommodations", is substantially similar to Exchange Rule 3226, the Accommodations provision currently applicable to the trading of equities on PSX, the Exchange's equities trading facility.<sup>3</sup>

Proposed Rule 1015 states that the Exchange may compensate members for claims in certain circumstances notwithstanding that Exchange Rules 652, 1102A and 1011B, state that the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the actual failure of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Rules 652(c), 1102A and 1011B currently (1) limit the Exchange's liability for the trading of options and (2) establish the Exchange's ability to obtain reimbursement for the costs of defending liability actions (Rule 652), for the trading of certain index options (1102A), and for the trading of certain cash index participations (1011B). Rule 3226 contains a limitation of liability provision and an accommodations provision, but it

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<sup>3</sup> See Securities Exchange Act Release No. 62877 (Sept. 9, 2010), 75 FR 56633 (Sept. 14, 2010) (approving SR-PHLX-2010-79).

applies only to equities trading. By placing the Accommodation Policy within the Rule 1000 Series, the Exchange makes the Accommodation rule applicable generally to the trading of all options issued by the Options Clearing Corporation and traded on the Exchange, and not applicable to the trading of equities which are governed by Exchange Rule 3226.

Subsection (1) of the proposed rule states that the Exchange may compensate members for claims made by all market participants related to the use of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Under the proposal, the aggregate of payments for all claims during a single calendar month shall not exceed the larger of \$500,000, or the amount of the recovery obtained by PHLX under any applicable insurance policy.

Proposed subsection (2) specifies how accommodation funds shall be allocated in the event all of the claims submitted during a single calendar month exceed the \$500,000 limit. Specifically, if claims cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in the Rule (\$500,000), then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

Finally, proposed subsection (b)(3) specifies the requirements and procedures applicable to the submission of accommodation claims. Specifically, claims for compensation must be submitted in writing and must be submitted no later than 12:00 P.M. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Subsection (3) also states that nothing in the proposed rule obligates the Exchange to seek recovery under any applicable insurance policy. If

the Exchange does seek recovery and does receive an insurance recovery, the amount of that recovery limits the accommodation funds available for the incident supporting the recovery.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, in that 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. The proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to adopt Rule 1015 (Accommodations) under specified circumstances will promote fairness in the market place in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange.

### 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. Specifically, the Exchange believes that the proposed rule imposes no burden on competition because accommodations policies are not the subject of competition among exchanges. In other words, exchanges, PHLX included, do not compete based on the size

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

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

or scope of accommodations policies. If such competition existed, the proposed rule change would actually be pro-competitive by making the accommodation process more transparent and fair.

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

Because the foregoing proposed rule change 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, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) so that the Exchange may, as soon as possible, reflect the exceptions to its limitation of liability regarding specific compliance functions that are system enforced by the NASDAQ

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give 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. The Exchange has satisfied this requirement.

trading system. The Exchange believes that this is consistent with the policy implications of the Commission's recent administrative action against the operator of the Chicago Board Options Exchange.<sup>8</sup>

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-Phlx-2013-81 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-Phlx-2013-81. 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

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<sup>8</sup> See Securities Exchange Act Release No. 69726 (June 11, 2013).

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-2013-81 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.<sup>9</sup>

Kevin M O'Neill  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).