

Required fields are shown with yellow backgrounds and asterisks.

OMB APPROVAL	
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Page 1 of \* 21

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No.\* SR - 2016 - \* 96

Amendment No. (req. for Amendments \*)

Filing by NASDAQ PHLX LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pilot	Extension of Time Period for Commission Action *	Date Expires *	Rule		
			<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) *		Section 806(e)(2) *	Section 3C(b)(2) *		
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document



### Description

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

A proposal to amend Options Floor Procedure Advice F-1, entitled Use of Identification Letters and Numbers.

### 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 *	Angela	Last Name *	Dunn
Title *	Associate General Counsel		
E-mail *	angela.dunn@nasdaq.com		
Telephone *	(215) 496-5692	Fax	

### 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 09/23/2016

Executive Vice President and General Counsel

By Edward S. Knight

(Name \*)

edward.knight@nasdaq.com

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 EDDS 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 \***

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, 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**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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 PHLX LLC (“Phlx” or “Exchange”), 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 (“SEC” or “Commission”) a proposal to amend Options Floor Procedure Advice F-1, entitled “Use of Identification Letters and Numbers.”

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1 and the text of the amended Exchange Rule is at 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 (the “Board”) on August 15, 2015. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn  
Associate General Counsel  
Nasdaq, Inc.  
215-496-5692

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

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

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

a. Purpose

The Exchange proposes to amend Options Floor Procedure Advice (“OFPA”) F-1, entitled “Use of Identification Letters and Numbers” to eliminate the current fine schedule. Pursuant to this OFPA F-1, today, all Specialists, ROTs, and Floor Brokers must use the complete alpha/numeric identification assigned by the Exchange. Specifically, all Floor Brokers or their employees must indicate their complete alpha/numeric identifiers on the Options Floor Broker Management System (“FBMS”) for each order they receive and represent in the trading crowd. The FBMS system is automated and requires this field to be completed before the transaction may be submitted. These numbers are important because they represent the parties to the particular transaction for purposes of audit trail, clearance and settlement of that transaction. This information is submitted to The Options Clearing Corporation at the end of the day to complete the back-office portion of the transaction. The information is available to and reviewed by both parties to the transaction. The Exchange currently has a fine schedule for violations of OFPA F-1 as follows:

FINE SCHEDULE (Implemented on a two-year running calendar basis)

1st Occurrence	\$250.00
2nd Occurrence	\$500.00
3rd Occurrence	\$1,000.00
4th Occurrence and Thereafter	Sanction is discretionary with Business Conduct Committee

The Exchange notes that the violations of this rule today consist of inadvertent failures to include the requisite alpha/numeric identification.<sup>3</sup> These errors are corrected post-trade, by end of day by the party in error. The Floor Brokers receive inter-day reports which allow them to review this information and determine if any errors occurred. Also, the contra-party to the transaction may alert the Floor Broker that an error occurred. The Exchange notes that where errors have been identified through surveillance, it has not witnessed any manipulative conduct, rather the error was an inadvertent data entry error, which was subsequently corrected.

By way of background, the Exchange notes that when the floor operated with more manual procedures and inter-day reports were not available, these types of error occurred with more frequency. The Exchange at that time employed a greater number of staff employees on the Exchange floor when the population on the floor was also at greater numbers. The amount of time that staff was devoted to assisting with these types of errors placed an administrative burden on the Exchange and presented an administrative cost to the Exchange to employ staff to assist with clerical errors. The fine at that time was justified to prevent a greater number of violations and also to support the amount of regulatory resources that were required to surveil for such violations and assist in the correction of errors.

Today, the automated processes and inter-day reports alleviate many of the issues that previously existed, including the burden on staff to correct errors. The Exchange

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<sup>3</sup> For example in 2016, the Exchange statistically had .00004% of violations of this minor rule. In 2015, the Exchange statistically had .00003% of violations of this minor rule.

does not believe that a single error necessitates the imposition of a \$250.00 fine, for example, where a data entry error occurred and was corrected by the firm.

The Exchange proposes to eliminate the current fine schedule and instead review for patterns and practices of manipulative conduct. The Exchange will continue to review, as it does today, for instances where a party to a trade did not enter the complete or an accurate identifier. Also, the Exchange would continue to bring violations of this rule before the Business Conduct Committee and suggest appropriate fines given the facts and circumstances surrounding current and previous violations of the minor rule. Today, the Exchange has the ability to bring any violations before the Business Conduct Committee.<sup>4</sup> The disciplinary rules provide for a process by which the Exchange will discipline members for violations of its rules and the process for hearings.<sup>5</sup> The Exchange's focus is to prevent abusive or manipulative patterns and practices of

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<sup>4</sup> Any member, member organization, or any partner, officer, director or person employed by or associated with any member or member organization (the Respondent) who is alleged to have violated or aided and abetted a violation of the Securities Exchange Act of 1934 (Exchange Act), the rules and regulations thereunder, the by-laws and Rules of the Exchange or any interpretation thereof, and the Rules, Regulations, resolutions and stated policies of the Board of Directors or any Committee of the Exchange, shall be subject to the disciplinary jurisdiction of the Exchange, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, fine, censure, limitation or termination as to activities, functions, operations, or association with a member or member organization, or any other fitting sanction in accordance with the provisions of these disciplinary Rules. See Phlx Rule 960.1(a). Further, whenever the staff of the Exchange has a reasonable basis to believe that a violation within the disciplinary jurisdiction of the Exchange has occurred, a written report shall be submitted to the Business Conduct Committee specifying the violations which are believed to have occurred and those facts which gave rise to these violations. See Phlx Rule 960.2(d).

<sup>5</sup> See Phlx Rules 960-970.

violations of OFPA F-1 and also prevent repeated abuse of this rule. The Exchange intends to continue to surveil and discipline its members for violations of this rule.

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, by continuing to enforce violations of rules governing the marking of orders.

Proper identification of orders protects investors and the public interest. In cases where human error occurred and a member failed to include the requisite alpha/numeric identification or submitted an incorrect alpha/numeric identification, such information may be corrected post-trade. The Exchange will continue to enforce the proper identification on each trade. Regulatory staff will monitor violations of such rule and bring cases before the Business Conduct Committee where a pattern or practice of violation of such rule exists and suggest appropriate fines given the facts and circumstances surrounding current and previous violations of the minor rule. Today, the Exchange has the ability to bring any violations before the Business Conduct Committee.<sup>8</sup>

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

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

<sup>8</sup> See note 4 above.

The Exchange is concerned with the entry of accurate trading information which identifies counter-parties to each trade. The trading system requires such information for each transaction. The automated process combined with the surveillance of such information, as well as counter-party transparency to the information, ensure that the audit trail is accurate and complete. The Exchange understands that human error may occur from time to time and that members have the ability to and do correct such information prior to the end of the day. Given all of these circumstances, the proposal is consistent with the Act because it will continue to ensure that the information is maintained accurately and also discipline members that fail to consistently abide by this rule.

The Exchange believes it is consistent with the Act and protects investors and the general public to amend the rule to bring disciplinary actions where a pattern or practice of violating OFPA F-1 exists versus multiple fines for each individual violation. The Exchange notes that it has not observed a large number of these violations. Where a number of violations have occurred or where there has been manipulative activity in the entry of such trade information, these actions will be brought by the Regulatory group to the Business Conduct Committee for further action. The Exchange will enumerate the facts and circumstances surrounding the violations and present an appropriate sanction in light of the circumstances to the Business Conduct Committee.

This filing is non-controversial because the Exchange will continue to regulate members for violations of Rule OFPA F-1, albeit in a slightly different matter. The result may be the imposition of the same fines by the Business Conduct Committee.

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 Exchange believes that no undue burden on competition arises with this rule change as the rule will be uniformly applied to all members. The Exchange will continue to monitor the activity of all members, and where a number of violations has occurred or where there has been manipulative activity in the entry of such trade information, these actions will be brought by the Regulatory group to the Business Conduct Committee for further action.

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>9</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>10</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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

Exchange believes that the proposal does not significantly affect the protection of investors or the public interest because the Exchange will continue to surveil for and bring actions for violations of OFPA F-1 before the Business Conduct Committee. The proposal does not impose any significant burden on competition because the Exchange will continue to monitor the activity of all members and where a number of violations have occurred or where there has been manipulative activity in the entry of such trade information, these actions will be brought by the Regulatory group to the Business Conduct Committee for further action. The filing is non-controversial because the Exchange will continue to regulate members for violations of Rule OFPA F-1, albeit in a slightly different matter. The result may be the imposition of the same fines by the Business Conduct Committee.

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 has provided such notice.

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

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.

11. Exhibits

1. Notice of Proposed Rule Change 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-2016-96)

September \_\_, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options Floor Procedure Advice F-1, Entitled “Use of Identification Letters and Numbers.”

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 September 23, 2016, NASDAQ 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 Options Floor Procedure Advice F-1, entitled “Use of Identification Letters and Numbers.”

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.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

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

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

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 Exchange proposes to amend Options Floor Procedure Advice (“OFPA”) F-1, entitled “Use of Identification Letters and Numbers” to eliminate the current fine schedule. Pursuant to this OFPA F-1, today, all Specialists, ROTs, and Floor Brokers must use the complete alpha/numeric identification assigned by the Exchange. Specifically, all Floor Brokers or their employees must indicate their complete alpha/numeric identifiers on the Options Floor Broker Management System (“FBMS”) for each order they receive and represent in the trading crowd. The FMBS system is automated and requires this field to be completed before the transaction may be submitted. These numbers are important because they represent the parties to the particular transaction for purposes of audit trail, clearance and settlement of that transaction. This information is submitted to The Options Clearing Corporation at the end of the day to complete the back-office portion of the transaction. The information is available to and reviewed by both parties to the transaction. The Exchange currently has a fine schedule for violations of OFPA F-1 as follows:

FINE SCHEDULE (Implemented on a two-year running calendar basis)

1st Occurrence	\$250.00
2nd Occurrence	\$500.00
3rd Occurrence	\$1,000.00
4th Occurrence and Thereafter	Sanction is discretionary with Business Conduct Committee

The Exchange notes that the violations of this rule today consist of inadvertent failures to include the requisite alpha/numeric identification.<sup>3</sup> These errors are corrected post-trade, by end of day by the party in error. The Floor Brokers receive inter-day reports which allow them to review this information and determine if any errors occurred. Also, the contra-party to the transaction may alert the Floor Broker that an error occurred. The Exchange notes that where errors have been identified through surveillance, it has not witnessed any manipulative conduct, rather the error was an inadvertent data entry error, which was subsequently corrected.

By way of background, the Exchange notes that when the floor operated with more manual procedures and inter-day reports were not available, these types of error occurred with more frequency. The Exchange at that time employed a greater number of staff employees on the Exchange floor when the population on the floor was also at greater numbers. The amount of time that staff was devoted to assisting with these types of errors placed an administrative burden on the Exchange and presented an administrative cost to the Exchange to employ staff to assist with clerical errors. The fine at that time was justified to prevent a greater number of violations and also to support the amount of regulatory resources that were required to surveil for such violations and assist in the correction of errors.

Today, the automated processes and inter-day reports alleviate many of the issues that previously existed, including the burden on staff to correct errors. The Exchange

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<sup>3</sup> For example in 2016, the Exchange statistically had .00004% of violations of this minor rule. In 2015, the Exchange statistically had .00003% of violations of this minor rule.

does not believe that a single error necessitates the imposition of a \$250.00 fine, for example, where a data entry error occurred and was corrected by the firm.

The Exchange proposes to eliminate the current fine schedule and instead review for patterns and practices of manipulative conduct. The Exchange will continue to review, as it does today, for instances where a party to a trade did not enter the complete or an accurate identifier. Also, the Exchange would continue to bring violations of this rule before the Business Conduct Committee and suggest appropriate fines given the facts and circumstances surrounding current and previous violations of the minor rule. Today, the Exchange has the ability to bring any violations before the Business Conduct Committee.<sup>4</sup> The disciplinary rules provide for a process by which the Exchange will discipline members for violations of its rules and the process for hearings.<sup>5</sup> The Exchange's focus is to prevent abusive or manipulative patterns and practices of

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<sup>4</sup> Any member, member organization, or any partner, officer, director or person employed by or associated with any member or member organization (the Respondent) who is alleged to have violated or aided and abetted a violation of the Securities Exchange Act of 1934 (Exchange Act), the rules and regulations thereunder, the by-laws and Rules of the Exchange or any interpretation thereof, and the Rules, Regulations, resolutions and stated policies of the Board of Directors or any Committee of the Exchange, shall be subject to the disciplinary jurisdiction of the Exchange, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, fine, censure, limitation or termination as to activities, functions, operations, or association with a member or member organization, or any other fitting sanction in accordance with the provisions of these disciplinary Rules. See Phlx Rule 960.1(a). Further, whenever the staff of the Exchange has a reasonable basis to believe that a violation within the disciplinary jurisdiction of the Exchange has occurred, a written report shall be submitted to the Business Conduct Committee specifying the violations which are believed to have occurred and those facts which gave rise to these violations. See Phlx Rule 960.2(d).

<sup>5</sup> See Phlx Rules 960-970.

violations of OFPA F-1 and also prevent repeated abuse of this rule. The Exchange intends to continue to surveil and discipline its members for violations of this rule.

## 2. 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, by continuing to enforce violations of rules governing the marking of orders.

Proper identification of orders protects investors and the public interest. In cases where human error occurred and a member failed to include the requisite alpha/numeric identification or submitted an incorrect alpha/numeric identification, such information may be corrected post-trade. The Exchange will continue to enforce the proper identification on each trade. Regulatory staff will monitor violations of such rule and bring cases before the Business Conduct Committee where a pattern or practice of violation of such rule exists and suggest appropriate fines given the facts and circumstances surrounding current and previous violations of the minor rule. Today, the Exchange has the ability to bring any violations before the Business Conduct Committee.<sup>8</sup>

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

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

<sup>8</sup> See note 4 above.

The Exchange is concerned with the entry of accurate trading information which identifies counter-parties to each trade. The trading system requires such information for each transaction. The automated process combined with the surveillance of such information, as well as counter-party transparency to the information, ensure that the audit trail is accurate and complete. The Exchange understands that human error may occur from time to time and that members have the ability to and do correct such information prior to the end of the day. Given all of these circumstances, the proposal is consistent with the Act because it will continue to ensure that the information is maintained accurately and also discipline members that fail to consistently abide by this rule.

The Exchange believes it is consistent with the Act and protects investors and the general public to amend the rule to bring disciplinary actions where a pattern or practice of violating OFPA F-1 exists versus multiple fines for each individual violation. The Exchange notes that it has not observed a large number of these violations. Where a number of violations have occurred or where there has been manipulative activity in the entry of such trade information, these actions will be brought by the Regulatory group to the Business Conduct Committee for further action. The Exchange will enumerate the facts and circumstances surrounding the violations and present an appropriate sanction in light of the circumstances to the Business Conduct Committee.

This filing is non-controversial because the Exchange will continue to regulate members for violations of Rule OFPA F-1, albeit in a slightly different matter. The result may be the imposition of the same fines by the Business Conduct Committee.

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 Exchange believes that no undue burden on competition arises with this rule change as the rule will be uniformly applied to all members. The Exchange will continue to monitor the activity of all members, and where a number of violations has occurred or where there has been manipulative activity in the entry of such trade information, these actions will be brought by the Regulatory group to the Business Conduct Committee for further action.

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)(iii) of the Act<sup>9</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup>

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</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.

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.

#### 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-2016-96 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-2016-96. 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-2016-96 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>11</sup>

Robert W. Errett  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**NASDAQ PHLX Rules**

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**OPTION FLOOR PROCEDURE ADVICES AND ORDER & DECORUM  
REGULATIONS**

\* \* \* \* \*

**F. MISCELLANEOUS****F-1 Use of Identification Letters and Numbers**

All Specialists, ROTs, and Floor Brokers must use the complete alpha/numeric identification assigned by the Exchange. All Floor Brokers or their employees must indicate their complete alpha/numeric identifiers on the Options Floor Broker Management System for each order they receive and represent in the trading crowd.

[FINE SCHEDULE (Implemented on a two-year running calendar basis)

1st Occurrence	\$250.00
2nd Occurrence	\$500.00
3rd Occurrence	\$1,000.00
4th Occurrence and Thereafter	Sanction is discretionary with Business Conduct Committee] <u>Fine</u> <u>not applicable.</u>

\* \* \* \* \*