

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 36		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2018 - * 62 Amendment No. (req. for Amendments *)	
Filing by Nasdaq 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"/>	
Pilot <input type="checkbox"/>		Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	
		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) * <input type="checkbox"/>		Section 806(e)(2) * <input type="checkbox"/>		Section 3C(b)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>		Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>			
<b>Description</b>					
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).					
<input type="text" value="A proposal to delete the current rules on arbitration"/>					
<b>Contact Information</b>					
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="Steve"/>		Last Name * <input type="text" value="Matthews"/>			
Title * <input type="text" value="Principal Associate General Counsel"/>					
E-mail * <input type="text" value="steve.matthews@nasdaq.com"/>					
Telephone * <input type="text" value="(301) 978-8458"/>		Fax <input type="text"/>			
<b>Signature</b>					
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="10/09/2018"/>		<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="edward.knight@nasdaq.com"/>					

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**

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**

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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**

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 delete the current rules on arbitration (“Current Arbitration Rules”), under Rule 950, and incorporate by reference The Nasdaq Stock Market LLC’s (“Nasdaq”) rules on arbitration at General 6 (“Proposed Arbitration Rules”), into General 6 of the Exchange’s rulebook’s (“Rulebook”) shell structure.<sup>3</sup>

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached 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 (the “Board”) on September 19, 2017. 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.

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

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

<sup>3</sup> Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (“Affiliated Exchanges”). The shell structure currently contains eight (8) Chapters which, once complete, will apply a common set of rules to the Affiliated Exchanges. See Securities Exchange Act Release No. 82169 (November 29, 2017), 82 FR 57508 (December 5, 2017) (SR-PHLX-2017-97).

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

Stephen Matthews  
Principal Associate General Counsel  
Nasdaq, Inc.  
301-978-8458

or

Alejandro Aguayo  
Senior Paralegal  
Nasdaq, Inc.  
301-978-8417

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

a. Purpose

The Exchange proposes to delete the rules on arbitration, currently under Rule 950, and incorporate by reference the Nasdaq rules on arbitration at General 6 of Nasdaq's rulebook into General 6 of the Exchange's Rulebook.

The Exchange adopted the Current Arbitration Rules to ensure a fair and efficient manner in which to handle any dispute, claim or controversy arising out of, or in connection with, the business of any Member of the Exchange. To help administer the process of dispute resolution, the Exchange and FINRA are parties to a Regulatory Contract, pursuant to which FINRA has agreed to perform certain functions and provide access to certain services, including: member regulation and registration; non-real time market surveillance; examinations and investigations; and dispute resolution. FINRA currently operates the largest securities dispute resolution forum in the United States<sup>4</sup>, and has given the Exchange access to these services. Under the Current Arbitration

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<sup>4</sup> <http://www.finra.org/arbitration-and-mediation>

Rules, Members and associated persons of a Member are subject to the FINRA Code of Arbitration Procedure.

Because the Affiliated Exchanges are also parties to similar Regulatory Contracts with FINRA that make their members and associated persons of such members subject to the FINRA Code of Arbitration Procedure, the Exchange believes it is pertinent that a common set of rules on arbitration be included in the General section of the Rulebook's shell. Nasdaq completed this process recently<sup>5</sup> and, pursuant to subsequent filings, the intention is to replace the existing arbitration rules for each of the Affiliated Exchanges by incorporating the Nasdaq rules on arbitration by reference.

Therefore, the Exchange will incorporate by reference the Proposed Arbitration Rules in "General 6 Arbitration" of the shell's "General Equity and Options Rules" section.

The relocation and harmonization of the arbitration rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges.<sup>6</sup> The Exchange believes that the adoption and placement of the Proposed Arbitration Rules to their new location in the shell will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a conforming nature and will not amend the substance of the adopted rules other than to update the language to that of the Proposed Arbitration Rules, and to make conforming cross-reference changes.

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<sup>5</sup> See Securities Exchange Act Release No. 83834 (August 13, 2018), 83 FR 41115 (August 17, 2018) (SR-NASDAQ-2018-067).

<sup>6</sup> See footnote 3.

PHLX will continue to file proposed rule changes to amend its General 6 Rules until such time as it receives an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Exchange Act of 1934 (“Act”) and Rule 0-12<sup>7</sup> thereunder, from the Section 19(b) filing requirements to separately file a proposed rule change to amend General 6.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</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 promoting efficiency and structural conformity of the Exchange’s processes with those of the Affiliated Exchanges and to make the Exchange’s Rulebook easier to read and more accessible to its Members. The Exchange believes that the adoption and harmonization of the arbitration rules and cross-reference updates are of a non-substantive nature.

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 proposed changes do not impose a burden on competition because, as previously stated, they are (i) of a non-substantive nature, (ii) intended to harmonize the

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<sup>7</sup> See 17 CFR 240.0-12; Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

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)(iii)<sup>10</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>11</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 does not believe that the relocation and harmonization of the arbitration rules will significantly affect the protection of investors or the public interest because the proposed changes are only intended to relocate and harmonize the rules and update their cross-references. Moreover, the Exchange does not believe that this proposal will impose any significant burden on competition because, as explained, the changes are

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

non-substantive, are intended to align the structure of the Exchange's Rulebook to the Affiliated Exchanges' and generally seek to improve the organization and readability of the Exchange's rules.

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 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.

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 believes that its proposal will protect investors and the public interest, by promoting efficiency and structural conformity of the Exchange's processes with those of the Affiliated Exchanges and to make the Exchange's Rulebook easier to read and more accessible to its Members, market participants, and the general public.

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-2018-62)

October \_\_, 2018

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delete The Current Rules on Arbitration

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 October 9, 2018, 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 delete the current rules on arbitration (“Current Arbitration Rules”), under Rule 950, and incorporate by reference The Nasdaq Stock Market LLC’s (“Nasdaq”) rules on arbitration at General 6 (“Proposed Arbitration Rules”), into General 6 of the Exchange’s rulebook’s (“Rulebook”) shell structure.<sup>3</sup>

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

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

<sup>3</sup> Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (“Affiliated Exchanges”). The shell structure currently contains eight (8) Chapters which, once complete, will apply a common set of rules to the Affiliated Exchanges. See Securities Exchange Act Release No. 82169 (November 29, 2017), 82 FR 57508 (December 5, 2017) (SR-PHLX-2017-97).

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 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 delete the rules on arbitration, currently under Rule 950, and incorporate by reference the Nasdaq rules on arbitration at General 6 of Nasdaq's rulebook into General 6 of the Exchange's Rulebook.

The Exchange adopted the Current Arbitration Rules to ensure a fair and efficient manner in which to handle any dispute, claim or controversy arising out of, or in connection with, the business of any Member of the Exchange. To help administer the process of dispute resolution, the Exchange and FINRA are parties to a Regulatory Contract, pursuant to which FINRA has agreed to perform certain functions and provide access to certain services, including: member regulation and registration; non-real time market surveillance; examinations and investigations; and dispute resolution. FINRA

currently operates the largest securities dispute resolution forum in the United States<sup>4</sup>, and has given the Exchange access to these services. Under the Current Arbitration Rules, Members and associated persons of a Member are subject to the FINRA Code of Arbitration Procedure.

Because the Affiliated Exchanges are also parties to similar Regulatory Contracts with FINRA that make their members and associated persons of such members subject to the FINRA Code of Arbitration Procedure, the Exchange believes it is pertinent that a common set of rules on arbitration be included in the General section of the Rulebook's shell. Nasdaq completed this process recently<sup>5</sup> and, pursuant to subsequent filings, the intention is to replace the existing arbitration rules for each of the Affiliated Exchanges by incorporating the Nasdaq rules on arbitration by reference.

Therefore, the Exchange will incorporate by reference the Proposed Arbitration Rules in "General 6 Arbitration" of the shell's "General Equity and Options Rules" section.

The relocation and harmonization of the arbitration rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges.<sup>6</sup> The Exchange believes that the adoption and placement of the Proposed Arbitration Rules to their new location in the shell will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a conforming nature and will not amend the

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<sup>4</sup> <http://www.finra.org/arbitration-and-mediation>

<sup>5</sup> See Securities Exchange Act Release No. 83834 (August 13, 2018), 83 FR 41115 (August 17, 2018) (SR-NASDAQ-2018-067).

<sup>6</sup> See footnote 3.

substance of the adopted rules other than to update the language to that of the Proposed Arbitration Rules, and to make conforming cross-reference changes.

PHLX will continue to file proposed rule changes to amend its General 6 Rules until such time as it receives an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Exchange Act of 1934 (“Act”) and Rule 0-12<sup>7</sup> thereunder, from the Section 19(b) filing requirements to separately file a proposed rule change to amend General 6.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</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 promoting efficiency and structural conformity of the Exchange’s processes with those of the Affiliated Exchanges and to make the Exchange’s Rulebook easier to read and more accessible to its Members. The Exchange believes that the adoption and harmonization of the arbitration rules and cross-reference updates are of a non-substantive nature.

### 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

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<sup>7</sup> See 17 CFR 240.0-12; Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

Act. The proposed changes do not impose a burden on competition because, as previously stated, they are (i) of a non-substantive nature, (ii) intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

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>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</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.

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-2018-62 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2018-62. 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-2018-62 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>12</sup>

Eduardo A. Aleman  
Assistant Secretary

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



**EXHIBIT 5**

Deleted text is [bracketed]. New text is underlined.

**Rules of the Exchange**

\* \* \* \* \*

**[Arbitration (Rule 950)]**

**Rule 950. Arbitration  
Matters Eligible for Submission**

**Sec. 1.** These Arbitration Procedures are prescribed and adopted pursuant to Article X, Section 10-14 of the By-Laws of the Philadelphia Stock Exchange, Inc. (the Exchange) for the arbitration of any dispute, claim or controversy arising out of or in connection with the securities business of any member of the Exchange:

- (1) between or among members,
- (2) between or among members and public customers or others, and
- (3) between or among members, registered clearing agencies with which the Exchange has entered into an agreement to utilize the Exchange's arbitration facilities and procedures, and participants, pledgees or other persons using the facilities of a registered clearing agency, as these terms are defined under the rules of such a registered clearing agency.

**Director of Arbitration**

**Sec. 2.** The Board of Governors of the Exchange shall appoint a Director of Arbitration who shall be charged with the performance of all administrative duties and functions in connection with matters submitted for arbitration at the Exchange. He shall be directly responsible to the Executive Committee and shall report to it at periodic intervals established by the Committee and at such other times as called upon by the Committee to do so.

**Composition and Appointment of Panels**

**Sec. 3.** Public customer controversies shall be heard as provided in Section 9 or Section 15, as applicable. In member controversies, the Director of Arbitration shall appoint an arbitration panel which consists of no fewer than three (3) arbitrators, all of whom shall be from the securities industry.

••• *Commentary:* -----

.01 For purposes of Section 3 of this Rule, the Exchange shall use its best efforts to effect an entire panel's attendance at any and all proceedings.

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### **Non-Waiver of Exchange Objects and Purposes**

**Sec. 4.** The submission of any matter to arbitration under these procedures shall in no way limit or preclude any right, action or determination by the Exchange which it would otherwise be authorized to adopt, administer or enforce.

### **Legal Proceedings**

**Sec. 5.** No party shall, during the arbitration of any matter, prosecute or commence any suit, action or proceeding against any other party touching upon any of the matters referred to arbitration pursuant to these procedures.

••• *Commentary:* -----

.01 *See:* Commentary to Section 8(b).

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## **MEMBER CONTROVERSIES**

### **Required Submission**

**Sec. 6.** (a) Any dispute, claim or controversy eligible for submission under Sections 1 through 5 of these procedures between and/or among members and/or associated persons, and/or certain others, arising in connection with the business of such member(s), or in connection with the activities of such associated person(s), shall be arbitrated under these procedures at the instance of:

- (1) A member against another member,
- (2) A member against a person associated with a member or a person associated with a member against a member,
- (3) A person associated with a member against a person associated with a member, and
- (4) A legal titleholder of a foreign currency options participation against an equitable titleholder of such membership or an equitable titleholder against a legal titleholder of such foreign currency options participation.

### **Applicability of Arbitration Procedures**

**Sec. 7.** Except as otherwise provided in Sections 1 through 6 and unless the context otherwise requires, the rules and procedures applicable to public customer arbitrations as set forth hereinafter under Sections 8 through 41 shall be applicable to member controversies.

## **ARBITRATION PROCEDURES**

### **Required Submission**

**Sec. 8 (a)** Any dispute, claim or controversy eligible for submission under Sections 1 through 5 of these Arbitration Procedures between a customer and a member and/or associated person arising in connection with the business of such member or in connection with the activities of such associated persons shall be arbitrated under these Arbitration Procedures, as provided by any duly executed and enforceable written agreement or upon the demand of the customer.

(b) Under these procedures, the Director of Arbitration shall have the right to decline the use of the Exchange's arbitration facilities in any dispute, claim or controversy, where, having due regard for the purposes of the Exchange and the intent of these procedures such dispute, claim or controversy is not a proper subject matter for arbitration.

• • • *Commentary:* -----

.01 For purposes of Section 8(b) of this Rule, the Exchange shall not accept arbitration matters that are already subject to proceedings in other jurisdictional forms.

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### **Simplified Arbitration**

**Sec. 9 (a)** Any dispute, claim or controversy arising between a public customer(s) and an associated person and/or a member subject to arbitration under these procedures involving a dollar amount not exceeding \$10,000, exclusive of attendant costs and interest, shall be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Director of Arbitration an executed Submission Agreement and a copy of the Statement of Claim of the controversy in dispute and the required deposit, together with documents in support of the Claim. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and the arbitrator(s). The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The Claimant shall deposit \$15 if the amount in controversy is \$1,000 or less, \$25 if the amount is more than \$1,000 but does not exceed \$2,500, \$100 if the amount in controversy is more than \$2,500, but does not exceed \$5,000, or \$200 if the amount in

controversy is more than \$5,000 but does not exceed \$10,000 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. Within twenty (20) business days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any deposit required under the schedule of fees for customer disputes. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) have interposed a Third Party Claim, the Respondent(s) shall serve the Third Party Respondent with an executed Submission Agreement, a copy of Respondent's Answer containing the Third Party Claim, and a copy of the original Claim filed by the Claimant. The Third Party Respondent shall respond in the manner herein provided for response to the Claim.

If the Respondent(s) files a related Counterclaim exceeding \$10,000, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) or five (5) arbitrators in accordance with Section 15 of this Code or, he may dismiss the Counterclaim and/or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the claimant under either proceeding shall in no event exceed \$200.

(e) All parties shall serve on all other parties and the Director of Arbitration, with sufficient additional copies for the arbitrator(s), a copy of the Answer, Counterclaim, Third Party Claim, Amended Claim, or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) business days either (i) serve on each party and on the Director of Arbitration, with sufficient additional copies for the arbitrator(s), a Reply to any Counterclaim or, (ii) if the amount of the Counterclaim exceeds the Claim, shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings shall be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator who is not from the securities industry (public arbitrator) selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a time and locale selected by the Director of Arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion, deems advisable.

(i) Upon the request of the arbitrator, the Director of Arbitration shall appoint two (2) additional arbitrators to the panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority shall be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(l) Except as otherwise provided herein, the general arbitration rules of the Exchange shall be applicable to proceedings instituted under this Section.

• • • *Commentary:* -----

Related counterclaim

As used in this Section 9, the term "related counterclaim" shall mean any counterclaim related to a customer's account(s) with a member.

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### **Hearing Requirements—Waiver of Hearing**

**Sec. 10** (a) Any dispute, claim or controversy except as provided in Section 9 (Simplified Arbitration), shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(b) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing. In addition, any arbitrator may request the submission of further evidence.

### **Time Limitation Upon Submission**

**Sec. 11** No dispute, claim, or controversy shall be eligible for submission to arbitration under these procedures where six (6) years have elapsed from the occurrence or event giving rise to the act or dispute, claim or controversy. This section shall not extend applicable statutes of limitations, nor shall it apply to any case which is directed to arbitration by a court of competent jurisdiction.

### **Dismissal of proceedings**

**Sec. 12** At any time during the course of an arbitration, the arbitrators may, either upon their own initiative or at the request of a party, dismiss the proceedings and refer the parties to the remedies provided by applicable law. The arbitrators shall at the joint request of all the parties dismiss the proceedings.

### **Settlements**

**Sec. 13** All settlements upon any matter shall be at the election of the parties.

### **Tolling of Time Limitation(s) for the Institution of Legal Proceedings**

**Sec. 14** (a) Where permitted by applicable law, the time limitations which would otherwise run or accrue for the institution of legal proceedings shall be tolled where a duly executed Submission Agreement is filed by the Claimant(s). The tolling shall continue for such period as the Exchange shall retain jurisdiction upon the matter submitted.

(b) The six (6) year time limitation upon submission to arbitration shall not apply when the parties have submitted the dispute, claim or controversy to a court of competent jurisdiction. The six (6) year time limitation shall not run for such period as the court shall retain jurisdiction upon the matter submitted.

### **Designation of Number of Arbitrators**

**Sec. 15** (a) In all arbitration matters where the matter in controversy exceeds \$10,000, or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel which consists of no fewer than three (3) nor more than five (5) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer requests a panel consisting of at least a majority from the securities industry.

(b) An arbitrator will be deemed as being from the securities industry if he or she:

(1) is a person associated with a member or other broker/dealer, municipal securities dealer, government securities broker, or government securities dealer, or

(2) has been associated with any of the above within the past three (3) years, or

(3) is retired from any of the above, or

(4) is an attorney, accountant, or other professional who has devoted twenty (20) percent or more of his or her professional work effort to securities industry clients within the last two years.

(c) An arbitrator who is not from the securities industry shall be deemed a public arbitrator. A person will not be classified as a public arbitrator if he/she has a spouse or

other member of the household who is a person associated with a registered broker, dealer, municipal securities dealer, government securities broker or government securities dealer.

### **Composition of Panels**

**Sec. 16** The individuals who shall serve on a particular panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of the panel.

### **Notice of Selection of Arbitrators**

**Sec. 17** The Director of Arbitration shall inform the parties of the arbitrators' names and employment histories for the past ten (10) years, as well as information disclosed pursuant to Section 19, at least fifteen (15) business days prior to the date fixed for the first hearing session. A party may make further inquiry of the Director of Arbitration concerning an arbitrator's background. In the event that prior to the first hearing session, any arbitrator should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the Director of Arbitration shall appoint a replacement arbitrator to fill the vacancy on the panel. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past ten years, as well as information disclosed pursuant to Section 19. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the first hearing session or the five (5) day period provided under Section 18, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Section 18.

### **Peremptory Challenge**

**Sec. 18** In any arbitration proceeding, each party shall have the right to one peremptory challenge. In arbitrations where there are multiple Claimants, Respondents and/or Third-Party Respondents, the Claimants shall have one peremptory challenge, the Respondents shall have one peremptory challenge, and the Third-Party Respondents shall have one peremptory challenge, unless the Director of Arbitration determines that the interests of justice would be best served by awarding additional peremptory challenges. A party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five (5) business days of notification of the identity of the persons named to the panel. There shall be unlimited challenges for cause. Challenges for cause shall be decided by the Director of Arbitration.

### **Disclosures Required of Arbitrators**

**Sec. 19** (a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose: (1) Any direct or indirect financial or personal interest in the outcome of the arbitration; (2) Any existing or past financial, business, professional, family, or social relationships that are likely to affect impartiality

or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships that they personally have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship involving members of their families or their current employers, partners, or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in Paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination described in paragraph (a) above is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

(d) Prior to the commencement of the first hearing session of a public customer arbitration, the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to this section. The Director of Arbitration shall also inform the parties of any information disclosed pursuant to this section if the arbitrator who disclosed the information is not removed.

### **Disqualification or Other Disability of Arbitrators**

**Sec. 20** In the event that any arbitrator, after the commencement of the first hearing session but prior to the rendition of the award, should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) shall continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within five (5) business days of notification of the vacancy on the panel. Upon objection, the Director of Arbitration shall appoint a replacement arbitrator to fill the vacancy. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past ten years, as well as information disclosed pursuant to Section 19. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the next scheduled hearing session or the five (5) day period provided under Section 18, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Section 18.

### **Initiation of Proceedings**

**Sec. 21** Except as otherwise provided herein, an arbitration proceeding under these procedures shall be instituted as follows:

Statement of Claim



(a) The Claimant shall file with the Director of Arbitration an executed Submission Agreement, a Statement of Claim of the controversy in dispute, together with the documents in support of the Claim, and the required deposit. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and each arbitrator. The Statement of Claim shall specify the relevant facts and the remedies sought. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.

#### Answer—Defenses, Counterclaims and/or Cross-Claims

(b) (1) Within twenty (20) business days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any deposit required under the schedule of fees. The Answer shall specify all available defenses and relevant facts thereto that will be relied upon at the hearing and may set forth any related Counterclaim the Respondent(s) may have against any other named Respondent(s), and any Third-Party Claim against any other party or person based upon any existing dispute, claim or controversy subject to arbitration under these procedures.

(2) (i) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who pleads only a general denial as an answer may, upon objection by a party, in the discretion of the arbitrators, be barred from presenting any facts or defenses at the time of the hearing.

(ii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who fails to specify all available defenses and relevant facts in such party's answer may, upon object by a party, in the discretion of the arbitrators be barred from presenting such facts or defenses not included in such party's answer at the hearing.

(iii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who fails to file an answer within twenty (20) business days from receipt of service of a claim, unless the time to answer has been extended pursuant to paragraph (5) below, may, in the discretion of the arbitrators, be barred from presenting any matter, arguments or defenses at the hearing.

(3) Respondent(s) shall serve each party with a copy of any Third-Party Claim. The Third-Party Claim shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any deposit required under the schedule of fees. Third-Party Respondent(s) shall answer in the manner provided for response to the Claim, as provided in paragraphs (1) and (2) above.

(4) The Claimant shall serve each party with a Reply to a Counterclaim within ten (10) business days of receipt of an Answer containing a Counterclaim. The Reply shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s).

(5) The time period to file any pleading, whether such be denominated as a Claim, Answer, Counterclaim, Cross-claim, Reply, or Third-Party pleading, may be extended for such further period as may be granted by the Director of Arbitration.

#### Service and Filing With the Director of Arbitration

(c) (1) Service may be effected by mail or other means of delivery. Service and filing are accomplished on the date of mailing either by first-class postage pre-paid or by means of overnight mail service or, in the case of other means of service, on the date of delivery. Filing with the Director of Arbitration shall be made on the same date as service on a party.

(2) If a member organization that is a partnership and a person associated with such member organization are named parties to an arbitration proceeding at the time of the filing of the Statement of Claim, service on the person associated with the member organization may be made on the associated person or the member organization, which shall perfect service upon the associated person. If the member organization does not undertake to represent the associated person, the member organization shall serve the associated person with the Statement of Claim, shall advise all parties and the Director of Arbitration of that fact, and shall provide such associated person's current address.

#### Joinder and Consolidation

(a) (1) With respect to any dispute, claim or controversy submitted to arbitration, any party or person eligible to submit a claim under these procedures shall have the right to proceed in the same arbitration against any other party or person upon any claim directly related to such dispute.

(2) For purposes of this subsection, the Director of Arbitration shall be authorized to determine preliminarily whether a claim is directly related to the matter in dispute and to join any other party to the dispute and to consolidate the matter for hearing and award

purposes. In arbitrations where there are multiple Claimants, Respondents and/or Third-Party Respondents, the Director of Arbitration shall be authorized to determine preliminarily whether such parties should proceed in the same or separate arbitrations.

(3) All final determinations with respect to joinder, consolidation and multiple parties under this subsection shall be made by the arbitration panel.

### **Designation of Time and Place of Hearings**

**Sec. 22** Unless the applicable law directs otherwise, the time and place of the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators. Notice of the time and place for the initial hearing shall be given at least eight (8) business days prior to the date fixed for the hearing by personal service, registered or certified mail to each of the parties unless the parties shall, by their mutual consent, waive the notice provisions under this Section. Notice for each hearing thereafter shall be given as the arbitrators may determine. Attendance at a hearing waives notice thereof.

### **Representation by Counsel**

**Sec. 23** All parties shall have the right to representation by counsel at any stage of the proceedings.

### **Attendance at Hearings**

**Sec. 24** The attendance or presence of all persons at hearings including witnesses shall be determined by the arbitrators. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

### **Failure to Appear**

**Sec. 25** If any of the parties, after due notice, fails to appear at a hearing or any continuation of an adjourned hearing session, the arbitrators may, in their discretion, proceed with the arbitration of the controversy. In such cases, all awards shall be rendered as if each party had entered an appearance in the matter submitted.

### **Adjournments**

**Sec. 26** (a) The arbitrators may, in their discretion, adjourn any hearing(s) either upon their own initiative or upon the request of any party to the arbitration.

(b) A party requesting an adjournment after arbitrators have been appointed, if said adjournment is granted, shall pay a fee equal to the deposit of costs but not more than \$100. The arbitrators may waive this fee or in their awards may direct the return of this adjournment fee. This provision shall not apply to matters filed under Section 9 of these procedures.

### **Acknowledgment of Pleadings**

**Sec. 27** The arbitrators shall acknowledge to all parties present that they have read the pleadings filed by the parties.

### **General Provisions Governing Pre-Hearing Proceedings**

**Sec. 28** (a) Requests for Documents and Information. The parties shall cooperate to the fullest extent practicable in the voluntary exchange of documents and information to expedite the arbitration. Any request for documents or other information should be specific, relate to the matter in controversy, and afford the party to whom the request is made a reasonable period of time to respond without interfering with the time set for the hearing.

#### **(b) Document Production and information Exchange**

(1) Any party may serve a written request for information or documents ("information request") upon another party twenty (20) business days or more after service of the Statement of Claim by the Director of Arbitration or upon filing the Answer, whichever is earlier. The requesting party shall serve the information request on all parties and file a copy with the Director of Arbitration. The parties shall endeavor to resolve disputes regarding an information request prior to serving any objection to the request. Such efforts shall be set forth in the objection.

(2) Unless a greater time is allowed by the requesting party, information requests shall be satisfied or objected to within thirty (30) business days from the date of service. Any objection to an information request shall be served by the objecting party on all parties and filed with the Director of Arbitration.

(3) Any response to objections to an information request shall be served on all parties and filed with the Director of Arbitration within ten (10) business days of receipt of the objection.

(4) Upon the written request of a party whose information request is unsatisfied, the matter will be referred by the Director of Arbitration to either a pre-hearing conference under subsection (d) of this section or to a selected arbitrator under subsection (e) of this section.

(c) Pre-Hearing Exchange. At least eight (8) business days prior to the first scheduled hearing date, all parties shall serve on each other copies of documents in their possession they intend to present at the hearing and shall identify witnesses they intend to present at the hearing. The arbitrators may exclude from the arbitration any documents not exchanged or witnesses not identified. This paragraph does not require service of copies of documents or identification of witnesses which parties may use for cross-examination or rebuttal.

(d) Pre-Hearing Conference.

(1) Upon the written request of a party, an arbitrator, or at the discretion of the Director of Arbitration, a pre-hearing conference shall be scheduled. The Director of Arbitration shall set the time and place of a pre-hearing conference and appoint a person to preside. The pre-hearing conference may be held by telephone conference call. The presiding person shall seek to achieve agreement among the parties on any issue which relates to the pre-hearing process or to the hearing, including but not limited to exchange of information, exchange or production of documents, identification of witnesses, identification and exchange of hearing documents, stipulation of facts, identification and briefing of contested issues, and any other matters which will expedite the arbitration proceedings.

(2) Any issues raised at the pre-hearing conference that are not resolved may be referred to a single member of the arbitration panel for decision.

(e) Decisions by Selected Arbitrators. The Director of Arbitration may appoint a single member of the arbitration panel to decide all unresolved issues under this section. In matters involving public customers, such single arbitrator shall be a public arbitrator, except that the arbitrator may be either public or industry when the public customer has requested a panel consisting of a majority from the securities industry. Such arbitrator shall be authorized to act on behalf of the panel to issue subpoenas, direct appearances of witnesses and production of documents, set deadlines for compliance, and issue any other ruling which will expedite the arbitration proceedings or is necessary to permit any party to fully develop its case. Decisions under this section shall be made upon the papers submitted by the parties, unless the arbitrator calls a hearing. The arbitrator may elect to refer any issue under this section to the full panel.

### **Subpoenas and Power to Direct Appearances**

**Sec. 29** (a) Subpoenas. The arbitrators and any counsel of record to the proceeding shall have the power of the subpoena process as provided by law. All parties shall be given a copy of a subpoena upon its issuance. Parties shall produce witnesses and present proofs to the fullest extent possible without resort to the subpoena process.

(b) Power to Direct Appearances and Production of Documents. The arbitrator(s) shall be empowered without resort to the subpoena process to direct the appearance of any person employed or associated with any member of the Exchange and/or the production of any records in the possession or control of such persons or members. Unless the arbitrator(s) direct otherwise, the party requesting the appearance of a person or the production of documents under this Section shall bear all reasonable costs of such appearance and/or production.

### **Evidence**

**Sec. 30** The arbitrators shall determine the materiality and relevance of any evidence proffered and shall not be bound by rules governing the admissibility of evidence.

### **Interpretation of Code**

**Sec. 31** The arbitrators shall be empowered to interpret and determine the applicability of all provisions under these procedures which interpretation shall be final and binding upon the parties.

### **Determination of Arbitrators**

**Sec. 32** All rulings and determinations of the panel shall be by a majority of the arbitrators.

### **Record of Proceedings**

**Sec. 33** A verbatim record by stenographic reporter or tape recording of all arbitration hearings shall be kept. If a party or parties to a dispute elect to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the request unless the arbitrators direct otherwise. The arbitrators may also direct that the record be transcribed. If the record is transcribed at the request of any party, a copy shall be provided to the arbitrators.

### **Oath of the Arbitrators and Witnesses**

**Sec. 34** Prior to commencement of the first session, an oath or affirmation shall be administered to the arbitrators. All testimony shall be under oath or affirmation.

### **Amendments**

**Sec. 35** (a) After the filing of any pleadings, if a party desires to file a new or different pleading, such change must be made in writing and filed with the Director of Arbitration. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise upon all other parties a copy of said change. The other parties may, within ten (10) business days from the receipt of service, file a response with the Director of Arbitration.

(b) After a panel has been appointed, no new or different pleading may be filed except for a responsive pleading as provided for in (a) above or with the panel's consent.

### **Reopening of Hearings**

**Sec. 36** Where permitted by applicable law, the hearings may be reopened by the arbitrators on their own motion or in the discretion of the arbitrators upon application of a party at any time before the award is rendered.

### **Awards**

**Sec. 37** (a) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by applicable law. Such awards may be entered as a judgment in any court of competent jurisdiction.

(b) Unless the applicable law directs otherwise, all awards rendered pursuant to these procedures shall be deemed final and not subject to review or appeal.

(c) The Director of Arbitration shall endeavor to serve a copy of the award: (i) by registered or certified mail upon all parties, or their counsel, at the address of record; or (ii) by personally serving the award upon the parties; or (iii) by filing or delivering the award in such manner as may be authorized by law.

(d) The arbitrator(s) shall endeavor to render an award within thirty (30) business days from the date the record is closed.

(e) The award shall contain the names of the parties, a summary of the issues in controversy, the damages and other relief requested, the damages and other relief awarded, a statement of any other issues resolved, the names of the arbitrators, the date the claim was filed and the award rendered, the number and dates of hearing sessions, the location of the hearings, and the signatures of the arbitrators concurring in the award.

(f) All awards and their contents shall be made publicly available. A party to an arbitration may request that the Director of Arbitration provide copies of all awards rendered by the arbitrator(s) chosen to decide its case. A party wishing to obtain such information must notify the Director of Arbitration within three (3) business days of receipt of notification of the identity of the person(s) named to the panel.

### **Miscellaneous**

**Sec. 38** These procedures shall be deemed a part of and incorporated by reference in every duly executed Submission Agreement which shall be binding on all parties.

### **Schedule of Fees for Customer Disputes**

**Sec. 39** (a) At the time of filing a Claim, Counterclaim, Third-Party Claim, or Cross-Claim, a party shall deposit with the Exchange the amount indicated below, unless such deposit is specifically waived by the Director of Arbitration.

<b>Amount in Dispute (Exclusive of interest and Expenses)</b>	<b>Deposit</b>
\$1,000 or less	\$15
Above \$1,000 but not exceeding \$2,500	\$25
Above \$2,500 but not exceeding \$5,000	\$100
Above \$5,000 but not exceeding \$10,000	\$200

Above \$10,000 but not exceeding \$50,000	\$400
Above \$50,000 but not exceeding \$100,000	\$500
Above \$100,000 but not exceeding \$500,000	\$750
Above \$500,000	\$1,000

When the amount in dispute is \$10,000 or less, no additional deposits are required, despite the number of hearing sessions. Where the amount in dispute is above \$10,000 and multiple hearing sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional hearing session. In no event shall the aggregate amount deposited per hearing session exceed the amount of the initial deposit(s) as set forth in the above schedule.

(b) A hearing session is any meeting between the parties and the arbitrator(s) including a prehearing conference with an arbitrator, which lasts four (4) hours or less.

(c) The arbitrators, in their awards, may determine the amount chargeable to the parties as forum fees (fees) and shall determine by whom such fees shall be borne. Where the amount in dispute is \$10,000 or less, total fees to the parties shall not exceed the amount deposited. Amounts deposited by a party shall be applied against fees, if any. If the fees are not assessed against a party who had made a deposit, the deposit will be refunded. In addition to forum fees, the arbitrator(s) may determine in their awards the amount of costs incurred pursuant to Sections 26, 29, and 33 and, unless applicable law directs otherwise, other costs and expenses of the parties and arbitrator(s) that are within the scope of the agreement of the parties or otherwise as permitted by law. The arbitrator(s) shall determine by whom such costs shall be borne.

(d) If the dispute, claim or controversy does not involve or disclose a money claim, the amount to be deposited by the Claimant shall be \$200, or such amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed \$1,000.

(e) If a matter has been submitted and thereafter is settled or withdrawn prior to the commencement of the first hearing session, the parties shall be entitled to a refund of all but \$100 of the amount deposited with the Exchange. This section shall not apply to claims filed under Section 9 of these procedures.

(f) Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session may be subject to such refund of assessed deposits, if any, as the panel of arbitrators presiding may determine.

(g) The arbitrators may assess forum fees and costs incurred pursuant to Sections 26, 29, and 33 in any matter settled or withdrawn subsequent to the commencement of the first hearing session.

Failure to Act Under Provisions of Arbitration Procedures



It may be deemed conduct inconsistent with just and equitable principles of trade for a member, member organization or person associated with a member to fail to submit to arbitration on demand under these Arbitration Procedures as required by these procedures, or to fail to appear or to produce any document in his possession or control as directed pursuant to provisions of the Arbitration Procedures, or to fail to honor an award of arbitrators properly rendered pursuant to the Arbitration Procedures where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

All awards shall be honored by a cash payment to the prevailing party of the exact dollar amount stated in the award. Awards may not be honored by crediting the prevailing party's account with the dollar amount of the award, unless authorized by the express terms of the award or consented to in writing by the parties. Awards shall be honored upon receipt thereof, or within such other time period as may be prescribed by the award.

### **Filing Fee for Members**

**Sec. 40** A member organization shall, when filing a Statement of Claim against a nonmember, pay a non-refundable filing fee of \$500. This fee shall be in addition to all other fees, deposits, or costs which may be required.

### **Schedule of Fees for Member and Clearing Controversies**

**Sec. 41** (a) At the time of filing a Submission Agreement, a Claimant in a member or clearing controversy that is required to be submitted to arbitration before the Exchange as set forth in Section 6, above, shall deposit with the Exchange the amount indicated below unless such deposit is specifically waived by the Director of Arbitration:

<b>Amount in Dispute (Exclusive of interest and expenses)</b>	<b>Deposit</b>
Less than \$100,000	\$500
Above \$100,000	\$1,000

When the amount in dispute is \$100,000 or less, no additional deposits shall be required, despite the number of hearing sessions. Where the amount in dispute is above \$10,000 and multiple hearing sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional hearing session.

(b) A hearing session is any meeting between the parties and the arbitrator(s) including a prehearing conference, which lasts four (4) hours or less.

(c) The arbitrators, in their awards, shall determine the amount chargeable to the parties as forum fees (fees) and shall determine by whom such fees shall be borne. Amounts deposited by a party shall be applied against fees, if any. If the fees are not assessed against a party who made a deposit, the deposit will be refunded. In addition to forum fees, the arbitrator(s) may determine in their award the amount of costs incurred pursuant to Sections 26, 29, or 33 and, unless applicable law directs otherwise, other costs and

expenses of the parties and arbitrator(s) which are within the scope of the agreement of the parties or otherwise as permitted by law. The arbitrator(s) shall determine by whom such costs shall be borne.

(d) If the dispute, claim, or controversy does not involve or disclose a money claim, the amount to be deposited by the Claimant shall be \$500, or such amount as the Director of Arbitration or the panel of arbitrator(s) may require, but shall not exceed \$1,000.

(e) If a matter has been submitted and thereafter is settled or withdrawn prior to the commencement of the first hearing session, the parties shall be entitled to a refund of all but \$125 of the amount deposited with the Exchange.

(f) Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session may be subject to such refund of assessed deposits, if any, as the panel of arbitrators presiding may determine.

(g) The arbitrators may assess forum fees and costs incurred pursuant to Sections 26, 29, and 33 in any matter settled or withdrawn subsequent to the commencement of the first hearing session.

### **Requirements When Using Pre-Dispute Arbitration Agreements with Customers**

**Sec. 42** (a) Any pre-dispute arbitration clauses shall be highlighted and shall be immediately preceded by the following disclosure language (printed in outline form as set forth herein) that shall also be highlighted:

(1) Arbitration is final and binding on the parties.

(2) The parties are waiving their right to seek remedies in court, including the right to jury trial.

(3) Pre-arbitration discovery is generally more limited than and different from court proceedings.

(4) The arbitrators' award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited.

(5) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.

(b) Immediately preceding the signature line, there shall be a statement that shall be highlighted that the agreement contains a pre-dispute arbitration clause. This statement shall also indicate at what page and paragraph the arbitration clause is located.

(c) A copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(d) No agreement shall include any condition that limits or contradicts the rules of any self-regulatory organization or limits the ability of a party to file any claim in arbitration or limits the ability of the arbitrators to make any award.

(e) The requirements of this section shall apply only to new agreements signed by an existing or new customer of a member or member organization.

**Arbitration Claims Filed On or After October 1, 1998**

**Sec. 43** The Exchange will not accept any new arbitration claims filed on or after October 1, 1998.

**FINRA Jurisdiction Over Arbitrations Against Exchange Members**

**Sec. 44** As of October 1, 1998, every member, member organization, member corporation, participant or participant organization (as defined by Exchange Rules and hereinafter referred to as "members") shall be subject to the Code of Arbitration Procedure of FINRA for every claim, dispute, or controversy, arising out of or in connection with the securities business of any member of the Exchange, including disputes outlined in Section 1, Section 6 and Section 8 of this Rule. For the purposes of this Rule, each member shall be subject to, and shall abide by, the FINRA Code of Arbitration Procedure as if such member were a "member" of FINRA.

••• *Supplementary Material:* -----

**FORM OF SUBMISSION**

SUBMISSION  
) AGREE-  
) MENT FOR SMALL  
) PUBLIC CLAIMS

Nasdaq PHLX LLC

In the Matter of the Arbitration between

1. The undersigned parties hereby submit to arbitration in accordance with the By-Laws and Rules of Nasdaq PHLX LLC, the present matter in controversy as set forth in the attached statement of claim, answers and all related counterclaims and/or third party claims which may be asserted.
2. The undersigned parties hereby state that they have read the procedures and Rules of Nasdaq PHLX LLC, relating to arbitration.

- 3. The undersigned parties agree that the arbitration between the parties named above shall be held at such time and place as may be designated by the Arbitration Director or the arbitrator(s) and further agree and understand that the arbitration will be conducted according to the Rules of Nasdaq PHLX LLC, and its schedule of fees, both of which are to be hereby incorporated into this Submission Agreement.
  - 4. The undersigned parties further agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement and further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the undersigned parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
5. IN WITNESS WHEREOF, the parties hereto have signed and acknowledged the foregoing Submission Agreement.]

\* \* \* \* \*

**Nasdaq PHLX LLC Rules**

**General Equity and Options Rules**

\* \* \* \* \*

**General 6. Arbitration**

**Section 1. Arbitration**

The rules contained in The Nasdaq Stock Market LLC General 6, as such rules may be in effect from time to time (the “General 6 Rules”), are hereby incorporated by reference into this Nasdaq PHLX LLC General 6, and are thus Nasdaq PHLX Rules and thereby applicable to Nasdaq PHLX Members. Nasdaq PHLX Members shall comply with the General 6 Rules as though such rules were fully set forth herein. All defined terms, including any variations thereof, contained in the General 6 Rules shall be read to refer to the Nasdaq PHLX related meaning of such term.

{[hyperlink to General 6 Rules](#)}.

\* \* \* \* \*