

Required fields are shown with yellow backgrounds and asterisks.

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"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<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) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

**Description**

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

Proposal to amend various rules related to quotes and orders

**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 \*  Last Name \*

Title \*

E-mail \*

Telephone \*  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

By

(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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

**Exhibit 1 - Notice of Proposed Rule Change \***

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

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

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) 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 Rule 1019, “Acceptance of Bid and Offer,” adopt a new Rule 1073, “Kill Switch,” adopt a new Rule 1074 “Detection of Loss of Communication,” Rule 1080, “Electronic Acceptance of Quotes and Orders,” adopt a new Rule 1096, “Entry and Display of Orders” and adopt a new Rule 1097, “Limitations on Order Entry.”

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 of the Exchange (the “Board”) on September 26, 2018. 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  
Principal Associate General Counsel

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

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

Nasdaq, Inc.  
215-496-5692

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

a. Purpose

The Exchange proposes several amendments within this rule change: (i) amend Rule 1019, "Acceptance of Bid and Offer"; (ii) adopt a new Rule 1073, "Kill Switch," and Rule 1074 "Detection of Loss of Communication," from relocated rule text from Rule 1080, "Electronic Acceptance of Quotes and Orders,,"; (iii) adopt a new Rule 1096, "Entry and Display of Orders"; and (iv) adopt a new Rule 1097, "Limitations on Order Entry." With this proposal, the Exchange intends to create a rule that concerns the requirements for submitting a quote and a separate rule that concerns the requirements for submitting an order. The Exchange also is proposing to relocate rules to reorganize its Rulebook and conform certain rule text within Rule 1097 to rules of other Nasdaq markets.<sup>3</sup>

Rule 1019, Acceptance of Bid or Offer

Currently, Rule 1019 is titled "Acceptance of Bid or Offer." The Exchange proposes to retitle Rule 1019 as "Entry and Display of Quotes." The Exchange proposes to amend Rule 1019(a) to revise the text of (a) from "All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to the exercise by the Board of Directors of the powers in respect thereto vested in said Board by the By-Laws, and to the Rules of the Exchange, and said contracts shall also be

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<sup>3</sup> The Exchange intends to file a separate rule change for each Nasdaq market to amend rules as described herein.

subject to the rules of The Options Clearing Corporation and to the exercise by The Options Clearing Corporation of the powers reserved to it in its by-laws and rules” to more simply “All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to applicable requirements and the rules of the Clearing Corporation. The Exchange is proposing to removing the requirement for the Board of Directors to Act and retain the applicability of the rules of the Clearing Corporation.

The Exchange proposes to add a new Rule 1019(b) to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Rule 1019(b), “Quotes are subject to the following requirements and conditions:”. The Exchange proposes to add at Rule 1019(b)(1) that “RSQTs or Remote Specialists may generate and submit option quotations.” Current Rule 1080(k) provides,

**Electronic Streaming Quotations.** SQTs may generate and submit option quotations if such SQT is physically present on the Exchange floor, and RSQTs may generate and submit option quotations from off the floor of the Exchange, electronically.

Respecting options trading on Phlx XL II, specialists, SQTs and RSQTs who are quoting in an option may also submit Sweeps, which are defined in and governed by Rule 1082.

The Exchange proposes removing this rule text within Rule 1080(k) and memorializing the quoting requirements within Rule 1019. The first paragraph within Rule 1080(k) describes SQTs and RSQTs that stream quotations. These participants are currently

defined within Rule 1014(b). This language in the first paragraph of Rule 1080(k) is redundant and unnecessary. The second paragraph of Rule 1080(k) references Sweeps within Phlx Rule 1082, “Firm Quotations,” which describes sweeps within that rule in relation to Quote Exhaust. The Exchange proposes to provide at proposed new Rule 1019(b)(2) that “The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.” The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Rule 1019(b)(3) states that “Specialists, Remote Specialists and ROTs may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.” The Exchange believes that this information will provide Specialists, Remote Specialists and ROTs with information on submitting a quote. The Exchange notes that bid or offer size may be a “0,” however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Rule 1019(b)(4) to provide clarity for entering quotes and proposes to specify, “The System accepts quotes for the Opening Process as specified in Rule 1017.”<sup>4</sup> The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Rule 1019(b)(5):

**Firm Quote.** When quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the SEC

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<sup>4</sup> Rule 1017(d) provides, “Phlx Electronic Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.”

Quote Rule,<sup>5</sup> orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange’s quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

Phlx Rule 1082 describes Firm Quote for purposes of quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.<sup>6</sup> The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange’s quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer

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<sup>5</sup> The term “SEC Quote rule” shall mean rule 602 of Regulation NMS under the Securities Exchange Act of 1934, as amended. See Phlx Rule 1082(a)(iii).

<sup>6</sup> 17 CFR §242.602.

available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Rule 1019(b)(6):

**Trade-Through Compliance and Locked or Crossed Markets.** A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, quotations may not be executed against prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is also described within Phlx Rules 1083, 1084 and 1086. Also, quotations may not lock or cross an away market. The repricing is provided for today within Phlx Rule 1093.<sup>7</sup> By stating this limitation in the rule, Specialists and ROTs will have greater

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<sup>7</sup> Phlx Rule 1093(a)(iii)(A) provides that a DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR Order will remain in the Phlx Order Book and be displayed at a price one minimum price variation (“MPV”) inferior to that away best bid/offer. If the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO. Similar language is provided for with respect to the routable orders (FIND and SRCH). Phlx Rule 1093(a)(iii)(B)(4) provides “A FIND Order received after an Opening Process that is marketable against the internal PBBO when the ABBO is inferior to the internal PBBO will be traded at the Exchange at or better than the PBBO price. If the FIND Order has size remaining after exhausting the PBBO, it may: (1) trade at the next PBBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, (2) be entered into the Order Book at its limit price, or (3) if locking or crossing the ABBO, be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO.” This is also the case for a SRCH Order. See Phlx Rule 1093(a)(iii)(C)(4).



clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (“MPV”) above (for offers) or below (for bids) the national best price. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market’s quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on Phlx.

Finally, the Exchange proposes at Rule 1019(b)(7) to provide, “Quotes submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099 and Quote Exhaust provided for in Rule 1082.” The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Phlx Rules. Specifically, if the Specialist or ROT does not submit a quotation compliant with Rule 1034, the quote will not be accepted by the System because market participants are required to abide by Rule 1034 which describes the increments with which options series are to be quoted. Rule 1099 provides a list of all protections applicable to quotes that may be rejected. Finally, Specialists and ROTs are subject to the Exchange’s rule regarding quote exhaust within Rule 1082(a)(ii)(B)(3). The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Rule 1019(c), “Quotes will be displayed in the System as described in Rule 1070.” Rule 1070, titled “Data Fees and Trade

Information” provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by Phlx.

The amendment to Phlx Rule 1019 to create a list of all the requirements and conditions for submitting quotes on Phlx within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange’s current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.<sup>8</sup> The Exchange’s proposal is intended to provide greater information with respect to Firm Quote within new Rule 1019(b)(5) and regarding trade-through and locked and crossed markets 1019(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market

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<sup>8</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules to proposed Phlx Rule 1019.

making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

#### Relocation of Kill Switch and Detection of Loss of Communication

The Exchange also proposes to relocate the rule text at Rule 1019(b), Kill Switch, and (c), Detection of Loss of Communication, to new Rules 1073 and 1074, respectively. The relocations are consistent with the Act because the proposed changes are intended to provide greater transparency to these rules by making them easier to locate which benefits investors and the public interest. The Exchange is not proposing to amend the Kill Switch or Detection of Loss of Communication rules; this rule change is non-substantive. The Exchange proposes to update internal cross-references.

#### Rule 1080, Electronic Acceptance of Quotes and Orders

The Exchange proposes to amend Rule 1080(a)(i)(B) to add the following sentence to Specialized Quote Feed (“SQF”), “Specialists, SQTs and RSQTs may only enter interest into SQF in their assigned options series.” The Exchange notes that today these participants may utilize SQF to quote only in their assigned options series.<sup>9</sup> This proposed rule text is consistent with the Act because it will add greater clarity to the

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<sup>9</sup> Rules 501, “Specialist Appointment” and 507 “Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options” govern option assignments.

current rule for the protection of investors and the public interest.

The Exchange proposes to delete certain rule text within Rule 1080(c)(ii)(C) and 1080(j) and relocate that language to new Rule 1097, as described below.

The Exchange also proposes to delete Rule 1080(k), as discussed above, and Rule 1080(l) which is currently reserved. These proposed amendments are consistent with the Act because they are simply administrative and non-substantive.

#### Rule 1096, Entry and Display of Orders

Similar to Rule 1019, which describes requirements for quotes, the Exchange proposes to adopt a new Rule 1096, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Rule 1096 is to memorialize this information within a single rule.

The Exchange proposes to state within new Rule 1096(a), “Members can enter orders into the System, subject to the following requirements and conditions:”. The Exchange proposes within new Rule 1096(a)(1), “Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.” The Exchange’s new rule text at 1096(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes at new Rule 1096(a)(2), “The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.” The System accepts orders beginning at a

time specified by the Exchange and communicated on the Exchange's web site.<sup>10</sup>

The Exchange proposes new Rule 1096(a)(3), "The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order." Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add new Rule 1096(a)(4), "Orders submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099, and the restrictions of any order type as provided for in Rule 1080(b). Orders may execute at multiple prices." All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Rule 1034 and also the risk protections for orders which are listed within current Rule 1099. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add new Rule 1096(a)(5) the following, "Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder." The rule text of new Rule 1096(a)(5) is similar to

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<sup>10</sup> The Exchange's website makes the timeframes in which orders may be submitted to the System: [http://www.nasdaqtrader.com/content/phlx/phlx\\_systemtime.pdf](http://www.nasdaqtrader.com/content/phlx/phlx_systemtime.pdf).

Nasdaq ISE, LLC (“ISE”) Options 3, Section 4(b). Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Proposed Rule 1096(b) is similar to ISE Options 3, Section 15(a). This proposed rule provides,

**NBBO Price Protection.** Orders, other than Intermarket Sweep Orders (as defined in Rule 1083(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Rule 1083(j)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Rule 1083(k)).

The Exchange believes that although Phlx Rule 1084<sup>11</sup> makes clear that simple orders may not execute at prices inferior to the NBBO, this rule text will provide that limitation in this proposed list of limitations for ease of reference. The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Rule 1096, which applies to all market participants. In contrast, Rule 1019, which applies to quotes entered by those members that conduct market marking, Specialists and ROTs, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Rules 1019 and 1096.

Proposed Rule 1096(c) seeks to define the Exchange’s best bid and offer as the “PBBO” and distinguish the displayed book from the non-displayed book for reference.

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<sup>11</sup> Phlx Rule 1084 describes the avoidance of trade-through and Rule 1083(h) described ISOs.

The Exchange provides that the System automatically executes eligible orders using the Exchange's displayed best bid and offer ("PBBO"). Phlx also permits members to enter non-displayed orders. The non-displayed orders are available on the Exchange's order book ("internal PBBO"). The Phlx contingency orders, which are non-displayed are exclusively: (i) All-or-None Orders;<sup>12</sup> and (ii) stop orders<sup>13</sup> (collectively "Non-Displayed Contingency Orders"). Finally, Phlx reprices orders to avoid locking or crossing another market as explained below. Therefore, on Phlx, eligible orders will execute at the best price available, the PBBO or the internal PBBO. The Exchange believes that this information will provide Members with additional information to how the Exchange describes its displayed and non-displayed orders. Further the proposal to add information related to NBBO Protection and define the Exchange's best bid and offer as the "PBBO" and distinguish the displayed book from the non-displayed book for reference will bring greater transparency and clarity to the Exchange's rules. The Exchange disseminates its PBBO which does not contain non-displayed information. The Exchange believes that describing the "internal PBBO" will bring greater transparency to the rule as the Order Book may contain non-displayed orders which may offer better prices than the PBBO. The Exchange believes describing the displayed and non-displayed order book will

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<sup>12</sup> An All-or-None Order is a limit or market order that is to be executed in its entirety or not at all. An All-or None Order may only be submitted by a public customer. All-or-None Orders are non-displayed and non-routable. All-or-None Orders are executed in price-time priority among all public customer orders if the size contingency can be met. The Acceptable Trade Range protection in Rule 1099(a) is not applied to All-Or-None Orders. See Phlx Rule 1078.

<sup>13</sup> A stop order is a limit or market order to buy or sell at a limit price when a trade or quote on the Exchange for a particular option contract reaches a specified price. A stop-market or stop-limit order shall not be triggered by a trade that is reported late or out of sequence or by a complex order trading with another complex order. See Phlx Rule 1080(b).

inform members as to availability of orders on the Order Book and protect investors and the general public by providing additional information about non-displayed order types.

Similar to Rule 1019(b)(6), the Exchange proposes to note at new Rule 1096(d),

Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The Exchange reprices orders that are non-routable. The Exchange proposes to make clear the manner in which orders are repriced on the order book. This repricing is described today within Rule 1093(a)(iii)(A), (B) and (C) which describes routing. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Today, orders may not be executed at prices that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions within Phlx Rule 1084. The Exchange reprices orders that are non-routable. The Exchange's proposal to memorialize rule text related to trade-throughs will make clear the manner in which orders are repriced on the order book and protect investors and



general public by further describing this restriction with respect to orders specifically. This repricing is described today within Rule 1093(a)(iii)(A), (B) and (C) which describes routing. The Exchange would re-price an order to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one MPV above (for offers) or below (for bids) the national best price. The Exchange reprices orders one MPV inferior to cause the displayed price to reflect the available market on Phlx.<sup>14</sup> The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Finally, the Exchange proposes to provide at new Rule 1096(e), similar to Rule 1019(c) which states, “Orders will be displayed in the System as described in Rule 1099.”

The Exchange’s proposal to adopt a new Rule 1096, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange’s new rule reflects the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

Rule 1097, Limitations on Order Entry

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<sup>14</sup> See Phlx Rule 1086.

The Exchange proposes to adopt a new Rule 1097, titled “Limitations on Order Entry,” and relocate rule text from Rule 1080. The Exchange proposes to adopt rule text within new Rule 1097(a) which rule is similar to ISE Options 3, Section 22(b) as follows:

**Limit Orders.** Members shall not enter public customer limit orders into the System in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract and the entry of multiple limit orders at different prices in the same options series.

Specifically, Phlx Rule 1080(j) is similar to ISE Options 3, Section 22(b) in that it prohibits public customers,<sup>15</sup> which are equivalent to ISE Priority Customers, from entering limit orders into the Order Book in the same option series in a manner where the public customer is effectively operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. Both rules are extend to beneficial owners. Phlx rule 1080(j) provides, “[i]n determining whether an off floor member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract; the multiple acquisition and liquidation of positions in the same options series during the same day; and the entry of multiple limit orders at different prices in the same options series.” This language is the same as ISE’s Options 3, Section 22(b). Because Phlx has a trading floor, the “off floor” references are in Phlx Rule 1080(j) and no such references are in the ISE Rules. Further,

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<sup>15</sup> For purposes of this rule change, the term “public customer” shall mean a person or entity that is not a broker or dealer in securities and is not a Professional, as that term is defined within Phlx Rule 1000(b)(14).

Phlx's Rule 1080(j) provides, "The limitation set forth in this Rule 1080(j) does not apply to the accounts of off-floor broker dealers or Professionals as the term is defined in Rule 1000(b)(14)." Phlx Rule 1080(j) therefore would apply to accounts for public customers, and prevent public customers from conducting business as a market maker. ISE Options 3, Section 22(b) was adopted to limit the ability of Electronic Access Members that are not market makers to compete on preferential terms within ISE's automated systems,<sup>16</sup> including Priority Customers, who are provided with certain benefits, such as priority of bids and offers. ISE's Prior Rule Change noted that it did not believe it was necessary to impose Options 3, Section 22 restrictions on the entry of Professional or broker-dealer orders because the same priority does not exist. Both rules therefore apply to same market participants. The Exchange notes that the Phlx and ISE Rules are substantively the same, despite the difference in the rule text.

On Phlx, ROTs (as well as Specialists) are required to register with the Exchange.<sup>17</sup> On Phlx, ROTs are entitled to certain allocations<sup>18</sup> and preferential pricing<sup>19</sup> and are obligated to submit Valid Width Quotes during the opening<sup>20</sup> and quotes intra-day.<sup>21</sup> The Exchange believes that public customers that desire to make markets on Phlx should register with the Exchange. The Exchange also notes that ROTs are restricted from

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<sup>16</sup> See Securities Exchange Act Release No. 63017 (September 29, 2010), 75 FR 61795 (October 6, 2010) (SR-ISE-2010-95) ("Prior Rule Change").

<sup>17</sup> See Phlx Rule 507.

<sup>18</sup> See Rule 100(g)(vi).

<sup>19</sup> See Phlx's Pricing Schedule at Options 8.

<sup>20</sup> See Phlx Rule 1017.

<sup>21</sup> See Phlx Rule 1081.

entering orders on Phlx as described within Rule 1080(b). The Exchange also proposes to amend the title from “Limitations on Orders” to “Limit Orders.” The Exchange notes that the term “Phlx XL” is the same as the defined term “System.”<sup>22</sup> Finally, the Exchange proposes to remove the final sentence, “Notwithstanding the foregoing, the limitation in Rule 1080(j) above will continue to apply to all-or-none orders submitted by Professionals to the Exchange.” Rule 1078 notes that All-or-None Orders may be only be entered by Public Customers. This order type was recently amended and therefore this limitation is unnecessary.<sup>23</sup>

The Exchange proposes to relocate rule text from current Rule 1080(c)(ii)(C)(2) to proposed Rule 1097(b). Current Rule 1080(c)(ii)(C)(2) provides,

Principal Transactions: Order Entry Firms may not execute as principal against orders on the limit order book they represent as agent unless: (a) agency orders are first exposed on the limit order book for at least one (1) second, (b) the Order Entry Firm has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such order, (c) the Order Entry Firm proceeds in accordance with the crossing rules contained in Rule 1064, (d) the orders are entered into Price Improvement XL or "PIXL" pursuant to Rule 1087, (e) the orders are entered into the Complex Order Live Auction or "COLA" pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (f) orders

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<sup>22</sup> The term “System” shall mean the automated system for order execution and trade reporting owned and operated by the Exchange which comprises: (A) an order execution service that enables members to automatically execute transactions in System Securities; and provides members with sufficient monitoring and updating capability to participate in an automated execution environment; (B) a trade reporting service that submits “locked-in” trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority (“OPRA”) for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a “locked-in” trading environment; and (C) the data feeds described at Rule 1070. See Phlx Rule 1000(b)(45).

<sup>23</sup> See Securities Exchange Act Release No. 85262 (March 7, 2019), 84 FR 9192 (March 13, 2019)(SR-Phlx-2019-03).

entered into the Qualified Contingent Cross or "QCC" mechanism pursuant to Rules 1080(o).

This rule provides for the exposure of orders entered on Phlx. Specifically, with respect to orders entered as where a Phlx member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Price Improvement XL or "PIXL" mechanism<sup>24</sup> the Complex Order Live Auction or "COLA"<sup>25</sup> pursuant to Rule 1098(e); or the Qualified Contingent Cross or "QCC" mechanism.<sup>26</sup> Further, Phlx Rule 1064 permits members to cross orders provided certain contingencies are met. This rule is intended to encourage price discovery and price improvement of all orders entered on Phlx. The Exchange proposes to utilize the broader term "members" instead of the specific term "Order Entry Firms"<sup>27</sup> as this rule applies to all members. The Exchange has updated the current rule references.

The Exchange proposes to delete the rule text from current Rule 1080(c)(ii)(C)(2) and (3) which provides,

Solicitation Orders. Order Entry Firms must expose orders they represent as agent for at least one (1) second before such orders may be automatically

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<sup>24</sup> See Phlx Rule 1087.

<sup>25</sup> See Rule 1098(e) or (f).

<sup>26</sup> See Rule 1088.

<sup>27</sup> The term "Order Entry Firms" is described in Rule 1080(c)(ii) as a member organization of the Exchange that is able to route orders to AUTOM. Replacing the term "Order Entry Firm" with "member" does not change the meaning on the sentence.

executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders, except for: (a) orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

(3) It shall be a violation of Rule 1080(c)(ii)(C) for any Exchange member or member organization to be a party to any arrangement designed to circumvent Rule 1080(c)(ii)(C) by providing an opportunity for a customer, member, member organization, or non-member broker-dealer to execute immediately against agency orders delivered to the Exchange, whether such orders are delivered via AUTOM or represented in the trading crowd by a member or a member organization, except for: (a) orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

This language is repetitive of language currently within current Rule 1080(c)(ii)(C)(1).

Current Rule 1080(c)(ii)(C)(1) requires exposure similar to of one second and describes the same behavior as current Rule 1080(c)(ii)(C)(2) and (3) and lists the same exceptions. The Exchange does not believe that this rule text is necessary or covers a scenario that is not contemplated by current Rule 1080(c)(ii)(C)(2) and (3). The Exchange believes that this rule was merely the inverse of the rule for principal transactions.

The Exchange proposes new rule text at proposed Rule 1097(c)(1) which is the same rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Phlx Rule 1087(f), related to PIXL. Rule 1097(b)(1) would provide,

This Rule prevents a member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of this Rule for a member to be a party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer or other person (including affiliates) to regularly execute against

agency orders handled by the member immediately upon their entry into the System.

The Exchange believes that specifically noting this prohibition within the proposed rule will assist members in understanding the type of behavior that would violate Exchange rules when executing agency orders. Specifically, today pursuant to Phlx Rule 707, “Conduct Inconsistent with Just and Equitable Principles of Trade,” it would be violative for members to execute agency orders to increase its economic gain from trading against the order without first giving other trading interest on Phlx an opportunity to either trade with the agency order or to trade at the execution price when the member was already bidding or offering on the book. The Exchange proposes to make clear with this Rule that members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent members from seeking price discovery and potentially preventing price improvement which may result from exposing an order.

The Exchange proposes to add a new rule at 1097(c) which provides, “Prior to or after submitting an order to Phlx, a member cannot inform another member or any other third party of any of the terms of the order for purposes of violating Rule 1095.” Similar rule text is contained in The Nasdaq Options Market LLC (“NOM”) Rules.<sup>28</sup> The Exchange believes that adding this language will better inform participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

The Exchange’s proposal to adopt a new Rule 1097 will conform proposed Rule

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<sup>28</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.

1097 to other Nasdaq affiliated markets filing similar rules.<sup>29</sup> The Exchange's proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Rule 1097 is consistent with the Act because it provides one rule for ease of reference which list the current limitations within Rule 1080 and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Phlx Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>30</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>31</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 as provided for within the purpose section.

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<sup>29</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

<sup>30</sup> 15 U.S.C. 78f(b).

<sup>31</sup> 15 U.S.C. 78f(b)(5).



Phlx proposes amendments to Phlx Rule 1019 to create a list of all the requirements and conditions for submitting quotes on Phlx within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Rule 1019(b)(5) and regarding trade-through and locked and crossed markets 1019(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Similar to Rule 1019, which describes requirements for quotes, the Exchange proposes to adopt a new Rule 1096, "Entry and Display of Orders" and describe the

current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Rule 1096 is to memorialize this information within a single rule to provide a list of other requirements which may impact the execution of an order. Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting

orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange's proposal to adopt a new Rule 1097 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.<sup>32</sup> The Exchange's proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Rule 1097 is consistent with the Act because it provides one rule for ease of reference which list the current limitations within Rule 1080 and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Phlx Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

#### 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that other options markets have similar rules with respect to order and quote entry and the requirements to expose orders. The implementation of such rules may vary across options markets. Despite the variation in implementation, the

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<sup>32</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

Exchange does not believe this proposal creates an undue burden on inter-market competition because the requirements for order exposure are consistent with respect to all markets as well as the ability to submit quotes and orders on all options markets.

Rule 1019, Acceptance of Quote and Orders

The Exchange's proposal to add Rule 1019(b) to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition and all Specialists and ROTs are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Rule 1080, Electronic Acceptance of Quotes and Orders

The Exchange's proposal to amend Rule 1080(a)(i)(B) to add the following sentence to Specialized Quote Feed ("SQF"), "Specialists, SQTs and RSQTs may only enter interest into SQF in their assigned options series" is consistent with the Act because it will make clear the manner in which quotes may be submitted to the System.

The Exchange's proposal to remove rule text within Rule 1080(k) and memorializing the quoting requirements within Rule 1019 does not impose an undue burden on competition and all Specialists and ROTs are subject to these requirements today.

Rule 1096, Entry and Display of Orders

The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to

proposed changes to Rule 1019 for quotes does not impose an undue burden on competition because it applies uniformly to all members. This rule memorializes the manner in which orders may be submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Adding new rules for "Nullification by Mutual Agreement and new Rule 1096(a)(5) does not impose an undue burden on competition as these rules apply to all members today and would be considered conduct violate of Rule 707, "Conduct Inconsistent with Just and Equitable Principles of Trade."

#### Rule 1097, Limitations on Order Entry

The Exchange's proposal to adopt a new Rule 1097, titled "Limitations on Orders," and relocate rule text from current Rule 1080 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.<sup>33</sup> This rule will apply uniformly to all members. The Exchange' proposal add new rule text at proposed Rule 1097(c)(1) which is the same rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Rule 1087(f) related to PIXL will provide members greater transparency as to the type of behavior that would violate Exchange rules when executing agency orders. Additionally, adding a new rule at 1097(d), similar to rule text is

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<sup>33</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to adopt similar rules to proposed Phlx Rule 1097.

contained in NOM Rules,<sup>34</sup> will better inform participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

Relocation of Kill Switch and Detection of Loss of Communication

The Exchange's proposal to relocate the rule text at Rule 1019(b), Kill Switch, and (c), Detection of Loss of Communication, to new Rules 1073 and 1074, respectively does not impose an undue burden on competition. The relocations are non-substantive and intended to provide greater transparency to these rules by making them easier to locate.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Members, 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>35</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>36</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

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<sup>34</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.

<sup>35</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>36</sup> 17 CFR 240.19b-4(f)(6).

Commission may designate if consistent with the protection of investors and the public interest.

The Exchange's proposal does not significantly affect the protection of investors or the public interest because the amendments to Rule 1019 memorialize the current requirements and conditions for submitting quotes. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. The relocations of both the Kill Switch and Detection of Loss of Communication rules will bring greater transparency to these protection rules because they will be easier to search by the title within the Rulebook. The proposal to amend SQF will make clear the manner in which quotes may be submitted to the System. The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference. Adding new Rule 1096(a)(5) the following, "Nullification by Mutual Agreement and new Rule 1096(a)(5) will provide transparency to all members regarding the manner in which Rule 1096 may be violated. The Exchange's proposal to adopt a new Rule 1097, titled "Limitations on Order Entry," and relocate rule text from current Rule 1080 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.<sup>37</sup> The Exchange's proposal

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<sup>37</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

to add rule text to describe potential violations of this rule will bring greater clarity to the rule. The Exchange' proposal add new rule text at proposed Rule 1097(c)(1) which is the same rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Rule 1087(f) related to PIXL will provide members greater transparency as to the type of behavior that would violate Exchange rules when executing agency orders. Additionally, adding a new rule at 1097(d), similar to rule text is contained in NOM Rules,<sup>38</sup> will better inform participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

The Exchange's proposal to add a new section (b) to Rule 1019 to describe the current requirements and conditions for submitting quotes does not impose any significant burden on competition; and all Specialists and ROTs are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. The amendment to SQF does not impose any significant burden on competition because it will make clear the manner in which quotes may be submitted to the System. The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes does not impose any significant burden on competition because it applies uniformly to all members. This rule memorializes the manner in which orders may be submitted to the System and provides

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<sup>38</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.



transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Adding new rules for "Nullification by Mutual Agreement and new Rule 1096(a)(5) does not impose any significant burden on competition as these rules apply to all members today. The Exchange's proposal to adopt a new Rule 1097, titled "Limitations on Order Entry," and relocate rule text from current Rule 1080 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.<sup>39</sup> This rule will apply uniformly to all members. The Exchange' proposal add new rule text at proposed Rule 1097(c)(1) which is the same rule text within Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Rule 1087(f) related to PIXL will provide members greater transparency as to the type of behavior that would violate Exchange rules when executing agency orders. Additionally, adding a new rule at 1097(d), similar to rule text is contained in NOM Rules,<sup>40</sup> will better inform participants that Rule 1097 prohibits such behavior.

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

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<sup>39</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

<sup>40</sup> See Chapter VII, Section 12 at Commentary .04.

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.

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

The proposed amendments are similar to NOM Rules at Chapter VII, Section 12 at Commentary .04, ISE Options 3, Section 22 at Supplementary Material .01 and ISE Options 3, Section 15(a).

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-2019-25)

June \_\_, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 1019, Adopt a New Rule 1073, Adopt a New Rule 1074, Rule 1080, Adopt a New Rule 1096, and Adopt a New Rule 1097

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 June 20, 2019, 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 a proposal to amend Rule 1019, “Acceptance of Bid and Offer,” adopt a new Rule 1073, “Kill Switch,” adopt a new Rule 1074 “Detection of Loss of Communication,” Rule 1080, “Electronic Acceptance of Quotes and Orders,” adopt a new Rule 1096, “Entry and Display of Orders” and adopt a new Rule 1097, “Limitations on Order Entry.”

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.

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

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

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 several amendments within this rule change: (i) amend Rule 1019, "Acceptance of Bid and Offer"; (ii) adopt a new Rule 1073, "Kill Switch," and Rule 1074 "Detection of Loss of Communication," from relocated rule text from Rule 1080, "Electronic Acceptance of Quotes and Orders,"; (iii) adopt a new Rule 1096, "Entry and Display of Orders"; and (iv) adopt a new Rule 1097, "Limitations on Order Entry." With this proposal, the Exchange intends to create a rule that concerns the requirements for submitting a quote and a separate rule that concerns the requirements for submitting an order. The Exchange also is proposing to relocate rules to reorganize its Rulebook and conform certain rule text within Rule 1097 to rules of other Nasdaq markets.<sup>3</sup>

Rule 1019, Acceptance of Bid or Offer

Currently, Rule 1019 is titled "Acceptance of Bid or Offer." The Exchange proposes to retitle Rule 1019 as "Entry and Display of Quotes." The Exchange proposes

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<sup>3</sup> The Exchange intends to file a separate rule change for each Nasdaq market to amend rules as described herein.

to amend Rule 1019(a) to revise the text of (a) from “All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to the exercise by the Board of Directors of the powers in respect thereto vested in said Board by the By-Laws, and to the Rules of the Exchange, and said contracts shall also be subject to the rules of The Options Clearing Corporation and to the exercise by The Options Clearing Corporation of the powers reserved to it in its by-laws and rules” to more simply “All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to applicable requirements and the rules of the Clearing Corporation. The Exchange is proposing to removing the requirement for the Board of Directors to Act and retain the applicability of the rules of the Clearing Corporation.

The Exchange proposes to add a new Rule 1019(b) to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Rule 1019(b), “Quotes are subject to the following requirements and conditions:”. The Exchange proposes to add at Rule 1019(b)(1) that “RSQTs or Remote Specialists may generate and submit option quotations.” Current Rule 1080(k) provides,

**Electronic Streaming Quotations.** SQTs may generate and submit option quotations if such SQT is physically present on the Exchange floor, and RSQTs may generate and submit option quotations from off the floor of the Exchange, electronically.

Respecting options trading on Phlx XL II, specialists, SQTs and RSQTs who are quoting in an option may also submit Sweeps, which are defined in and governed by Rule 1082.

The Exchange proposes removing this rule text within Rule 1080(k) and memorializing the quoting requirements within Rule 1019. The first paragraph within Rule 1080(k) describes SQTs and RSQTs that stream quotations. These participants are currently defined within Rule 1014(b). This language in the first paragraph of Rule 1080(k) is redundant and unnecessary. The second paragraph of Rule 1080(k) references Sweeps within Phlx Rule 1082, “Firm Quotations,” which describes sweeps within that rule in relation to Quote Exhaust. The Exchange proposes to provide at proposed new Rule 1019(b)(2) that “The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.” The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Rule 1019(b)(3) states that “Specialists, Remote Specialists and ROTs may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.” The Exchange believes that this information will provide Specialists, Remote Specialists and ROTs with information on submitting a quote. The Exchange notes that bid or offer size may be a “0,” however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Rule 1019(b)(4) to provide clarity for entering quotes and proposes to specify, “The System accepts quotes for the Opening Process as specified in Rule 1017.”<sup>4</sup> The

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<sup>4</sup> Rule 1017(d) provides, “Phlx Electronic Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.”

Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Rule 1019(b)(5):

**Firm Quote.** When quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule,<sup>5</sup> orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange’s quotes are excluded from the Exchange’s calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

Phlx Rule 1082 describes Firm Quote for purposes of quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.<sup>6</sup> The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the

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<sup>5</sup> The term “SEC Quote rule” shall mean rule 602 of Regulation NMS under the Securities Exchange Act of 1934, as amended. See Phlx Rule 1082(a)(iii).

<sup>6</sup> 17 CFR §242.602.

rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Rule 1019(b)(6):

**Trade-Through Compliance and Locked or Crossed Markets.** A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, quotations may not be executed against prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is also described within Phlx Rules 1083, 1084 and 1086. Also, quotations may not lock or cross an away market. The repricing is provided for today within Phlx Rule 1093.<sup>7</sup> By stating this limitation in the rule, Specialists and ROTs will have greater

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<sup>7</sup> Phlx Rule 1093(a)(iii)(A) provides that a DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR Order will remain in the Phlx Order Book and be displayed at a price one minimum price variation ("MPV") inferior to that away best bid/offer. If the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO. Similar language is provided for with respect to the routable orders (FIND and SRCH). Phlx Rule



clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (“MPV”) above (for offers) or below (for bids) the national best price. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market’s quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on Phlx.

Finally, the Exchange proposes at Rule 1019(b)(7) to provide, “Quotes submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099 and Quote Exhaust provided for in Rule 1082.” The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Phlx Rules. Specifically, if the Specialist or ROT does not submit a quotation compliant with Rule 1034, the quote will not be accepted by the System because market participants are required to abide by Rule 1034 which describes the increments with which options series are to be quoted. Rule 1099 provides a list of all protections applicable to quotes that may be rejected. Finally, Specialists and ROTs are subject to the Exchange’s rule regarding quote exhaust within Rule 1082(a)(ii)(B)(3). The

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1093(a)(iii)(B)(4) provides “A FIND Order received after an Opening Process that is marketable against the internal PBBO when the ABBO is inferior to the internal PBBO will be traded at the Exchange at or better than the PBBO price. If the FIND Order has size remaining after exhausting the PBBO, it may: (1) trade at the next PBBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, (2) be entered into the Order Book at its limit price, or (3) if locking or crossing the ABBO, be entered into the Order Book at the ABBO price and displayed one MPV away from the ABBO.” This is also the case for a SRCH Order. See Phlx Rule 1093(a)(iii)(C)(4).

Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Rule 1019(c), “Quotes will be displayed in the System as described in Rule 1070.” Rule 1070, titled “Data Fees and Trade Information” provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by Phlx.

The amendment to Phlx Rule 1019 to create a list of all the requirements and conditions for submitting quotes on Phlx within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange’s current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.<sup>8</sup> The Exchange’s proposal is intended to provide greater information with respect to Firm Quote within new Rule 1019(b)(5) and regarding trade-through and locked and crossed markets 1019(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or

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<sup>8</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules to proposed Phlx Rule 1019.

locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

#### Relocation of Kill Switch and Detection of Loss of Communication

The Exchange also proposes to relocate the rule text at Rule 1019(b), Kill Switch, and (c), Detection of Loss of Communication, to new Rules 1073 and 1074, respectively. The relocations are consistent with the Act because the proposed changes are intended to provide greater transparency to these rules by making them easier to locate which benefits investors and the public interest. The Exchange is not proposing to amend the Kill Switch or Detection of Loss of Communication rules; this rule change is non-substantive. The Exchange proposes to update internal cross-references.

#### Rule 1080, Electronic Acceptance of Quotes and Orders

The Exchange proposes to amend Rule 1080(a)(i)(B) to add the following

sentence to Specialized Quote Feed (“SQF”), “Specialists, SQTs and RSQTs may only enter interest into SQF in their assigned options series.” The Exchange notes that today these participants may utilize SQF to quote only in their assigned options series.<sup>9</sup> This proposed rule text is consistent with the Act because it will add greater clarity to the current rule for the protection of investors and the public interest.

The Exchange proposes to delete certain rule text within Rule 1080(c)(ii)(C) and 1080(j) and relocate that language to new Rule 1097, as described below.

The Exchange also proposes to delete Rule 1080(k), as discussed above, and Rule 1080(l) which is currently reserved. These proposed amendments are consistent with the Act because they are simply administrative and non-substantive.

#### Rule 1096, Entry and Display of Orders

Similar to Rule 1019, which describes requirements for quotes, the Exchange proposes to adopt a new Rule 1096, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Rule 1096 is to memorialize this information within a single rule.

The Exchange proposes to state within new Rule 1096(a), “Members can enter orders into the System, subject to the following requirements and conditions:”. The Exchange proposes within new Rule 1096(a)(1), “Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.” The Exchange’s new rule text at 1096(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The

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<sup>9</sup> Rules 501, “Specialist Appointment” and 507 “Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options” govern option assignments.

Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes at new Rule 1096(a)(2), “The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.” The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange’s web site.<sup>10</sup>

The Exchange proposes new Rule 1096(a)(3), “The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.” Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add new Rule 1096(a)(4), “Orders submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099, and the restrictions of any order type as provided for in Rule 1080(b). Orders may execute at multiple prices.” All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Rule 1034 and also the risk protections for orders which are listed within current Rule 1099. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add new Rule 1096(a)(5) the following, “Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange

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<sup>10</sup> The Exchange’s website makes the timeframes in which orders may be submitted to the System: [http://www.nasdaqtrader.com/content/phlx/phlx\\_systemtime.pdf](http://www.nasdaqtrader.com/content/phlx/phlx_systemtime.pdf).

promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.” The rule text of new Rule 1096(a)(5) is similar to Nasdaq ISE, LLC (“ISE”) Options 3, Section 4(b). Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Proposed Rule 1096(b) is similar to ISE Options 3, Section 15(a). This proposed rule provides,

**NBBO Price Protection.** Orders, other than Intermarket Sweep Orders (as defined in Rule 1083(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Rule 1083(j)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Rule 1083(k)).

The Exchange believes that although Phlx Rule 1084<sup>11</sup> makes clear that simple orders may not execute at prices inferior to the NBBO, this rule text will provide that limitation in this proposed list of limitations for ease of reference. The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Rule 1096, which applies to all market participants. In contrast, Rule 1019, which applies to quotes entered by those members that conduct market marking, Specialists and ROTs,

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<sup>11</sup> Phlx Rule 1084 describes the avoidance of trade-through and Rule 1083(h) described ISOs.

describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Rules 1019 and 1096.

Proposed Rule 1096(c) seeks to define the Exchange's best bid and offer as the "PBBO" and distinguish the displayed book from the non-displayed book for reference. The Exchange provides that the System automatically executes eligible orders using the Exchange's displayed best bid and offer ("PBBO"). Phlx also permits members to enter non-displayed orders. The non-displayed orders are available on the Exchange's order book ("internal PBBO"). The Phlx contingency orders, which are non-displayed are exclusively: (i) All-or-None Orders;<sup>12</sup> and (ii) stop orders<sup>13</sup> (collectively "Non-Displayed Contingency Orders"). Finally, Phlx reprices orders to avoid locking or crossing another market as explained below. Therefore, on Phlx, eligible orders will execute at the best price available, the PBBO or the internal PBBO. The Exchange believes that this information will provide Members with additional information to how the Exchange describes its displayed and non-displayed orders. Further the proposal to add information related to NBBO Protection and define the Exchange's best bid and offer as the "PBBO" and distinguish the displayed book from the non-displayed book for reference will bring greater transparency and clarity to the Exchange's rules. The Exchange disseminates its

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<sup>12</sup> An All-or-None Order is a limit or market order that is to be executed in its entirety or not at all. An All-or None Order may only be submitted by a public customer. All-or-None Orders are non-displayed and non-routable. All-or-None Orders are executed in price-time priority among all public customer orders if the size contingency can be met. The Acceptable Trade Range protection in Rule 1099(a) is not applied to All-Or-None Orders. See Phlx Rule 1078.

<sup>13</sup> A stop order is a limit or market order to buy or sell at a limit price when a trade or quote on the Exchange for a particular option contract reaches a specified price. A stop-market or stop-limit order shall not be triggered by a trade that is reported late or out of sequence or by a complex order trading with another complex order. See Phlx Rule 1080(b).

PBBO which does not contain non-displayed information. The Exchange believes that describing the “internal PBBO” will bring greater transparency to the rule as the Order Book may contain non-displayed orders which may offer better prices than the PBBO. The Exchange believes describing the displayed and non-displayed order book will inform members as to availability of orders on the Order Book and protect investors and the general public by providing additional information about non-displayed order types.

Similar to Rule 1019(b)(6), the Exchange proposes to note at new Rule 1096(d),

Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The Exchange reprices orders that are non-routable. The Exchange proposes to make clear the manner in which orders are repriced on the order book. This repricing is described today within Rule 1093(a)(iii)(A), (B) and (C) which describes routing. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Today, orders may not be executed at prices that trades through an away market. Also, orders may not lock or cross an away market.



Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions within Phlx Rule 1084. The Exchange reprices orders that are non-routable. The Exchange's proposal to memorialize rule text related to trade-throughs will make clear the manner in which orders are repriced on the order book and protect investors and general public by further describing this restriction with respect to orders specifically. This repricing is described today within Rule 1093(a)(iii)(A), (B) and (C) which describes routing. The Exchange would re-price an order to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one MPV above (for offers) or below (for bids) the national best price. The Exchange reprices orders one MPV inferior to cause the displayed price to reflect the available market on Phlx.<sup>14</sup> The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Finally, the Exchange proposes to provide at new Rule 1096(e), similar to Rule 1019(c) which states, "Orders will be displayed in the System as described in Rule 1099."

The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The

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<sup>14</sup> See Phlx Rule 1086.

Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

Rule 1097, Limitations on Order Entry

The Exchange proposes to adopt a new Rule 1097, titled "Limitations on Order Entry," and relocate rule text from Rule 1080. The Exchange proposes to adopt rule text within new Rule 1097(a) which rule is similar to ISE Options 3, Section 22(b) as follows:

**Limit Orders.** Members shall not enter public customer limit orders into the System in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract and the entry of multiple limit orders at different prices in the same options series.

Specifically, Phlx Rule 1080(j) is similar to ISE Options 3, Section 22(b) in that it prohibits public customers,<sup>15</sup> which are equivalent to ISE Priority Customers, from entering limit orders into the Order Book in the same option series in a manner where the public customer is effectively operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. Both rules are extend to beneficial owners. Phlx rule 1080(j) provides, "[i]n determining whether an off floor member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract; the multiple acquisition and

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<sup>15</sup> For purposes of this rule change, the term "public customer" shall mean a person or entity that is not a broker or dealer in securities and is not a Professional, as that term is defined within Phlx Rule 1000(b)(14).

liquidation of positions in the same options series during the same day; and the entry of multiple limit orders at different prices in the same options series.” This language is the same as ISE’s Options 3, Section 22(b). Because Phlx has a trading floor, the “off floor” references are in Phlx Rule 1080(j) and no such references are in the ISE Rules. Further, Phlx’s Rule 1080(j) provides, “The limitation set forth in this Rule 1080(j) does not apply to the accounts of off-floor broker dealers or Professionals as the term is defined in Rule 1000(b)(14).” Phlx Rule 1080(j) therefore would apply to accounts for public customers, and prevent public customers from conducting business as a market maker. ISE Options 3, Section 22(b) was adopted to limit the ability of Electronic Access Members that are not market makers to compete on preferential terms within ISE’s automated systems,<sup>16</sup> including Priority Customers, who are provided with certain benefits, such as priority of bids and offers. ISE’s Prior Rule Change noted that it did not believe it was necessary to impose Options 3, Section 22 restrictions on the entry of Professional or broker-dealer orders because the same priority does not exist. Both rules therefore apply to same market participants. The Exchange notes that the Phlx and ISE Rules are substantively the same, despite the difference in the rule text.

On Phlx, ROTs (as well as Specialists) are required to register with the Exchange.<sup>17</sup>

On Phlx, ROTs are entitled to certain allocations<sup>18</sup> and preferential pricing<sup>19</sup> and are

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<sup>16</sup> See Securities Exchange Act Release No. 63017 (September 29, 2010), 75 FR 61795 (October 6, 2010) (SR-ISE-2010-95) (“Prior Rule Change”).

<sup>17</sup> See Phlx Rule 507.

<sup>18</sup> See Rule 100(g)(vi).

<sup>19</sup> See Phlx’s Pricing Schedule at Options 8.

obligated to submit Valid Width Quotes during the opening<sup>20</sup> and quotes intra-day.<sup>21</sup> The Exchange believes that public customers that desire to make markets on Phlx should register with the Exchange. The Exchange also notes that ROTs are restricted from entering orders on Phlx as described within Rule 1080(b). The Exchange also proposes to amend the title from “Limitations on Orders” to “Limit Orders.” The Exchange notes that the term “Phlx XL” is the same as the defined term “System.”<sup>22</sup> Finally, the Exchange proposes to remove the final sentence, “Notwithstanding the foregoing, the limitation in Rule 1080(j) above will continue to apply to all-or-none orders submitted by Professionals to the Exchange.” Rule 1078 notes that All-or-None Orders may be only be entered by Public Customers. This order type was recently amended and therefore this limitation is unnecessary.<sup>23</sup>

The Exchange proposes to relocate rule text from current Rule 1080(c)(ii)(C)(2) to proposed Rule 1097(b). Current Rule 1080(c)(ii)(C)(2) provides,

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<sup>20</sup> See Phlx Rule 1017.

<sup>21</sup> See Phlx Rule 1081.

<sup>22</sup> The term “System” shall mean the automated system for order execution and trade reporting owned and operated by the Exchange which comprises: (A) an order execution service that enables members to automatically execute transactions in System Securities; and provides members with sufficient monitoring and updating capability to participate in an automated execution environment; (B) a trade reporting service that submits “locked-in” trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority (“OPRA”) for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a “locked-in” trading environment; and (C) the data feeds described at Rule 1070. See Phlx Rule 1000(b)(45).

<sup>23</sup> See Securities Exchange Act Release No. 85262 (March 7, 2019), 84 FR 9192 (March 13, 2019)(SR-Phlx-2019-03).

Principal Transactions: Order Entry Firms may not execute as principal against orders on the limit order book they represent as agent unless: (a) agency orders are first exposed on the limit order book for at least one (1) second, (b) the Order Entry Firm has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such order, (c) the Order Entry Firm proceeds in accordance with the crossing rules contained in Rule 1064, (d) the orders are entered into Price Improvement XL or "PIXL" pursuant to Rule 1087, (e) the orders are entered into the Complex Order Live Auction or "COLA" pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (f) orders entered into the Qualified Contingent Cross or "QCC" mechanism pursuant to Rules 1080(o).

This rule provides for the exposure of orders entered on Phlx. Specifically, with respect to orders entered as where a Phlx member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Price Improvement XL or "PIXL" mechanism<sup>24</sup> the Complex Order Live Auction or "COLA"<sup>25</sup> pursuant to Rule 1098(e); or the Qualified Contingent Cross or "QCC" mechanism.<sup>26</sup> Further, Phlx Rule 1064 permits members to cross orders provided certain contingencies are met. This rule is intended to encourage price discovery and price improvement of all orders entered on Phlx. The Exchange proposes to utilize the broader term "members" instead of the

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<sup>24</sup> See Phlx Rule 1087.

<sup>25</sup> See Rule 1098(e) or (f).

<sup>26</sup> See Rule 1088.

specific term “Order Entry Firms”<sup>27</sup> as this rule applies to all members. The Exchange has updated the current rule references.

The Exchange proposes to delete the rule text from current Rule 1080(c)(ii)(C)(2) and (3) which provides,

Solicitation Orders. Order Entry Firms must expose orders they represent as agent for at least one (1) second before such orders may be automatically executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders, except for: (a) orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

(3) It shall be a violation of Rule 1080(c)(ii)(C) for any Exchange member or member organization to be a party to any arrangement designed to circumvent Rule 1080(c)(ii)(C) by providing an opportunity for a customer, member, member organization, or non-member broker-dealer to execute immediately against agency orders delivered to the Exchange, whether such orders are delivered via AUTOM or represented in the trading crowd by a member or a member organization, except for: (a) orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

This language is repetitive of language currently within current Rule 1080(c)(ii)(C)(1).

Current Rule 1080(c)(ii)(C)(1) requires exposure similar to of one second and describes the same behavior as current Rule 1080(c)(ii)(C)(2) and (3) and lists the same exceptions.

The Exchange does not believe that this rule text is necessary or covers a scenario that is not contemplated by current Rule 1080(c)(ii)(C)(2) and (3). The Exchange believes that this rule was merely the inverse of the rule for principal transactions.

The Exchange proposes new rule text at proposed Rule 1097(c)(1) which is the same

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<sup>27</sup> The term “Order Entry Firms” is described in Rule 1080(c)(ii) as a member organization of the Exchange that is able to route orders to AUTOM. Replacing the term “Order Entry Firm” with “member” does not change the meaning on the sentence.

rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Phlx Rule 1087(f), related to PIXL. Rule 1097(b)(1) would provide,

This Rule prevents a member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for a member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of this Rule for a member to be a party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer or other person (including affiliates) to regularly execute against agency orders handled by the member immediately upon their entry into the System.

The Exchange believes that specifically noting this prohibition within the proposed rule will assist members in understanding the type of behavior that would violate Exchange rules when executing agency orders. Specifically, today pursuant to Phlx Rule 707, “Conduct Inconsistent with Just and Equitable Principles of Trade,” it would be violative for members to execute agency orders to increase its economic gain from trading against the order without first giving other trading interest on Phlx an opportunity to either trade with the agency order or to trade at the execution price when the member was already bidding or offering on the book. The Exchange proposes to make clear with this Rule that members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent members from seeking price discovery and potentially preventing price improvement which may result from exposing an order.

The Exchange proposes to add a new rule at 1097(c) which provides, “Prior to or after submitting an order to Phlx, a member cannot inform another member or any other

third party of any of the terms of the order for purposes of violating Rule 1095.” Similar rule text is contained in The Nasdaq Options Market LLC (“NOM”) Rules.<sup>28</sup> The Exchange believes that adding this language will better inform participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

The Exchange’s proposal to adopt a new Rule 1097 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.<sup>29</sup> The Exchange’s proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Rule 1097 is consistent with the Act because it provides one rule for ease of reference which list the current limitations within Rule 1080 and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Phlx Rules. Providing members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the

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<sup>28</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.

<sup>29</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.



Act,<sup>30</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>31</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 as provided for within the purpose section.

Phlx proposes amendments to Phlx Rule 1019 to create a list of all the requirements and conditions for submitting quotes on Phlx within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Rule 1019(b)(5) and regarding trade-through and locked and crossed markets 1019(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a

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<sup>30</sup> 15 U.S.C. 78f(b).

<sup>31</sup> 15 U.S.C. 78f(b)(5).

price which locks or crosses another market. Phlx is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Similar to Rule 1019, which describes requirements for quotes, the Exchange proposes to adopt a new Rule 1096, “Entry and Display of Orders” and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Rule 1096 is to memorialize this information within a single rule to provide a list of other requirements which may impact the execution of an order. Trades may be nullified today by agreement of the parties. The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. The repricing of orders is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. Phlx is required avoiding displaying an order that would lock or cross a quotation of another market center at the time it is

displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange's proposal to adopt a new Rule 1097 will conform proposed Rule 1097 to other Nasdaq affiliated markets filing similar rules.<sup>32</sup> The Exchange's proposal to add rule text to describe potential violations of this rule will bring greater clarity to current limitations that exist when entering orders. Proposed Rule 1097 is consistent with the Act because it provides one rule for ease of reference which list the current limitations within Rule 1080 and some additional limitations. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Phlx Rules. Providing members with more information as to the type of behavior that is violative with

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<sup>32</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC are adopting similar rules to proposed Phlx Rule 1097.

respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that other options markets have similar rules with respect to order and quote entry and the requirements to expose orders. The implementation of such rules may vary across options markets. Despite the variation in implementation, the Exchange does not believe this proposal creates an undue burden on inter-market competition because the requirements for order exposure are consistent with respect to all markets as well as the ability to submit quotes and orders on all options markets.

Rule 1019, Acceptance of Quote and Orders

The Exchange's proposal to add Rule 1019(b) to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition and all Specialists and ROTs are subject to these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Rule 1080, Electronic Acceptance of Quotes and Orders

The Exchange's proposal to amend Rule 1080(a)(i)(B) to add the following sentence to Specialized Quote Feed ("SQF"), "Specialists, SQTs and RSQTs may only enter interest into SQF in their assigned options series" is consistent with the Act because it will make clear the manner in which quotes may be submitted to the System.

The Exchange's proposal to remove rule text within Rule 1080(k) and memorializing the quoting requirements within Rule 1019 does not impose an undue burden on competition and all Specialists and ROTs are subject to these requirements today.

#### Rule 1096, Entry and Display of Orders

The Exchange's proposal to adopt a new Rule 1096, "Entry and Display of Orders" and describe the current requirements and conditions for entering orders, similar to proposed changes to Rule 1019 for quotes does not impose an undue burden on competition because it applies uniformly to all members. This rule memorializes the manner in which orders may be submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Rule 1019, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Adding new rules for "Nullification by Mutual Agreement and new Rule 1096(a)(5) does not impose an undue burden on competition as these rules apply to all members today and would be considered conduct violate of Rule 707, "Conduct Inconsistent with Just and Equitable Principles of Trade."

#### Rule 1097, Limitations on Order Entry

The Exchange's proposal to adopt a new Rule 1097, titled "Limitations on Orders," and relocate rule text from current Rule 1080 will conform proposed Rule 1097 to other

Nasdaq affiliated markets filing similar rules.<sup>33</sup> This rule will apply uniformly to all members. The Exchange' proposal add new rule text at proposed Rule 1097(c)(1) which is the same rule text within ISE Options 3, Section 22 at Supplementary Material .01 and is similar to rule text at Rule 1087(f) related to PIXL will provide members greater transparency as to the type of behavior that would violate Exchange rules when executing agency orders. Additionally, adding a new rule at 1097(d), similar to rule text is contained in NOM Rules,<sup>34</sup> will better inform participants that Rule 1097 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets.

Relocation of Kill Switch and Detection of Loss of Communication

The Exchange's proposal to relocate the rule text at Rule 1019(b), Kill Switch, and (c), Detection of Loss of Communication, to new Rules 1073 and 1074, respectively does not impose an undue burden on competition. The relocations are non-substantive and intended to provide greater transparency to these rules by making them easier to locate.

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.

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<sup>33</sup> Nasdaq ISE, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to adopt similar rules to proposed Phlx Rule 1097.

<sup>34</sup> See NOM Rules at Chapter VII, Section 12 at Commentary .04.

### 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>35</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>36</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 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:

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<sup>35</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>36</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.

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-2019-25 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-2019-25. 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-2019-25 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>37</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>37</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

**NASDAQ PHLX Rules**

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**Rule 1019. [Acceptance Of Bid Or Offer]Entry and Display of Quotes**

(a) All bids or offers for option contracts dealt in on the Exchange made and accepted in accordance with these Rules shall constitute binding contracts between the parties thereto but shall be subjected to [the exercise by the Board of Directors of the powers in respect thereto vested in said Board by the By-Laws, and to the Rules of the Exchange, and said contracts shall also be subject to the rules of The Options Clearing Corporation and to the exercise by The Options Clearing Corporation of the powers reserved to it in its by-laws and rules]applicable requirements and the rules of the Clearing Corporation.

(b) Quotes are subject to the following requirements and conditions:

(1) RSQTs or Remote Specialists may generate and submit option quotations.

(2) The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.

(3) Specialists, Remote Specialists and ROTs may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.

(4) The System accepts quotes for the Opening Process as specified in Rule 1017.

(5) **Firm Quote.** When quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule, orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (“OPRA”); quotes received from another market designated as “not firm” using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another

market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

(6) Trade-Through Compliance and Locked or Crossed Markets. A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

(7) Quotes submitted to the System are subject to the following: minimum increment provided for in Rule 1034, risk protections provided for in Rule 1099 and Quote Exhaust provided for in Rule 1082.

(c) Quotes will be displayed in the System as described in Rule 1070.

[(b) Phlx Options Kill Switch is an optional tool that enables Phlx members and member organizations (hereinafter collectively "member") to initiate a message(s) to the Exchange's Phlx XL system ("System") to: (i) promptly remove quotes; and/or (ii) promptly cancel orders. Members may submit a request to the System to remove/cancel quotes and/or orders based on certain identifier(s) on either a user or group level ("Identifier"). Permissible groups must reside within a single broker-dealer. The System will send an automated message to the Phlx member when a Kill Switch request has been processed by the Exchange's System.

- (i) If quotes are cancelled by the Phlx member utilizing the Kill Switch, it will result in the removal of all quotes requested for the Identifier(s). The Phlx member will be unable to enter any additional quotes for the affected Identifier(s) until re-entry has been enabled pursuant to section (b)(iii).
- (ii) If orders are cancelled by the Phlx member utilizing the Kill Switch, it will result in the cancellation of all orders requested for the Identifier(s). The Phlx member will be unable to enter additional orders for the affected Identifier(s) until re-entry has been enabled pursuant to section (b)(iii).
- (iii) After quotes and/or orders are removed/cancelled by the Phlx member utilizing the Kill Switch, the Phlx member will be unable to enter additional quotes and/or orders for the affected Identifier(s) until the Phlx member has made a verbal request to the Exchange and Exchange staff has set a re-entry indicator to enable re-entry. Once enabled for re-entry, the System will send a Re-entry Notification Message to the Phlx member. The applicable Clearing Member also will be notified of the re-entry into the System after quotes and/or orders are removed/cancelled as a result of the Kill Switch, provided the Clearing Member has requested to receive such notification.

(c) Detection of Loss of Communication

- (i) When the SQF Port detects the loss of communication with a member's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period ("nn" seconds), the Exchange will automatically logoff the member's affected Client Application and automatically cancel all of the member's open quotes. Quotes will be cancelled across all Client Applications that are associated with the same Specialist or Registered Options Trader (collectively "Market Maker") ID and underlying issues.
- (A) A "Heartbeat" message is a communication which acts as a virtual pulse between the SQF or FIX Port and the Client Application. The Heartbeat message sent by the member and subsequently received by the Exchange allows the SQF or FIX Port to continually monitor its connection with the member.
- (B) SQF Port is the Exchange's system component through which members communicate their quotes from the Client Application.
- (C) FIX Port is the Exchange's system component through which members communicate their orders from the Client Application.
- (D) Client Application is the system component of the member through which the Exchange member or member organization communicates its quotes and orders to the Exchange.
- (ii) When the FIX Port detects the loss of communication with a member's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period ("nn" seconds), the Exchange will automatically logoff the member's affected Client Application and if the member has elected to have its orders cancelled pursuant to Rule 1019(c)(iv) automatically cancel all open orders posted.
- (iii) The default time period ("nn" seconds) for SQF Ports shall be fifteen (15) seconds. A Phlx member may determine another time period of "nn" seconds of no technical connectivity, as required in paragraph (i) above, to trigger the disconnect and must communicate that time to the Exchange. The period of "nn" seconds may be modified to a number between one hundred (100) milliseconds and 99,999 milliseconds for SQF Ports prior to each session of connectivity to the Exchange. This feature is enabled for each member and may not be disabled.
- (A) If the member systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout the current session of connectivity and will then default back to fifteen seconds. The member may change the default setting systemically prior to each session of connectivity.
- (B) If a time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the member shall persist for each subsequent session of connectivity until the member either contacts Exchange operations and

changes the setting or the member systemically selects another time period prior to the next session of connectivity.

(iv) The default period of "nn" seconds for FIX Ports shall be thirty (30) seconds for the disconnect and, if elected, the removal of orders. If the Phlx member elects to have its orders removed, in addition to the disconnect, the Phlx member may determine another time period of "nn" seconds of no technical connectivity, as required in paragraph (ii) above, to trigger the disconnect and removal of orders and communicate that time to the Exchange. The period of "nn" seconds may be modified to a number between one (1) second and thirty (30) seconds for FIX Ports prior to each session of connectivity to the Exchange. This feature may be disabled for the removal of orders, however the member will be disconnected.

(A) If the member systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout the current session of connectivity and will then default back to thirty seconds. The member may change the default setting systemically prior to each session of connectivity.

(B) If the time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the member shall persist for each subsequent session of connectivity until the member either contacts Exchange operations and changes the setting or the member systemically selects another time period prior to the next session of connectivity.

(v) The trigger for the SQF and FIX Ports is event and Client Application specific. The automatic cancellation of the Market Maker's quotes for SQF Ports and open orders for FIX Ports entered into the respective SQF or FIX Ports via a particular Client Application will neither impact nor determine the treatment of the quotes of other Market Makers entered into SQF Ports or orders of the same or other members entered into the FIX Ports via a separate and distinct Client Application.]

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### **Rule 1073. Kill Switch**

(a) Phlx Options Kill Switch is an optional tool that enables Phlx members and member organizations (hereinafter collectively "member") to initiate a message(s) to the Exchange's Phlx XL system ("System") to: (i) promptly remove quotes; and/or (ii) promptly cancel orders. Members may submit a request to the System to remove/cancel quotes and/or orders based on certain identifier(s) on either a user or group level ("Identifier"). Permissible groups must reside within a single broker-dealer. The System will send an automated message to the Phlx member when a Kill Switch request has been processed by the Exchange's System.

(1) If quotes are cancelled by the Phlx member utilizing the Kill Switch, it will result in the removal of all quotes requested for the Identifier(s). The Phlx member will be unable to enter any additional quotes for the affected Identifier(s) until re-entry has been enabled pursuant to section (a)(3).

(2) If orders are cancelled by the Phlx member utilizing the Kill Switch, it will result in the cancellation of all orders requested for the Identifier(s). The Phlx member will be unable to enter additional orders for the affected Identifier(s) until re-entry has been enabled pursuant to section (a)(3).

(3) After quotes and/or orders are removed/cancelled by the Phlx member utilizing the Kill Switch, the Phlx member will be unable to enter additional quotes and/or orders for the affected Identifier(s) until the Phlx member has made a verbal request to the Exchange and Exchange staff has set a re-entry indicator to enable re-entry. Once enabled for re-entry, the System will send a Re-entry Notification Message to the Phlx member. The applicable Clearing Member also will be notified of the re-entry into the System after quotes and/or orders are removed/cancelled as a result of the Kill Switch, provided the Clearing Member has requested to receive such notification.

### **Rule 1074. Detection of Loss of Communication**

(a) When the SQF Port detects the loss of communication with a member's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period ("nn" seconds), the Exchange will automatically logoff the member's affected Client Application and automatically cancel all of the member's open quotes. Quotes will be cancelled across all Client Applications that are associated with the same Specialist or Registered Options Trader (collectively "Market Maker") ID and underlying issues.

(1) A "Heartbeat" message is a communication which acts as a virtual pulse between the SQF or FIX Port and the Client Application. The Heartbeat message sent by the member and subsequently received by the Exchange allows the SQF or FIX Port to continually monitor its connection with the member.

(2) SQF Port is the Exchange's system component through which members communicate their quotes from the Client Application.

(3) FIX Port is the Exchange's system component through which members communicate their orders from the Client Application.

(4) Client Application is the system component of the member through which the Exchange member or member organization communicates its quotes and orders to the Exchange.

(b) When the FIX Port detects the loss of communication with a member's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period ("nn" seconds), the Exchange will automatically logoff the member's affected Client Application and if the member has elected to have its orders cancelled pursuant to Rule 1074(d) automatically cancel all open orders posted.

(c) The default time period ("nn" seconds) for SQF Ports shall be fifteen (15) seconds. A Phlx member may determine another time period of "nn" seconds of no technical connectivity, as

required in paragraph (i) above, to trigger the disconnect and must communicate that time to the Exchange. The period of "nn" seconds may be modified to a number between one hundred (100) milliseconds and 99,999 milliseconds for SQF Ports prior to each session of connectivity to the Exchange. This feature is enabled for each member and may not be disabled.

(1) If the member systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout the current session of connectivity and will then default back to fifteen seconds. The member may change the default setting systemically prior to each session of connectivity.

(2) If a time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the member shall persist for each subsequent session of connectivity until the member either contacts Exchange operations and changes the setting or the member systemically selects another time period prior to the next session of connectivity.

(d) The default period of "nn" seconds for FIX Ports shall be thirty (30) seconds for the disconnect and, if elected, the removal of orders. If the Phlx member elects to have its orders removed, in addition to the disconnect, the Phlx member may determine another time period of "nn" seconds of no technical connectivity, as required in paragraph (ii) above, to trigger the disconnect and removal of orders and communicate that time to the Exchange. The period of "nn" seconds may be modified to a number between one (1) second and thirty (30) seconds for FIX Ports prior to each session of connectivity to the Exchange. This feature may be disabled for the removal of orders, however the member will be disconnected.

(1) If the member systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout the current session of connectivity and will then default back to thirty seconds. The member may change the default setting systemically prior to each session of connectivity.

(2) If the time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the member shall persist for each subsequent session of connectivity until the member either contacts Exchange operations and changes the setting or the member systemically selects another time period prior to the next session of connectivity.

(e) The trigger for the SQF and FIX Ports is event and Client Application specific. The automatic cancellation of the Market Maker's quotes for SQF Ports and open orders for FIX Ports entered into the respective SQF or FIX Ports via a particular Client Application will neither impact nor determine the treatment of the quotes of other Market Makers entered into SQF Ports or orders of the same or other members entered into the FIX Ports via a separate and distinct Client Application.

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**Rule 1080. Electronic Acceptance of Quotes and Orders**

(a) **Entry and Display of Orders and Quotes.** Members may enter orders and quotes into the System as specified below.

(i) The Exchange offers members the following protocols for entering orders and quotes respectively:

(A) No change.

(B) "**Specialized Quote Feed**" or "**SQF**" is an interface that allows Specialists, Streaming Quote Traders ("SQTs") and Remote Streaming Quote Traders ("RSQTs") to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge request from the Specialist, SQT or RSQT. Specialists, SQTs and RSQTs may only enter interest into SQF in their assigned options series.

(C) No change.

(b) No change.

(c) Phlx XL automatically executes eligible orders using the Exchange disseminated quotation (except if executed pursuant to the NBBO Feature in sub-paragraph (i) below) and then automatically routes execution reports to the originating member organization. AUTOM orders not eligible for AUTO-X are executed manually in accordance with Exchange rules. Manual execution may also occur when AUTO-X is not engaged, such as pursuant to sub-paragraph (iv) below. An order may also be executed partially by AUTO-X and partially manually. The terms "Book Match" and "Book Sweep" are subsumed under the term "AUTO-X" for purposes of these rules.

In Phlx XL II, respecting situations in which the Quote Exhaust feature is engaged, the system will automatically execute transactions as set forth in Rule 1082.

The Exchange may for any period restrict the use of AUTO-X on the Exchange in any option or series provided that the effectiveness of any such restriction shall be conditioned upon its having been approved by the Securities and Exchange Commission pursuant to Section 19(b) of the Securities Exchange Act of 1934 and the rules and regulations thereunder. Any such restriction on the use of AUTO-X approved by the Exchange will be clearly communicated to Exchange membership and AUTOM users on the Exchange's web site. Such restriction would not take effect until after such communication has been made



The Exchange shall provide automatic executions for eligible customer and broker-dealer orders up to the Exchange's disseminated size as defined in Exchange Rule 1082 except with respect to orders eligible for "Book Match."

(i) No change.

**(ii) Order Entry Firms and Users**

(A) No change.

(B) Obligations of Order Entry Firms. Order Entry Firms shall:

(1) No change.

(2) Provide written notice to all Users regarding the proper use of AUTO-X[; and].

[(C) Order Entry Firms shall comply with the following requirements when interacting with orders on the limit order book which they represent as agent.

(1) Principal Transactions: Order Entry Firms may not execute as principal against orders on the limit order book they represent as agent unless: (a) agency orders are first exposed on the limit order book for at least one (1) second, (b) the Order Entry Firm has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such order, (c) the Order Entry Firm proceeds in accordance with the crossing rules contained in Rule 1064, (d) the orders are entered into Price Improvement XL or "PIXL" pursuant to Rule 1087, (e) the orders are entered into the Complex Order Live Auction or "COLA" pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (f) orders entered into the Qualified Contingent Cross or "QCC" mechanism pursuant to Rules 1080(o).

(2) Solicitation Orders. Order Entry Firms must expose orders they represent as agent for at least one (1) second before such orders may be automatically executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders, except for: (a) orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).

(3) It shall be a violation of Rule 1080(c)(ii)(C) for any Exchange member or member organization to be a party to any arrangement designed to circumvent Rule 1080(c)(ii)(C) by providing an opportunity for a customer, member, member organization, or non-member broker-dealer to execute immediately against agency orders delivered to the Exchange, whether such orders are delivered via AUTOM or represented in the trading crowd by a member or a member organization, except for: (a) orders entered into PIXL pursuant to Rule 1087, (b) orders entered into COLA pursuant to Rule 1080, Commentary .02(c)(ii)(e), or (c) orders entered into the QCC mechanism pursuant to Rules 1080(o).]

(iii) – (vi) No change.

(d) - (i) No change.

**[(j) Limitations on Orders.** Members shall not enter, or facilitate entry into Phlx XL, as principal or agent, limit orders in the same options series from off the floor of the Exchange, for the account or accounts of the same or related beneficial owners, in such a manner that the off floor member or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether an off floor member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract; the multiple acquisition and liquidation of positions in the same options series during the same day; and the entry of multiple limit orders at different prices in the same options series.

The limitation set forth in this Rule 1080(j) does not apply to the accounts of off-floor broker dealers or Professionals as the term is defined in Rule 1000(b)(14). Notwithstanding the foregoing, the limitation in Rule 1080(j) above will continue to apply to all-or-none orders submitted by Professionals to the Exchange.

**(k) Electronic Streaming Quotations.** SQTs may generate and submit option quotations if such SQT is physically present on the Exchange floor, and RSQTs may generate and submit option quotations from off the floor of the Exchange, electronically.

Respecting options trading on Phlx XL II, specialists, SQTs and RSQTs who are quoting in an option may also submit Sweeps, which are defined in and governed by Rule 1082.

(l) Reserved]

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### **Rule 1096. Entry and Display of Orders**

**(a) Members can enter orders into the System, subject to the following requirements and conditions:**

**(1) Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.**

**(2) The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's web site.**

**(3) The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.**

(4) Orders submitted to the System are subject to the following: minimum increments provided for in Rule 1034, risk protections provided for in Rule 1099, and the restrictions of any order type as provided for in Rule 1080(b). Orders may execute at multiple prices.

(5) Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.

(b) NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Rule 1083(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Rule 1083(j)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Rule 1083(k)).

(c) The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("PBBO") or the Exchange's non-displayed order book ("internal PBBO") if there are non-displayed orders on the order book or the best bid and/or offer on the Exchange has been re-priced pursuant to subsection (d) below.

(d) Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

(e) Orders will be displayed in the System as described in Rule 1099.

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#### **Rule 1097. Limitations on Order Entry.**

(a) Limit Orders. Members shall not enter public customer limit orders into the System in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things: the simultaneous or near-simultaneous entry of limit orders to buy and sell the same options contract and the entry of multiple limit orders at different prices in the same options series.

(b) **Limitations on Principal Transactions.** Members may not execute as principal against orders on the limit order book they represent as agent unless: (a) agency orders are first exposed on the limit order book for at least 1 second; (b) the member has been bidding or offering on the Exchange for at least 1 second prior to receiving an agency order that is executable against such order; (c) the member proceeds in accordance with the crossing rules contained in Rule 1064; (d) the orders are entered into Price Improvement XL or “PIXL” pursuant to Rule 1087; (e) the orders are entered into the Complex Order Live Auction or “COLA” pursuant to Rule 1098(e); or (f) the orders are entered into the Qualified Contingent Cross or “QCC” mechanism pursuant to Rules 1088.

(1) This Rule prevents a member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of this Rule for a member to be a party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer or other person (including affiliates) to regularly execute against agency orders handled by the member immediately upon their entry into the System.

(c) Prior to or after submitting an order to Phlx, a member cannot inform another member or any other third party of any of the terms of the order for purposes of violating Rule 1095.

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