

Required fields are shown with yellow backgrounds and asterisks.

Filing by The Nasdaq Stock Market LLC
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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| Initial * <input checked="" type="checkbox"/> | Amendment * <input type="checkbox"/> | Withdrawal <input type="checkbox"/> | Section 19(b)(2) * <input type="checkbox"/> | Section 19(b)(3)(A) * <input checked="" type="checkbox"/> | Section 19(b)(3)(B) * <input type="checkbox"/> |
| Pilot <input type="checkbox"/> | | | Rule | | |
| Extension of Time Period for Commission Action * <input type="checkbox"/> | | Date Expires * <input type="text"/> | <input type="checkbox"/> 19b-4(f)(1) | <input type="checkbox"/> 19b-4(f)(4) | |
| | | | <input type="checkbox"/> 19b-4(f)(2) | <input type="checkbox"/> 19b-4(f)(5) | |
| | | | <input type="checkbox"/> 19b-4(f)(3) | <input checked="" type="checkbox"/> 19b-4(f)(6) | |

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| Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 | Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 |
| Section 806(e)(1) * <input type="checkbox"/> | Section 806(e)(2) * <input type="checkbox"/> |
| | Section 3C(b)(2) * <input type="checkbox"/> |

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| Exhibit 2 Sent As Paper Document <input type="checkbox"/> | Exhibit 3 Sent As Paper Document <input type="checkbox"/> |
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Description
 Provide a brief description of the action (limit 250 characters, required when Initial is checked *).
 An Amendment to Options 4 Listing Rules

Contact Information
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

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

Signature
 Pursuant to the requirements of the Securities Exchange Act of 1934,
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.
 (Title *)
 Date 07/20/2021 EVP and Chief Legal Officer
 By John Zecca
 (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.
 john.zecca@nasdaq.com

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) The Nasdaq Stock Market LLC (“Nasdaq” or the “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend The Nasdaq Options Market LLC (“NOM”) Rules at Options 2, Section 5, Market Maker Quotations; Options 4, Options Listing Rules; and Options 4A, Section 12, Terms of Index Options Contracts. This proposal also creates a new Options 4C entitled “U.S. Dollar-Settled Foreign Currency Options.” Finally, the Exchange proposes to reserve some sections with the Equity Rules and correct a cross-reference within Options 2, Section 4, Obligations of Market Makers.

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 November 5, 2020. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Principal Associate General Counsel
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 to amend the Options 4, Options Listing Rules, to conform NOM's Options 4 Listing Rules to Nasdaq ISE, LLC's ("ISE") Options 4 Listing Rules. The Exchange also proposes to amend NOM Options 4A, Section 12, Terms of Index Options Contracts and create a new NOM Options 4C entitled "U.S. Dollar-Settled Foreign Currency Options" and adopt U.S. Dollar-Settled Foreign Currency Options rules similar to Nasdaq Phlx LLC's ("Phlx") rules at Options 4C. Also, the Exchange also proposes to amend Options 2, Section 5, Market Maker Quotations to relocate rule text concerning bid/ask differentials for long-term options contracts from NOM Options 4 and Options 4A, similar to ISE. Finally, the Exchange proposes to correct a cross-reference within Options 2, Section 4, Obligations of Market Makers. Each rule change is described below.

Options 4, Options Listing Rules

Conforming NOM's Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange's continued effort to promote efficiency in the manner in which it administers its rules. The Exchange proposes to amend these rules to conform to ISE Options 4 Rules.

The Exchange proposes a universal technical amendment which impacts Options 4, Sections 1 through 4, 6, 7, 8 and 10. The Exchange proposes to relocate a "." at the

end of the terms “Section,” where applicable, throughout Options 4 to the end of the proceeding number within Options 4, Sections 1 through 4, 6, 7, 8 and 10.

Section 1. Designation of Securities

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Securities traded on the Exchange are options contracts, each of which is designated by reference to the issuer of the underlying security or name of underlying foreign currency, expiration month or expiration date, exercise price and type (put or call).

with the following rule text,

The Exchange trades options contracts, each of which is designated by reference to the issuer of the underlying security, expiration month or expiration date, exercise price and type (put or call).

The Exchange proposes to amend this sentence within Options 4, Section 1 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

Section 2. Rights And Obligations Of Holders And Writers

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Subject to the provisions of this Chapter, the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation.

with the following rule text,

The rights and obligations of holders and writers shall be as set forth in the Rules of the Clearing Corporation.

The Exchange proposes to amend this sentence within Options 4, Section 2 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

Section 3. Criteria for Underlying Securities

Options 4, Section 3 of the Options Listing Rules is being updated to conform to ISE Options 4, Section 3.

The Exchange proposes to amend Options 4, Section 3(a)(i) and (ii) to conform to ISE Options 4, Section 3(a)(1) and (2) by changing the “i. and ii.” to “(1) and (2),” respectively. Also, the Exchange proposes to remove the phrase “with the SEC” within current NOM Options 4, Section 3(a)(i). These amendments are non-substantive.

The Exchange proposes to amend Options 4, Section 3(b) to reword the rule text to ISE Options 4, Section 3(b). The Exchange proposes to replace the current rule text of Options 4, Section 3(b) which states,

In addition, the Exchange shall from time to time establish standards to be considered in evaluating potential underlying securities for the Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the standards established by the Exchange does not necessarily mean that it will be selected as an underlying security. The Exchange may give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, an underlying security will not be selected unless:

with the following rule text,

In addition, the Exchange shall from time to time establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, however absent exceptional circumstances, an underlying security will not be selected unless:

The new rule text permits the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing NOM with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit NOM to list similar options as ISE for competitive purposes. The proposal to replace the term “standards” with “guidelines” within paragraph 3(b) is non-substantive.

The Exchange is amending numbering within Options 4, Section 3(b) as well as removing extraneous rule text within current Options 4, Section 3(b)(iii), namely “or Rules thereunder.” The Exchange proposes to relocate Options 4, Section 3(k) into new Options 4, Section 3(b)(6) without change. This would align NOM Options 4, Section 3(b)(6) with ISE Options 4, Section 3(b)(6). This provision states,

Notwithstanding the requirements set forth in Paragraphs 1, 2, 4 and 5 above, the Exchange may list and trade an options contract if (i) the underlying security meets the guidelines for continued approval in Options 4, Section 4; and (ii) options on such underlying security are traded on at least one other registered national securities exchange.

The Exchange proposes to renumber NOM Options 4, Section 3(c) and make minor amendments to rule text within current Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g) to conform the rule text to ISE Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g). The proposed changes are non-substantive.³

³ The proposed changes replace the word “standards” with “guidelines,” insert “Options 4” before “Section 3,” and remove 2 extraneous uses of “this.” Similar replacements are made throughout current Options 4, Section 3(c), including amending a capitalized “Paragraph.”

The Exchange proposes to amend an “up” to “on” within NOM Options 4, Section 3(d). This proposed change is non-substantive.

The Exchange proposes non-substantive amendments to amend NOM Options 4, Section 3(f) and (g)⁴ in addition to conforming the numbering to ISE Options 4, Section 3(f) and (g) numbering.

The Exchange proposes to relocate rule text currently within NOM Options 4, Section 3(h), which describes a market information sharing agreement, to proposed NOM Options 4, Section 3(i) without change. This rule text is currently located within ISE rules at Options 4, Section 3(i).

Current NOM Options 4, Section 3(i) is being re-lettered as proposed Options 4, Section 3(h). The Exchange proposes to add the defined term “Financial Instruments” within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term “Money Market Instruments” similar to ISE Options 4, Section 3(h). The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as “Financial Instruments” with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading. The remainder of the changes are non-

⁴ The proposed changes replace the word “standards” with “guidelines,” insert “Rule” instead of “Section 3,” and remove an unnecessary “or.”

substantive in nature and simply conform the location of words similar to ISE.⁵ The Exchange also proposes to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust. The Exchange no longer lists these products and proposes to remove them the products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future. Finally, the Exchange proposes to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, “all of the following conditions are met.” Paragraph (h) would simply end with “provided that:” and direct market participants to subparagraphs (1) and (2).

The Exchange proposes to capitalize “the” at the beginning of Options 4, Section 3(h)(1) and remove “; and” at the end of the paragraph and instead at a period so that subparagraphs (1) and (2) are not linked, but rather read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. Similar to ISE Options 4, Section 3(h)(2), the Exchange proposes to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares. Specifically, the Exchange proposes to amend Options 4, Section 3(h)(2) to provide, “Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the following criteria.” ISE Options 4, Section 3(h) has the identical text.

Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for

⁵ The amendment to current Options 4, Section 3(i)(B)(4) to add, “...which the Exchange-Traded Fund shares are based...” makes clear that this text applies to Exchange-Traded Fund shares. Also the word “indexes” is being changes to “indices” within this paragraph and “similar entity” is being relocated within the paragraph.

options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes, or portfolios that include non-U.S. securities. This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange proposes to amend Options 4, Section 3(h)(2)(A) to remove the phrase “for series of portfolio depositary receipts and index fund shares based on international or global indexes,”. Today, Options 4, Section 3(h), subparagraphs (h)(1)⁶ and (h)(v)⁷ permit the Exchange to list options on Exchange-Traded Fund Shares based

⁶ Subsection (h)(i) concerns passive Exchange-Traded Fund Shares. Subsection (h)(1) provides, “represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments).”

⁷ Subsection (h)(v) concerns active Exchange-Traded Fund Shares. Subsection (h)(v) Provides, “represents an interest in a registered investment company (“Investment Company”) organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities

on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). The identical rule text exists within ISE Options 4, Section 3(h)(2)(A).

The Exchange also proposes to amend the term “comprehensive surveillance agreement” within Options 4, Section 3(h)(2) (A) – (D) to instead provide “comprehensive surveillance sharing agreement.” This amendment will bring greater clarity to the term. Further, the Exchange proposes to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” within Options 4, Section 3(h)(2)(B), (C), and (D) to clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. The Exchange notes that “not available” is intended for cases where the Exchange does not have access to the index components, in those cases the Exchange would look to the portfolio components. The term “not applicable” is intended if the fund is active and does not track an index and only the portfolio is available. These amendments will conform the rule text to ISE Options 4, Section 3(h)(2)(A) – (D).

and/or a cash amount with a value equal to the next determined net asset value (“NAV”), and when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (“Managed Fund Share”).

The Exchange also proposes to wordsmith Options 4, Section 3(h)(2)(B) to amend the phrase to provide, “any non-U.S. component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund’s portfolio of securities that are not subject to comprehensive surveillance sharing agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;”. Finally, the Exchange proposes to wordsmith Options 4, Section 3(h)(2)(C) and (D) to relocate the phrase “on which the Exchange-Traded Fund Shares are based” and add “or portfolio” to bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B). The Exchange believes that the revised wording will bring greater clarity to the rule text and conform the rule text to ISE Options 4, Section 3(h)(2)(B) – (D). The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(C)(2)(A)(ii) to correct a typographical error by changing a “than” to a “that.” The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(h)(1) to change “In” to “in.”

As noted above NOM Options 4, Section 3(h), which describes a market information sharing agreement, was proposed to be relocated to Options 4, Section 3(i), similar to ISE Options 4, Section 3(i).

The Exchange proposes to amend Options 4, Section 3(j) to conform the rule text to ISE Options 4, Section 3(j). The proposed changes are non-substantive.⁸

As noted, above, Options 4, Section 3(k) was proposed to be relocated to new Options 4, Section 3(b)(6).

⁸ The amendment to current Options 4, Section 3(j) replace the word “standards” with “guidelines.”

The Exchange proposes to remove the header “Index-Linked Securities” within Options 4, Section 3(l), and re-letter Options 4, Section 3(l)(i) as Section 3(k). Proposed Options 4, Section 3(k) has non-substantive numbering and citation amendments.

Options 4, Section 3(m) is being relocated into new Options 4C, Section 3 without change. Options 4C is specific to U.S. Dollar-Settled Foreign Currency Options.

Section 4. Withdrawal of Approval of Underlying Securities

The Exchange proposes to remove the first sentence of Options 4, Section 4(a), which provides, “If put or call options contracts with respect to an underlying security are approved for listing and trading on the Exchange, such approval shall continue in effect until such approval is affirmatively withdrawn by the Exchange.” This sentence is unnecessary as the second sentence within Options 4, Section 4(a) makes clear that approval continues until it does not meet the requirements. Also, the Exchange proposes to add the following text to the end of this paragraph: “When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.” This text makes clear that options contracts that are no longer approved will not be listed. The remainder of the changes to Options 4, Section 4(a) are non-substantive. This proposal is intended to conform NOM’s Options 4, Section 4(a) with ISE Options 4, Section 4(a).

The Exchange proposes to amend Options 4, Section 4(b) to add “Absent exceptional circumstances...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes as well as capitalization are non-substantive and intended to conform NOM’s Options 4, Section 4(b) with ISE Options 4, Section 4(b). The Exchange also proposes to remove reserved sections.

Options 4, Section 4(c), which is currently reserved, is proposed to be deleted and current Options 4, Section 4(d) is proposed to be re-lettered as “c”. Minor non-substantive conforming changes are proposed to current Options 4, Section 4(d) – (f).⁹

The Exchange proposes to amend current Options 4, Section 4(h) to re-letter it “g” and replace “security” with “Exchange-Traded Fund Shares” similar to ISE Options 4, Section 4(g). The Exchange proposes to add halt or suspension as other circumstances in which the Exchange shall not open for trading any additional series of option contracts of the class to clarify that this scenario may also exist. The other proposed changes to current Options 4, Section 4(h) are non-substantive.¹⁰

The Exchange proposes to amend current Options 4, Section 4(i) to re-letter it “h” and add “Absent exceptional circumstances, securities...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes are non-substantive¹¹ and conform current NOM’s Options 4, Section 4(i) with ISE Options 4, Section 4(h).

The Exchange proposes to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i). The proposed new section would provide,

⁹ The Exchange proposes to remove “Section 4”, lowercase the term “Customer,” add “options 4” and remove “thereof” within Options 4, Section 4(d) – (f).

¹⁰ The Exchange proposes to amend Options 4, Section 4(h) to add “Options 4” and replace “Section 4” with “Rule;” and replace an “or” with an “and.”

¹¹ The term Options 4 is being relocated within the proposed new paragraph (h). Also, the term “Rule” is being used within proposed new paragraph (h)(1) instead of “Section 4,” and “Section 3.” “Upon annual review” is being removed from proposed new paragraph (h)(2).

For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

- (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or
- (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

Current Options 4, Section 4 does not describe the withdrawal of HOLDRs. This new text, similar to ISE, would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs.

The Exchange proposes to delete current Options 4, Section 4(j), which is reserved, as well as the lettering for Options 4, Section 4(k) which states, "Index Linked Securities." The next existing paragraph is proposed to be Options 4, Section 4(j). The remainder of the numbering changes to this section are non-substantive and conform proposed Options 4, Section 4(j) with ISE Options 4, Section 4(j).

The Exchange proposes to remove Options 4, Section 4(l) related to inadequate volume delisting. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.¹² Also, pursuant to

¹² Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE. See proposed Phlx Options 3, Section 4(b) which provides, "Absent exceptional circumstances, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur: (1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act. (2) There are fewer than 1,600 holders of the underlying security. (3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months. (4) The underlying security ceases to be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act. (5) If an underlying security is approved for options listing and trading under the

proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe Exchange, Inc. (“Cboe”).¹³ This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that NOM’s requirements are different from other options markets. To remain competitive the Exchange proposes to adopt the same standards as ISE so that it may list options similar to other markets.

While the Exchange may in the future determine to delist an option that is singly listed, the Exchange proposes to remove the rule text which provides that “If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest.” This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all Participants so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The rule text within Options 4, Section 4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied.”

¹³ See ISE Options 4, Section 4 and Cboe Rule 4.4.

The reference to Options 4, Section 4(m) is proposed to be deleted. The provision that is currently Options 4, Section 4(m) is proposed to become Supplementary Material .01 to Options 4, Section 6 with a minor non-substantive change to the current rule text to capitalize “rules.”

Section 5. Series of Options Contracts Open for Trading

The Exchange proposes to update citations within Options 4, Section 5 to reflect the replacement of current rule text. These changes are non-substantive.

Section 7. Adjustments

The Exchange proposes non-substantive amendments to Options 4, Section 7.

The current text states,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. The Exchange will announce adjustments, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The Exchange proposes to instead provide,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. When adjustments have been made, the Exchange will announce that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The proposal conforms NOM Options 4, Section 7 with ISE Options 4, Section 7.

Section 8. Long-Term Options Contracts

The Exchange proposes to conform NOM Options 4, Section 8 to ISE Options 4, Section 8. The proposed changes are non-substantive. NOM’s current rule text provides that with respect to long-term options series, bid/ask differential rules do not apply. The Exchange proposes to add this rule text to Options 4, Section 5(d)(2) within new subsection “A” as the bid/ask differential requirements can be found within this rule. The

Exchange also proposes to add a new sentence to Options 4, Section 8(a) to refer to Options 4, Section 5(d)(2)(A), which states, “Bid/ask differentials for long-term options contracts are specified within Options 3, Section 5(d)(2)(A)” for ease of reference in locating all bid/ask requirements.

Section 9. Limitation on the Liability of Index Licensors for Options on Fund Shares

The Exchange proposes to relocate current Options 4, Section 9, U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value to Options 4C, Section 6 with minor changes to add new lettering.

The Exchange proposes to adopt a new Section 9, titled “Limitation on the Liability of Index Licensors for Options on Fund Shares” identical to ISE Options 4, Section 9. ISE and Cboe have similar provisions.¹⁴ The new rule would provide,

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in

¹⁴ See Securities Exchange Act Release No. 45817 (April 24, 2002), 67 FR 21785 (May 1, 2002) (SR-CBOE-2002-19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Amend Its Rules Relating to the Limitation of Liability for Index Licensors) and 14729 (March 19, 2003), 68 FR 14729 (March 26, 2003) (SR-ISE-2003-09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Limiting the Liability of Index Licensors for Options on Fund Shares).

the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

Proposed Section 9(a) defines the term “index licensor” as any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

Proposed Options 4, Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor will obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor disclaims all warranties of merchantability or fitness

for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor will have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

Section 10. Back-up Trading Arrangements

The Exchange proposes to add a new rule to Options 4, Section 10, titled "Back-Up Trading Arrangements." Section 10 is currently reserved.¹⁵ This proposed rule is identical to ISE Options 4, Section 10. This rule would permit NOM to enter into arrangements with one or more other exchanges (each a "Back-up Exchange") to permit NOM and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of NOM exclusively listed options in the event of a Disabling Event, and permits NOM to provide trading facilities at NOM for another exchange's exclusively listed options if that exchange (a "Disabled Exchange") is prevented from trading due to a Disabling Event. Also, the proposed rule would permit NOM to enter into

¹⁵ See Securities Exchange Act Release No. 71092 (December 17, 2013), 78 FR 77510 (December 23, 2013) (SR-ISE-2013-61) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Back-Up Trading Arrangements).

arrangements with a Back-up Exchange to provide for the listing and trading of NOM singly listed options by the Back-up Exchange if NOM's facility becomes disabled, and conversely provide for the listing and trading by NOM of the singly listed options of a Disabled Exchange.

The back-up trading arrangements contemplated by Options 4, Section 10 would ensure that NOM's exclusively listed and singly listed options will have a trading venue if a catastrophe renders its primary facility inaccessible or inoperable.

Section 10(a) describes the back-up trading arrangements that would apply if NOM were the Disabled Exchange. An "exclusively listed option" is defined within Section 10(a)(1)(i) to mean an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option). Proposed paragraph(a)(1)(ii) provides that the facility of the Back-up Exchange used by NOM to trade some or all of NOM's exclusively listed options will be deemed to be a facility of NOM, and such option classes shall trade as listings of NOM. Since the trading of NOM exclusively listed options will be conducted using the systems of the Back-up Exchange, proposed paragraph (a)(1)(iii) provides that the trading of NOM listed options on NOM's facility at the Back-up Exchange shall be conducted in accordance with the rules of the Back-up Exchange, and proposed paragraph (a)(1)(iv) provides that the Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading, in each case except as NOM and the Back-up Exchange may specifically agree otherwise. The Back-up Exchange rules that govern trading on NOM's facility at the Back-up Exchange shall be deemed to be NOM rules for purposes of such trading. Proposed paragraph (a)(1)(v) provides that

NOM shall have the right to designate its members that will be authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange and, if applicable, its member(s) that will be a NOM Market Maker in those options.¹⁶ If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade on NOM's facility at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade at that facility by considering factors such as whether the Participant is a NOM Market Maker in the applicable product(s), the number of contracts traded by the member in the applicable product(s), market performance, and other factors relating to a member's contribution to the market in the applicable product(s). Under proposed paragraph (a)(1)(vi), Participants of the Back-up Exchange shall not be authorized to trade in any NOM exclusively listed options, except that (i) NOM may deputize willing brokers of the Back-up Exchange as temporary NOM Participants to permit them to execute orders as brokers in NOM exclusively listed options traded on NOM's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of NOM, select members of the Back-up Exchange that are willing to be deputized by NOM as temporary NOM Participants authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange for such period of time following a Disabling Event as NOM determines to be appropriate, and NOM may deputize such members of the Back-up Exchange as temporary NOM Participants for that purpose.

The foregoing exceptions would permit members of the Back-up Exchange to trade NOM exclusively listed options on NOM's facility on the Back-up Exchange, if, for

¹⁶ Of note, unlike Phlx, NOM does not have rules to appoint Lead Market Makers.

example, circumstances surrounding a Disabling Event result in NOM Participants being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading. Options 4, Section 10(a)(2) of the proposed rule provides for the continued trading of NOM singly listed options at the Back-up Exchange in the event of a Disabling Event at NOM. Proposed paragraph (a)(2)(ii) provides that NOM may enter into arrangements with a Back-up Exchange under which the Back-up Exchange will agree, in the event of a Disabling Event, to list for trading option classes that are then singly listed only by NOM. Such option classes would trade on the Back-up Exchange as listings of the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Under proposed paragraph (a)(2)(iii), any such options class listed by the Back-up Exchange that does not satisfy the standard listing and maintenance criteria of the Back-up Exchange will be subject, upon listing by the Back-up Exchange, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in the rules of the Back-up Exchange). NOM singly listed option classes would be traded by members of the Back-up Exchange and by NOM Participants selected by NOM to the extent the Back-up Exchange can accommodate NOM Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade NOM singly listed options at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade such options at the Back-up Exchange by considering the same factors used to determine which NOM Participants are eligible to trade NOM exclusively listed options at NOM's facility at the Back-up Exchange.

Proposed Section (a)(3) provides that NOM may enter into arrangements with a Back-up Exchange to permit NOM Participants to conduct trading on a Back-up Exchange of some or all of NOM's multiply listed options in the event of a Disabling Event. While continued trading of multiply listed options upon the occurrence of a Disabling Event is not likely to be as great a concern as the continued trading of exclusively and singly listed options, NOM nonetheless believes a provision for multiply listed options should be included in the rule so that the exchanges involved will have the option to permit members of the Disabled Exchange to trade multiply listed options on the Back-up Exchange. Such options shall trade as a listing of the Back-up Exchange in accordance with the rules of the Back-up Exchange.

Options 4, Section 10(b) describes the back-up trading arrangements that would apply if NOM were the Back-up Exchange. In general, the provisions in Section (b) are the converse of the provisions in Section (a). With respect to the exclusively listed options of the Disabled Exchange, the facility of NOM used by the Disabled Exchange to trade some or all of the Disabled Exchange's exclusively listed options will be deemed to be a facility of the Disabled Exchange, and such option classes shall trade as listings of the Disabled Exchange. Trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at NOM shall be conducted in accordance with NOM rules, and NOM will perform the related regulatory functions with respect to such trading, in each case except as the Disabled Exchange and NOM may specifically agree otherwise. NOM rules that govern trading on the Disabled Exchange's facility at NOM shall be deemed to be rules of the Disabled Exchange for purposes of such trading.

Sections (b)(2) and (b)(3) describe the arrangements applicable to trading of the Disabled Exchange's singly and multiply listed options at NOM, and are the converse of Sections (a)(2) and (a)(3). Paragraph (b)(2)(i) includes a provision that would permit NOM to allocate singly listed option classes of the Disabled Exchange to a NOM Market Maker in advance of a Disabling Event, without utilizing the allocation process under NOM Rule Options 2, Section 1, to enable NOM to quickly list such option classes upon the occurrence of a Disabling Event.

Options 4, Section 10(c) describes the obligations of Participants with respect to the trading by "temporary members" on the facilities of another exchange. Section (c)(1) sets forth the obligations applicable to Participants of a Back-up Exchange who act in the capacity of temporary Participants of the Disabled Exchange on the facility of the Disabled Exchange at the Back-up Exchange. Section (c)(1) provides that a temporary Participant of the Disabled Exchange shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of the Disabled Exchange at the Back-up Exchange. This would include the rules of the Disabled Exchange to the extent applicable during the period of such trading, including the rules of the Disabled Exchange limiting its liability for the use of its facilities that apply to members of the Disabled Exchange. Additionally, (i) such temporary Participant shall be deemed to have satisfied, and the Disabled Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Participant of the Disabled Exchange, including all dues, fees and charges imposed generally upon members of the Disabled Exchange based on their status as such, (ii) such temporary Participant shall have none of the rights of a member of the Disabled Exchange except

the right to conduct business on the facility of the Disabled Exchange at the Back-up Exchange to the extent described in the Rule, (iii) the Participant associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to the Disabled Exchange, and (iv) the clearing member of such temporary Participant shall guarantee and clear the transactions of such temporary Participant on the Disabled Exchange.

Section (c)(2) sets forth the obligations applicable to members of a Disabled Exchange who act in the capacity of temporary Participants of the Back-up Exchange for the purpose of trading singly listed and multiply listed options of the Disabled Exchange. Such temporary Participants shall be subject to, and obligated to comply with, the rules of the Back-up Exchange that are applicable to the Back-up Exchange's own members, including the rules of the Back-up Exchange limiting its liability for the use of its facilities that apply to members of the Back-up Exchange. Temporary Participants of the Back-up Exchange have the same obligations as those set forth in Section (c)(1) that apply to temporary Participants of the Disabled Exchange, except that, in addition, temporary Participants of the Back-up Exchange shall only be permitted (i) to act in those capacities on the Back-up Exchange that are authorized by the Back-up Exchange and that are comparable to capacities in which the temporary Participant has been authorized to act on the Disabled Exchange, and (ii) to trade in those option classes in which the temporary Participant is authorized to trade on the Disabled Exchange.

Options 4, Section 10 provides that the rules of the Back-up Exchange shall apply to the trading of the singly and multiply listed options of the Disabled Exchange traded on the Back-up Exchange's facilities, and (with certain limited exceptions) the trading of

exclusively listed options of the Disabled Exchange traded on the facility of the Disabled Exchange at the Back-up Exchange. The Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading (except as the Back-up Exchange and the Disabled Exchange may specifically agree otherwise). Section (d) provides that if a Back-up Exchange initiates an enforcement proceeding with respect to the trading during a back-up period of singly or multiply listed options of the Disabled Exchange by a temporary Participant of the Back-up Exchange, or exclusively listed options of the Disabled Exchange by a member of the Disabled Exchange (other than a member of the Back-up Exchange who is a temporary member of the Disabled Exchange), and such proceeding is in process upon the conclusion of the back-up period, the Back-up Exchange may transfer responsibility for such proceeding to the Disabled Exchange following the conclusion of the back-up period.

With respect to arbitration jurisdiction, proposed Section (d) provides that arbitration of any disputes with respect to any trading during a back-up period of singly or multiply listed options of the Disabled Exchange or of exclusively listed options of the Disabled Exchange on the Disabled Exchange's facility at the Back-up Exchange will be conducted in accordance with the rules of the Back-up Exchange, unless the parties to an arbitration agree that it shall be conducted in accordance with the rules of the Disabled Exchange.

Proposed Supplementary Material .01 to Options 4, Section 10 clarifies that to the extent Options 4, Section 10 provides that another exchange will take certain action, the Rule is reflecting what that exchange has agreed to do by contractual agreement with NOM, but Options 4, Section 10 is not binding on the other exchange.

Options 4C

The Exchange proposes to relocate current rule text related to criteria to list U.S. Dollar-Settled Foreign Currency Options to new Options 4C and adopting new rule text similar to Phlx¹⁷ to list and trade these securities as described in more detail below.

Section 1. Applicability

Similar to Phlx Options 4C, Section 1 the Exchange proposes to provide,

The Rules in Options 4C are applicable to U.S. Dollar-Settled Foreign Currency Options. Except to the extent that specific rules in this Section, or unless the context otherwise requires, the provisions of Options 4 are applicable to the trading on the Exchange of U.S. Dollar-Settled Foreign Currency Options.

Proposed Options 4C of the Options Listing Rules covers U.S. Dollar-Settled Foreign Currency Options only.

Section 2. Definitions

The Exchange proposes to adopt rules to list for trading U.S. Dollar-Settled Foreign Currency Options, which products are currently listed and traded on Phlx. To that end, NOM proposes to adopt the same rules as Phlx Options 4C. The Exchange therefore proposes to adopt applicability rules and definitions similar to Phlx Options 4C, Section 2.

The Exchange proposes to state within proposed Options 4C, Section 2 that the Rules in Options 4C shall be applicable to the trading on the Exchange in option contracts issued by The Options Clearing Corporation, the terms and conditions of such

¹⁷ See Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-Phlx-2006-34) (Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change as Modified by Amendments No. 1, 2, and 3 Thereto Relating to U.S. Dollar-Settled Foreign Currency Options).

contracts, the exercise and settlement thereof, the handling of orders, and the conduct of accounts and other matters relating to options trading. Except to the extent that specific Rules in this Options 4C govern or unless the context otherwise requires, the provisions of the By-Laws and of all other Rules and Policies of the Board of Directors shall be applicable to the trading on the Exchange of option contracts. This proposed rule would also note that foreign currency option contracts purchased and sold on the Exchange are designated by reference to the underlying foreign currency (e.g., the British pound), expiration month, exercise price and type (put or call).

The Exchange also proposes to add the below definitions to Options 4C, Section 2(b) and note that “The following terms as used in the Rules shall, unless the context otherwise indicates, have the meanings herein specified:”. The definitions that are proposed to be added are:

(1) The term “**aggregate exercise price**” is as defined within Options 1, Section 1(a)(3).

(2) The term “**foreign currency**” is as defined within Options 1, Section 1(a)(20).

(3) The term “**Exchange Spot Price**” in respect of an option contract on a foreign currency means the cash market spot price, for the sale of one foreign currency for another, quoted by various foreign exchange participants for the sale of a single unit of such foreign currency for immediate delivery that is calculated from the foreign currency price quotation reported by the foreign currency price quotation dissemination system selected by the Exchange, to which an appropriate multiplier is applied. The multiplier(s) will be: 100 for the British pound, the Euro, the Swiss Franc, the Canadian dollar, the Australian dollar, the Brazilian real, and the New Zealand dollar; 1,000 for the Chinese yuan, the Danish krone, the Mexican peso, the Norwegian krone, the South African rand, and the Swedish krona; 10,000 for the Japanese yen and the Russian ruble; and 100,000 for the South Korean won.

(4) The term “**unit of underlying foreign currency**” means a single unit of the foreign currency (e.g., one British pound, one Swiss franc, one

Canadian dollar, one Australian dollar, one Japanese yen, one Mexican peso, one Euro, one Brazilian real, one Chinese yuan, one Danish krone, one New Zealand dollar, one Norwegian krone, one Russian ruble, one South African rand, one South Korean won, or one Swedish krona).

Section 3. Criteria for Underlying Securities

Options 4, Section 3(m) is being relocated into new Options 4C, Section 3 without change, except that is being re-lettered as “a”.

Section 4. Withdrawal of Approval of Underlying Securities or Options

NOM proposes to adopt rule text similar to Phlx Options 4C, Section 4 which provides,

The Exchange may determine to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event that the Exchange effects such a withdrawal, the Exchange shall not open for trading any additional series of options of the class covering that underlying foreign currency.

Similar to Phlx, NOM may withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event of a withdrawal, NOM would not open for trading any additional series of options of the class covering that underlying foreign currency.

Section 5. Series of U.S. Dollar-Settled Foreign Currency Options Contracts Open for Trading

Similar to Phlx, NOM proposes to adopt rules to permit it to list and trade U.S. Dollar-Settled Foreign Currency Options. After call option contracts or put option contracts relating to a specific underlying foreign currency has been approved for listing and trading on the Exchange, NOM shall from time to time open for trading series of options therein. Prior to the opening of trading in any series of options, NOM shall fix the expiration month and exercise price of option contracts included in such series. NOM

proposes to adopt Options 4C, Section 5(a)(1) which states,

Within each class of approved U.S. dollar-settled foreign currency options, the Exchange may open for trading series of options expiring in consecutive calendar months (“consecutive month series”), as provided in subparagraph (A) of this paragraph, and series of options expiring at three-month intervals (“cycle month series”), as provided in subparagraph (B) of this paragraph. Prior to the opening of trading in any series of U.S. dollar-settled FCO, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series. The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. Thus, if the Exchange Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled FCOs moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00.

This rule is identical to Phlx’s listing rules for U.S. Dollar-Settled Foreign Currency Options within Phlx Options 4C, Section 5(a)(1).

With respect to consecutive month series, as noted above, each class of U.S. dollar-settled foreign currency option, series of options having up to four consecutive expiration months may be opened for trading simultaneously, with the shortest-term series initially having no more than two months to expiration. Additional consecutive month series of the same class may be opened for trading on the Exchange at or about the time a prior consecutive month series expires, and the expiration month of each such new series shall normally be the month immediately succeeding the expiration month of the then outstanding consecutive month series of the same class of options having the longest remaining time to expiration.

With respect to cycle month series, as noted above, NOM may designate one expiration cycle for each class of U.S. dollar-settled foreign currency option. An expiration cycle is four calendar months (“cycle months”) occurring at three-month intervals. With respect to any particular class of U.S. dollar-settled foreign currency option, series of options expiring in the four cycle months designated by the Exchange for that class may be opened for trading simultaneously, with the shortest-term series initially having approximately three months to expiration. Additional cycle month series of the same class may be opened for trading on the Exchange at or about the time a prior cycle month series expires, and the expiration month of each such new series shall normally be approximately three months after the expiration month of the then outstanding cycle month series of the same class of options having the longest remaining time to expiration.

Proposed Options 4C, Section 5(a)(1)(C) provides rules for long-term options series. The Exchange proposes that it may list with respect to any U.S. dollar-settled foreign currencies, options having up to three years from the time they are listed until expiration. There may be up to ten options series, options having up to thirty-six months from the time they are listed until expiration. There may be up to six additional expiration months. Strike price intervals shall not apply to such options series until the time to expiration is less than twelve months. As proposed herein, bid/ask differentials for long-term options contracts are specified within Options 3, Section 5(d)(2)(A). As noted above the Exchange proposes to consolidate the bid/ask within Options 2.

Proposed Options 4C, Section 5(a)(1)(D) provides that for each expiration month opened for trading of U.S. dollar-settled foreign currency options, in addition to the strike

prices listed by the Exchange pursuant to subsection (a)(1) of this Options 4, Section 5, the Exchange shall also list a single strike price of \$0.01. Finally, the Exchange proposes to state at proposed Options 4C, Section 5(a)(1)(E) that additional series of options of the same class may be opened for trading on the Exchange as the market price of the underlying foreign currency moves substantially from the initial exercise price or prices. The opening of a new series of options on the Exchange shall not effect any other series of options of the same class previously opened.

The rule text proposed herein within Options 4C, Section 5(a)(1)(D) and (E) is identical to the same provisions within Phlx's Options 4C.

With respect to exercise price, NOM proposes within Options 4C, Section 5(b) to provide that the exercise price of each series of foreign currency options opened for trading on the Exchange normally shall be fixed at a price per unit which is reasonably close to the current Exchange Spot Price per unit of the underlying foreign currency in the foreign exchange market at or before the time such series of options is first opened for trading on the Exchange, as determined by finding the arithmetic mean of Exchange Spot Prices as defined in Options 4C, Section 2(b)(3) at or about such time. The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. By way of example, if the Exchange Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled foreign currencies moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20

percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00.

The Exchange proposes to state within Options 4C, Section 5(c) that in fixing the exercise price of one or more series of options on any underlying foreign currency, NOM may take into account the forward sales prices quoted for that underlying foreign currency in the interbank foreign exchange market.

Lastly, the Exchange proposes to state within Options 4C, Section 5(d) that when put option contracts or put and call option contracts are first opened for trading on an underlying foreign currency, NOM may open a series of put option contracts corresponding to each series of call option contracts open or to be opened for trading on the same underlying foreign currency.

All provisions of Options 4C, Section 5 are identical to Phlx's rules with the exception of cross-citations.

Section 6. U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value

The Exchange proposes to adopt a new Options 4C, Section 6, titled "U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value" identical to Phlx Options 4C, Section 6.

The Exchange proposes to provide within Options 4, Section 6(a) that U.S. dollar-settled foreign currency options are settled in U.S. dollars.

The Exchange proposes to provide within Options 4C, Section 6(b) the following,

The closing settlement value for the U.S. dollar-settled FCO on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to the expiration date unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.

The closing settlement value for U.S. dollar-settled foreign currency options shall be governed by this provision.

The Exchange proposes to provide within Options 4, Section 6(c) certain liability provisions similar to Phlx Options 4, Section 6(c). The Exchange proposes to state,

Neither the Exchange, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying currencies or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange.

NOM's proposal would cause the Exchange to not be liable for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God and other extraordinary circumstances.

Finally, the Exchange proposes to provide within Options 4C, Section 6(d)

that the Exchange shall post the closing settlement value on its website or disseminate it through one or more major market data vendors. As noted above, this rule is identical to Phlx Options 4C, Section 6.

Bid/Ask Differentials

The Exchange proposes to amend Options 4, Section 8(a), and Options 4A, Section 12(b)(1)(A) to relocate text concerning bid/ask differentials for long-term option series, without change. Currently, Options 4, Section 8(a) describes the bid/ask differentials for long-term options series for equity options and exchange-traded products and Options 4A, Section 12(b)(1)(A) describes the bid/ask differentials for long-term options series for indexes. Currently, the bid/ask differentials shall not apply to such options series until the time to expiration is less than nine (9) months for equity options and exchange-traded funds as provided for within Options 4, Section 8(a). Currently, bid/ask differentials shall not apply to such options series until the time to expiration is less than nine (9) months for index options as provided for within Options 4A, Section 12(b)(1)(A). The Exchange also proposes to lowercase “Paragraph: within Options 4A, Section 12(b)(1).

The Exchange proposes to centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 4, Section 8(a) and Options 4A, Section 12(b)(1)(A) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange also proposes to capitalize “ask” in the title of Options 2, Section 5(d)(2). The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential

requirements. The Exchange is not amending the bid/ask differentials; the rule text is simply being relocated.

The Exchange also proposes to update a citation to Options 2, Section 5 within Options 2, Section 4, Obligations of Market Makers, within paragraph (a)(1). Specifically, the Exchange proposes to amend the current citation to “Section 5(d)(i)” to instead refer to “Options 2, Section 5(d)(1).”

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ 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. Conforming NOM’s Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange’s continued effort to promote efficiency in the manner in which it administers its rules.

The Exchange’s proposal to amend Options 4, Sections 1, 2, 5, and 7 reflect non-substantive amendments to conform those rules to similar ISE rules. These proposed changes 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 since the changes are intended to ease the Participants’, market participants’, and the general public’s navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

The proposed amendments to ISE Options 3, Section 3(b) to permit the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines, is consistent with the Act. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing NOM with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit NOM to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) is consistent with the Act. The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as "Financial Instruments" with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading.

The Exchange's proposal to remove the following products from Options 4, Section 3(h): the ETFs Silver Trust, the ETFs Palladium Trust, the ETFs Platinum Trust or the Sprott Physical Gold Trust, is consistent with the Act because the Exchange no longer lists these products and proposes to remove these products from its listing rules.

The Exchange will file a proposal with the Commission if it determines to list these products in the future.

The Exchange's proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, "all of the following conditions are met," and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) is consistent with the Act. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange's proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global indexes or portfolios that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. ISE Options 4, Section 3(h) currently has similar rule text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes or portfolios that include non-U.S. securities. This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," is consistent with the Act. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-

Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1).

The Exchange’s proposal to amend the term “comprehensive surveillance agreement” within Options 4, Section 3(h)(2) (A) – (D) to instead provide “comprehensive surveillance sharing agreement” is consistent with the Act as the amendment will bring greater clarity to the term.

The Exchange’s proposal to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” to Options 4, Section 3(h)(2)(B), (C), and (D) is consistent with the Act as it will clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. This rule text currently exists within ISE Options 4, Section 3(h).

The Exchange’s proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding “or portfolio” to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 3(h) will conform NOM's rule text to ISE Options 4, Section 3(h).

The remainder of the change to Options 3, Section 3 are non-substantive and intended to conform to ISE Options 3, Section 3. These proposed changes 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 since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i), are consistent with the Act. Today, the Exchange would not open additional series of HOLDRs without filing a rule change with the Commission and adopting a corresponding rule. This rule text, similar to ISE, explicitly provides that the Exchange would not open additional series of options overlying HOLDRs (without prior Commission approval) if: (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options. This rule text bring greater clarity to NOM's rules in that HOLDRs would not be in certain circumstances.

The Exchange's proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, is consistent with the Act. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.²⁰ Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.²¹ This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that NOM's requirements are different from other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE to remain competitive and list similar options as other markets. While the Exchange may in the future determine to delist an option that is singly listed, the Exchange's proposal to remove the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" is consistent with the Act. This rule text does not exist on ISE and Cboe. Today, the Exchange provides notification of a delisting to all Participants making it unnecessary to retain the current provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The

²⁰ Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

²¹ See ISE Options 4, Section 4 and Cboe Rule 4.4.

rule text within Options 4, Section 4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The remainder of the changes to Options 3, Section 3 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest. Overall, these changes are of a non-substantive nature and either modify, clarify or relocate the existing Rulebook language to reflect the language of the ISE version of the rule and are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange believes that the changes to proposed Options 4, Section 8 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest because the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments and is intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(A) to relocate text concerning bid/ask differentials for long-term option series is consistent with the Act. The Exchange's proposal will centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 3, Section 8 and Options 4A, Section 12(b)(1)(A) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange is not

amending the bid/ask differentials; the rule text is simply being relocated. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

The Exchange's proposal to amend the current citation to "Section 5(d)(i)" within Options 2, Section 4(a)(1) to instead refer to "Options 2, Section 5(d)(1)" is a non-substantive amendment that will bring greater clarity to the Exchange's rules.

The remainder of the proposed changes to Options 3, Section 8 are non-substantive.

The Exchange believes that adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Share, similar to ISE, is consistent with the Act. Specifically, this proposal seeks to limit the liability of index licensors who grant NOM a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.²² Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The disclaimers within proposed Section 9 are consistent with the Act in that these disclaimers provide market participants with relevant information as to the liabilities on option contracts on Exchange-Traded Fund Shares.

²² See ISE Options Listing Rule Section 9.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide NOM with similar abilities as ISE to permit NOM to enter into arrangements with one or more other exchanges to permit NOM and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of NOM exclusively listed²³ options in the event of a Disabling Event, and similarly to permit NOM to provide trading facilities for another exchange's exclusively listed options if a “Disabled Exchange is prevented from trading due to a Disabling Event. With this proposal, NOM is proposing to adopt listing rules similar to Phlx to list and trade U.S. Dollar-Settled Foreign Currency Options. NOM believes that it is important that it develop back-up trading arrangements to minimize the potential disruption and market impact that a Disabling Event could cause. The proposed rule changes are designed to address the key elements necessary to mitigate the effects of a Disabling Event effecting the Exchange, minimize the impact of such an event on market participants, and provide for a liquid and orderly marketplace for securities listed and traded on the Exchange if a Disabling Event occurs. In particular, the proposed rule change is intended to ensure that NOM’s exclusively listed and singly listed products will have a trading venue in the event that trading at NOM is prevented due to a Disabling Event. The Exchange believes that having these back-up trading arrangements in place will minimize potential disruptions to the market and investors if a catastrophe occurs that requires the Exchange's primary facility to be closed for an extended period. Phlx and ISE have a

²³ As defined within the proposed rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

similar rule,²⁴ and the Exchange believes that it is important to the protection of investors and the public interest that it also adopt rules that allow NOM exclusively and singly listed options to continue to trade in the event of a Disabling Event. The proposed rule change also provides authority for NOM to provide a back-up trading venue should another exchange be effected by a Disabling Event, which will benefit the market and investors if a Disabling Event were to happen on another exchange that has entered into a back-up trading arrangement with NOM. Finally, the proposed rule change grants authority to Exchange officials to take action under emergency conditions, which should enable key actions to be taken by NOM representatives in the event of a Disabling Event, and clarifies the fees that will apply if these back-up trading arrangements are invoked, which will reduce investor confusion and minimize the disruption to investors associated with a Disabling Event. Under proposed paragraph (a)(1)(vi), members of the Back-up Exchange shall not be authorized to trade in any NOM exclusively listed options, except that (i) NOM may deputize willing brokers of the Back-up Exchange as temporary NOM Participants to permit them to execute orders as Participants in NOM exclusively listed options traded on NOM's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of NOM, select members of the Back-up Exchange that are willing to be deputized by NOM as temporary NOM members authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange for such period of time following a Disabling Event as NOM determines to be appropriate, and NOM may deputize such members of the Back-up Exchange as temporary NOM members for that purpose. The foregoing exceptions would permit

²⁴ See Phlx and ISE Rules Options 3, Section 10.

members of the Back-up Exchange to trade NOM exclusively listed options on NOM's facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in NOM members being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading.

The Exchange's proposal to adopt rules to list and trade U.S. Dollar-Settled Foreign Currency Options on NOM that are currently listed and traded on Phlx is consistent with the Act. Specifically, NOM proposes to relocate current rule text related to criteria for listing U.S. Dollar-Settled Foreign Currency Options to new Options 4C and adopting rules to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx.²⁵ Today, sufficient venues exist for obtaining reliable information on the currencies so that investors in U.S. dollar-settled Foreign Currency Options can monitor the underlying spot market in the currencies. NOM will integrate U.S. dollar-settled index options, as well as for physical delivery foreign currency options at the time that NOM lists dollar-settled Foreign Currency Options. In addition, the NOM may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. U.S. dollar-settled FCO contracts will be aggregated with physical delivery contracts for position and exercise limit purposes. Exchange rules designed to protect public customers trading in FCOs would apply to U.S. dollar-settled FCOs on the Currencies. The Exchange believes that the adoption of these rules will offer investors another venue on which to

²⁵ See Securities Exchange Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-Phlx-2006-34) (Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change as Modified by Amendments No. 1, 2, and 3 Thereto Relating to U.S. Dollar-Settled Foreign Currency Options). Today, NOM's rules contain the criteria to list U.S. Dollar-Settled Foreign Currency Options only.

transact U.S. Dollar-Settled Foreign Currency Options. The listing of U.S. Dollar-Settled Foreign Currency Options will enhance competition by providing investors with an additional investment vehicle.

Similar to Phlx, NOM would adopt an applicability rule within proposed Options 4C, Section 1 and defined terms within Section 2. The Exchange proposes that the criteria for listing U.S. Dollar-Settled Foreign Currency Options be relocated from current Options 4, Section 3(m). Similar to Phlx, NOM rules would adopt rules related to the withdrawal of approval of underlying securities or options to permit NOM to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event of a withdrawal, NOM would not open for trading any additional series of options of the class covering that underlying foreign currency. Also, NOM proposes to adopt a new Options 4C, Section 5 to describe the manner in which it would list and trade U.S. Dollar-Settled Foreign Currency Options. After call option contracts or put option contracts relating to a specific underlying foreign currency has been approved for listing and trading on the Exchange, NOM shall from time to time open for trading series of options therein. Prior to the opening of trading in any series of options, NOM shall fix the expiration month and exercise price of option contracts included in such series. This rule is identical to Phlx's listing rules for U.S. Dollar-Settled Foreign Currency Options within Phlx Options 4C, Section 5. The determination of the closing settlement value is described within Options 4C, Section 6. The Exchange believes that permitting NOM to list U.S. Dollar-Settled Foreign Currency Options, similar to Phlx, would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The relocation of the Options Listing Rules will facilitate the use of the Rulebook by Participants of the Exchange, who are members of other Affiliated Exchanges; other market participants; and the public in general. The changes are consistent with the ISE Rulebook.

The Exchange's proposal to amend Options 4, Sections 1, 2, 5, and 7 reflects non-substantive amendments to conform those rules to similar ISE rules at Options 4, Sections 1, 2, 5, and 7. These proposed changes do not impose an undue burden on competition since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permit the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines does not impose an undue burden on competition. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing NOM with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit NOM to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) does not impose an undue burden on competition.

The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities.

The Exchange's proposal to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust, does not impose an undue burden on competition. The Exchange no longer lists these products and proposes to remove them the products from its listing rules.

The Exchange's proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, "all of the following conditions are met," and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) does not impose an undue burden on competition. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange's proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. Specifically, this language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index. This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on NOM.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," does not impose an undue burden on competition. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on NOM.

The Exchange's proposal to amend the term "comprehensive surveillance agreement" within Options 4, Section 3(h)(2) (A) – (D) to instead provide "comprehensive surveillance sharing agreement" does not impose an undue burden on competition as the amendment will bring greater clarity to the term.

The Exchange's proposal to add the phrase "if not available or applicable, the Exchange-Traded Fund's" to Options 4, Section 3(h)(2)(B), (C), and (D) does not impose an undue burden on competition as it will clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead.

The Exchange's proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by

explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding “or portfolio” to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i), similar to ISE, Options 4, Section 4(i), does not impose an undue burden on competition. The amendments would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs similar to ISE, which provisions do not currently exist.

The Exchange’s proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, does not impose an undue burden on competition. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.²⁶ Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.²⁷ This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that NOM’s requirements are

²⁶ Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

²⁷ See ISE Options 4, Section 4 and Cboe Rule 4.4.

different from other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE to remain competitive and list similar options as other markets. The Exchange's proposal removes the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" does not impose an undue burden on competition. This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all members so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn.

The Exchange believes that the changes to proposed Options 4, Section 8 do not impose an undue burden on competition as the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(A) to relocate rule text concerning bid/ask differentials for long-term option series, without change, does not impose an undue burden on competition. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

Adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Shares, similar to ISE, does not impose an undue burden on competition. The proposal seeks to limit the liability of index licensors who grant NOM a license to use their underlying indexes or portfolios in connection with the trading of options on

Fund Shares. This rule text is identical to ISE rule text.²⁸ Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide NOM with similar abilities as ISE to permit NOM to enter into arrangements with one or more other exchanges to permit NOM and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of NOM exclusively listed²⁹ options in the event of a Disabling Event, and similarly to permit NOM to provide trading facilities for another exchange's exclusively listed options if that Disabled Exchange is prevented from trading due to a Disabling Event.

Permitting NOM to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options. U.S. Dollar-Settled Foreign Currency Options would be available for trading to all market participants. The proposal will enhance competition among market participants, to the benefit of investors and the marketplace.

²⁸ See ISE Options Listing Rule Section 9.

²⁹ As defined within the proposed rule, the term "exclusively listed option" means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)³⁰ of the Act and Rule 19b-4(f)(6) thereunder³¹ in that it effects a change that: (i) does not significantly effect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange does not believe that the relocation and amending of the Options Listing Rules will significantly effect the protection of investors or the public interest because the proposed change is only intended to relocate and copy language from ISE rules to conform the aforementioned amended rules.³² Moreover, the Exchange does not

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 17 CFR 240.19b-4(f)(6).

³² See e.g. Securities Exchange Act Release Nos. 73999 (January 6, 2015), 80 FR 1559 (January 6, 2015) (SR-ISE-2014-52) (Order Granting Approval of Proposed Rule Change Regarding the Short Term Option Series Program); 72452 (June 24, 2014), 79 FR 36848 (June 30, 2014)(SR-ISE-2014-23) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 2, Regarding the Short-Term Option Series Program); 67554 (August 29, 2012), 77 FR 54629 (September 5, 2012) (Order Granting Approval of Proposed Rule Change, as

believe that this proposal will impose any significant burden on competition because, as explained, the change is non-substantive, is intended to align the structure of the Exchange's Rulebook to the Affiliated Exchanges' and generally seeks to improve the organization and readability of the Exchange's rules. The Exchange does not believe that the proposed changes implicate competition at all.

The Exchange's proposal to list and trade U.S. Dollar-Settled Foreign Currency Options on NOM that are currently listed and traded on Phlx will significantly effect the protection of investors or the public interest. The Exchange is relocating current rule text related to criteria for listing U.S. Dollar-Settled Foreign Currency Options to new Options 4C and adopting rules to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx.³³ Similar to Phlx, NOM would adopt an applicability rule within proposed Options 4C, Section 1 and defined terms within Section 2. The criteria for listing U.S. Dollar-Settled Foreign Currency Options is proposed to be relocated from current Options 4, Section 3(m). Similar to Phlx, NOM rules would adopt rules related to the withdrawal of approval of underlying securities or options to permit NOM to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event of a withdrawal, NOM would not open for trading any additional series of options of the class covering that underlying foreign currency. Also, NOM proposes to adopt a new Options

Modified by Amendment No. 1, Regarding Strike Price Intervals for Certain Option Classes); 65771 (November 17, 2011), and 76 FR 72472 (November 23, 2011) (SR-ISE-2011-60) (Order Granting Approval of Proposed Rule to Expand the Short Term Options Series Program).

³³ Today, NOM's rules contain the criteria to list U.S. Dollar-Settled Foreign Currency Options only.

4C, Section 5 to describe the manner in which it would list and trade U.S. Dollar-Settled Foreign Currency Options. After call option contracts or put option contracts relating to a specific underlying foreign currency has been approved for listing and trading on the Exchange, NOM shall from time to time open for trading series of options therein. Prior to the opening of trading in any series of options, NOM shall fix the expiration month and exercise price of option contracts included in such series. This rule is identical to Phlx's listing rules for U.S. Dollar-Settled Foreign Currency Options within Phlx Options 4C, Section 5. The determination of the closing settlement value is described within Options 4C, Section 6. The Exchange believes that permitting NOM to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx will not impose any significant burden on competition, rather it would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the operative delay to permit the Exchange to immediately conform its Options 4 listing

rules with those of ISE and also permit NOM to list and trade U.S. Dollar-Settled Foreign Currency Options similar to Phlx.³⁴ The Exchange notes that it is important that it be permitted to conform its listing rules to ISE, without delay, to ensure that it would be able to file to incorporate by reference NOM Options 4 Rules to the ISE Options 4 Rules to permit Nasdaq to have the same listing rules across its various Nasdaq Affiliated Markets.³⁵ Also, permitting NOM to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options.

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

The proposed changes to the Options 4 listing rules are based on the ISE Options 4 rules.³⁶ The proposed addition of the Options 4C rules to NOM's Rulebook is based on the Options 4C rules of Phlx.³⁷

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.

³⁴ See ISE Options 4 and Phlx Options \$C.

³⁵ Phlx and BX will also file to incorporate the Phlx and BX Options 4 Rules to the ISE Options 4 rules respectively.

³⁶ See ISE Options 4.

³⁷ See Phlx Options 4C.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2021-059)

July __, 2021

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 4 Listing Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 20, 2021, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC (“NOM”) Rules at Options 2, Section 5, Market Maker Quotations; Options 4, Options Listing Rules; and Options 4A, Section 12, Terms of Index Options Contracts. This proposal also creates a new Options 4C entitled “U.S. Dollar-Settled Foreign Currency Options.” Finally, the Exchange proposes to reserve some sections with the Equity Rules and correct a cross-reference within Options 2, Section 4, Obligations of Market Makers.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on the Exchange's Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend the Options 4, Options Listing Rules, to conform NOM's Options 4 Listing Rules to Nasdaq ISE, LLC's ("ISE") Options 4 Listing Rules. The Exchange also proposes to amend NOM Options 4A, Section 12, Terms of Index Options Contracts and create a new NOM Options 4C entitled "U.S. Dollar-Settled Foreign Currency Options" and adopt U.S. Dollar-Settled Foreign Currency Options rules similar to Nasdaq Phlx LLC's ("Phlx") rules at Options 4C. Also, the Exchange also proposes to amend Options 2, Section 5, Market Maker Quotations to relocate rule text concerning bid/ask differentials for long-term options contracts from NOM Options 4 and Options 4A, similar to ISE. Finally, the Exchange proposes to correct a cross-reference within Options 2, Section 4, Obligations of Market Makers. Each rule change is described below.

Options 4, Options Listing Rules

Conforming NOM's Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange's continued effort to promote efficiency in the manner in which it administers its rules. The Exchange proposes to amend these rules to conform to ISE Options 4 Rules.

The Exchange proposes a universal technical amendment which impacts Options 4, Sections 1 through 4, 6, 7, 8 and 10. The Exchange proposes to relocate a "." at the end of the terms "Section," where applicable, throughout Options 4 to the end of the proceeding number within Options 4, Sections 1 through 4, 6, 7, 8 and 10.

Section 1. Designation of Securities

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Securities traded on the Exchange are options contracts, each of which is designated by reference to the issuer of the underlying security or name of underlying foreign currency, expiration month or expiration date, exercise price and type (put or call).

with the following rule text,

The Exchange trades options contracts, each of which is designated by reference to the issuer of the underlying security, expiration month or expiration date, exercise price and type (put or call).

The Exchange proposes to amend this sentence within Options 4, Section 1 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

Section 2. Rights And Obligations Of Holders And Writers

The Exchange proposes to replace the current rule text of Options 4, Section 1 which states,

Subject to the provisions of this Chapter, the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation.

with the following rule text,

The rights and obligations of holders and writers shall be as set forth in the Rules of the Clearing Corporation.

The Exchange proposes to amend this sentence within Options 4, Section 2 to conform to ISE Options 4, Section 1. The revised wording does not substantively amend the paragraph.

Section 3. Criteria for Underlying Securities

Options 4, Section 3 of the Options Listing Rules is being updated to conform to ISE Options 4, Section 3.

The Exchange proposes to amend Options 4, Section 3(a)(i) and (ii) to conform to ISE Options 4, Section 3(a)(1) and (2) by changing the “i. and ii.” to “(1) and (2),” respectively. Also, the Exchange proposes to remove the phrase “with the SEC” within current NOM Options 4, Section 3(a)(i). These amendments are non-substantive.

The Exchange proposes to amend Options 4, Section 3(b) to reword the rule text to ISE Options 4, Section 3(b). The Exchange proposes to replace the current rule text of Options 4, Section 3(b) which states,

In addition, the Exchange shall from time to time establish standards to be considered in evaluating potential underlying securities for the Exchange

options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the standards established by the Exchange does not necessarily mean that it will be selected as an underlying security. The Exchange may give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, an underlying security will not be selected unless:

with the following rule text,

In addition, the Exchange shall from time to time establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, however absent exceptional circumstances, an underlying security will not be selected unless:

The new rule text permits the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines. Today, the

Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing NOM with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit NOM to list similar options as ISE for competitive purposes. The proposal to replace the term “standards” with “guidelines” within paragraph 3(b) is non-substantive.

The Exchange is amending numbering within Options 4, Section 3(b) as well as removing extraneous rule text within current Options 4, Section 3(b)(iii), namely “or Rules thereunder.” The Exchange proposes to relocate Options 4, Section 3(k) into new Options 4, Section 3(b)(6) without change. This would align NOM Options 4, Section 3(b)(6) with ISE Options 4, Section 3(b)(6). This provision states,

Notwithstanding the requirements set forth in Paragraphs 1, 2, 4 and 5 above, the Exchange may list and trade an options contract if (i) the underlying security meets the guidelines for continued approval in Options 4, Section 4; and (ii) options on such underlying security are traded on at least one other registered national securities exchange.

The Exchange proposes to renumber NOM Options 4, Section 3(c) and make minor amendments to rule text within current Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g) to conform the rule text to ISE Options 4, Section 3(c)(ii), (iii), (iv) and (v), Sections 3(d), 3(f) and 3(g). The proposed changes are non-substantive.³

³ The proposed changes replace the word “standards” with “guidelines,” insert “Options 4” before “Section 3,” and remove 2 extraneous uses of “this.” Similar replacements are made throughout current Options 4, Section 3(c), including amending a capitalized “Paragraph.”

The Exchange proposes to amend an “up” to “on” within NOM Options 4, Section 3(d). This proposed change is non-substantive.

The Exchange proposes non-substantive amendments to amend NOM Options 4, Section 3(f) and (g)⁴ in addition to conforming the numbering to ISE Options 4, Section 3(f) and (g) numbering.

The Exchange proposes to relocate rule text currently within NOM Options 4, Section 3(h), which describes a market information sharing agreement, to proposed NOM Options 4, Section 3(i) without change. This rule text is currently located within ISE rules at Options 4, Section 3(i).

Current NOM Options 4, Section 3(i) is being re-lettered as proposed Options 4, Section 3(h). The Exchange proposes to add the defined term “Financial Instruments” within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term “Money Market Instruments” similar to ISE Options 4, Section 3(h). The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as “Financial Instruments” with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading. The remainder of the changes are non-

⁴ The proposed changes replace the word “standards” with “guidelines,” insert “Rule” instead of “Section 3,” and remove an unnecessary “or.”

substantive in nature and simply conform the location of words similar to ISE.⁵ The Exchange also proposes to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust. The Exchange no longer lists these products and proposes to remove them the products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future. Finally, the Exchange proposes to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, “all of the following conditions are met.” Paragraph (h) would simply end with “provided that:” and direct market participants to subparagraphs (1) and (2).

The Exchange proposes to capitalize “the” at the beginning of Options 4, Section 3(h)(1) and remove “; and” at the end of the paragraph and instead at a period so that subparagraphs (1) and (2) are not linked, but rather read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. Similar to ISE Options 4, Section 3(h)(2), the Exchange proposes to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares. Specifically, the Exchange proposes to amend Options 4, Section 3(h)(2) to provide, “Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the following criteria.” ISE Options 4, Section 3(h) has the identical text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for

⁵ The amendment to current Options 4, Section 3(i)(B)(4) to add, “...which the Exchange-Traded Fund shares are based...” makes clear that this text applies to Exchange-Traded Fund shares. Also the word “indexes” is being changes to “indices” within this paragraph and “similar entity” is being relocated within the paragraph.

options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes, or portfolios that include non-U.S. securities. This language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange proposes to amend Options 4, Section 3(h)(2)(A) to remove the phrase “for series of portfolio depositary receipts and index fund shares based on international or global indexes,”. Today, Options 4, Section 3(h), subparagraphs (h)(1)⁶ and (h)(v)⁷ permit the Exchange to list options on Exchange-Traded Fund Shares based

⁶ Subsection (h)(i) concerns passive Exchange-Traded Fund Shares. Subsection (h)(1) provides, “represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments).”

⁷ Subsection (h)(v) concerns active Exchange-Traded Fund Shares. Subsection (h)(v) Provides, “represents an interest in a registered investment company (“Investment Company”) organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value

on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). The identical rule text exists within ISE Options 4, Section 3(h)(2)(A).

The Exchange also proposes to amend the term “comprehensive surveillance agreement” within Options 4, Section 3(h)(2) (A) – (D) to instead provide “comprehensive surveillance sharing agreement.” This amendment will bring greater clarity to the term. Further, the Exchange proposes to add the phrase “if not available or applicable, the Exchange-Traded Fund’s” within Options 4, Section 3(h)(2)(B), (C), and (D) to clarify that when component securities are not available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. The Exchange notes that “not available” is intended for cases where the Exchange does not have access to the index components, in those cases the Exchange would look to the portfolio components. The term “not applicable” is intended if the fund is active and does not track an index and only the portfolio is available. These amendments will conform the rule text to ISE Options 4, Section 3(h)(2)(A) – (D).

The Exchange also proposes to wordsmith Options 4, Section 3(h)(2)(B) to amend the phrase to provide, “any non-U.S. component securities of an index on which the

(“NAV”), and when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (“Managed Fund Share”).

Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio of securities that are not subject to comprehensive surveillance sharing agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;". Finally, the Exchange proposes to wordsmith Options 4, Section 3(h)(2)(C) and (D) to relocate the phrase "on which the Exchange-Traded Fund Shares are based" and add "or portfolio" to bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B). The Exchange believes that the revised wording will bring greater clarity to the rule text and conform the rule text to ISE Options 4, Section 3(h)(2)(B) – (D). The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(C)(2)(A)(ii) to correct a typographical error by changing a "than" to a "that." The Exchange proposes a non-substantive technical amendment to Options 4, Section 3(h)(1) to change "In" to "in."

As noted above NOM Options 4, Section 3(h), which describes a market information sharing agreement, was proposed to be relocated to Options 4, Section 3(i), similar to ISE Options 4, Section 3(i).

The Exchange proposes to amend Options 4, Section 3(j) to conform the rule text to ISE Options 4, Section 3(j). The proposed changes are non-substantive.⁸

As noted, above, Options 4, Section 3(k) was proposed to be relocated to new Options 4, Section 3(b)(6).

The Exchange proposes to remove the header "Index-Linked Securities" within Options 4, Section 3(l), and re-letter Options 4, Section 3(l)(i) as Section 3(k). Proposed Options 4, Section 3(k) has non-substantive numbering and citation amendments.

⁸ The amendment to current Options 4, Section 3(j) replace the word "standards" with "guidelines."

Options 4, Section 3(m) is being relocated into new Options 4C, Section 3 without change. Options 4C is specific to U.S. Dollar-Settled Foreign Currency Options.

Section 4. Withdrawal of Approval of Underlying Securities

The Exchange proposes to remove the first sentence of Options 4, Section 4(a), which provides, “If put or call options contracts with respect to an underlying security are approved for listing and trading on the Exchange, such approval shall continue in effect until such approval is affirmatively withdrawn by the Exchange.” This sentence is unnecessary as the second sentence within Options 4, Section 4(a) makes clear that approval continues until it does not meet the requirements. Also, the Exchange proposes to add the following text to the end of this paragraph: “When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.” This text makes clear that options contracts that are no longer approved will not be listed. The remainder of the changes to Options 4, Section 4(a) are non-substantive. This proposal is intended to conform NOM’s Options 4, Section 4(a) with ISE Options 4, Section 4(a).

The Exchange proposes to amend Options 4, Section 4(b) to add “Absent exceptional circumstances...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes as well as capitalization are non-substantive and intended to conform NOM’s Options 4, Section 4(b) with ISE Options 4, Section 4(b). The Exchange also proposes to remove reserved sections.

Options 4, Section 4(c), which is currently reserved, is proposed to be deleted and current Options 4, Section 4(d) is proposed to be re-lettered as “c”. Minor non-substantive conforming changes are proposed to current Options 4, Section 4(d) – (f).⁹

The Exchange proposes to amend current Options 4, Section 4(h) to re-letter it “g” and replace “security” with “Exchange-Traded Fund Shares” similar to ISE Options 4, Section 4(g). The Exchange proposes to add halt or suspension as other circumstances in which the Exchange shall not open for trading any additional series of option contracts of the class to clarify that this scenario may also exist. The other proposed changes to current Options 4, Section 4(h) are non-substantive.¹⁰

The Exchange proposes to amend current Options 4, Section 4(i) to re-letter it “h” and add “Absent exceptional circumstances, securities...” at the beginning of the section. This phrase adds clarity to the rule text. The remainder of the numbering changes are non-substantive¹¹ and conform current NOM’s Options 4, Section 4(i) with ISE Options 4, Section 4(h).

The Exchange proposes to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i). The proposed new section would provide,

⁹ The Exchange proposes to remove “Section 4”, lowercase the term “Customer,” add “options 4” and remove “thereof” within Options 4, Section 4(d) – (f).

¹⁰ The Exchange proposes to amend Options 4, Section 4(h) to add “Options 4” and replace “Section 4” with “Rule;” and replace an “or” with an “and.”

¹¹ The term Options 4 is being relocated within the proposed new paragraph (h). Also, the term “Rule” is being used within proposed new paragraph (h)(1) instead of “Section 4,” and “Section 3.” “Upon annual review” is being removed from proposed new paragraph (h)(2).

For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

- (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or
- (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

Current Options 4, Section 4 does not describe the withdrawal of HOLDRs. This new text, similar to ISE, would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs.

The Exchange proposes to delete current Options 4, Section 4(j), which is reserved, as well as the lettering for Options 4, Section 4(k) which states, “Index Linked Securities.” The next existing paragraph is proposed to be Options 4, Section 4(j). The remainder of the numbering changes to this section are non-substantive and conform proposed Options 4, Section 4(j) with ISE Options 4, Section 4(j).

The Exchange proposes to remove Options 4, Section 4(l) related to inadequate volume delisting. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.¹² Also, pursuant to

¹² Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE. See proposed Phlx Options 3, Section 4(b) which provides, “Absent exceptional circumstances, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur: (1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act. (2) There are fewer than 1,600

proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe Exchange, Inc. (“Cboe”).¹³ This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that NOM’s requirements are different from other options markets. To remain competitive the Exchange proposes to adopt the same standards as ISE so that it may list options similar to other markets.

While the Exchange may in the future determine to delist an option that is singly listed, the Exchange proposes to remove the rule text which provides that “If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest.” This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all Participants so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The rule text within Options 4, Section

holders of the underlying security. (3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months. (4) The underlying security ceases to be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act. (5) If an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied.”

¹³ See ISE Options 4, Section 4 and Cboe Rule 4.4.

4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The reference to Options 4, Section 4(m) is proposed to be deleted. The provision that is currently Options 4, Section 4(m) is proposed to become Supplementary Material .01 to Options 4, Section 6 with a minor non-substantive change to the current rule text to capitalize “rules.”

Section 5. Series of Options Contracts Open for Trading

The Exchange proposes to update citations within Options 4, Section 5 to reflect the replacement of current rule text. These changes are non-substantive.

Section 7. Adjustments

The Exchange proposes non-substantive amendments to Options 4, Section 7.

The current text states,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. The Exchange will announce adjustments, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The Exchange proposes to instead provide,

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. When adjustments have been made, the Exchange will announce that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

The proposal conforms NOM Options 4, Section 7 with ISE Options 4, Section 7.

Section 8. Long-Term Options Contracts

The Exchange proposes to conform NOM Options 4, Section 8 to ISE Options 4, Section 8. The proposed changes are non-substantive. NOM's current rule text provides that with respect to long-term options series, bid/ask differential rules do not apply. The Exchange proposes to add this rule text to Options 4, Section 5(d)(2) within new subsection "A" as the bid/ask differential requirements can be found within this rule. The Exchange also proposes to add a new sentence to Options 4, Section 8(a) to refer to Options 4, Section 5(d)(2)(A), which states, "Bid/ask differentials for long-term options contracts are specified within Options 3, Section 5(d)(2)(A)" for ease of reference in locating all bid/ask requirements.

Section 9. Limitation on the Liability of Index Licensors for Options on Fund Shares

The Exchange proposes to relocate current Options 4, Section 9, U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value to Options 4C, Section 6 with minor changes to add new lettering.

The Exchange proposes to adopt a new Section 9, titled "Limitation on the Liability of Index Licensors for Options on Fund Shares" identical to ISE Options 4, Section 9. ISE and Cboe have similar provisions.¹⁴ The new rule would provide,

¹⁴ See Securities Exchange Act Release No. 45817 (April 24, 2002), 67 FR 21785 (May 1, 2002) (SR-CBOE-2002-19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Amend Its Rules Relating to the Limitation of Liability for Index Licensors) and 14729 (March 19, 2003), 68 FR 14729 (March 26, 2003) (SR-ISE-2003-09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Limiting the Liability of Index Licensors for Options on Fund Shares).

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose.

The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any

person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

Proposed Section 9(a) defines the term “index licensor” as any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

Proposed Options 4, Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor will obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any

option contract on Exchange-Traded Fund Shares based thereon. The index licensor will have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

Section 10. Back-up Trading Arrangements

The Exchange proposes to add a new rule to Options 4, Section 10, titled "Back-Up Trading Arrangements." Section 10 is currently reserved.¹⁵ This proposed rule is identical to ISE Options 4, Section 10. This rule would permit NOM to enter into arrangements with one or more other exchanges (each a "Back-up Exchange") to permit NOM and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of NOM exclusively listed options in the event of a Disabling Event, and permits NOM to provide trading facilities at NOM for another exchange's exclusively listed options if that exchange (a "Disabled Exchange") is prevented from trading due to a Disabling Event. Also, the proposed rule would permit NOM to enter into arrangements with a Back-up Exchange to provide for the listing and trading of NOM singly listed options by the Back-up Exchange if NOM's facility becomes disabled, and conversely provide for the listing and trading by NOM of the singly listed options of a

¹⁵ See Securities Exchange Act Release No. 71092 (December 17, 2013), 78 FR 77510 (December 23, 2013) (SR-ISE-2013-61) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Back-Up Trading Arrangements).

Disabled Exchange.

The back-up trading arrangements contemplated by Options 4, Section 10 would ensure that NOM's exclusively listed and singly listed options will have a trading venue if a catastrophe renders its primary facility inaccessible or inoperable.

Section 10(a) describes the back-up trading arrangements that would apply if NOM were the Disabled Exchange. An "exclusively listed option" is defined within Section 10(a)(1)(i) to mean an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option). Proposed paragraph(a)(1)(ii) provides that the facility of the Back-up Exchange used by NOM to trade some or all of NOM's exclusively listed options will be deemed to be a facility of NOM, and such option classes shall trade as listings of NOM. Since the trading of NOM exclusively listed options will be conducted using the systems of the Back-up Exchange, proposed paragraph (a)(1)(iii) provides that the trading of NOM listed options on NOM's facility at the Back-up Exchange shall be conducted in accordance with the rules of the Back-up Exchange, and proposed paragraph (a)(1)(iv) provides that the Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading, in each case except as NOM and the Back-up Exchange may specifically agree otherwise. The Back-up Exchange rules that govern trading on NOM's facility at the Back-up Exchange shall be deemed to be NOM rules for purposes of such trading. Proposed paragraph (a)(1)(v) provides that NOM shall have the right to designate its members that will be authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange and, if applicable,

its member(s) that will be a NOM Market Maker in those options.¹⁶ If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade on NOM's facility at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade at that facility by considering factors such as whether the Participant is a NOM Market Maker in the applicable product(s), the number of contracts traded by the member in the applicable product(s), market performance, and other factors relating to a member's contribution to the market in the applicable product(s). Under proposed paragraph (a)(1)(vi), Participants of the Back-up Exchange shall not be authorized to trade in any NOM exclusively listed options, except that (i) NOM may deputize willing brokers of the Back-up Exchange as temporary NOM Participants to permit them to execute orders as brokers in NOM exclusively listed options traded on NOM's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of NOM, select members of the Back-up Exchange that are willing to be deputized by NOM as temporary NOM Participants authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange for such period of time following a Disabling Event as NOM determines to be appropriate, and NOM may deputize such members of the Back-up Exchange as temporary NOM Participants for that purpose.

The foregoing exceptions would permit members of the Back-up Exchange to trade NOM exclusively listed options on NOM's facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in NOM Participants being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading.

¹⁶ Of note, unlike Phlx, NOM does not have rules to appoint Lead Market Makers.

Options 4, Section 10(a)(2) of the proposed rule provides for the continued trading of NOM singly listed options at the Back-up Exchange in the event of a Disabling Event at NOM. Proposed paragraph (a)(2)(ii) provides that NOM may enter into arrangements with a Back-up Exchange under which the Back-up Exchange will agree, in the event of a Disabling Event, to list for trading option classes that are then singly listed only by NOM. Such option classes would trade on the Back-up Exchange as listings of the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Under proposed paragraph (a)(2)(iii), any such options class listed by the Back-up Exchange that does not satisfy the standard listing and maintenance criteria of the Back-up Exchange will be subject, upon listing by the Back-up Exchange, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in the rules of the Back-up Exchange). NOM singly listed option classes would be traded by members of the Back-up Exchange and by NOM Participants selected by NOM to the extent the Back-up Exchange can accommodate NOM Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade NOM singly listed options at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade such options at the Back-up Exchange by considering the same factors used to determine which NOM Participants are eligible to trade NOM exclusively listed options at NOM's facility at the Back-up Exchange. Proposed Section (a)(3) provides that NOM may enter into arrangements with a Back-up Exchange to permit NOM Participants to conduct trading on a Back-up Exchange of some or all of NOM's multiply listed options in the event of a Disabling Event. While

continued trading of multiply listed options upon the occurrence of a Disabling Event is not likely to be as great a concern as the continued trading of exclusively and singly listed options, NOM nonetheless believes a provision for multiply listed options should be included in the rule so that the exchanges involved will have the option to permit members of the Disabled Exchange to trade multiply listed options on the Back-up Exchange. Such options shall trade as a listing of the Back-up Exchange in accordance with the rules of the Back-up Exchange.

Options 4, Section 10(b) describes the back-up trading arrangements that would apply if NOM were the Back-up Exchange. In general, the provisions in Section (b) are the converse of the provisions in Section (a). With respect to the exclusively listed options of the Disabled Exchange, the facility of NOM used by the Disabled Exchange to trade some or all of the Disabled Exchange's exclusively listed options will be deemed to be a facility of the Disabled Exchange, and such option classes shall trade as listings of the Disabled Exchange. Trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at NOM shall be conducted in accordance with NOM rules, and NOM will perform the related regulatory functions with respect to such trading, in each case except as the Disabled Exchange and NOM may specifically agree otherwise. NOM rules that govern trading on the Disabled Exchange's facility at NOM shall be deemed to be rules of the Disabled Exchange for purposes of such trading. Sections (b)(2) and (b)(3) describe the arrangements applicable to trading of the Disabled Exchange's singly and multiply listed options at NOM, and are the converse of Sections (a)(2) and (a)(3). Paragraph (b)(2)(i) includes a provision that would permit NOM to allocate singly listed option classes of the Disabled Exchange to a NOM Market Maker in

advance of a Disabling Event, without utilizing the allocation process under NOM Rule Options 2, Section 1, to enable NOM to quickly list such option classes upon the occurrence of a Disabling Event.

Options 4, Section 10(c) describes the obligations of Participants with respect to the trading by “temporary members” on the facilities of another exchange. Section (c)(1) sets forth the obligations applicable to Participants of a Back-up Exchange who act in the capacity of temporary Participants of the Disabled Exchange on the facility of the Disabled Exchange at the Back-up Exchange. Section (c)(1) provides that a temporary Participant of the Disabled Exchange shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of the Disabled Exchange at the Back-up Exchange. This would include the rules of the Disabled Exchange to the extent applicable during the period of such trading, including the rules of the Disabled Exchange limiting its liability for the use of its facilities that apply to members of the Disabled Exchange. Additionally, (i) such temporary Participant shall be deemed to have satisfied, and the Disabled Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person’s or a firm’s status as a Participant of the Disabled Exchange, including all dues, fees and charges imposed generally upon members of the Disabled Exchange based on their status as such, (ii) such temporary Participant shall have none of the rights of a member of the Disabled Exchange except the right to conduct business on the facility of the Disabled Exchange at the Back-up Exchange to the extent described in the Rule, (iii) the Participant associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant’s activities on or relating to the Disabled Exchange, and (iv) the

clearing member of such temporary Participant shall guarantee and clear the transactions of such temporary Participant on the Disabled Exchange.

Section (c)(2) sets forth the obligations applicable to members of a Disabled Exchange who act in the capacity of temporary Participants of the Back-up Exchange for the purpose of trading singly listed and multiply listed options of the Disabled Exchange. Such temporary Participants shall be subject to, and obligated to comply with, the rules of the Back-up Exchange that are applicable to the Back-up Exchange's own members, including the rules of the Back-up Exchange limiting its liability for the use of its facilities that apply to members of the Back-up Exchange. Temporary Participants of the Back-up Exchange have the same obligations as those set forth in Section (c)(1) that apply to temporary Participants of the Disabled Exchange, except that, in addition, temporary Participants of the Back-up Exchange shall only be permitted (i) to act in those capacities on the Back-up Exchange that are authorized by the Back-up Exchange and that are comparable to capacities in which the temporary Participant has been authorized to act on the Disabled Exchange, and (ii) to trade in those option classes in which the temporary Participant is authorized to trade on the Disabled Exchange.

Options 4, Section 10 provides that the rules of the Back-up Exchange shall apply to the trading of the singly and multiply listed options of the Disabled Exchange traded on the Back-up Exchange's facilities, and (with certain limited exceptions) the trading of exclusively listed options of the Disabled Exchange traded on the facility of the Disabled Exchange at the Back-up Exchange. The Back-up Exchange has agreed to perform the related regulatory functions with respect to such trading (except as the Back-up Exchange and the Disabled Exchange may specifically agree otherwise). Section (d) provides that

if a Back-up Exchange initiates an enforcement proceeding with respect to the trading during a back-up period of singly or multiply listed options of the Disabled Exchange by a temporary Participant of the Back-up Exchange, or exclusively listed options of the Disabled Exchange by a member of the Disabled Exchange (other than a member of the Back-up Exchange who is a temporary member of the Disabled Exchange), and such proceeding is in process upon the conclusion of the back-up period, the Back-up Exchange may transfer responsibility for such proceeding to the Disabled Exchange following the conclusion of the back-up period.

With respect to arbitration jurisdiction, proposed Section (d) provides that arbitration of any disputes with respect to any trading during a back-up period of singly or multiply listed options of the Disabled Exchange or of exclusively listed options of the Disabled Exchange on the Disabled Exchange's facility at the Back-up Exchange will be conducted in accordance with the rules of the Back-up Exchange, unless the parties to an arbitration agree that it shall be conducted in accordance with the rules of the Disabled Exchange.

Proposed Supplementary Material .01 to Options 4, Section 10 clarifies that to the extent Options 4, Section 10 provides that another exchange will take certain action, the Rule is reflecting what that exchange has agreed to do by contractual agreement with NOM, but Options 4, Section 10 is not binding on the other exchange.

Options 4C

The Exchange proposes to relocate current rule text related to criteria to list U.S. Dollar-Settled Foreign Currency Options to new Options 4C and adopting new rule text

similar to Phlx¹⁷ to list and trade these securities as described in more detail below.

Section 1. Applicability

Similar to Phlx Options 4C, Section 1 the Exchange proposes to provide, The Rules in Options 4C are applicable to U.S. Dollar-Settled Foreign Currency Options. Except to the extent that specific rules in this Section, or unless the context otherwise requires, the provisions of Options 4 are applicable to the trading on the Exchange of U.S. Dollar-Settled Foreign Currency Options.

Proposed Options 4C of the Options Listing Rules covers U.S. Dollar-Settled Foreign Currency Options only.

Section 2. Definitions

The Exchange proposes to adopt rules to list for trading U.S. Dollar-Settled Foreign Currency Options, which products are currently listed and traded on Phlx. To that end, NOM proposes to adopt the same rules as Phlx Options 4C. The Exchange therefore proposes to adopt applicability rules and definitions similar to Phlx Options 4C, Section 2.

The Exchange proposes to state within proposed Options 4C, Section 2 that the Rules in Options 4C shall be applicable to the trading on the Exchange in option contracts issued by The Options Clearing Corporation, the terms and conditions of such contracts, the exercise and settlement thereof, the handling of orders, and the conduct of

¹⁷ See Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-Phlx-2006-34) (Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change as Modified by Amendments No. 1, 2, and 3 Thereto Relating to U.S. Dollar-Settled Foreign Currency Options).

accounts and other matters relating to options trading. Except to the extent that specific Rules in this Options 4C govern or unless the context otherwise requires, the provisions of the By-Laws and of all other Rules and Policies of the Board of Directors shall be applicable to the trading on the Exchange of option contracts. This proposed rule would also note that foreign currency option contracts purchased and sold on the Exchange are designated by reference to the underlying foreign currency (e.g., the British pound), expiration month, exercise price and type (put or call).

The Exchange also proposes to add the below definitions to Options 4C, Section 2(b) and note that “The following terms as used in the Rules shall, unless the context otherwise indicates, have the meanings herein specified:”. The definitions that are proposed to be added are:

- (1) The term “**aggregate exercise price**” is as defined within Options 1, Section 1(a)(3).
- (2) The term “**foreign currency**” is as defined within Options 1, Section 1(a)(20).
- (3) The term “**Exchange Spot Price**” in respect of an option contract on a foreign currency means the cash market spot price, for the sale of one foreign currency for another, quoted by various foreign exchange participants for the sale of a single unit of such foreign currency for immediate delivery that is calculated from the foreign currency price quotation reported by the foreign currency price quotation dissemination system selected by the Exchange, to which an appropriate multiplier is applied. The multiplier(s) will be: 100 for the British pound, the Euro, the

Swiss Franc, the Canadian dollar, the Australian dollar, the Brazilian real, and the New Zealand dollar; 1,000 for the Chinese yuan, the Danish krone, the Mexican peso, the Norwegian krone, the South African rand, and the Swedish krona; 10,000 for the Japanese yen and the Russian ruble; and 100,000 for the South Korean won.

(4) The term “**unit of underlying foreign currency**” means a single unit of the foreign currency (e.g., one British pound, one Swiss franc, one Canadian dollar, one Australian dollar, one Japanese yen, one Mexican peso, one Euro, one Brazilian real, one Chinese yuan, one Danish krone, one New Zealand dollar, one Norwegian krone, one Russian ruble, one South African rand, one South Korean won, or one Swedish krona).

Section 3. Criteria for Underlying Securities

Options 4, Section 3(m) is being relocated into new Options 4C, Section 3 without change, except that is being re-lettered as “a”.

Section 4. Withdrawal of Approval of Underlying Securities or Options

NOM proposes to adopt rule text similar to Phlx Options 4C, Section 4 which provides,

The Exchange may determine to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event that the Exchange effects such a withdrawal, the Exchange shall not open for trading any additional series of options of the class covering that underlying foreign currency.

Similar to Phlx, NOM may withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event of a withdrawal, NOM would not open for trading any additional series of options of the class covering that underlying foreign currency.

Section 5. Series of U.S. Dollar-Settled Foreign Currency Options Contracts Open for Trading

Similar to Phlx, NOM proposes to adopt rules to permit it to list and trade U.S. Dollar-Settled Foreign Currency Options. After call option contracts or put option contracts relating to a specific underlying foreign currency has been approved for listing and trading on the Exchange, NOM shall from time to time open for trading series of options therein. Prior to the opening of trading in any series of options, NOM shall fix the expiration month and exercise price of option contracts included in such series. NOM proposes to adopt Options 4C, Section 5(a)(1) which states,

Within each class of approved U.S. dollar-settled foreign currency options, the Exchange may open for trading series of options expiring in consecutive calendar months (“consecutive month series”), as provided in subparagraph (A) of this paragraph, and series of options expiring at three-month intervals (“cycle month series”), as provided in subparagraph (B) of this paragraph. Prior to the opening of trading in any series of U.S. dollar-settled FCO, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series. The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. Thus, if the Exchange

Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled FCOs moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00.

This rule is identical to Phlx's listing rules for U.S. Dollar-Settled Foreign Currency Options within Phlx Options 4C, Section 5(a)(1).

With respect to consecutive month series, as noted above, each class of U.S. dollar-settled foreign currency option, series of options having up to four consecutive expiration months may be opened for trading simultaneously, with the shortest-term series initially having no more than two months to expiration. Additional consecutive month series of the same class may be opened for trading on the Exchange at or about the time a prior consecutive month series expires, and the expiration month of each such new series shall normally be the month immediately succeeding the expiration month of the then outstanding consecutive month series of the same class of options having the longest remaining time to expiration.

With respect to cycle month series, as noted above, NOM may designate one

expiration cycle for each class of U.S. dollar-settled foreign currency option. An expiration cycle is four calendar months (“cycle months”) occurring at three-month intervals. With respect to any particular class of U.S. dollar-settled foreign currency option, series of options expiring in the four cycle months designated by the Exchange for that class may be opened for trading simultaneously, with the shortest-term series initially having approximately three months to expiration. Additional cycle month series of the same class may be opened for trading on the Exchange at or about the time a prior cycle month series expires, and the expiration month of each such new series shall normally be approximately three months after the expiration month of the then outstanding cycle month series of the same class of options having the longest remaining time to expiration.

Proposed Options 4C, Section 5(a)(1)(C) provides rules for long-term options series. The Exchange proposes that it may list with respect to any U.S. dollar-settled foreign currencies, options having up to three years from the time they are listed until expiration. There may be up to ten options series, options having up to thirty-six months from the time they are listed until expiration. There may be up to six additional expiration months. Strike price intervals shall not apply to such options series until the time to expiration is less than twelve months. As proposed herein, bid/ask differentials for long-term options contracts are specified within Options 3, Section 5(d)(2)(A). As noted above the Exchange proposes to consolidate the bid/ask within Options 2.

Proposed Options 4C, Section 5(a)(1)(D) provides that for each expiration month opened for trading of U.S. dollar-settled foreign currency options, in addition to the strike prices listed by the Exchange pursuant to subsection (a)(1) of this Options 4, Section 5,

the Exchange shall also list a single strike price of \$0.01. Finally, the Exchange proposes to state at proposed Options 4C, Section 5(a)(1)(E) that additional series of options of the same class may be opened for trading on the Exchange as the market price of the underlying foreign currency moves substantially from the initial exercise price or prices. The opening of a new series of options on the Exchange shall not effect any other series of options of the same class previously opened.

The rule text proposed herein within Options 4C, Section 5(a)(1)(D) and (E) is identical to the same provisions within Phlx's Options 4C.

With respect to exercise price, NOM proposes within Options 4C, Section 5(b) to provide that the exercise price of each series of foreign currency options opened for trading on the Exchange normally shall be fixed at a price per unit which is reasonably close to the current Exchange Spot Price per unit of the underlying foreign currency in the foreign exchange market at or before the time such series of options is first opened for trading on the Exchange, as determined by finding the arithmetic mean of Exchange Spot Prices as defined in Options 4C, Section 2(b)(3) at or about such time. The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. By way of example, if the Exchange Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled foreign currencies moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For

example, if at the time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00.

The Exchange proposes to state within Options 4C, Section 5(c) that in fixing the exercise price of one or more series of options on any underlying foreign currency, NOM may take into account the forward sales prices quoted for that underlying foreign currency in the interbank foreign exchange market.

Lastly, the Exchange proposes to state within Options 4C, Section 5(d) that when put option contracts or put and call option contracts are first opened for trading on an underlying foreign currency, NOM may open a series of put option contracts corresponding to each series of call option contracts open or to be opened for trading on the same underlying foreign currency.

All provisions of Options 4C, Section 5 are identical to Phlx's rules with the exception of cross-citations.

Section 6. U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value

The Exchange proposes to adopt a new Options 4C, Section 6, titled "U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value" identical to Phlx Options 4C, Section 6.

The Exchange proposes to provide within Options 4, Section 6(a) that U.S. dollar-settled foreign currency options are settled in U.S. dollars.

The Exchange proposes to provide within Options 4C, Section 6(b) the following,

The closing settlement value for the U.S. dollar-settled FCO on the

Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to the expiration date unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.

The closing settlement value for U.S. dollar-settled foreign currency options shall be governed by this provision.

The Exchange proposes to provide within Options 4, Section 6(c) certain liability provisions similar to Phlx Options 4, Section 6(c). The Exchange proposes to state,

Neither the Exchange, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any

error, omission, or delay in the reports of transactions in one or more underlying currencies or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange. NOM's proposal would cause the Exchange to not be liable for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God and other extraordinary circumstances.

Finally, the Exchange proposes to provide within Options 4C, Section 6(d) that the Exchange shall post the closing settlement value on its website or disseminate it through one or more major market data vendors. As noted above, this rule is identical to Phlx Options 4C, Section 6.

Bid/Ask Differentials

The Exchange proposes to amend Options 4, Section 8(a), and Options 4A, Section 12(b)(1)(A) to relocate text concerning bid/ask differentials for long-term option series, without change. Currently, Options 4, Section 8(a) describes the bid/ask differentials for long-term options series for equity options and exchange-traded products and Options 4A, Section 12(b)(1)(A) describes the bid/ask differentials for long-term options series for indexes. Currently, the bid/ask differentials shall not apply to such options series until the time to expiration is less than nine (9) months for equity options and exchange-traded funds as provided for within Options 4, Section 8(a). Currently, bid/ask differentials shall not apply to such options series until the time to expiration is

less than nine (9) months for index options as provided for within Options 4A, Section 12(b)(1)(A). The Exchange also proposes to lowercase “Paragraph: within Options 4A, Section 12(b)(1).

The Exchange proposes to centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 4, Section 8(a) and Options 4A, Section 12(b)(1)(A) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange also proposes to capitalize “ask” in the title of Options 2, Section 5(d)(2). The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements. The Exchange is not amending the bid/ask differentials; the rule text is simply being relocated.

The Exchange also proposes to update a citation to Options 2, Section 5 within Options 2, Section 4, Obligations of Market Makers, within paragraph (a)(1). Specifically, the Exchange proposes to amend the current citation to “Section 5(d)(i)” to instead refer to “Options 2, Section 5(d)(1).”

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ 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. Conforming

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

NOM's Options 4 Listing Rules to that of ISE Options 4 is part of the Exchange's continued effort to promote efficiency in the manner in which it administers its rules.

The Exchange's proposal to amend Options 4, Sections 1, 2, 5, and 7 reflect non-substantive amendments to conform those rules to similar ISE rules. These proposed changes 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 since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permit the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines, is consistent with the Act. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing NOM with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit NOM to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) is consistent with the Act. The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities. The Exchange notes that this rule text is clarifying

in nature and will more explicitly provide for money market instruments, U.S. government securities and repurchase agreements as a separate category from what is being defined as “Financial Instruments” with this proposal. Today, these instruments are eligible as securities deemed appropriate for options trading.

The Exchange’s proposal to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust, is consistent with the Act because the Exchange no longer lists these products and proposes to remove these products from its listing rules. The Exchange will file a proposal with the Commission if it determines to list these products in the future.

The Exchange’s proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, “all of the following conditions are met,” and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) is consistent with the Act. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange’s proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global indexes or portfolios that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. ISE Options 4, Section 3(h) currently has similar rule text. Proposed Options 4, Sections 3(h) generally concerns securities deemed appropriate for options trading. The proposed new rule text adds language stating that subparagraph (h)(2) of Options 4, Section 3 applies to the extent the Exchange-Traded Fund Share is based on international or global indexes or portfolios that include non-U.S. securities. This

language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2) includes Exchange-Traded Fund Shares that track a portfolio and do not track an index.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," is consistent with the Act. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1).

The Exchange's proposal to amend the term "comprehensive surveillance agreement" within Options 4, Section 3(h)(2) (A) – (D) to instead provide "comprehensive surveillance sharing agreement" is consistent with the Act as the amendment will bring greater clarity to the term.

The Exchange's proposal to add the phrase "if not available or applicable, the Exchange-Traded Fund's" to Options 4, Section 3(h)(2)(B), (C), and (D) is consistent with the Act as it will clarify that when component securities are not available, the

portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead. This rule text currently exists within ISE Options 4, Section 3(h).

The Exchange's proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding "or portfolio" to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 3(h) will conform NOM's rule text to ISE Options 4, Section 3(h).

The remainder of the change to Options 3, Section 3 are non-substantive and intended to conform to ISE Options 3, Section 3. These proposed changes 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 since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i) similar to ISE, Options 4, Section 4(i), are consistent with the Act. Today, the Exchange would not open additional series of HOLDRs without filing a rule change with the Commission and adopting a corresponding rule. This rule text, similar to ISE, explicitly provides that the Exchange

would not open additional series of options overlying HOLDRs (without prior Commission approval) if: (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options. This rule text bring greater clarity to NOM's rules in that HOLDRs would not be in certain circumstances.

The Exchange's proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, is consistent with the Act. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.²⁰ Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other options markets such as ISE and Cboe.²¹ This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that NOM's requirements are different from other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE to remain competitive and list similar options as other markets. While the Exchange may in the future determine to delist an option that is singly listed, the Exchange's proposal to remove the rule text which provides that "If the option is

²⁰ Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

²¹ See ISE Options 4, Section 4 and Cboe Rule 4.4.

singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest” is consistent with the Act. This rule text does not exist on ISE and Cboe. Today, the Exchange provides notification of a delisting to all Participants making it unnecessary to retain the current provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn. The rule text within Options 4, Section 4(b), as amended to conform to ISE rule text, will continue to govern the continued approval of options on the Exchange.

The remainder of the changes to Options 3, Section 3 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest. Overall, these changes are of a non-substantive nature and either modify, clarify or relocate the existing Rulebook language to reflect the language of the ISE version of the rule and are intended to ease the Participants’, market participants’, and the general public’s navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange believes that the changes to proposed Options 4, Section 8 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest because the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments and is intended to ease the Participants’, market participants’, and the general public’s navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(A) to relocate text concerning bid/ask differentials for long-term option series is consistent with the Act. The Exchange's proposal will centralize the bid/ask differentials within Options 2, Section 5(d)(2)(A) and add a sentence to both Options 3, Section 8 and Options 4A, Section 12(b)(1)(A) that cites to Options 2, Section 5(d)(2)(A) for information on bid/ask differentials for the various products. The Exchange is not amending the bid/ask differentials; the rule text is simply being relocated. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

The Exchange's proposal to amend the current citation to "Section 5(d)(i)" within Options 2, Section 4(a)(1) to instead refer to "Options 2, Section 5(d)(1)" is a non-substantive amendment that will bring greater clarity to the Exchange's rules.

The remainder of the proposed changes to Options 3, Section 8 are non-substantive.

The Exchange believes that adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Share, similar to ISE, is consistent with the Act. Specifically, this proposal seeks to limit the liability of index licensors who grant NOM a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.²² Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of

²² See ISE Options Listing Rule Section 9.

such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The disclaimers within proposed Section 9 are consistent with the Act in that these disclaimers provide market participants with relevant information as to the liabilities on option contracts on Exchange-Traded Fund Shares.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide NOM with similar abilities as ISE to permit NOM to enter into arrangements with one or more other exchanges to permit NOM and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of NOM exclusively listed²³ options in the event of a Disabling Event, and similarly to permit NOM to provide trading facilities for another exchange's exclusively listed options if a “Disabled Exchange is prevented from trading due to a Disabling Event. With this proposal, NOM is proposing to adopt listing rules similar to Phlx to list and trade U.S. Dollar-Settled Foreign Currency Options. NOM believes that it is important that it develop back-up trading arrangements to minimize the potential disruption and market impact that a Disabling Event could cause. The proposed rule changes are designed to address the key elements necessary to mitigate the effects of a Disabling Event effecting the Exchange, minimize the impact of such an event on market participants, and provide for a liquid and orderly marketplace for securities listed and traded on the Exchange if a Disabling Event occurs. In particular, the proposed rule change is intended to ensure that

²³ As defined within the proposed rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

NOM's exclusively listed and singly listed products will have a trading venue in the event that trading at NOM is prevented due to a Disabling Event. The Exchange believes that having these back-up trading arrangements in place will minimize potential disruptions to the market and investors if a catastrophe occurs that requires the Exchange's primary facility to be closed for an extended period. Phlx and ISE have a similar rule,²⁴ and the Exchange believes that it is important to the protection of investors and the public interest that it also adopt rules that allow NOM exclusively and singly listed options to continue to trade in the event of a Disabling Event. The proposed rule change also provides authority for NOM to provide a back-up trading venue should another exchange be effected by a Disabling Event, which will benefit the market and investors if a Disabling Event were to happen on another exchange that has entered into a back-up trading arrangement with NOM. Finally, the proposed rule change grants authority to Exchange officials to take action under emergency conditions, which should enable key actions to be taken by NOM representatives in the event of a Disabling Event, and clarifies the fees that will apply if these back-up trading arrangements are invoked, which will reduce investor confusion and minimize the disruption to investors associated with a Disabling Event. Under proposed paragraph (a)(1)(vi), members of the Back-up Exchange shall not be authorized to trade in any NOM exclusively listed options, except that (i) NOM may deputize willing brokers of the Back-up Exchange as temporary NOM Participants to permit them to execute orders as Participants in NOM exclusively listed options traded on NOM's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of NOM, select members of the Back-

²⁴ See Phlx and ISE Rules Options 3, Section 10.

up Exchange that are willing to be deputized by NOM as temporary NOM members authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange for such period of time following a Disabling Event as NOM determines to be appropriate, and NOM may deputize such members of the Back-up Exchange as temporary NOM members for that purpose. The foregoing exceptions would permit members of the Back-up Exchange to trade NOM exclusively listed options on NOM's facility on the Back-up Exchange, if, for example, circumstances surrounding a Disabling Event result in NOM members being delayed in connecting to the Back-up Exchange in time for prompt resumption of trading.

The Exchange's proposal to adopt rules to list and trade U.S. Dollar-Settled Foreign Currency Options on NOM that are currently listed and traded on Phlx is consistent with the Act. Specifically, NOM proposes to relocate current rule text related to criteria for listing U.S. Dollar-Settled Foreign Currency Options to new Options 4C and adopting rules to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx.²⁵ Today, sufficient venues exist for obtaining reliable information on the currencies so that investors in U.S. dollar-settled Foreign Currency Options can monitor the underlying spot market in the currencies. NOM will integrate U.S. dollar-settled index options, as well as for physical delivery foreign currency options at the time that NOM lists dollar-settled Foreign Currency Options. In addition, the NOM may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. U.S. dollar-settled

²⁵ See Securities Exchange Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-Phlx-2006-34) (Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change as Modified by Amendments No. 1, 2, and 3 Thereto Relating to U.S. Dollar-Settled Foreign Currency Options). Today, NOM's rules contain the criteria to list U.S. Dollar-Settled Foreign Currency Options only.

FCO contracts will be aggregated with physical delivery contracts for position and exercise limit purposes. Exchange rules designed to protect public customers trading in FCOs would apply to U.S. dollar-settled FCOs on the Currencies. The Exchange believes that the adoption of these rules will offer investors another venue on which to transact U.S. Dollar-Settled Foreign Currency Options. The listing of U.S. Dollar-Settled Foreign Currency Options will enhance competition by providing investors with an additional investment vehicle.

Similar to Phlx, NOM would adopt an applicability rule within proposed Options 4C, Section 1 and defined terms within Section 2. The Exchange proposes that the criteria for listing U.S. Dollar-Settled Foreign Currency Options be relocated from current Options 4, Section 3(m). Similar to Phlx, NOM rules would adopt rules related to the withdrawal of approval of underlying securities or options to permit NOM to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event of a withdrawal, NOM would not open for trading any additional series of options of the class covering that underlying foreign currency. Also, NOM proposes to adopt a new Options 4C, Section 5 to describe the manner in which it would list and trade U.S. Dollar-Settled Foreign Currency Options. After call option contracts or put option contracts relating to a specific underlying foreign currency has been approved for listing and trading on the Exchange, NOM shall from time to time open for trading series of options therein. Prior to the opening of trading in any series of options, NOM shall fix the expiration month and exercise price of option contracts included in such series. This rule is identical to Phlx's listing rules for U.S. Dollar-Settled Foreign Currency Options within Phlx Options

4C, Section 5. The determination of the closing settlement value is described within Options 4C, Section 6. The Exchange believes that permitting NOM to list U.S. Dollar-Settled Foreign Currency Options, similar to Phlx, would allow market participants another venue in which to transact U.S. Dollar-Settled Foreign Currency Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The relocation of the Options Listing Rules will facilitate the use of the Rulebook by Participants of the Exchange, who are members of other Affiliated Exchanges; other market participants; and the public in general. The changes are consistent with the ISE Rulebook.

The Exchange's proposal to amend Options 4, Sections 1, 2, 5, and 7 reflects non-substantive amendments to conform those rules to similar ISE rules at Options 4, Sections 1, 2, 5, and 7. These proposed changes do not impose an undue burden on competition since the changes are intended to ease the Participants', market participants', and the general public's navigation and reading of the rules and lessen potential confusion and add clarity for market participants.

The proposed amendments to ISE Options 3, Section 3(b) to permit the Exchange, in exceptional circumstances, to select an underlying security even though it does not meet all of the guidelines does not impose an undue burden on competition. Today, the Exchange may establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. Providing NOM with the same ability to select an underlying security even though it does not meet all of the guidelines as ISE will permit NOM to list similar options as ISE for competitive purposes.

The Exchange's proposal to add the defined term "Financial Instruments" within Options 4, Section 3(h) and also account for money market instruments, U.S. government securities and repurchase agreements, defined by the term "Money Market Instruments" similar to ISE Options 4, Section 3(h) does not impose an undue burden on competition. The addition of money market instruments, U.S. government securities and repurchase agreements as securities deemed appropriate for options trading will make clear that these agreements are included in the acceptable securities.

The Exchange's proposal to remove the following products from Options 4, Section 3(h): the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust, does not impose an undue burden on competition. The Exchange no longer lists these products and proposes to remove them the products from its listing rules.

The Exchange's proposal to amend Options 4, Section 3(h) by removing the rule text at the end of the paragraph which provides, "all of the following conditions are met," and creating separate paragraphs for Options 4, Section 3(h)(1) and (2) does not impose an undue burden on competition. These amendments will de-link these subparagraphs so they are read independently. Today, Options 4, Section 3(h)(1) applies to all Exchange-Traded Fund Shares. The Exchange's proposal to clarify that Options 4, Section 3(h)(2) applies to only international or global Exchange-Traded Fund Shares that include non-U.S. securities will bring greater clarity to the qualification standards for listing options on Exchange-Traded Fund Shares. Specifically, this language is intended to serve as a guidepost and clarify that (1) subparagraph (h)(2) does not apply to an Exchange-Traded Fund Shares based on a U.S. domestic index or portfolio, and (2) subparagraph (h)(2)

includes Exchange-Traded Fund Shares that track a portfolio and do not track an index. This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on NOM.

The Exchange's proposal to amend Options 4, Section 3(h)(2)(A) to remove the phrase "for series of portfolio depositary receipts and index fund shares based on international or global indexes," does not impose an undue burden on competition. Today, Options 4, Section 3(h), subparagraphs (h)(1) and (h)(v) permit the Exchange to list options on Exchange-Traded Fund Shares based on generic listing standards for portfolio depositary receipts and index fund shares without applying component based requirements in subparagraphs (h)(2)(B) – (D). By removing the proposed rule text, the Exchange would make clear that subparagraph (h)(2)(A) applies to Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, that are listed pursuant to generic listing standards and comply with Options 4, Section 3(h) and subparagraph (h)(1). This amendment will uniformly apply the criteria within Options 4, Section 3 when it lists options products on NOM.

The Exchange's proposal to amend the term "comprehensive surveillance agreement" within Options 4, Section 3(h)(2) (A) – (D) to instead provide "comprehensive surveillance sharing agreement" does not impose an undue burden on competition as the amendment will bring greater clarity to the term.

The Exchange's proposal to add the phrase "if not available or applicable, the Exchange-Traded Fund's" to Options 4, Section 3(h)(2)(B), (C), and (D) does not impose an undue burden on competition as it will clarify that when component securities are not

available, the portfolio of securities upon which the Exchange-Traded Fund Share is based can be used instead.

The Exchange's proposal to amend and relocate the rule text within Options 4, Section 3(h)(2)(B), (C), and (D) will bring greater clarity to the current rule text by explicitly providing that the index being referenced is the one on which the Exchange-Traded Fund Shares is based. Also, adding "or portfolio" to Options 4, Section 3(h)(2)(C), and (D) will bring greater clarity to the rule text by conforming the rule text of (C) and (D) to the language within (B).

The proposed amendments to Options 4, Section 4 remove unnecessary rule text and make clear that options contracts that are no longer approved will not be listed. The proposed amendments to adopt new Options 4, Section 4(i), similar to ISE, Options 4, Section 4(i), does not impose an undue burden on competition. The amendments would provide for provisions wherein the Exchange will not open additional series of options overlying HOLDRs similar to ISE, which provisions do not currently exist.

The Exchange's proposal to remove the rule text within Options 4, Section 4(l), related to inadequate volume delisting, does not impose an undue burden on competition. To remain competitive with other options markets, the Exchange proposes to adopt the same obligations for continuance of trading.²⁶ Also, pursuant to proposed new Options 4, Section 5(e) the Exchange will announce securities that have been withdrawn. With this proposal, the Exchange would eliminate the requirement that an option must be trading for more than 6 months. The Exchange notes that this condition is not present on other

²⁶ Options 4, Section 4(b), as amended, establishes requirements for continued listing, similar to ISE.

options markets such as ISE and Cboe.²⁷ This also applies to the requirement that the average daily volume of the entire class of options over the last six (6) month period was less than twenty (20) contracts. The Exchange notes that NOM's requirements are different from other options markets and to remain competitive the Exchange proposes to adopt the same standards as ISE to remain competitive and list similar options as other markets. The Exchange's proposal removes the rule text which provides that "If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest" does not impose an undue burden on competition. This rule text does not exist on ISE and Cboe. The Exchange today provides notification of a delisting to all members so therefore it is not necessary to retain the provisions within (b)(2). Also, proposed new Options 4, Section 4(e) establishes the rules by which the Exchange will announce securities that have been withdrawn.

The Exchange believes that the changes to proposed Options 4, Section 8 do not impose an undue burden on competition as the changes are mainly of a non-substantive nature with much of the rule text largely simply being relocated from current Options 4, Section 5(a)(i)(D) to new Options 4, Section 8(a) with some minor amendments.

The Exchange's proposal to amend Options 3, Section 8 and Options 4A, Section 12(b)(1)(A) to relocate rule text concerning bid/ask differentials for long-term option series, without change, does not impose an undue burden on competition. The Exchange believes that this relocation will provide Market Makers with centralized information regarding their bid/ask differential requirements.

²⁷ See ISE Options 4, Section 4 and Cboe Rule 4.4.

Adopting a new Section 9, Limitation on the Liability of Index Licensors for Option on Fund Shares, similar to ISE, does not impose an undue burden on competition. The proposal seeks to limit the liability of index licensors who grant NOM a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. This rule text is identical to ISE rule text.²⁸ Proposed Section 9(b) provides that no index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose.

The Exchange believes that the adoption of Options 4, Section 10, Back-up Trading Arrangements, will provide NOM with similar abilities as ISE to permit NOM to enter into arrangements with one or more other exchanges to permit NOM and its Participants to use a portion of a Back-up Exchange's facilities to conduct the trading of NOM exclusively listed²⁹ options in the event of a Disabling Event, and similarly to permit NOM to provide trading facilities for another exchange's exclusively listed options if that Disabled Exchange is prevented from trading due to a Disabling Event.

Permitting NOM to list U.S. Dollar-Settled Foreign Currency Options similar to Phlx would allow market participants another venue in which to transact U.S. Dollar-

²⁸ See ISE Options Listing Rule Section 9.

²⁹ As defined within the proposed rule, the term "exclusively listed option" means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

Settled Foreign Currency Options. U.S. Dollar-Settled Foreign Currency Options would be available for trading to all market participants. The proposal will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.³¹

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.

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2021-059 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-NASDAQ-2021-059. 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-NASDAQ-2021-059 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.³²

J. Matthew DeLesDernier
Assistant Secretary

³² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

The Nasdaq Stock Market LLC Rules

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Options Rules

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Options 2 Options Market Participants

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Section 4. Obligations of Market Makers

(a) In registering as a Market Maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Ordinarily, Market Makers are expected to:

(1) During trading hours, a Market Maker must maintain a two-sided market, pursuant to Options 2, Section 5(d)(~~[i]~~1) of this Rule, in those options in which the Market Maker is registered to trade, in a manner that enhances the depth, liquidity and competitiveness of the market.

* * * * *

Section 5. Market Maker Quotations

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(d) *Intra-day Quotes*. A Market Maker must enter bids and offers for the options to which it is registered, as follows:

(1) No change.

(2) **Intra-Day Bid/[a]Ask Differentials (Quote Spread Parameters)**. Options on equities (including Exchange-Traded Fund Shares), and on index options must be quoted with a difference not to exceed \$5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than \$5, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. The Exchange may establish differences other than the above for one or more series or classes of options.

(A) Bid/ask differentials shall not apply to any options series until the time to expiration is less than nine (9) months for equity options, exchange-traded products, and foreign currencies. Bid/ask differentials shall not apply to any options series until the time to expiration is less than nine (9) months for index options.

* * * * *

Options 4 Options Listing Rules

Section 1. Designation of Securities

[Securities traded on t]The Exchange trades [are] options contracts, each of which is designated by reference to the issuer of the underlying security, [or name of underlying foreign currency,]expiration month or expiration date, exercise price and type (put or call).

Section 2. Rights and Obligations of Holders and Writers

[Subject to the provisions of this Chapter, t]The rights and obligations of holders and writers [of option contracts of any class of options dealt in on the Exchange]shall be as set forth in the Rules of the Clearing Corporation.

Section 3. Criteria for Underlying Securities

(a) Underlying securities with respect to which put or call options contracts are approved for listing and trading on the Exchange must meet the following criteria:

[i.](1) The security must be registered [with the SEC] and be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act; and

[ii.](2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

(b) In addition, the Exchange shall from time to time establish [standards]guidelines to be considered in evaluating potential underlying securities for [the] Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the [standards]guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. [The Exchange may]Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the foregoing, however absent exceptional circumstances, an underlying security will not be selected unless:

[i.](1) There are a minimum of seven (7) million shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange Act.

[ii.](2) There are a minimum of 2,000 holders of the underlying security.

[iii.](3) The issuer is in compliance with any applicable requirements of the Exchange Act[or Rules thereunder].

[iv.](4) Trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.

[v.](5) Either:

[1])(i) If the underlying security is a "covered security" as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least \$3.00 for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Clearing Corporation for listing and trading, as measured by the closing price reported in the primary market in which the underlying security is traded; or

[2])(ii) If the underlying security is not a "covered security," the market price per share of the underlying security has been at least \$7.50 for the majority of business days during the three [(3)] calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

(6) Notwithstanding the requirements set forth in Paragraphs 1, 2, 4 and 5 above, the Exchange may list and trade an options contract if (i) the underlying security meets the guidelines for continued approval in Options 4, Section 4; and (ii) options on such underlying security are traded on at least one other registered national securities exchange.

(c) *Securities of Restructured Companies*

[i.](1) *Definitions.* The following definitions shall apply to the provisions of this paragraph (c):

[1])(A) "Restructuring Transaction" refers to a spin-off, reorganization, recapitalization, restructuring or similar corporate transaction.

[2])(B) "Restructure Security" refers to an equity security that a company issues, or anticipates issuing, as the result of a Restructuring Transaction of the company.

[3])(C) "Original Equity Security" refers to a company's equity security that is issued and outstanding prior to the effective date of a Restructuring Transaction of the company.

[4])(D) "Relevant Percentage" refers to either:

(i) twenty-five percent (25%), when the applicable measure determined with respect to the Original Equity Security or the business it represents includes the business represented by the Restructure Security; or

(ii) thirty-three and one-third percent (33-1/3%), when the applicable measure determined with respect to the Original Equity Security or the business it represents excludes the business represented by the Restructure Security.

[ii.](2) *"Share" and "Number of Shareholder" [Standards]Guidelines.* In determining whether a Restructure Security satisfies the share [standard]guideline set forth in [this]Options 4, Section 3(b)([i]1) (the "Share [Standard]Guideline") or the number of holders [standard]guideline set forth in [this]Options 4, Section 3(b)([ii]2) (the "Number of Shareholders [Standard]Guideline"), the Exchange may rely upon the facts and circumstances that it expects to exist on the option's intended listing date, rather than on the date on which the Exchange selects for options trading the underlying Restructure Security.

[1)](A) The Exchange may assume that:

(i) both the "Share" and "Number of Shareholders" [Standards]Guidelines are satisfied if, on the option's intended listing date, the Exchange expects no fewer than forty (40) million shares of the Restructure Security to be issued and outstanding; and

(ii) either such [Standard]Guideline is satisfied if, on the option's intended listing day, the Exchange expects the Restructure Security to be listed on an exchange or automatic quotation system that has, and is subject to, an initial listing requirement that is no less stringent than the [Standard]Guideline in question.

[2)](B) The Exchange may not rely on any such assumption, however, if a reasonable [the] Exchange investigation or that of another exchange demonstrates that either the Share [Standard]Guideline or Number of Shareholders [Standard]Guideline will not in fact be satisfied on an option's intended listing date.

[3)](C) In addition, in the case of a Restructuring Transaction in which the shares of a Restructure Security are issued or distributed to the holders of shares of an Original Equity Security, the Exchange may determine that either the Share [Standard]Guideline or the Number of Shareholders [Standard]Guideline is satisfied based upon the Exchange's knowledge of the outstanding shares or number of shareholders of the Original Equity Security.

[iii.](3) *"Trading Volume" [Standard]Guideline.* In determining whether a Restructure Security that is issued or distributed to the holders of shares of an Original Equity Security (but not a Restructure Security that is issued pursuant to a public offering or rights distribution) satisfies the trading volume [standard]guideline set forth in Options 4, Section 3(b)([iv]4) (the "Trading Volume [Standard]Guideline"), the Exchange may consider the trading volume history of the Original Equity Security prior to the "ex-date" of the Restructuring Transaction if the Restructure Security satisfies the "Substantiality Test" set forth in subparagraph ([v]c)(5) below.

[iv.](4) *"Market Price" [Standard]Guideline.* In determining whether a Restructure Security satisfies the market price history [standard]guideline set forth in Options 4, Section 3(b)([v]5) (the "Market Price [Standard]Guideline"), the Exchange may consider the market price history of the Original Equity Security prior to the "ex-date" of the Restructuring Transaction if:

[1)](A) the Restructure Security satisfies the "Substantiality Test" set forth in subparagraph (v)](c)(5) below; and

[2)](B) in the case of the application of the Market Price [Standard]Guideline to a Restructure Security that is distributed pursuant to a public offering or a rights distribution:

- (i) the Restructure Security trades "regular way" on an exchange or automatic quotation system for at least the five trading days immediately preceding the date of selection; and
- (ii) at the close of trading on each trading day on which the Restructure Security trades "regular way" prior to the date of selection, and the opening of trading on the date of selection, the market price of the Restructure Security was at least \$7.50, or, if the Restructure Security is a "covered security," as defined in Options 4, Section 3(b)(5)(D)(v)(1)], the market price of the Restructure Security was at least \$3.00.

[v.](5) *The "Substantiality Test."* A Restructure Security satisfies the "Substantiality Test" if:

[1)](A) the Restructure Security has an aggregate market value of at least \$500 million; or

[2)](B) at least one of the following conditions is met:

(a)](i) the aggregate market value of the Restructure Security equals or exceeds the Relevant Percentage of the aggregate market value of the Original Equity Security;

(b)](ii) the aggregate book value of the assets attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the aggregate book value of the assets attributed to the business represented by the Original Equity Security; or

(c)](iii) the revenues attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the revenues attributed to the business represented by the Original Equity Security.

[vi)](6). A Restructure Security's aggregate market value may be determined from "when issued" prices, if available.

[vii)](7). In calculating comparative aggregate market values for the purpose of assessing whether a Restructure Security qualifies to underlie an option, the Exchange shall use the Restructure Security's closing price on its primary market on the last business day prior to the selection date or the Restructure Security's opening price on its primary market on the selection date and shall use the corresponding closing or opening price of the related Original Equity Security.

[viii](8). In calculating comparative asset values and revenues, the Exchange shall use [either: (a)(i) the issuer's latest annual financial statements or (b)ii) the issuer's most recently available interim financial statements (so long as such interim financial statements cover a period of not less than three months), whichever are more recent. Those financial statements may be audited or unaudited and may be pro forma.

[ix.](9) Except in the case of a Restructure Security that is distributed pursuant to a public offering or rights distribution, the Exchange may not rely upon the trading volume or market price history of an Original Equity Security as [Paragraph (c) of] this paragraph (c)[Section 3] permits for any trading day unless it relies upon both of those measures for that trading day.

[x.](10) Once the Exchange commences to rely upon a Restructure Security's trading volume and market price history for any trading day, the Exchange may not rely upon the trading volume and market price history of the security's related Original Equity Security for any trading day thereafter.

[xi.](11) "*When Issued*" Trading Prohibited. The Exchange shall not list for trading options contracts that overlie a Restructure Security that is not yet issued and outstanding, regardless of whether the Restructure Security is trading on a "when issued" basis or on another basis that is contingent upon the issuance or distribution of shares.

(d) In considering underlying securities, the Exchange shall ordinarily rely [up]on information made publicly available by the issuer and/or the markets in which the security is traded.

(e) The word "security" shall be broadly interpreted to mean any equity security, as defined in Rule 3a11-1 under the Exchange Act, which is appropriate for options trading, and the word "shares" shall mean the unit of trading of such security.

(f) Securities deemed appropriate for options trading shall include nonconvertible preferred stock issues and American Depositary Receipts ("ADRs") if they meet the criteria and [standards]guidelines set forth in this [Section 3]Rule and if, in the case of ADRs:

[i.](1) the Exchange has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded; [or]

[ii.](2) the combined trading volume of the ADR and other related ADRs and securities (as defined below) occurring in the U.S. ADR market or in markets with which the Exchange has in place an effective surveillance sharing agreement represents (on a share equivalent basis) at least fifty percent (50%) of the combined worldwide trading volume in the ADR, the security underlying the ADR, other classes of common stock related to the underlying security, and ADRs overlying such other stock (together "other related ADRs and securities") over the three month period preceding the date of selection of the ADR for options trading; [or]

[iii.](3) [1)](i) the combined trading volume of the ADR and other related ADRs and securities occurring in the U.S. ADR market and in markets where the Exchange has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least twenty percent (20%) of the combined worldwide trading volume in the ADR and in other related ADRs and securities over the three month period preceding the date of selection of the ADR for options trading,

[2)](ii) the average daily trading volume for the security in the U.S. markets over the three (3) months preceding the selection of the ADR for options trading is 100,000 or more shares, and

[3)](iii) the trading volume is at least 60,000 shares per day in U.S. markets on a majority of the trading days for the three (3) months preceding the date of selection of the ADR for options trading ("Daily Trading Volume Standard"); or

[iv.](4) the SEC otherwise authorizes the listing.

(g) Securities deemed appropriate for options trading shall include shares issued by registered closed-end management investment companies that invest in the securities of issuers based in one or more foreign countries ("International Funds") if they meet the criteria and [standards]guidelines set forth in this [Section 3]Rule and either:

[i.](1) the Exchange has a market information sharing agreement with the primary home exchange for each of the securities held by the fund, or

[ii.](2) the International Fund is classified as a diversified fund as that term is defined by Section 5(b) of the Investment Company Act of 1940, as amended, and the securities held by the fund are issued by issuers based in five [(5)] or more countries.

[(h) A "market information sharing agreement" for purposes of this Section is an agreement that would permit the Exchange to obtain trading information relating to the securities held by the fund including the identity of the Participant of the foreign exchange executing a trade. International Fund shares not meeting the criteria of paragraph (i) shall be deemed appropriate for options trading if the SEC specifically authorizes the listing thereof.]

[(i)h) Securities deemed appropriate for options trading shall include shares or other securities ("Exchange-Traded Fund Shares"), that are traded on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities, that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and [indexes]indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") [and reverse repurchase agreements] comprising or otherwise based on or representing investments in broad-based indexes or portfolios of

securities and/or Financial Instruments and Money Market Instruments [(the "Money Market Instruments")](or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments), or (ii) represent interests in a trust or similar entity that holds a specified non- U.S. currency or currencies deposited with the trust or [similar entity] when aggregated in some specified minimum number may be surrendered to the trust or similar entity by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust ("Currency Trust Shares"), or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and /or non-U.S. currency ("Commodity Pool ETFs"), or (iv) represent interests in the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, or the ETFS Gold Trust[, the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust] or (v) represents an interest in a registered investment company ("Investment Company") organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share"); provided that [all of the following conditions are met]:

([A]1) [t]The Exchange-Traded Fund Shares either (i) meet the criteria and guidelines set forth in paragraphs (a) and (b) above; or (ii) the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus[; and].

([B]2) [the]Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the following criteria:

([1]A) are listed pursuant to generic listing standards [for series of portfolio depository receipts and index fund shares based on international or global indexes, in] under which [case]a comprehensive surveillance sharing agreement is not required; or

([2]B) any non-U.S. component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio

of securities that are not subject to comprehensive surveillance sharing agreements [on which the Exchange-Traded Fund Shares are based that are not subject to comprehensive surveillance agreements] do not in the aggregate represent more than 50% of the weight of the index or portfolio;

([3]C) component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio of securities [on which the Exchange-Traded Fund Shares are based] for which the primary market is in any one country that is not subject to a comprehensive surveillance sharing agreement do not represent 20% or more of the weight of the index or portfolio; and

([4]D) component securities of an index on which the Exchange-Traded Fund Shares are based or if not available or applicable, the Exchange-Traded Fund's portfolio of securities [on] for which the primary market is in any two countries that are not subject to comprehensive surveillance sharing agreements do not represent 33% or more of the weight of the index or portfolio[;].

([5]E) For Currency Trust Shares, the Exchange has entered into an appropriate comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the specified non- U.S. currency or currencies, which are utilized by the national securities exchange where the underlying Currency Trust Shares are listed and traded; and

([6]F) For Commodity Pool ETFs that engage in holding and/or managing portfolios or baskets commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities, options on non-U.S. currency and/or securities, the Exchange has entered into a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool ETFs are listed and traded.

(i) A "market information sharing agreement" for purposes of this Rule is an agreement that would permit the Exchange to obtain trading information relating to the securities held by the fund including the identity of the Participant of the foreign exchange executing a trade. International Fund shares not meeting criteria of paragraph (h) shall be deemed appropriate for options trading if the SEC specifically authorizes the listing.

(j) Securities deemed appropriate for options trading shall include shares or other securities ("Trust Issued Receipts") that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a national market security, and that represent ownership of the specific deposited securities held by a trust, provided:

[i.](A) the Trust Issued Receipts ([1]i) meet the criteria and [standards]guidelines for underlying securities set forth in paragraph (b) to this Rule; or ([2]ii) must be available for issuance or cancellation each business day from the Trust in exchange for the underlying deposited securities; and

[ii.](B) not more than 20% of the weight of the Trust Issued Receipt is represented by ADRs on securities for which the primary market is not subject to a comprehensive surveillance agreement.

[(k) Notwithstanding the requirements set forth in Paragraphs (b)(i), (b)(ii), (b)(iv), and (b)(v) above, options may be listed for trading on the Exchange if:

(i) the underlying security meets the guidelines for continued listing in Options 4, Section 4; and

(ii) options on such underlying security are listed and traded on at least one other national securities exchange.]

[(1) Index-Linked Securities]

[i.](k) Securities deemed appropriate for options trading shall include shares or other securities ("Equity Index-Linked Securities," "Commodity-Linked Securities," "Currency-Linked Securities," "Fixed Income Index-Linked Securities," "Futures-Linked Securities," and "Multifactor Index-Linked Securities," collectively known as "Index- Linked Securities" or "ETNs") that are principally traded on a national securities exchange and an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934), and represent ownership of a security that provides for the payment at maturity, as described below:

(1) Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of an underlying index or indexes of equity securities ("Equity Reference Asset");

([2]A) Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of one or more physical commodities or commodity futures, options on commodities, or other commodity derivatives or Commodity-Based Trust Shares or a basket or index of any of the foregoing ("Commodity Reference Asset");

([3]B) Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of one or more currencies, or options on currencies or currency futures or other currency derivatives or Currency Trust Shares (as defined in this Options 4, Section 3([i]h)), or a basket or index of any of the foregoing ("Currency Reference Asset");

([4]C) Fixed Income Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of one or more notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing ("Fixed Income Reference Asset");

([5]D) Futures-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of an index or indexes of futures contracts or options or derivatives on futures contracts ("Futures Reference Asset"); and

([6]E) Multifactor Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance or the leveraged (multiple or inverse) performance of any combination of two or more Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, or Futures Reference Assets ("Multifactor Reference Asset");

[ii.](2) For purposes of [paragraph (1) of] this Options 4, Section 3(k), Equity Reference Assets, Commodity Reference Asset, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets together with Multifactor Reference Assets, collectively will be referred to as "Reference Assets."

[iii.]

([1]3) (A) The Index-Linked Securities must meet the criteria and guidelines for underlying securities set forth in [subsection (b) of this] Options 4, Section 3(b); or

([2]B) the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset. In addition, the issuing company is obligated to issue or repurchase the securities in aggregation units for cash, or cash equivalents, satisfactory to the issuer of Index- Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

[iv.](4) The Exchange will implement surveillance procedures for options on Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable.

[(m) U.S. Dollar-Settled Foreign Currency Options. The British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the U.S. dollar, the Mexican peso, the Euro, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona may be approved as underlying foreign currencies for options transactions by the

Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. In the event that any of the sovereign governments or the European Economic Community's European Monetary System issuing any of the abovementioned currencies should issue a new currency intended to replace one of the abovementioned currencies as the standard unit of the official medium of exchange of such government, such new currency also may be approved as an underlying foreign currency for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. Options trading in such new currency may occur simultaneously with options trading in any of the above-mentioned currencies; provided, however, that the Exchange shall withdraw its approval of options transactions in the currency which is intended to be replaced by such new currency as expeditiously as it deems consistent with the maintenance of a fair and orderly market or the protection of investors. The Exchange may determine to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event that the Exchange effects such a withdrawal, the Exchange shall not open for trading any additional series of options of the class covering that underlying foreign currency.]

Section 4. Withdrawal of Approval of Underlying Securities

(a) [If put or call options contracts with respect to an underlying security are approved for listing and trading on the Exchange, such approval shall continue in effect until such approval is affirmatively withdrawn by the Exchange.] Whenever the Exchange determines that an underlying security previously approved for Exchange options transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and may prohibit any opening purchase transactions in series of options of that class previously opened (except that opening transactions by Market Makers executed to accommodate closing transactions of other market participants may be permitted) to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares [of publicly held principal amount], number of shareholders, trading volume or market price the Exchange may, in the interest of maintaining a fair and orderly market or for the protection of investors, determine to continue to open additional series of options contracts of the class covering that underlying security. When all options contracts with respect to any underlying security that is no longer approved have expired, the Exchange may make application to the SEC to strike from trading and listing all such options contracts.

(b) Absent exceptional circumstances, [A]n underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

- [i.](1) There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Exchange Act.

[ii.](2) There are fewer than 1,600 holders of the underlying security.

[iii.](3) The trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months.

[iv. Reserved.]

[v.](4) The underlying security ceases to be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act.

[vi.](5) If an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3 [of this Options 4(c) (Criteria for Underlying Securities)], the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including "when-issued" trading, may be taken into account in determining whether the trading volume requirement of ([iii]3) of this paragraph (b) is satisfied.

[(c) Reserved.]

[(d)c] In considering whether any of the events specified in paragraph (b) of this Rule[Section 4] have occurred with respect to an underlying security, the Exchange shall ordinarily rely on information made publicly available by the issuer and/or the markets in which such security is traded.

[(e)d] If prior to the delisting of a class of options contracts covering an underlying security that has been found not to meet the Exchange's requirements for continued approval, the Exchange determines that the underlying security again meets the Exchange's requirements, the Exchange may open for trading additional series of options of that class and may lift any restriction on opening purchase transactions imposed by this Rule[Section 4].

[(f)e] Whenever the Exchange announces that approval of an underlying security has been withdrawn for any reason or that the Exchange has been informed that the issuer of an underlying security has ceased to be in compliance with SEC reporting requirements, each Participant shall, prior to effecting any transaction in options contracts with respect to such underlying security for a [C]customer, inform such [C]customer of such fact and of the fact that the Exchange may prohibit further transactions in such options contracts to the extent it shall deem such action necessary and appropriate.

[(g)f] If an ADR was initially deemed appropriate for options trading on the grounds that fifty percent (50%) or more of the worldwide trading volume (on a share-equivalent basis) in the ADR and other related ADRs and securities takes place in U.S. markets or in markets with which the Exchange has in place an effective surveillance sharing agreement, or if an ADR was initially deemed appropriate for options trading based on the daily trading volume standard in Options 4, Section 3(f)(3)[of this Options 4 (Criteria for Underlying Securities)], the Exchange may not open for trading additional series of options on the ADR unless:

- [i.](1) The percentage of worldwide trading volume in the ADR and other related securities that takes place in the U.S. and in markets with which the Exchange has in place effective surveillance sharing agreements for any consecutive three (3) month period is either: ([1]i) at least thirty percent (30%) without regard to the average daily trading volume in the ADR, or ([2]ii) at least fifteen percent (15%) when the average U.S. daily trading volume in the ADR for the previous three (3) months is at least 70,000 shares; or
- [ii.](2) the Exchange then has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded; or
- [iii.](3) the SEC has otherwise authorized the listing[thereof].

[(h)g) Exchange-Traded Fund Shares approved for options trading pursuant to Options 4, Section 3(h) [of this Options 4] will not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Exchange-Traded Fund Shares if the [security is]Exchange-Traded Fund Shares are delisted from trading as provided in subparagraph (b)(v)5) of this Rule or the Exchange-Traded Fund Shares are halted or suspended from trading on their primary market[Section]. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Exchange-Traded Fund Shares in any of the following circumstances:

- [i.](1) In the case of options covering Exchange-Traded Fund Shares approved pursuant to Options 4, Section 3(i)(h)(A)(i)(v)(1), in accordance with the terms of subparagraphs (b)(i)1), (ii)2), [and] (iii)3), and 4 of this [Section 4]Rule;
- [ii.](2) In the case of options covering [Exchange-Traded]Fund Shares approved pursuant to Options 4, Section 3(i)(h)(iv)(A)(2)(ii) of this Options 4, following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there were fewer than 50 record and/or beneficial holders of such Exchange- Traded Fund Shares for 30 or more consecutive trading days;
- [iii.](3) the value of the index or portfolio of securities or non-U.S. currency, portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities and/or Financial Instruments [or]and Money Market Instruments, on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or
- [iv.](4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

[(i)h) [Securities]Absent exceptional circumstances, securities initially approved for options trading pursuant to paragraph (j) of Options 4, Section 3 [of this Options 4] (such securities are defined and referred to in that paragraph as "Trust Issued Receipts") shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading

any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

[i.](1) in accordance with the terms of paragraph (b) [of]this [Section 4]Rule in the case of options covering Trust Issued Receipts when such options were approved pursuant to subparagraph (j)([i]1)([1]i) under [Section 3 of]this [Options 4]Rule;

[ii. upon annual review,](2) the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

[iii.](3) the Trust has fewer than 50,000 receipts issued and outstanding;

[iv.](4) the market value of all receipts issued and outstanding is less than \$1,000,000; or

[v.](5) [s]Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

(i) For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

(1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or

(2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

(j) [Reserved.

(k) Index Linked Securities]

Absent exceptional circumstances, Index-Linked Securities ("Securities") initially approved for options trading pursuant to [paragraph (l) of]Options 4, Section 3(k) shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series or option contracts of the class covering such Securities whenever the underlying Securities are delisted and trading in the Securities is suspended on a national securities exchange, or the Securities are no longer an "NMS Stock" (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934). In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Index-Linked Securities in any of the following circumstances:

- [i.](1) The underlying Index-Linked Security fails to comply with the terms of [paragraph (1) of] Options 4, Section 3(k);
- [ii.](2) In accordance with the terms of paragraph (b)[of this Section 4], in the case of options covering Index-Linked Securities when such options were approved pursuant to [paragraph (1) of] Options 4, Section 3(k), except that, in the case of options covering Index-Linked Securities approved pursuant to [paragraph (1)(iii)(2) of] Options 4, Section 3(k)(3)(ii) that are redeemable at the option of the holder at least on a weekly basis, then option contracts of the class covering such Securities may only continue to be open for trading as long as the Securities are listed on a national securities exchange and are "NMS" stock as defined in Rule 600 of Regulation NMS;
- [iii.](3) In the case of any Index-Linked Security trading pursuant to [paragraph (1) of] Options 4, Section 3(k), the value of the Reference Asset is no longer calculated; or
- [iv.](4) Such other event shall occur or condition exist that in the opinion of the Exchange make further dealing in such options on the Exchange inadvisable.

[(1) Inadequate Volume Delisting.

Absent exceptional circumstances, a security initially approved for options trading may be deemed by the Exchange not to meet the requirements for continued approval, in which case the Exchange will not open for trading any additional series of equity option contracts of the class of options and may determine to delist the class of options if it meets the following criteria:

- i. The option has been trading on the Exchange not less than six (6) months; and
- ii. the Exchange average daily volume ("ADV") of the entire class of options over the last six (6) month period was less than twenty (20) contracts.

If the option is singly listed only on the Exchange, the Exchange will cease to add new series and may delist the class of options when there is no remaining open interest;

Should the Exchange determine to delist an equity option pursuant to this subsection (1), it will provide notification of the determination to delist such option not less than three (3) days prior to the scheduled delisting date.

(m)]

Supplementary Material to Options 4, Section 6

.01 If an option series is listed but restricted to closing transactions on another national securities exchange, the Exchange may list such series (even if such series would not otherwise be eligible for listing under the Exchange's [r]Rules), which shall also be restricted to closing transactions on the Exchange.

Section 5. Series of Options Contracts Open for Trading

* * * * *

(h) The interval between strike prices of series of options on Index-Linked Securities, as defined in Options 4, Section 3([l]k), will be \$1 or greater when the strike price is \$200 or less and \$5 or greater when the strike price is greater than \$200.

* * * * *

.04 Quarterly Options Series Program: The Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds ("ETFs"). In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar program under their respective rules.

* * * * *

(d) Additional Series. Additional Quarterly Options Series of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing price of the underlying ETF (or "Exchange-Traded Fund Shares") as defined in Options 4, Section 3([i]h) on the preceding day. The Exchange may also open additional strike prices of Quarterly Options Series in ETF options that are more than 30% above or below the current price of the underlying ETF provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of new Quarterly Options Series shall not affect the series of options of the same class previously opened.

* * * * *

Section 7. Adjustments

Options contracts shall be subject to adjustments in accordance with the Rules of the Clearing Corporation. [The]When adjustments have been made, the Exchange will announce [adjustments]that fact, and such changes will be effective for all subsequent transactions in that series at the time specified in the announcement.

Section 8. Long-Term Options Contracts

(a) Notwithstanding conflicting language in Options 3, Section 5[6 of this Options 4 (Series of Options Contracts Open for Trading)], the Exchange may list long-term options contracts that expire from twelve (12) to thirty-nine (39) months from the time they are listed. There may be up to ten expiration months for options on the SPDR® S&P 500® exchange-traded fund (the "SPY ETF") and up to six (6) expiration months for options on all other securities. Strike price interval [and bid/ask differential] rules shall not apply to such options series until the time to expiration is less than nine (9) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 5(d)(2)(A).

(b) After a new long-term options contract series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

Section 9. Limitation on the Liability of Index Licensors for Options on Fund Shares

(a) The term "index licensor" as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Exchange-Traded Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Exchange-Traded Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Exchange-Traded Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

[Section. 9 U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value

U.S. Dollar-Settled Foreign Currency options are settled in U.S. dollars.

The closing settlement value for the U.S. Dollar-Settled Foreign Currency options on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese

yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to the expiration date unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.

Neither the Exchange, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying currencies or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange.

The Exchange shall post the closing settlement value on its website or disseminate it through one or more major market data vendors.]

Section 10. [Reserved]Back-up Trading Arrangements

[Reserved]

(a) NOM is Disabled Exchange.

(1) NOM Exclusively Listed Options.

(i) For purposes of this Rule, the term “exclusively listed option” means an option that is listed exclusively by an exchange (because the exchange has an exclusive license to use, or has proprietary rights in, the interest underlying the option).

(ii) The Exchange (“NOM”) may enter into arrangements with one or more other exchanges (each a “Back-up Exchange”) to permit NOM and its Participants to use a portion of the Back-up Exchange’s facilities to conduct the trading of some or all of NOM’s exclusively listed options in the event that the functions of NOM are severely and adversely affected by an emergency or extraordinary circumstances (a “Disabling Event”). Such option classes shall trade as listings of NOM. The facility of the Back-up Exchange used by NOM for this purpose will be deemed to be a facility of NOM.

(iii) Trading of NOM exclusively listed options on NOM’s facility at the Back-up Exchange shall be conducted in accordance with the rules of the Back-up Exchange, except that (A) such trading shall be subject to NOM rules with respect to doing business with the public, margin requirements, net capital requirements, listing requirements and position limits and (B) NOM Participants that are trading on NOM’s facility at the Back-up Exchange (not including members of the Back-up Exchange who become temporary Participants of NOM pursuant to paragraph (a)(1)(vi)) will be subject to NOM rules

governing or applying to the maintenance of a person's or a firm's status as a Participant of NOM. In addition, NOM and the Back-up Exchange may agree that other NOM rules will apply to such trading. NOM and the Back-up Exchange have agreed to communicate to their members which rules apply in advance of trading. The Back-up Exchange rules that govern trading on NOM's facility at the Back-up Exchange shall be deemed to be NOM rules for purposes of such trading.

(iv) The Back-up Exchange has agreed to perform the related regulatory functions with respect to trading of NOM exclusively listed options on NOM's facility at the Back-up Exchange, in each case except as NOM and the Back-up Exchange may specifically agree otherwise. The Back-up Exchange and NOM have agreed to coordinate with each other regarding surveillance and enforcement respecting trading of NOM exclusively listed options on NOM's facility at the Back-up Exchange. NOM shall retain the ultimate legal responsibility for the performance of its self-regulatory obligations with respect to NOM's facility at the Back-up Exchange.

(v) NOM shall have the right to designate its Participants that will be authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange and, if applicable, its Participant (s) that will be a NOM Market Maker in those options. If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade on NOM's facility at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade at that facility. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: whether the Participant is a NOM Market Maker in the applicable product(s), the number of contracts traded by the Participant in the applicable product(s), market performance, and other factors relating to a Participant's contribution to the market in the applicable product(s).

(vi) Participants of the Back-up Exchange shall not be authorized to trade in any NOM exclusively listed options, except that (i) NOM may deputize willing brokers of the Back-up Exchange as temporary NOM Participants to permit them to execute orders as brokers in NOM exclusively listed options traded on NOM's facility at the Back-up Exchange, and (ii) the Back-up Exchange has agreed that it will, at the instruction of NOM, select members of the Back-up Exchange that are willing to be deputized by NOM as temporary NOM Participants authorized to trade NOM exclusively listed options on NOM's facility at the Back-up Exchange for such period of time following a Disabling Event as NOM determines to be appropriate, and NOM may deputize such members of the Back-up Exchange as temporary NOM Participants for that purpose.

(2) NOM Singly Listed Options.

(i) For purposes of this Rule, the term "singly listed option" means an option that is not an "exclusively listed option" but that is listed by an exchange and not by any other national securities exchange.

(ii) NOM may enter into arrangements with a Back-up Exchange under which the Back-up Exchange will agree, in the event of a Disabling Event, to list for trading singly listed option classes that are then singly listed only by NOM and not by the Back-up Exchange. Any such option classes listed by the Back-up Exchange shall trade on the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Such option classes shall be traded by members of the Back-up Exchange and by NOM Participants selected by NOM to the extent the Back-up Exchange can accommodate NOM Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade singly listed options at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade such options at the Back-up Exchange. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: whether the Participant is a NOM Market Maker in the applicable product(s), the number of contracts traded by the Participant in the applicable product(s), market performance, and other factors relating to a Participant's contribution to the market in the applicable product(s).

(iii) Any options class listed by the Back-up Exchange pursuant to paragraph (a)(2)(ii) that does not satisfy the standard listing and maintenance criteria of the Back-up Exchange will be subject, upon listing by the Back-up Exchange, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in the rules of the Back-up Exchange).

(3) Multiply Listed Options. NOM may enter into arrangements with a Back-up Exchange to permit NOM Participants to conduct trading on a Back-up Exchange of some or all of NOM's multiply listed options in the event of a Disabling Event. Such options shall trade as a listing of the Back-up Exchange and in accordance with the rules of the Back-up Exchange. Such options shall be traded by members of the Back-up Exchange and by NOM Participants selected by NOM to the extent the Back-up Exchange can accommodate NOM Participants in the capacity of temporary members of the Back-up Exchange. If the Back-up Exchange is unable to accommodate all NOM Participants that desire to trade multiply listed options at the Back-up Exchange, NOM may determine which Participants shall be eligible to trade such options at the Back-up Exchange. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: whether the Participant is a NOM Market Maker in the applicable product(s), the number of contracts traded by the Participant in the applicable product(s), market performance, and other factors relating to a Participant's contribution to the market in the applicable product(s).

(b) NOM is Back-up Exchange.

(1) Disabled Exchange Exclusively Listed Options.

(i) NOM may enter into arrangements with one or more other exchanges (each a "Disabled Exchange") to permit the Disabled Exchange and its members to use a portion of NOM's facilities to conduct the trading of some or all of the Disabled Exchange's

exclusively listed options in the event of a Disabling Event. Such option classes shall trade as listings of the Disabled Exchange. The facility of NOM used by the Disabled Exchange for this purpose will be deemed to be a facility of the Disabled Exchange.

(ii) Trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at NOM shall be conducted in accordance with NOM rules, except that (A) such trading shall be subject to the Disabled Exchange's rules with respect to doing business with the public, margin requirements, net capital requirements, listing requirements and position limits, and (B) members of the Disabled Exchange that are trading on the Disabled Exchange's facility at NOM (not including NOM Participants who become temporary members of the Disabled Exchange pursuant to paragraph (b)(1)(iv)) will be subject to the rules of the Disabled Exchange governing or applying to the maintenance of a person's or a firm's status as a member of the Disabled Exchange. In addition, the Disabled Exchange and NOM may agree that other Disabled Exchange rules will apply to such trading. The Disabled Exchange and NOM have agreed to communicate to their members which rules apply in advance of trading.

(iii) NOM will perform the related regulatory functions with respect to trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at NOM, in each case except as the Disabled Exchange and NOM may specifically agree otherwise. NOM and the Disabled Exchange have agreed to coordinate with each other regarding surveillance and enforcement respecting trading of the Disabled Exchange's exclusively listed options on the Disabled Exchange's facility at NOM. The Disabled Exchange has agreed that it shall retain the ultimate legal responsibility for the performance of its self-regulatory obligations with respect to the Disabled Exchange's facility at NOM.

(iv) NOM Participants shall not be authorized to trade in any exclusively listed options of the Disabled Exchange, except (A) that the Disabled Exchange may deputize willing NOM Participants as temporary members of the Disabled Exchange to permit them to execute orders as Participants in exclusively listed options of the Disabled Exchange traded on the facility of the Disabled Exchange at NOM, and (B) at the instruction of the Disabled Exchange, NOM shall select NOM Participants that are willing to be deputized by the Disabled Exchange as temporary members of the Disabled Exchange authorized to trade the Disabled Exchange's exclusively listed options on the facility of the Disabled Exchange at NOM for such period of time following a Disabling Event as the Disabled Exchange determines to be appropriate, and the Disabled Exchange may deputize such NOM Participants as temporary members of the Disabled Exchange for that purpose.

(2) Disabled Exchange Singly Listed Options.

(i) NOM may enter into arrangements with a Disabled Exchange under which NOM will agree, in the event of a Disabling Event, to list for trading singly listed option classes that are then singly listed only by the Disabled Exchange and not by NOM. Any such option classes listed by NOM shall trade on NOM and in accordance with NOM rules. Such option classes shall be traded by NOM Participants and by members of the Disabled

Exchange selected by the Disabled Exchange to the extent NOM can accommodate members of the Disabled Exchange in the capacity of temporary Participants of NOM. NOM may allocate such option classes to a NOM Market Maker in advance of a Disabling Event, without utilizing the allocation process under NOM Options 2, Section 1, to enable NOM to quickly list such option classes upon the occurrence of a Disabling Event.

(ii) Any options class listed by NOM pursuant to paragraph (b)(2)(i) that does not satisfy the listing and maintenance criteria under NOM rules will be subject, upon listing by NOM, to delisting (and, thus, restrictions on opening new series, and engaging in opening transactions in those series with open interest, as may be provided in NOM rules).

(3) Multiply Listed Options. NOM may enter into arrangements with a Disabled Exchange to permit the Disabled Exchange's members to conduct trading on NOM of some or all of the Disabled Exchange's multiply listed options in the event of a Disabling Event. Such options shall trade as a listing of NOM and in accordance with NOM rules. Such options shall be traded by NOM Participants and by members of the Disabled Exchange to the extent NOM can accommodate members of the Disabled Exchange in the capacity of temporary Participants of NOM.

(c) Participant Obligations.

(1) Temporary Participants of the Disabled Exchange

(i) A NOM Participant acting in the capacity of a temporary member of the Disabled Exchange pursuant to paragraph (b)(1)(iv) shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of the Disabled Exchange at NOM, including the rules of the Disabled Exchange to the extent applicable during the period of such trading. Additionally, (A) such NOM Participant shall be deemed to have satisfied, and the Disabled Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a member of the Disabled Exchange, including all dues, fees and charges imposed generally upon members of the Disabled Exchange based on their status as such, (B) such NOM Participant shall have none of the rights of a member of the Disabled Exchange except the right to conduct business on the facility of the Disabled Exchange at NOM to the extent described in this Rule, (C) the NOM Participant shall be responsible for all obligations arising out its activities on or relating to the Disabled Exchange, and (D) the Clearing Participant of such NOM Participant shall guarantee and clear the transactions of such NOM Participant on the Disabled Exchange.

(ii) A member of a Back-up Exchange acting in the capacity of a temporary Participant of NOM pursuant to paragraph (a)(1)(vi) shall be subject to, and obligated to comply with, the rules that govern the operation of the facility of NOM at the Back-up Exchange, including NOM rules to the extent applicable during the period of such trading. Additionally, (A) such temporary Participant shall be deemed to have satisfied, and NOM will waive specific compliance with, rules governing or applying to the maintenance of a

person's or a firm's status as a Participant of NOM, including all dues, fees and charges imposed generally upon NOM Participants based on their status as such, (B) such temporary Participant shall have none of the rights of a NOM Participant except the right to conduct business on the facility of NOM at the Back-up Exchange to the extent described in this Rule, (C) the member organization associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to NOM, and (D) the Clearing Participant of such temporary Participant shall guarantee and clear the transactions on NOM of such temporary Participant.

(2) Temporary Participants of the Back-up Exchange

(i) A NOM Participant acting in the capacity of a temporary member of the Back-up Exchange pursuant to paragraphs (a)(2)(ii) or (a)(3) shall be subject to, and obligated to comply with, the rules of the Back-up Exchange that are applicable to the Back-up Exchange's own members. Additionally, (A) such NOM Participant shall be deemed to have satisfied, and the Back-up Exchange has agreed to waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a member of the Back-up Exchange, including all dues, fees and charges imposed generally upon members of the Back-up Exchange based on their status as such, (B) such NOM Participant shall have none of the rights of a member of the Back-up Exchange except the right to conduct business on the Back-up Exchange to the extent described in this Rule, (C) the NOM Participant shall be responsible for all obligations arising out of its activities on or relating to the Back-up Exchange, (D) the Clearing Participant of such NOM Participant shall guarantee and clear the transactions of such NOM Participant on the Back-up Exchange, and (E) such NOM Participant shall only be permitted (x) to act in those capacities on the Back-up Exchange that are authorized by the Back-up Exchange and that are comparable to capacities in which the NOM Participant has been authorized to act on NOM, and (y) to trade in those option classes in which the NOM Participant is authorized to trade on NOM.

(ii) A member of a Disabled Exchange acting in the capacity of a temporary Participant of NOM pursuant to paragraphs (b)(2)(i) or (b)(3) shall be subject to, and obligated to comply with, NOM rules that are applicable to NOM's own Participants. Additionally, (A) such temporary Participant shall be deemed to have satisfied, and NOM will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Participant of NOM, including all dues, fees and charges imposed generally upon NOM Participants based on their status as such, (B) such temporary Participant shall have none of the rights of a NOM Participant except the right to conduct business on NOM to the extent described in this Rule, (C) the member organization associated with such temporary Participant, if any, shall be responsible for all obligations arising out of that temporary Participant's activities on or relating to NOM, (D) the Clearing Participant of such temporary Participant shall guarantee and clear the transactions of such temporary Participant on the NOM, and (E) such temporary Participant shall only be permitted (x) to act in those NOM capacities that are authorized by NOM and that are comparable to capacities in which the temporary Participant has

been authorized to act on the Disabled Exchange, and (y) to trade in those option classes in which the temporary Participant is authorized to trade on the Disabled Exchange.

(d) Participant Proceedings.

(1) If NOM initiates an enforcement proceeding with respect to the trading during a back-up period of the singly or multiply listed options of the Disabled Exchange by a temporary Participant of NOM or the exclusively listed options of the Disabled Exchange by a member of the Disabled Exchange (other than a NOM Participant who is a temporary member of the Disabled Exchange), and such proceeding is in process upon the conclusion of the back-up period, NOM may transfer responsibility for such proceeding to the Disabled Exchange following the conclusion of the back-up period. Arbitration of any disputes with respect to any trading during a back-up period of singly or multiply listed options of the Disabled Exchange or of exclusively listed options of the Disabled Exchange on the Disabled Exchange's facility at NOM will be conducted in accordance with NOM rules, unless the parties to an arbitration agree that it shall be conducted in accordance with the rules of the Disabled Exchange.

(2) If the Back-up Exchange initiates an enforcement proceeding with respect to the trading during a back-up period of NOM singly or multiply listed options by a temporary member of the Back-up Exchange or NOM exclusively listed options by a NOM Participant (other than a member of the Back-up Exchange who is a temporary Participant of NOM), and such proceeding is in process upon the conclusion of the back-up period, the Back-up Exchange may transfer responsibility for such proceeding to NOM following the conclusion of the back-up period. Arbitration of any disputes with respect to any trading during a back-up period of NOM singly or multiply listed options on the Back-up Exchange or of NOM exclusively listed options on the facility of NOM at the Back-up Exchange will be conducted in accordance with the rules of the Back-up Exchange, unless the parties to an arbitration agree that it shall be conducted in accordance with NOM rules.

(e) Participant Preparations. NOM Participants are required to take appropriate actions as instructed by NOM to accommodate NOM's back-up trading arrangements with other exchanges and NOM's own back-up trading arrangements.

Supplementary Material to Options 4, Section 10

.01 This Rule reflects back-up trading arrangements that NOM has entered into or may enter into with one or more other exchanges. To the extent that this Rule provides that another exchange will take certain action, the Rule is reflecting what that exchange has agreed to do by contractual agreement with NOM, but the Rule itself is not binding upon the other exchange.

Options 4A Options Index Rules

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Section 12. Terms of Index Options Contracts

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(b) Long-Term Index Options Series.

(1) Notwithstanding the provisions of [P]paragraph (a)(3), above, NOM may list long-term index options series that expire from nine (9) to sixty (60) months from the date of issuance.

(A) Index long term options series may be based on either the full or reduced value of the underlying index. There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price interval[, bid/ask differential] and continuity Rules shall not apply to such options series until the time to expiration is less than nine (9) months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 5(d)(2)(A).

(B) When a new Index long term options series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

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Options 4C U.S. Dollar-Settled Foreign Currency Options

Section 1. Applicability

(a) The Rules in Options 4C are applicable to U.S. Dollar-Settled Foreign Currency Options. Except to the extent that specific rules in this Section 4C govern, or unless the context otherwise requires, the provisions of Options 4C are applicable to the trading on the Exchange of U.S. Dollar-Settled Foreign Currency Options.

Section 2. Definitions

(a) **Applicability.** The Rules in Options 4C shall be applicable to the trading on the Exchange in option contracts issued by The Options Clearing Corporation, the terms and conditions of such contracts, the exercise and settlement thereof, the handling of orders, and the conduct of accounts and other matters relating to options trading. Except to the extent that specific Rules in this Options 4C govern or unless the context otherwise requires, the provisions of the By-Laws and of all other Rules and Policies of the Board of Directors shall be applicable to the trading on the Exchange of option contracts.

Foreign currency option contracts purchased and sold on the Exchange are designated by reference to the underlying foreign currency (e.g., the British pound), expiration month, exercise price and type (put or call).

(b) **Definitions.** The following terms as used in the Rules shall, unless the context otherwise indicates, have the meanings herein specified:

(1) The term “**aggregate exercise price**” is as defined within Options 1, Section 1(a)(3).

(2) The term “**foreign currency**” is as defined within Options 1, Section 1(a)(27).

(3) The term “**Exchange Spot Price**” in respect of an option contract on a foreign currency means the cash market spot price, for the sale of one foreign currency for another, quoted by various foreign exchange participants for the sale of a single unit of such foreign currency for immediate delivery that is calculated from the foreign currency price quotation reported by the foreign currency price quotation dissemination system selected by the Exchange, to which an appropriate multiplier is applied. The multiplier(s) will be: 100 for the British pound, the Euro, the Swiss Franc, the Canadian dollar, the Australian dollar, the Brazilian real, and the New Zealand dollar; 1,000 for the Chinese yuan, the Danish krone, the Mexican peso, the Norwegian krone, the South African rand, and the Swedish krona; 10,000 for the Japanese yen and the Russian ruble; and 100,000 for the South Korean won.

(4) The term “**unit of underlying foreign currency**” means a single unit of the foreign currency (e.g., one British pound, one Swiss franc, one Canadian dollar, one Australian dollar, one Japanese yen, one Mexican peso, one Euro, one Brazilian real, one Chinese yuan, one Danish krone, one New Zealand dollar, one Norwegian krone, one Russian ruble, one South African rand, one South Korean won, or one Swedish krona).

Section 3. Criteria for Underlying Securities

(a) The British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, the U.S. dollar, the Mexican peso, the Euro, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona may be approved as underlying foreign currencies for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. In the event that any of the sovereign governments or the European Economic Community's European Monetary System issuing any of the above-mentioned currencies should issue a new currency intended to replace one of the above-mentioned currencies as the standard unit of the official medium of exchange of such government, such new currency also may be approved as an underlying foreign currency for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. Options trading in such new currency may occur simultaneously with options trading in any of the above-mentioned currencies; provided, however, that the Exchange shall withdraw its approval of options transactions in the currency which is intended to be replaced by such new currency as expeditiously as it deems consistent with the maintenance of a fair and orderly market or the protection of investors.

Section 4. Withdrawal of Approval of Underlying Securities or Options

(a) The Exchange may determine to withdraw approval of an underlying foreign currency whenever it deems such withdrawal advisable in the public interest or for the protection of investors. In the event that the Exchange effects such a withdrawal, the Exchange shall not open for trading any additional series of options of the class covering that underlying foreign currency.

Section 5. Series of U.S. Dollar-Settled Foreign Currency Options Contracts Open for Trading

(a) After a particular class of options (call option contracts or put option contracts relating to a specific underlying foreign currency) has been approved for listing and trading on the Exchange, the Exchange shall from time to time open for trading series of options therein. Prior to the opening of trading in any series of options, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series as follows:

(1) Within each class of approved U.S. dollar-settled foreign currency options, the Exchange may open for trading series of options expiring in consecutive calendar months ("consecutive month series"), as provided in subparagraph (A) of this paragraph, and series of options expiring at three-month intervals ("cycle month series"), as provided in subparagraph (B) of this paragraph. Prior to the opening of trading in any series of U.S. dollar-settled FCO, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series. The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. Thus, if the Exchange Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled FCOs moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00.

(A) Consecutive Month Series. With respect to each class of U.S. dollar-settled FCO, series of options having up to four consecutive expiration months may be opened for trading simultaneously, with the shortest-term series initially having no more than two months to expiration. Additional consecutive month series of the same class may be opened for trading on the Exchange at or about the time a prior consecutive month series expires, and the expiration month of each such new series shall normally be the month immediately succeeding the expiration month of the then outstanding consecutive month series of the same class of options having the longest remaining time to expiration.

(B) **Cycle Month Series.** The Exchange may designate one expiration cycle for each class of U.S. dollar-settled FCO. An expiration cycle shall consist of four calendar months (“cycle months”) occurring at three-month intervals. With respect to any particular class of U.S. dollar-settled FCO, series of options expiring in the four cycle months designated by the Exchange for that class may be opened for trading simultaneously, with the shortest-term series initially having approximately three months to expiration. Additional cycle month series of the same class may be opened for trading on the Exchange at or about the time a prior cycle month series expires, and the expiration month of each such new series shall normally be approximately three months after the expiration month of the then outstanding cycle month series of the same class of options having the longest remaining time to expiration.

(C) **Long-Term Series Options or “LEAPs”.** The Exchange may list, with respect to any U.S. dollar-settled foreign currencies, options having up to three years from the time they are listed until expiration. There may be up to ten options series, options having up to thirty-six months from the time they are listed until expiration. There may be up to six additional expiration months. Strike price intervals shall not apply to such options series until the time to expiration is less than nine months. Bid/ask differentials for long-term options contracts are specified within Options 2, Section 5(d)(2)(A).

(D) For each expiration month opened for trading of U.S. dollar-settled foreign currency options, in addition to the strike prices listed by the Exchange pursuant to subsection (a)(1) of this Options 4C, Section 5, the Exchange shall also list a single strike price of \$0.01.

(E) Additional series of options of the same class may be opened for trading on the Exchange as the market price of the underlying foreign currency moves substantially from the initial exercise price or prices. The opening of a new series of options on the Exchange shall not affect any other series of options of the same class previously opened.

(b) **Exercise Price.** The exercise price of each series of foreign currency options opened for trading on the Exchange normally shall be fixed at a price per unit which is reasonably close to the current Exchange Spot Price per unit of the underlying foreign currency in the foreign exchange market at or before the time such series of options is first opened for trading on the Exchange, as determined by finding the arithmetic mean of Exchange Spot Prices as defined in Options 4C, Section 2(b)(3) at or about such time. The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent (\$.50) intervals. Thus, if the Exchange Spot Price of the Euro were at \$100.00, the Exchange would list strikes in \$.50 intervals up to \$120.00 and down to \$80.00, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled FCOs moves, the Exchange may list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the

time of initial listing, the Exchange Spot Price of the Euro is at \$100.00, the strike prices the Exchange will list will be \$80.00 to \$120.00. If the Exchange Spot Price then moves to \$105.00, the Exchange may list additional strikes at the following prices: \$105.50 to \$126.00.

(c) In fixing the exercise price of one or more series of options on any underlying foreign currency, the Exchange may take into account the forward sales prices quoted for that underlying foreign currency in the interbank foreign exchange market.

(d) When put option contracts or put and call option contracts are first opened for trading on an underlying foreign currency, the Exchange may open a series of put option contracts corresponding to each series of call option contracts open or to be opened for trading on the same underlying foreign currency.

Section 6. U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value

(a) U.S. dollar-settled foreign currency options are settled in U.S. dollars.

(b) The closing settlement value for the U.S. dollar-settled FCO on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to the expiration date unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.

(c) Neither the Exchange, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the closing settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying currencies or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange.

(d) The Exchange shall post the closing settlement value on its website or disseminate it through one or more major market data vendors.

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