

Required fields are shown with yellow backgrounds and asterisks.

Proposed Rule Change by NASDAQ OMX PHLX LLC.
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

Description

Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *).

Relating to Position Limits in EEM

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 proposed rule change.

First Name * Angela	Last Name * Dunn
Title * Associate General Counsel	
E-mail * angela.dunN@nasdaqomx.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 officer.

Date	11/13/2012	
By	Edward S. Knight	Executive Vice President and General Counsel
	(Name *)	(Title *)

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.

Edward S Knight,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information (required)

Add Remove View

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

Exhibit 1 - Notice of Proposed Rule Change (required)

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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 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

Add Remove View

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposes to amend Rule 1001, titled “Position Limits” to increase the position and exercise limits for options on the iShares MSCI Emerging Markets Index Fund (“EEM”) to 500,000 contracts.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the amended Exchange Rule is attached hereto 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 on July 10, 2012. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, at (215) 496-5692.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

Position limits for exchange-traded fund (“ETFs”) options, such as EEM options, are determined pursuant to Rule 1001, Commentary .05(a) and vary according to the number of outstanding shares and trading volume during the most recent six-month trading period of an underlying stock or ETF. The largest in capitalization and most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. The current position limit for EEM options is 250,000 contracts. The purpose of the proposed rule change is to amend Rule 1001 to increase the position and exercise limits for EEM options to 500,000 contracts.³ There is precedent for establishing position limits for options on actively-traded ETFs and these position limit levels are set forth in Rule 1001.⁴

³ By virtue of Rule 1002, which is not being amended by this filing, the exercise limit for EEM options would be similarly increased. See Rule 1002 (Exercise Limits).

⁴ Rule 1001 lists exceptions to standard position limits which are: put or call option contracts overlying the PowerShares QQQ Trust (“QQQQ”)® for which the position limit shall be 900,000 contracts on the same side of the market; the Standard and Poor's Depository Receipts (“SPDRs”); options overlying the iShares® Russell 2000® Index (“IWM”), for which the position limit shall be 500,000 contracts; options overlying the Diamonds Trust (“DIA”), for which the position limit shall be 300,000 contracts on the same side of the market; and options overlying the Standard and Poor's Depository Receipts (“SPDRs”), which shall have no position limits.

In support of this proposed rule change, and as noted by the Chicago Board Options Exchange, Incorporated (“CBOE”) in a related filing,⁵ the below trading statistics compare EEM to IWM and SPY. As shown in the table, the average daily volume in 2011 for EEM was 65 million shares compared to 64.1 million shares for IWM and 213 million shares for SPY. The total shares outstanding for EEM are 922.9 million compared to 192.6 million shares for IWM and 716.1 million shares for SPY. Further, the fund market cap for EEM is \$41.1 billion compared to \$15.5 billion for IWM and \$98.3 billion for SPY.

ETF	2011 ADV (mil. shares)	2011 ADV (option contracts)	Shares Outstanding (Mil.)	Fund Market Cap (\$bil)
EEM	65	280,000	922.9	41.1
IWM	64.1	662,500	192.6	15.5
SPY	213	2,892,000	716.1	98.3

In further support of this proposal, the Exchange represents that EEM still qualifies for the initial listing criteria set forth in Rule 1009 at Commentary .06 for ETFs holding non-U.S. component securities.⁶ EEM tracks the performance of the MSCI

⁵ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

⁶ The Exchange notes that the initial listing criteria for options on ETFs that hold non-U.S. component securities are more stringent than the maintenance listing criteria for those same ETF options. See Rule 1009 at Commentary .06 and Rule 1010, Commentary .08.

Emerging Markets Index, which has approximately 800 component securities.⁷ “The MSCI Emerging Markets Index is a free float-adjusted market capitalization index that is designed to measure equity market performance of emerging markets. The MSCI Emerging Markets Index consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey.”⁸ The Exchange represents that more than 50% of the weight of the securities held by EEM are now subject to a comprehensive surveillance agreement (“CSA”).⁹ Additionally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index.¹⁰ Finally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any two countries that are not subject to CSAs do not represent 33% or more of the weight of the MSCI Emerging Markets Index.¹¹

The Exchange believes that the liquidity in the underlying ETF and the liquidity in EEM options support its request to increase the position and exercise limits for EEM

⁷ See http://us.ishares.com/product_info/fund/overview/EEM.htm and http://www.msci.com/products/indices/licensing/msci_emerging_markets/. Identification of the specific securities in the EEM and their individual concentrations in the EEM can be accessed at: http://us.ishares.com/product_info/fund/holdings/EEM.htm.

⁸ See <http://www.msci.com/products/indices/tools/index.html#EM>.

⁹ See Rule 1009, Commentary .06(b)(i).

¹⁰ See Rule 1009, Commentary .06(b)(ii).

¹¹ See Rule 1009, Commentary .06(b)(iii).

options. As to the underlying ETF, through October 17, 2012 the year-to-date average daily trading volume for EEM across all exchanges was 49.3 million shares. As to EEM options, the year-to-date average daily trading volume for EEM options across all exchanges was 250,304 contracts. The Exchange believes that increasing position limits for EEM options will lead to a more liquid and competitive market environment for EEM options that will benefit customers interested in this product.

Under the Exchange's proposal, the options reporting requirement for EEM would continue unabated. Thus, the Exchange would still require that each member and member organization that maintain a position in EEM options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the option position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. Exchange Market Makers would continue to be exempt from this reporting requirement, as Market Maker information can be accessed through the Exchange's market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain an aggregate position of 200 or more option contracts would remain at this level for EEM options.¹²

As the anniversary of listed options trading approaches its fortieth year, the Exchange believes that the existing surveillance procedures and reporting requirements at the Phlx, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of the Exchange's regulatory programs by the Commission have not

¹² Reporting requirements are stated in Rule 1003(b) (Reporting of Options Positions).

uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.¹³

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.¹⁴ Options positions are part of any reportable positions and, thus, cannot be legally hidden. Moreover, the Exchange's requirement that members and member organizations are to file reports with the Exchange for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of the Exchange's surveillance efforts.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or member organization or its customer may try to maintain an inordinately large un-hedged position in an option, particularly on EEM. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member or member organization must maintain for a large position held by itself or by its customer.¹⁵ In addition, the Commission's net capital rule, Rule 15c3-1¹⁶ under the Act imposes a capital charge on members and member

¹³ These procedures have been effective for the surveillance of EEM options trading and will continue to be employed.

¹⁴ 17 CFR 240.13d-1.

¹⁵ See Rule 721 (Proper and Adequate Margin) for a description of margin requirements.

¹⁶ 17 CFR 240.15c3-1.

organizations to the extent of any margin deficiency resulting from the higher margin requirement.

b. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.¹⁷ In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the proposed rule change will benefit large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in the product), as well as retail traders, investors, and public customers, by providing them with a more effective trading and hedging vehicle. In addition, the Exchange believes that the structure of EEM options and the considerable liquidity of the market for EEM options diminish the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against.

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

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

Act.

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

The Exchange does not consent to an extension of the time period for Commission action.

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

Pursuant to Section 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6)²⁰ thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The proposed rule change is substantially similar in all material respects to a recent rule change by the CBOE which increased the position limit for EEM to 500,000 contracts.²¹

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. Furthermore, a proposed rule

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

change filed pursuant to Rule 19b-4(f)(6) under the Act²² normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)²³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change to become operative upon filing. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will ensure fair competition among exchanges by allowing the Exchange to increase its EEM position and exercise limits similar to CBOE, will provide consistency and uniformity among the competing options exchanges as to the position and exercise limits for the multiply listed EEM options class. The Exchange believes that the 30-day operative delay should be waived because it would ensure fair competition among exchanges by allowing the Exchange to amend the position and exercise limits and immediately benefit a greater number of participants who are Exchange members and members of other exchanges by ensuring consistency and uniformity among the competing options exchanges as to the position and exercise limits for the multiply listed EEM class.

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

The proposed rule change is based on a filing by CBOE.²⁴

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6).

²⁴ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066) (an approval order to increase position and exercise limits for EEM options.) The Exchange proposes to increase its position and exercise limits for EEM options from 250,000 to 500,000 similar to CBOE.

9. Exhibits

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

5. Proposed Rule Text

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2012-132)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of
Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to EEM Position Limits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that on November 13, 2012, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 1001, titled “Position Limits” to increase the position and exercise limits for options on the iShares MSCI Emerging Markets Index Fund (“EEM”) to 500,000 contracts.

The text of the proposed rule change is available on the Exchange’s Website at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

Position limits for exchange-traded fund (“ETFs”) options, such as EEM options, are determined pursuant to Rule 1001, Commentary .05(a) and vary according to the number of outstanding shares and trading volume during the most recent six-month trading period of an underlying stock or ETF. The largest in capitalization and most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. The current position limit for EEM options is 250,000 contracts. The purpose of the proposed rule change is to amend Rule 1001 to increase the position and exercise limits for EEM options to 500,000 contracts.³ There is precedent for

³ By virtue of Rule 1002, which is not being amended by this filing, the exercise limit for EEM options would be similarly increased. See Rule 1002 (Exercise Limits).

establishing position limits for options on actively-traded ETFs and these position limit levels are set forth in Rule 1001.⁴

In support of this proposed rule change, and as noted by the Chicago Board Options Exchange, Incorporated (“CBOE”) in a related filing,⁵ the below trading statistics compare EEM to IWM and SPY. As shown in the table, the average daily volume in 2011 for EEM was 65 million shares compared to 64.1 million shares for IWM and 213 million shares for SPY. The total shares outstanding for EEM are 922.9 million compared to 192.6 million shares for IWM and 716.1 million shares for SPY. Further, the fund market cap for EEM is \$41.1 billion compared to \$15.5 billion for IWM and \$98.3 billion for SPY.

ETF	2011 ADV (mil. shares)	2011 ADV (option contracts)	Shares Outstanding (Mil.)	Fund Market Cap (\$bil)
EEM	65	280,000	922.9	41.1
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⁴ Rule 1001 lists exceptions to standard position limits which are: put or call option contracts overlying the PowerShares QQQ Trust (“QQQQ”)® for which the position limit shall be 900,000 contracts on the same side of the market; the Standard and Poor's Depository Receipts (“SPDRs”); options overlying the iShares® Russell 2000® Index (“IWM”), for which the position limit shall be 500,000 contracts; options overlying the Diamonds Trust (“DIA”), for which the position limit shall be 300,000 contracts on the same side of the market; and options overlying the Standard and Poor's Depository Receipts (“SPDRs”), which shall have no position limits.

⁵ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

In further support of this proposal, the Exchange represents that EEM still qualifies for the initial listing criteria set forth in Rule 1009 at Commentary .06 for ETFs holding non-U.S. component securities.⁶ EEM tracks the performance of the MSCI Emerging Markets Index, which has approximately 800 component securities.⁷ “The MSCI Emerging Markets Index is a free float-adjusted market capitalization index that is designed to measure equity market performance of emerging markets. The MSCI Emerging Markets Index consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey.”⁸ The Exchange represents that more than 50% of the weight of the securities held by EEM are now subject to a comprehensive surveillance agreement (“CSA”).⁹ Additionally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index.¹⁰ Finally, the component securities of the MSCI

⁶ The Exchange notes that the initial listing criteria for options on ETFs that hold non-U.S. component securities are more stringent than the maintenance listing criteria for those same ETF options. See Rule 1009 at Commentary .06 and Rule 1010, Commentary .08.

⁷ See http://us.ishares.com/product_info/fund/overview/EEM.htm and http://www.msci.com/products/indices/licensing/msci_emerging_markets/. Identification of the specific securities in the EEM and their individual concentrations in the EEM can be accessed at: http://us.ishares.com/product_info/fund/holdings/EEM.htm.

⁸ See <http://www.msci.com/products/indices/tools/index.html#EM>.

⁹ See Rule 1009, Commentary .06(b)(i).

¹⁰ See Rule 1009, Commentary .06(b)(ii).

Emerging Markets Index on which EEM is based for which the primary market is in any two countries that are not subject to CSAs do not represent 33% or more of the weight of the MSCI Emerging Markets Index.¹¹

The Exchange believes that the liquidity in the underlying ETF and the liquidity in EEM options support its request to increase the position and exercise limits for EEM options. As to the underlying ETF, through October 17, 2012 the year-to-date average daily trading volume for EEM across all exchanges was 49.3 million shares. As to EEM options, the year-to-date average daily trading volume for EEM options across all exchanges was 250,304 contracts. The Exchange believes that increasing position limits for EEM options will lead to a more liquid and competitive market environment for EEM options that will benefit customers interested in this product.

Under the Exchange's proposal, the options reporting requirement for EEM would continue unabated. Thus, the Exchange would still require that each member and member organization that maintain a position in EEM options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the option position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. Exchange Market Makers would continue to be exempt from this reporting requirement, as Market Maker information can be accessed through the Exchange's market surveillance systems. In addition, the general

¹¹ See Rule 1009, Commentary .06(b)(iii).

reporting requirement for customer accounts that maintain an aggregate position of 200 or more option contracts would remain at this level for EEM options.¹²

As the anniversary of listed options trading approaches its fortieth year, the Exchange believes that the existing surveillance procedures and reporting requirements at the Phlx, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of the Exchange's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.¹³

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.¹⁴ Options positions are part of any reportable positions and, thus, cannot be legally hidden. Moreover, the Exchange's requirement that members and member organizations are to file reports with the Exchange for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of the Exchange's surveillance efforts.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or member organization or its customer may try to maintain an inordinately large un-hedged position

¹² Reporting requirements are stated in Rule 1003(b) (Reporting of Options Positions).

¹³ These procedures have been effective for the surveillance of EEM options trading and will continue to be employed.

¹⁴ 17 CFR 240.13d-1.

in an option, particularly on EEM. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member or member organization must maintain for a large position held by itself or by its customer.¹⁵ In addition, the Commission's net capital rule, Rule 15c3-1¹⁶ under the Act imposes a capital charge on members and member organizations to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.¹⁷ In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the proposed rule change will benefit large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in the product), as well as retail traders, investors, and public customers, by providing them

¹⁵ See Rule 721 (Proper and Adequate Margin) for a description of margin requirements.

¹⁶ 17 CFR 240.15c3-1.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

with a more effective trading and hedging vehicle. In addition, the Exchange believes that the structure of EEM options and the considerable liquidity of the market for EEM options diminish the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against.

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.

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.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6)²⁰ thereunder.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 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

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

IV. Solicitation of Comments

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

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-Phlx-2012-132 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2012-132. 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

change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2012-132 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.²¹

Kevin M. O'Neill
Deputy Secretary

²¹ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined.

NASDAQ OMX PHLX LLC Rules

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Rule 1001. Position Limits

Except with the prior written approval of the Exchange in each instance, no member or member organization shall effect, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, an opening transaction (whether on the Exchange or on another participating exchange) in an option contract of any class of options dealt in on the Exchange if the member or member organization has reason to believe that, as a result of such transaction, the member or member organization or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly control an aggregate position: (a) of more than 25,000, 50,000, 75,000, 200,000 or 250,000 option contracts (whether long or short), put or call option contracts on the same side of the market relating to the same underlying security, which limit is determined in accordance with commentary .05(a), in the case of options on a stock or Exchange-Traded Fund Share, (except with respect to put or call option contracts overlying the PowerShares QQQ Trust ("QQQQ")[®] for which the position limit shall be 900,000 contracts on the same side of the market; options overlying the iShares[®] Russell 2000[®] Index ("IWM"), for which the position limit shall be 500,000 contracts; options overlying the Diamonds Trust ("DIA"), for which the position limit shall be 300,000 contracts on the same side of the market; options overlying the iShares MSCI Emerging Markets Index Fund ("EEM"), for which the position limit shall be 500,000 contracts on the same side of the market; and options overlying the Standard and Poor's Depository Receipts ("SPDRs"), which shall have no position limits) or (b) with respect to a stock or Exchange-Traded Fund Share option not dealt in on the Exchange, exceeding the applicable position limit established by the exchange on which the option contract is transacted, when the member or member organization is not a member of that other exchange, or such other number of option contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series. Position limits for foreign currency options shall be determined in accordance with Commentary .05(c).

Position Limits for options on SPDRs are subject to a pilot program through December 4, 2013.

••• *Commentary:* -----

.01 - .10 No Change

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