

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input style="width: 40px;" type="text" value="25"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input style="width: 40px;" type="text" value="2012"/> - * <input style="width: 40px;" type="text" value="40"/> Amendment No. (req. for Amendments *) <input style="width: 40px;" type="text"/>
Proposed Rule Change by NASDAQ OMX PHLX LLC. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934		
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>
Section 19(b)(2) * <input checked="" type="checkbox"/> Section 19(b)(3)(A) * <input type="checkbox"/> Section 19(b)(3)(B) * <input type="checkbox"/>		
Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input style="width: 80px;" 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 type="checkbox"/> 19b-4(f)(6)		
Exhibit 2 Sent As Paper Document <input type="checkbox"/> Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
Description Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). <input style="width: 95%; height: 30px;" type="text" value="Regarding Quarterly Trading Requirements Applicable to Registered Options Traders"/>		
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 * <input style="width: 250px;" type="text" value="Carla"/> Last Name * <input style="width: 250px;" type="text" value="Behnfeldt"/> Title * <input style="width: 550px;" type="text" value="Associate General Counsel"/> E-mail * <input style="width: 550px;" type="text" value="Carla.behnfeldt@nasdaqomx.com"/> Telephone * <input style="width: 100px;" type="text" value="(215) 496-5208"/> Fax <input style="width: 100px;" type="text"/>		
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 <input style="width: 100px;" type="text" value="03/26/2012"/> By <input style="width: 250px;" type="text" value="Edward S. Knight"/> <input style="width: 320px;" type="text" value="Executive Vice President and General Counsel"/> <div style="text-align: center; margin-left: 100px;">(Name *)</div> <div style="text-align: center; margin-left: 300px;">(Title *)</div> <p style="font-size: small; margin-top: 10px;">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.</p> <div style="text-align: center; margin-top: 10px;"> <input style="background-color: #cccccc; padding: 5px 20px;" type="button" value="Edward S Knight,"/> </div>		

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)

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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 (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

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) NASDAQ 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 Exchange Rules 1014, Obligations and Restrictions Applicable to Specialists and Registered Options Traders, and 1093, Phlx XL Risk Monitor Mechanism, and Options Floor Procedure Advice B-3, Trading Requirements, to change trading requirements applicable to certain Registered Options Traders trading electronically, as described below.

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 Board of Directors of the Exchange approved the submission of this proposed rule change on March 22, 2012. 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 Carla Behnfeldt at (215) 496-5208.

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

The purpose of the proposed rule change is to eliminate unnecessary and outdated potential burdens on certain Exchange market makers arising from their use of electronic orders to trade on the Exchange. The general term “market makers” on the Exchange includes specialists and registered options traders (“ROTs”).³ ROTs can be either Streaming Quote Traders (“SQTs”)⁴, Remote Streaming Quote Traders (“RSQTs”)⁵ or non-Streaming Quote Trader ROTs (“non-SQT ROTs”) which by definition are neither SQTs nor RSQTs. The Exchange is proposing to amend Rule 1014, Commentary .13 to permit non-SQT ROTs to meet an in-person trading requirement set forth in that section using electronic orders. The Exchange also proposes to amend Rule 1014(b)(ii)(E) to eliminate a trading requirement applicable to a non-SQT ROT who transacts more than 20% of his/her contract volume in an option electronically versus in open outcry during any calendar quarter. A conforming change is proposed to Section (a) of Rule 1093, Phlx XL Risk Monitor Mechanism. Finally, changes are proposed to Options Floor

³ An ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii).

⁴ An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

⁵ An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

Procedure Advice B-3 and to Rule 1014(b)(ii)(E)(1) to conform to a recent amendment

by the Exchange of Rule 1014, Commentary .01, as explained below.

Recent Rule 1014, Commentary .01 Amendment

The Exchange has recently amended Commentary .01 of Rule 1014.⁶ Prior to the amendment Commentary .01 required that in order for an ROT (other than an RSQT or a Remote Specialist) to receive specialist margin treatment for off-floor orders in any calendar quarter, the ROT was required among other things to execute the greater of 1,000 contracts or 80% of his total contracts that quarter in person and not through the use of orders (the “80% in-person test”).

The only way to participate in trades other than through the use of orders is by quoting. As the Exchange explained in the proposed rule change, non-SQT ROTs do not “stream” quotes, meaning send quotes electronically to the Exchange. Instead, pursuant to Commentary .18 of Rule 1014, they submit limit orders electronically and respond to floor brokers verbally. While SQTs quote electronically by “streaming” quotations into the Exchange, non-SQT ROTs quote verbally in response to floor brokers representing orders in the trading crowd verbally.

The Exchange explained in the filing that the limitation on the use of orders to satisfy the 80% in-person test with respect to non-SQT ROTs was obsolete as, over time, following the movement toward a more electronic trading platform in options, it had become difficult for such ROTs to comply with the trading requirement without using orders. The Exchange explained that in order to comply with their quarterly trading requirements, non-SQT ROTs have to proactively enter orders that provide or take

⁶ See Securities Exchange Act Release No. 65644 (October 27, 2011), 76 FR 67786 (November 2, 2011) (approving SR- Phlx-2011-123).

liquidity. While some time ago, ROTs were able to place their liquidity on the book by verbally informing the specialist the proposed rule change explained that this is no longer the case. The Exchange observed that non-SQT ROTs could only meet the 80% in person test by participating in crowd trades which they cannot control in terms of frequency. The 80% in-person test was therefore amended to permit non-SQT ROTs to count orders entered in person to meet the test.

The 50% in-person test.

Exchange Rule 1014 Commentary .13 contains a separate in-person requirement. It provides that within each quarter an ROT must execute in person, and not through the use of orders, a specified number of contracts, such number to be determined from time to time by the Exchange. Pursuant to Commentary .13, Options Floor Procedure Advice B-3 currently requires an ROT (other than an RSQT or a Remote Specialist) to trade in person, and not through the use of orders, the greater of 1000 contracts or 50% of his contract volume on the Exchange each quarter (the “50% in person test”).⁷

For the same reasons discussed above in connection with the recent modification of the 80% in-person test, the Exchange proposes to amend Rule 1013 Commentary .13 and the 50% in-person test of Options Floor Procedure Advice B-3 to permit non-SQT ROTs to use orders entered in person to meet the test.

The “20%” Test

Currently, Rule 1014(b)(ii)(E)(2) provides that if a non-SQT ROT transacts more than 20% of his/her contract volume in an option electronically (i.e., by way of placing limit orders on the limit order book that are executed electronically and allocated

⁷ The 50% in-person test is separate and distinct from the 80% in-person test and applies whether or not the ROT seeks to receive specialist margin treatment for off-floor orders.

automatically in accordance with Rule 1014(g)(vii) versus in open outcry during any calendar quarter (the “20% test”), commencing the next calendar quarter such non-SQT ROT will be subject to certain quoting obligations for as long as the non-SQT ROT trades the option. Among other things, the non-SQT ROT would be required to submit two-sided electronic quotations, or stream quotes, in a designated percentage of series within options in which he is assigned, in accordance with a schedule set forth in Rule 1014(b)(ii)(E)(2)(b).

Streaming quotes would be burdensome to non-SQT ROTs who are generally not equipped to undertake this new form of trading. Requiring a non-SQT ROT to begin streaming would result in a significant increase of fixed costs to the non-SQT ROT. The Exchange believes this will likely result in these ROTs leaving the trading floor. While meeting the 20% test has become more difficult due to the erosion of open outcry trading, the Exchange still believes price improvement, quality of execution, and especially price discovery will suffer if these non-SQT ROT's are forced out of open outcry market making.

The Exchange therefore proposes to eliminate the 20% test and its associated requirements as a vestige of the early days of electronic trading.⁸ The Exchange believes the provision no longer makes sense in the current environment where electronic trading predominates. For the same reasons the Exchange deleted the restriction on non SQT ROTs' use of orders from the 80% in-person test and the 50% in-person test, it is

⁸ In addition to deleting Rule 1014(b)(ii)(E)(2), the Exchange proposes to delete introductory language from the beginning of Rule 1014(b)(ii)(E) that would no longer be necessary. The substantive provisions of Rule 1014(e)(1) governing non-SQT ROT obligations, as proposed to be renumbered and amended, would continue to apply.

proposing to eliminate the requirements of Rule 1014(b)(ii)(E)(2) that currently apply if a non-SQT ROT transacts more than 20% of his/her contract volume in an option electronically during any calendar quarter.⁹ The proposed amendment is particularly critical given the recent adoption by the Exchange in Rule 1014, Commentary .01, of a general trading requirement that an ROT (other than an RSQT or a Remote Specialist) is required to trade 1,000 contracts and 300 transactions on the Exchange each quarter, not including transactions executed in the trading crowd where the contra-side is an ROT.¹⁰ The non-SQT ROT cannot control the size and frequency of crowd trades, even less so crowd trades where the contra-side is not an ROT. As a practical matter, the non-SQT ROT may have no other option but to use electronic orders to meet the new general trading requirement, thus triggering the 20% test which will prohibit any further trading of the option unless he begins streaming quotes in the option in accordance with Rule 1014(b)(ii)(E)(2).

Finally, a reference to non-SQT ROTs is proposed to be deleted from Section (a) of Rule 1093, Phlx XL Risk Monitor Mechanism, which currently refers to non-SQT ROTs who are required to submit continuous two-sided electronic quotations pursuant to Rule 1014(b)(ii)(E) which is proposed to be deleted as discussed above. This is simply a conforming change to the proposed deletion of Rule 1014(b)(ii)(E).

⁹ In addition to removing the electronic quoting obligation of Rule 1014(b)(ii)(E)(2)(b), the amendment would also remove a reference to the quote spread requirements of Rule 1014(c)(i) found in Rule 1014(b)(ii)(E)(2)(a). The removal of Rule 1014(b)(ii)(E)(2)(a) does not change non-SQT ROTs' quote spread parameter requirements, as Rule 1014(c)(i) will continue to apply to them. See also Rule 1014(b)(ii)(E)(1)(b), which is proposed to be renumbered as Rule 1014(b)(ii)(E)(2), which will continue to require non-SQT ROTs to comply with the quote spread parameter requirements of Rule 1014(c)(i).

¹⁰ See Securities Exchange Act Release No. 65644 (October 27, 2011), 76 FR 67786 (November 2, 2011) (approving SR- Phlx-2011-123).

Conforming Change - Deletion of Rule 1014(b)(ii)(E)(1)(c)

The Exchange also proposes to delete Rule 1014(b)(ii)(E)(1)(c) which provides that any volume transacted electronically will not count towards a non-SQT ROT's 80% in-person test contained in Commentary .01 to Rule 1014. As discussed above, the Exchange recently amended Commentary .01 to eliminate this restriction. The Exchange is deleting Rule 1014(b)(ii)(E)(1)(c) simply as a conforming change.

Conforming Change – Options Floor Procedures Advice B-3

Options Floor Procedure Advice B-3, Section (b), also requires an ROT (other than an RSQT or a Remote Specialist) in order to receive Specialist margin treatment for off-floor orders to meet the 80% in-person test (not through the use of orders). The Exchange proposes to amend Options Floor Procedure Advice B-3 to conform it to the recently revised language of Rule 1014 Commentary .01 such that non-streaming ROTs can use orders entered in person to meet the 80% in-person test. This change is simply a conforming change to the earlier amendment.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by eliminating a restriction on non- SQT ROTs' use of orders to meet an in-person trading requirement,

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

by eliminating burdensome requirements triggered by non-SQT ROTs' use of orders to transact more than 20% of their contract volume in an option, and by making clarifying and conforming changes to previously amended text.

It would be unjust and inequitable to continue to impose in-person trading requirements on non-SQT ROTs without counting orders entered electronically given that their ability to trade other than by the use of orders has substantially diminished over the years. Making the changes proposed herein will remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating an in-person trading requirement that non-SQT ROTs will have difficulty meeting given the current electronic trading environment, thus enabling them to continue making markets by open outcry, to the extent they are able, to the benefit of investors. Investors and the public interest are protected by including as market makers those individuals who, while unable or unwilling to invest resources necessary for streaming, are able to provide liquidity in the open outcry trading that does remain on the floor of the Exchange. The changes that conform rule text to an earlier Exchange amendment benefit investors and the public interest by providing clarity and eliminating potential confusion.

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.

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)

Not applicable.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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-2012-40)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Quarterly Trading Requirements Applicable to Registered Options Traders

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 March 26, 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 Exchange Rules 1014, Obligations and Restrictions Applicable to Specialists and Registered Options Traders, and 1093, Phlx XL Risk Monitor Mechanism, and Options Floor Procedure Advice B-3, Trading Requirements, to change trading requirements applicable to certain Registered Options Traders trading electronically, as described below.

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

The purpose of the proposed rule change is to eliminate unnecessary and outdated potential burdens on certain Exchange market makers arising from their use of electronic orders to trade on the Exchange. The general term “market makers” on the Exchange includes specialists and registered options traders (“ROTs”).³ ROTs can be either Streaming Quote Traders (“SQTs”)⁴, Remote Streaming Quote Traders (“RSQTs”)⁵ or non-Streaming Quote Trader ROTs (“non-SQT ROTs”) which by definition are neither SQTs nor RSQTs. The Exchange is proposing to amend Rule 1014, Commentary .13 to

³ An ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii).

⁴ An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

⁵ An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

permit non-SQT ROTs to meet an in-person trading requirement set forth in that section using electronic orders. The Exchange also proposes to amend Rule 1014(b)(ii)(E) to eliminate a trading requirement applicable to a non-SQT ROT who transacts more than 20% of his/her contract volume in an option electronically versus in open outcry during any calendar quarter. A conforming change is proposed to Section (a) of Rule 1093, Phlx XL Risk Monitor Mechanism. Finally, changes are proposed to Options Floor Procedure Advice B-3 and to Rule 1014(b)(ii)(E)(1) to conform to a recent amendment by the Exchange of Rule 1014, Commentary .01, as explained below.

Recent Rule 1014, Commentary .01 Amendment

The Exchange has recently amended Commentary .01 of Rule 1014.⁶ Prior to the amendment Commentary .01 required that in order for an ROT (other than an RSQT or a Remote Specialist) to receive specialist margin treatment for off-floor orders in any calendar quarter, the ROT was required among other things to execute the greater of 1,000 contracts or 80% of his total contracts that quarter in person and not through the use of orders (the “80% in-person test”).

The only way to participate in trades other than through the use of orders is by quoting. As the Exchange explained in the proposed rule change, non-SQT ROTs do not “stream” quotes, meaning send quotes electronically to the Exchange. Instead, pursuant to Commentary .18 of Rule 1014, they submit limit orders electronically and respond to floor brokers verbally. While SQTs quote electronically by “streaming” quotations into the Exchange, non-SQT ROTs quote verbally in response to floor brokers representing orders in the trading crowd verbally.

⁶ See Securities Exchange Act Release No. 65644 (October 27, 2011), 76 FR 67786 (November 2, 2011) (approving SR- Phlx-2011-123).

The Exchange explained in the filing that the limitation on the use of orders to satisfy the 80% in-person test with respect to non-SQT ROTs was obsolete as, over time, following the movement toward a more electronic trading platform in options, it had become difficult for such ROTs to comply with the trading requirement without using orders. The Exchange explained that in order to comply with their quarterly trading requirements, non-SQT ROTs have to proactively enter orders that provide or take liquidity. While some time ago, ROTs were able to place their liquidity on the book by verbally informing the specialist the proposed rule change explained that this is no longer the case. The Exchange observed that non-SQT ROTs could only meet the 80% in person test by participating in crowd trades which they cannot control in terms of frequency. The 80% in-person test was therefore amended to permit non-SQT ROTs to count orders entered in person to meet the test.

The 50% in-person test.

Exchange Rule 1014 Commentary .13 contains a separate in-person requirement. It provides that within each quarter an ROT must execute in person, and not through the use of orders, a specified number of contracts, such number to be determined from time to time by the Exchange. Pursuant to Commentary .13, Options Floor Procedure Advice B-3 currently requires an ROT (other than an RSQT or a Remote Specialist) to trade in person, and not through the use of orders, the greater of 1000 contracts or 50% of his contract volume on the Exchange each quarter (the “50% in person test”).⁷

For the same reasons discussed above in connection with the recent modification of the 80% in-person test, the Exchange proposes to amend Rule 1013 Commentary .13

⁷ The 50% in-person test is separate and distinct from the 80% in-person test and applies whether or not the ROT seeks to receive specialist margin treatment for off-floor orders.

and the 50% in-person test of Options Floor Procedure Advice B-3 to permit non-SQT ROTs to use orders entered in person to meet the test.

The “20%” Test

Currently, Rule 1014(b)(ii)(E)(2) provides that if a non-SQT ROT transacts more than 20% of his/her contract volume in an option electronically (i.e., by way of placing limit orders on the limit order book that are executed electronically and allocated automatically in accordance with Rule 1014(g)(vii)) versus in open outcry during any calendar quarter (the “20% test”), commencing the next calendar quarter such non-SQT ROT will be subject to certain quoting obligations for as long as the non-SQT ROT trades the option. Among other things, the non-SQT ROT would be required to submit two-sided electronic quotations, or stream quotes, in a designated percentage of series within options in which he is assigned, in accordance with a schedule set forth in Rule 1014(b)(ii)(E)(2)(b).

Streaming quotes would be burdensome to non-SQT ROTs who are generally not equipped to undertake this new form of trading. Requiring a non-SQT ROT to begin streaming would result in a significant increase of fixed costs to the non-SQT ROT. The Exchange believes this will likely result in these ROTs leaving the trading floor. While meeting the 20% test has become more difficult due to the erosion of open outcry trading, the Exchange still believes price improvement, quality of execution, and especially price discovery will suffer if these non-SQT ROT's are forced out of open outcry market making.

The Exchange therefore proposes to eliminate the 20% test and its associated requirements as a vestige of the early days of electronic trading.⁸ The Exchange believes the provision no longer makes sense in the current environment where electronic trading predominates. For the same reasons the Exchange deleted the restriction on non SQT ROTs' use of orders from the 80% in-person test and the 50% in-person test, it is proposing to eliminate the requirements of Rule 1014(b)(ii)(E)(2) that currently apply if a non-SQT ROT transacts more than 20% of his/her contract volume in an option electronically during any calendar quarter.⁹ The proposed amendment is particularly critical given the recent adoption by the Exchange in Rule 1014, Commentary .01, of a general trading requirement that an ROT (other than an RSQT or a Remote Specialist) is required to trade 1,000 contracts and 300 transactions on the Exchange each quarter, not including transactions executed in the trading crowd where the contra-side is an ROT.¹⁰ The non-SQT ROT cannot control the size and frequency of crowd trades, even less so crowd trades where the contra-side is not an ROT. As a practical matter, the non-SQT ROT may have no other option but to use electronic orders to meet the new general

⁸ In addition to deleting Rule 1014(b)(ii)(E)(2), the Exchange proposes to delete introductory language from the beginning of Rule 1014(b)(ii)(E) that would no longer be necessary. The substantive provisions of Rule 1014(e)(1) governing non-SQT ROT obligations, as proposed to be renumbered and amended, would continue to apply.

⁹ In addition to removing the electronic quoting obligation of Rule 1014(b)(ii)(E)(2)(b), the amendment would also remove a reference to the quote spread requirements of Rule 1014(c)(i) found in Rule 1014(b)(ii)(E)(2)(a). The removal of Rule 1014(b)(ii)(E)(2)(a) does not change non-SQT ROTs' quote spread parameter requirements, as Rule 1014(c)(i) will continue to apply to them. See also Rule 1014(b)(ii)(E)(1)(b), which is proposed to be renumbered as Rule 1014(b)(ii)(E)(2), which will continue to require non-SQT ROTs to comply with the quote spread parameter requirements of Rule 1014(c)(i).

¹⁰ See Securities Exchange Act Release No. 65644 (October 27, 2011), 76 FR 67786 (November 2, 2011) (approving SR- Phlx-2011-123).

trading requirement, thus triggering the 20% test which will prohibit any further trading of the option unless he begins streaming quotes in the option in accordance with Rule 1014(b)(ii)(E)(2).

Finally, a reference to non-SQT ROTs is proposed to be deleted from Section (a) of Rule 1093, Phlx XL Risk Monitor Mechanism, which currently refers to non-SQT ROTs who are required to submit continuous two-sided electronic quotations pursuant to Rule 1014(b)(ii)(E) which is proposed to be deleted as discussed above. This is simply a conforming change to the proposed deletion of Rule 1014(b)(ii)(E).

Conforming Change - Deletion of Rule 1014(b)(ii)(E)(1)(c)

The Exchange also proposes to delete Rule 1014(b)(ii)(E)(1)(c) which provides that any volume transacted electronically will not count towards a non-SQT ROT's 80% in-person test contained in Commentary .01 to Rule 1014. As discussed above, the Exchange recently amended Commentary .01 to eliminate this restriction. The Exchange is deleting Rule 1014(b)(ii)(E)(1)(c) simply as a conforming change.

Conforming Change – Options Floor Procedures Advice B-3

Options Floor Procedure Advice B-3, Section (b), also requires an ROT (other than an RSQT or a Remote Specialist) in order to receive Specialist margin treatment for off-floor orders to meet the 80% in-person test (not through the use of orders). The Exchange proposes to amend Options Floor Procedure Advice B-3 to conform it to the recently revised language of Rule 1014 Commentary .01 such that non-streaming ROTs can use orders entered in person to meet the 80% in-person test. This change is simply a conforming change to the earlier amendment.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by eliminating a restriction on non-SQT ROTs' use of orders to meet an in-person trading requirement, by eliminating burdensome requirements triggered by non-SQT ROTs' use of orders to transact more than 20% of their contract volume in an option, and by making clarifying and conforming changes to previously amended text.

It would be unjust and inequitable to continue to impose in-person trading requirements on non-SQT ROTs without counting orders entered electronically given that their ability to trade other than by the use of orders has substantially diminished over the years. Making the changes proposed herein will remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating an in-person trading requirement that non-SQT ROTs will have difficulty meeting given the current electronic trading environment, thus enabling them to continue making markets by open outcry, to the extent they are able, to the benefit of investors. Investors and the public interest are protected by including as market makers those individuals who, while unable or unwilling to invest resources necessary for streaming, are able to provide liquidity in the open outcry trading that does remain on the floor of the Exchange. The

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

changes that conform rule text to an earlier Exchange amendment benefit investors and the public interest by providing clarity and eliminating potential confusion.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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-2012-40 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-2012-40. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

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

All submissions should refer to File Number SR-Phlx-2012-40 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.¹³

Kevin M. O'Neill
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).

Exhibit 5

New language is underlined; brackets indicate deletions

Rule 1014. Obligations and Restrictions Applicable to Specialists and Registered Options Traders

(a) No Change.

(b) *ROT*. (i) No Change.

(ii) (A) – (D) No Change.

(E) *Non-SQT ROTs Obligations*. [These requirements are applicable on a per option basis depending upon the percentage of volume a non-SQT ROT transacts electronically (*i.e.*, by way of placing limit orders on the limit order book that are executed electronically and allocated automatically in accordance with Rule 1014(g)(vii)) versus in open outcry. With respect to making this determination, the Exchange will monitor the non-SQT ROT's trading activity every calendar quarter to determine whether they exceed the thresholds established in this sub-paragraph (E). If a non-SQT ROT exceeds the threshold established below, the obligations contained in sub-paragraph (E)(2) will be effective the next calendar quarter.

(1) *Non-SQT ROT Trades Less Than 20% Contract Volume Electronically:*

If a non-SQT ROT does not transact more than 20% (*i.e.*, trades 20% or less) of his/her contract volume electronically in an appointed option during any calendar quarter, the following provisions shall apply to such non-SQT ROT with respect to that option:

(a) (1) *No Continuous Electronic Quoting Obligation*: A non-SQT ROT will not be obligated to quote electronically in any designated percentage of series.

[(b)] (2) *Continuous Open Outcry Quoting Obligation*: In response to any request for quote by a Floor Broker, specialist, Options Exchange Official, or other ROT (including an SQT), non-SQT ROTs must provide a two-sided market complying with the quote spread parameter requirements contained in Rule 1014(c)(i) (in the case of equity options and U.S. dollar-settled FCOs). Such non-SQT ROTs shall provide such quotations with a size of not less than 10 contracts.

[(c)] *In-Person Trading Requirement*. Any volume transacted electronically will not count towards the non-SQT ROT's in-person requirement contained in Commentary .01 to this Rule 1014.

(2) *Non-SQT ROT Trades More Than 20% Contract Volume Electronically:*

If a non-SQT ROT transacts more than 20% of his/her contract volume in an option electronically (i.e., by way of placing limit orders on the limit order book that are executed electronically and allocated automatically in accordance with Rule 1014(g)(vii)) versus in open outcry during any calendar quarter, commencing the next calendar quarter such non-SQT ROT will be subject to the following quoting obligations for as long as such non-SQT ROT trades such option:

- (a) *Quote Spread Parameters:* Such non-SQT ROT must comply with the quote spread parameter requirements contained in Rule 1014(c)(i) (in the case of equity options or U.S. dollar-settled FCO).
- (b) *Continuous Quoting Obligation:* A non-SQT ROT shall be required to submit continuous two- sided electronic quotations in a designated percentage of series within options in which he is assigned, in accordance with the schedule below. Such non-SQT ROT shall submit electronic quotations with a size of not less than 10 contracts.

% of Overall Volume Transacted on the Exchange During the Previous Quarter that was Transacted Electronically	Electronic Quoting % (% of Series)
50% or Below	20%
51-75%	40%
Above 75%	60%

For example, if 83% of the total volume on the Exchange in a particular option is transacted electronically, non- SQT ROTs in such option shall be required to maintain continuous quotations in 60% of the series. The Exchange will monitor on a calendar quarter basis the percentage of contracts transacted electronically on the Exchange in each particular option for the purpose of adjusting the applicable electronic quoting percentage during the next succeeding calendar quarter.]

(c) – (g) No Change.

● ● ● Commentary:

.01 - .12 No Change.

.13 Within each quarter an ROT must execute in person, and not through the use of orders (except that non-streaming ROTs can use orders entered in person), a specified number of contracts, such number to be determined from time to time by the Exchange.

.14 - .19 No Change.

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Rule 1093. Phlx XL Risk Monitor Mechanism

(a) The Phlx XL system (the "system") will maintain a counting program ("counting program") for each specialist, SQT[,] and RSQT[,] and non-SQT ROT who is required to submit continuous two-sided electronic quotations pursuant to Rule 1014(b)(ii)(E)] (collectively, "Phlx XL participants") assigned in a particular option. The counting program will count the number of contracts traded in such an option by each Phlx XL participant within a specified time period, not to exceed 15 seconds, established by each Phlx XL participant (the "specified time period"). The specified time period will commence for an option when a transaction occurs in any series in such option.

(b) – (e) No Change.

* * * * *

Options Floor Procedure Advice**B-3 Trading Requirements**

(a) An ROT (other than an RSQT or a Remote Specialist) is required to trade in person, and not through the use of orders (except that non-streaming ROTs can use orders entered in person), the greater of 1,000 contracts or 50% of his contract volume on the Exchange each quarter. Also, at least 50% of an ROT's trading activity in each quarter must be in assigned options. No application by an ROT to change options assignments will be approved unless such ROT is in compliance with the above requirements at the time the application for change is made.

FINE SCHEDULE No Change.

(b) For any calendar quarter, in addition to the requirements of paragraph (a) above, in order for an ROT (other than an RSQT or a Remote Specialist) to receive Specialist margin treatment for off-floor orders in accordance with Rule 1014, Commentary .01, the ROT must execute the greater of 1,000 contracts or 80% of his total contracts that quarter in person (not through the use of orders except that non-streaming ROTs can use orders entered in person) and 75% of his total contracts that quarter in assigned options. Violations of this trading requirement are subject to Business Conduct Committee review.