

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 16	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2012 - * 51	Amendment No. (req. for Amendments *)
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 type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" 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 type="text"/>	<input checked="" 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"/>			
<b>Description</b> Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). A proposed rule change to clarify how the processing of a Price to Comply Order under PSX Rule 3301f8 operates based on the method of entry.				
<b>Contact Information</b> Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change. First Name * Sean Last Name * Bennett Title * Assistant General Counsel E-mail * sean.bennett@nasdaqomx.com Telephone * (301) 978-8499 Fax (301) 978-8472				
<b>Signature</b> Pursuant to the requirements of the Securities Exchange Act of 1934,  has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer. Date 04/16/2012 By Edward S. Knight (Name *) Executive Vice President and General Counsel (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)**

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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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> NASDAQ OMX PHLX LLC (“PHLX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to clarify how the processing of a Price to Comply Order under PSX Rule 3301(f)(8) operates based on the method of entry. There is no new proposed rule text.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of PHLX pursuant to authority delegated by the Board of Directors of PHLX on August 19, 2011. PHLX staff will advise the Board of Directors of PHLX of any action taken pursuant to delegated authority. No other action by PHLX is necessary for the filing of the rule change.

PHLX will implement the proposed change immediately upon filing. Questions regarding this rule filing may be directed to T. Sean Bennett, Assistant General Counsel, The NASDAQ OMX Group, Inc. at (301) 978-8499.

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

a. Purpose

PHLX is proposing to clarify the effect that the method of order entry has on the

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

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

processing of Price to Comply Orders, as described in PSX Rule 3301(f)(8).<sup>3</sup> Price to Comply Orders allow members to quote aggressively and still comply with the locked and crossed markets provisions of Regulation NMS.<sup>4</sup>

As part of the launch of its PSX equities market in October 2010, PHLX adopted many substantially similar equities rules to those of its sister exchange The NASDAQ Stock Market LLC (“NASDAQ”), including the Price to Comply Order type under PSX Rule 3301(f)(8).<sup>5</sup> NASDAQ had amended its definition of the Price to Comply Order type under NASDAQ Rule 4751(f)(7) in June 2008.<sup>6</sup> Prior to June 2008, if at the time of entry on NASDAQ a Price to Comply Order would create a violation of SEC Rule 610(d) by locking or crossing the protected quote of an external market or would cause a violation of SEC Rule 611 by trading through such a protected quote, the order was converted by the NASDAQ system to a Non-Displayed Order, as defined in NASDAQ Rule 4751(e)(3),<sup>7</sup> and re-priced to the current low offer (for bids) or to the current best bid (for offers). Thereafter, such Non-Displayed Orders were cancelled by the NASDAQ

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<sup>3</sup> “Price to Comply Order” is an order such that, if, at the time of entry, it would lock or cross the quotation of an external market, the order will be priced to the current low offer (for bids) or to the current best bid (for offers) and displayed at a price one minimum price increment lower than the offer (for bids) or higher than the bid (for offers).

<sup>4</sup> 17 CFR 242.610.

<sup>5</sup> Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-Phlx-2010-79).

<sup>6</sup> Securities Exchange Act Release No. 57910 (June 3, 2008), 73 FR 32776 (June 10, 2008) (SR-NASDAQ-2008-049).

<sup>7</sup> “Non-Displayed Order” is a limit order that is not displayed in the NASDAQ system, but nevertheless remains available for potential execution against all incoming orders until executed in full or cancelled. PHLX’s definition of Non-Displayed Order under Rule 3301(e)(2) mirrors in substance that of NASDAQ’s definition.

system if the market moved through the price of the order after the order was accepted.

The June 2008 amendment changed how the NASDAQ Price to Comply Order operates so that a locking or crossing order is no longer converted to a Non-Displayed Order, but rather is displayed at the most aggressive price possible, one minimum price increment worse than the locking price. NASDAQ also added language to the rule, subsequently mirrored in PSX Rule 3301(f)(8), which noted that NASDAQ may adjust the displayed and undisplayed prices of a Price to Comply Order once or multiple times, depending on the method of order entry and changes to the National Best Bid and Offer (“NBBO”). In its discussion of the rule change, NASDAQ explained that the displayed and undisplayed price of an individual order may be modified one or more times depending upon the manner of order entry into the system. In particular, if a member chooses to enter a Price to Comply Order via NASDAQ’s RASH protocol, the order is priced upon entry and may be adjusted multiple times in response to changes in the prevailing NBBO to move the displayed price closer to the original entered price and display the best possible price consistent with the provisions of Regulation NMS. In addition, each time the displayed price is adjusted, the order will receive a new timestamp for purposes of determining its price/time priority according to NASDAQ’s existing processing rules. If a Price to Comply Order is entered via NASDAQ’s OUCH protocol, however, the order will be repriced only upon entry and the order is not repriced in the event the prevailing NBBO changes. The PSX Price to Comply Order operates in the same manner as the NASDAQ Price to Comply Order.

PHLX is proposing to amend the interpretation that addresses when a Price to Comply Order will be repriced multiple times. As noted above, the method of entry of a

Price to Comply Order determines whether the order is repriced once or multiple times. This will continue to be the case under the amended interpretation; however, an OUCH subscriber will be afforded the choice to have its Price to Comply Order be subject to repricing *either* only once *or* multiple times. Member firms will designate each OUCH protocol order port to use either the single or multiple repricing functionality for Price to Comply Orders entered via that port. A RASH subscriber will continue to have all Price to Comply Orders repriced multiple times, when appropriate. The methodology for repricing Price to Comply Orders will not vary based on how the order is entered. Like RASH-entered Price to Comply Orders, each time the OUCH-entered order is repriced it will receive a new timestamp for purposes of determining its price/time priority. As such, there is no guarantee that the OUCH-entered Price to Comply Order will receive priority when it becomes actionable.

PHLX believes that the new functionality and related rule interpretation will serve to reduce the order traffic received using the OUCH protocol. PHLX notes that, in certain cases, a member will submit a Price to Comply Order at an aggressive price that it anticipates will be at the NBBO. Often such an order is not submitted at the NBBO and is not executed after repricing because the market does not move to the adjusted order price. In these cases, the member firm will typically submit additional aggressive orders, which likewise are not executed. Because the OUCH protocol is used by member firms that are able to submit a large volume of orders, PHLX believes that offering such firms the ability to have PHLX reprice their Price to Comply Orders multiple times will serve to reduce the excessive volume of orders entered into the system which are ultimately canceled.

As noted, PHLX will continue to offer OUCH subscribers an alternative to the multiple repricing functionality so that such member firms may elect to have their locked or crossed Price to Comply Orders repriced only once, consistent with the current process. PHLX believes that this will accommodate member firms that seek the certainty of repricing at most once or whose trading systems depend on the existing repricing mechanism.

b. Statutory Basis

PHLX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. PHLX believes this proposal is consistent with the Exchange Act and specifically Rule 610 of Regulation NMS. In addition, PHLX believes that the change will result in the adoption of a new policy with respect to the meaning, administration, and enforcement of PSX Rule 3301(f)(8), which is designed to promote efficiency in the market, thereby promoting members' understanding of the parameters of the rule and the efficiency of its administration.

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

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

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

PHLX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor 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)

Pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>10</sup> PHLX has designated this proposal as a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, which renders the proposed rule change effective upon filing.

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

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

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



**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-Phlx-2012-51)

April \_\_, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding a Clarifying Amendment to the Processing of a Price to Comply Order

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 16, 2012, NASDAQ OMX PHLX LLC (“PHLX” or “Exchange”) filed with the Securities and Exchange Commission (“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 the Substance of the Proposed Rule Change

The Exchange proposes to clarify how the processing of a Price to Comply Order under PSX Rule 3301(f)(8) operates based on the method of entry. The text of the proposed rule change is available at <http://nasdaqomxphlx.cchwallstreet.com>, at the Exchange’s principal office, 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

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

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

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

PHLX is proposing to clarify the effect that the method of order entry has on the processing of Price to Comply Orders, as described in PSX Rule 3301(f)(8).<sup>3</sup> Price to Comply Orders allow members to quote aggressively and still comply with the locked and crossed markets provisions of Regulation NMS.<sup>4</sup>

As part of the launch of its PSX equities market in October 2010, PHLX adopted many substantially similar equities rules to those of its sister exchange The NASDAQ Stock Market LLC ("NASDAQ"), including the Price to Comply Order type under PSX Rule 3301(f)(8).<sup>5</sup> NASDAQ had amended its definition of the Price to Comply Order type under NASDAQ Rule 4751(f)(7) in June 2008.<sup>6</sup> Prior to June 2008, if at the time of entry on NASDAQ a Price to Comply Order would create a violation of SEC Rule 610(d) by locking or crossing the protected quote of an external market or would cause a violation of SEC Rule 611 by trading through such a protected quote, the order was converted by the NASDAQ system to a Non-Displayed Order, as defined in NASDAQ

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<sup>3</sup> "Price to Comply Order" is an order such that, if, at the time of entry, it would lock or cross the quotation of an external market, the order will be priced to the current low offer (for bids) or to the current best bid (for offers) and displayed at a price one minimum price increment lower than the offer (for bids) or higher than the bid (for offers).

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<sup>5</sup> Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-Phlx-2010-79).

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Rule 4751(e)(3),<sup>7</sup> and re-priced to the current low offer (for bids) or to the current best bid (for offers). Thereafter, such Non-Displayed Orders were cancelled by the NASDAQ system if the market moved through the price of the order after the order was accepted.

The June 2008 amendment changed how the NASDAQ Price to Comply Order operates so that a locking or crossing order is no longer converted to a Non-Displayed Order, but rather is displayed at the most aggressive price possible, one minimum price increment worse than the locking price. NASDAQ also added language to the rule, subsequently mirrored in PSX Rule 3301(f)(8), which noted that NASDAQ may adjust the displayed and undisplayed prices of a Price to Comply Order once or multiple times, depending on the method of order entry and changes to the National Best Bid and Offer (“NBBO”). In its discussion of the rule change, NASDAQ explained that the displayed and undisplayed price of an individual order may be modified one or more times depending upon the manner of order entry into the system. In particular, if a member chooses to enter a Price to Comply Order via NASDAQ’s RASH protocol, the order is priced upon entry and may be adjusted multiple times in response to changes in the prevailing NBBO to move the displayed price closer to the original entered price and display the best possible price consistent with the provisions of Regulation NMS. In addition, each time the displayed price is adjusted, the order will receive a new timestamp for purposes of determining its price/time priority according to NASDAQ’s existing processing rules. If a Price to Comply Order is entered via NASDAQ’s OUCH protocol,

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however, the order will be repriced only upon entry and the order is not repriced in the event the prevailing NBBO changes. The PSX Price to Comply Order operates in the same manner as the NASDAQ Price to Comply Order.

PHLX is proposing to amend the interpretation that addresses when a Price to Comply Order will be repriced multiple times. As noted above, the method of entry of a Price to Comply Order determines whether the order is repriced once or multiple times. This will continue to be the case under the amended interpretation; however, an OUCH subscriber will be afforded the choice to have its Price to Comply Order be subject to repricing *either* only once *or* multiple times. Member firms will designate each OUCH protocol order port to use either the single or multiple repricing functionality for Price to Comply Orders entered via that port. A RASH subscriber will continue to have all Price to Comply Orders repriced multiple times, when appropriate. The methodology for repricing Price to Comply Orders will not vary based on how the order is entered. Like RASH-entered Price to Comply Orders, each time the OUCH-entered order is repriced it will receive a new timestamp for purposes of determining its price/time priority. As such, there is no guarantee that the OUCH-entered Price to Comply Order will receive priority when it becomes actionable.

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which likewise are not executed. Because the OUCH protocol is used by member firms that are able to submit a large volume of orders, PHLX believes that offering such firms the ability to have PHLX reprice their Price to Comply Orders multiple times will serve to reduce the excessive volume of orders entered into the system which are ultimately canceled.

As noted, PHLX will continue to offer OUCH subscribers an alternative to the multiple repricing functionality so that such member firms may elect to have their locked or crossed Price to Comply Orders repriced only once, consistent with the current process. PHLX believes that this will accommodate member firms that seek the certainty of repricing at most once or whose trading systems depend on the existing repricing mechanism.

## 2. Statutory Basis

PHLX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. PHLX believes this proposal is consistent with the Exchange Act and specifically Rule 610 of Regulation NMS. In addition, PHLX believes that the change will result in the adoption of a new policy with respect to the

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

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

meaning, administration, and enforcement of PSX Rule 3301(f)(8), which is designed to promote efficiency in the market, thereby promoting members' understanding of the parameters of the rule and the efficiency of its administration.

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

PHLX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act.<sup>10</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2012-51 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-2012-51. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-2012-51, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).