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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2013 - * 50
Amendment No. (req. for Amendments *)

Filing 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) * ☐

Pilot ☐ Extension of Time Period for Commission Action * ☐ Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☑ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) ☐ Section 806(e)(2) ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

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

Relating to FLEX Options

Contact Information

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

First Name * Angela Last Name * Dunn

Title * 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.

Date 05/01/2013

By Edward S. Knight

(Name *)

(Title *)

Executive Vice President and General Counsel

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,

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * 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 * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View 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 Add Remove View 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 Add Remove View	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 Add Remove View	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 Rule 1079 entitled "FLEX, Index, Equity and Currency Options" and eliminate Option Floor Procedure Advice ("OFPA") F-28 entitled "Trading FLEX Index, Equity and Currency Options."

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of proposed Exchange Rules 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

The purpose of the proposed rule change is to amend Exchange Rule 1079(a) which concerns the characteristics applicable to FLEX options and 1079(b) and eliminate OFPA F-28 which concerns the procedures for quoting and trading FLEX options.[3] The Exchange is proposing to amend its FLEX rules in Rule 1079 to establish the same procedures for quoting and trading FLEX options as exist today on NYSE MKT LLC ("Amex").[4]

Today, a Requesting Member shall obtain quotes and execute trades in certain non-listed FLEX options at the specialist post of the non-FLEX option on the Exchange. The Requesting Member is a Phlx member qualified to trade FLEX options pursuant to paragraph (c) of Rule 1079 who initiates a FLEX Request For Quotes ("RFQ") pursuant to paragraph (b) of Rule 1079. FLEX options are not continuously quoted and series are not pre-established.[5] Today a Requesting Member may initiate an RFQ by first announcing all of the following contract terms to the trading crowd of the non-FLEX option and then submitting an RFQ ticket to that specialist post: (1) underlying index,

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[3] The term "FLEX option" means a FLEX option contract that is traded subject to this Rule. Although FLEX options are generally subject to the rules in this section, to the extent that the provisions of this Rule are inconsistent with other applicable Exchange rules, this Rule takes precedence with respect to FLEX options.

[4] See Amex Rule 904G (FLEX Trading Procedures and Principles).

[5] The Exchange's electronic quoting and trading system is not available for FLEX options. The variable terms of FLEX options shall be established through the process described in Rule 1079. All transactions must be in compliance with Section 11 of the Securities Exchange Act of 1934 and the rules promulgated thereunder, which may include yielding priority to customer orders.

security or foreign currency, (2) type, size and crossing intention (3) in the case of FLEX index options and FLEX equity options, exercise style, (4) expiration date, (5) exercise price, and, (6) respecting index options, the settlement value. Thereafter, on receipt of an RFQ in proper form, the assigned specialist or Requesting Member shall cause the terms of the RFQ to be disseminated as an administrative text message through the Options Price Reporting Authority ("OPRA").

The Exchange proposes to adopt rules, similar to Amex, which requires a Requesting Member to submit to the FLEX Specialist an RFQ utilizing for that purpose the forms, formats and procedures established by the Exchange. Thereafter, on receipt of an RFQ in proper form, the assigned FLEX Specialist shall cause the terms and specifications of the RFQ to be immediately announced at the post. Such communication shall be disseminated as an administrative text message through the Options Price Reporting Authority ("OPRA").[6]

Today, following the RFQ announcement, a preset response time will begin, during which members may provide responsive quotes. The response time, between two and 15 minutes, will be determined by the Exchange. During the response time, members may provide responsive quotes to the RFQ, which may be entered, modified or withdrawn during such response time. Each assigned ROT and assigned specialist[7] who

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[6] See proposed Rule 1079(b)(1).

[7] Pursuant to Rule 1079(c), a ROT or specialist may apply on a form prescribed by the Exchange to be assigned in FLEX options. At least two members shall be assigned to each FLEX option. Only the specialist in the non-FLEX option may be the assigned specialist in that FLEX option ("FLEX Specialist"). The provisions of Rule 1014(c) regarding market making obligations shall be applicable to assigned ROTs and assigned specialists, such that a market must be provided in any FLEX option when requested by

responds is required to respond with a market of the minimum size, but is not required to provide continuous quotes or a minimum bid-offer differential (quotation spread parameters).

The Exchange proposes to adopt rules, similar to Amex, which provide that Members may enter at the FLEX post FLEX Quotes responsive to each Request for Quotes. FLEX Quotes must be entered during the Request Response Time.[8] Each FLEX Quote shall refer to a reference indicator as the Exchange determines appropriate from time to time. All FLEX Quotes may be entered, modified or withdrawn at any point during the Request Response Time. At the expiration of the Request Response Time, the best bid or offer ("BBO") shall be identified in accordance with the price and time priority principles set forth by the Exchange.[9]

Today, with respect to the BBO, at the end of the response time, the assigned specialist, or if none, the Requesting Member shall determine the BBO, based on price, but not time or size. However, where two or more bids/offers are at parity, bids/offers submitted by an assigned specialist, assigned ROT or customer will have priority over bids/offers submitted by non-assigned ROTs and by controlled accounts as defined in Rule 1014(g)(i). The BBO shall be disseminated with reference to the corresponding RFQ. Further, if the Requesting Member rejects the BBO or the BBO is for less than the

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an Options Exchange Official. The Exchange proposes to define "FLEX Specialist" within Rule 1079(c).

[8] The Exchange proposes to notify its members of the time period for the Request Response Time by issuing a memorandum to the Exchange members on the trading floor. The Exchange intends to provide a reasonable notice period to members if it determines to change the Request Response Time.

[9] See proposed Rule 1079(b)(2).

entire size requested, the BBO Improvement Interval provides a two minute time period during which the BBO may be matched or improved. An assigned ROT or assigned specialist who responded with a market during the response time may immediately join any new BBO. The new BBO shall be determined, and disseminated with reference to the corresponding RFQ.

The Exchange proposes to amend this portion of the rule to instead state, similar to Amex, that at the expiration of the Request Response Time, the BBO shall be displayed on such market data systems as are available. If the Requesting Member has not indicated an intention to cross or act as principal with respect to any part of the FLEX trade, the member shall promptly accept or reject the displayed BBO: provided, however, that if such a Requesting Member either rejects the BBO or is given a BBO for less than the entire size requested, all FLEX participating members other than the Requesting Member will have an opportunity during the BBO Improvement Interval in which to match, or improve, (as applicable), the BBO. At the expiration of any such BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s). If the Requesting Member has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO shall be automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Requesting Member must indicate at the post the price at which the member expects to trade. In these circumstances, the Requesting Member may participate with all other FLEX-participating members in attempting to improve or match the BBO during the BBO Improvement Interval. At expiration of the BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s). The

Requesting Member has no obligation to accept any FLEX bid or offer. Whenever, following the completion of FLEX bidding and offering responsive to a given RFQs, the Requesting Member rejects the BBO or the BBO size exceeds the FLEX transaction size indicated in the RFQs, members may accept the entire order or the unfilled balance of the BBO. The highest bid shall have priority, but where the two or more best bids are submitted at the same price, the bid(s) submitted first in time will have priority. The lowest offer shall have priority, but where the two or more best offers are submitted at the same price, the offer(s) submitted first in time will have priority. In the case of FLEX equity options only and notwithstanding Rule 1079(b)(4), whenever the Requesting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the Requesting Member will be permitted to execute the contra side of the trade that is the subject of the RFQs, to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member's firm proprietary account. Notwithstanding the foregoing, all market participants may effect crossing transactions.[10]

The Exchange would eliminate the provisions that today describe trading, such that a trade in FLEX options cannot be executed until the end of the response time or BBO Improvement Interval. Today, once the response time or Improvement Interval ends, the Requesting Member is given the first opportunity to trade on the market, by voicing a bid/offer in the trading crowd. The Requesting Member has no obligation to accept any bid or offer for a FLEX option. If the Requesting Member rejects the BBO or the BBO size exceeds the entire size requested, another member may promptly accept

[10] See proposed Rule 1079(b)(3).

such BBO or the unfilled balance of the BBO. Once the BBO is established and no trade has occurred, the RFQ remains open during that trading day, such that a member may re-quote the market with respect to the open RFQ, as opposed to submitting an additional RFQ. An assigned ROT or assigned specialist who responded to the open RFQ during the response time or BBO Improvement Interval may immediately join the re-quoted market, thus matching for parity purposes. The original Requesting Member is not given the first opportunity to trade on the re-quoted market, nor is the re-quoting member. If a trade occurs, that RFQ is no longer open and a new RFQ is required. The specialist in the listed non-FLEX equity, index or U.S. dollar-settled foreign currency option, whether or not assigned in FLEX options, must accept FLEX orders on the FLEX book after completion of the RFQ process. Only customer day limit orders may be placed on the FLEX index, equity or U.S. dollar-settled foreign currency option book. Booked orders expire at the end of each trading day. The limit price and size must be written on the RFQ ticket and submitted for dissemination. In order to trade with the book, an executing member must quote the market and announce the trade.[11]

Today, the Exchange has procedures for crossing which require that whenever a Requesting Member intends to cross, after the BBO is determined, with or without a BBO Improvement Interval, the Requesting Member, having announced an intention to cross, must bid and offer at or better than the BBO. If the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of subparagraph

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[11] Acceptance of a bid/offer creates a binding contract under Exchange Rules.

(3) of Rule 1079(b). If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of sub-paragraph (3) of Rule 1079. Broker-dealer crosses and solicited orders, as defined in Rule 1064, are not eligible for the split afforded by sub-paragraphs (A) and (B) of Rule 1079(6), and instead, are, after the announcement of an intention to cross, executable in accordance with sub-paragraph (5) of Rule 1079.

The Exchange proposes to amend the crossing rules, similar to Amex, in that the Requesting Member would be entitled to cross a transaction where the BBO was matched or improved and could execute the contra side to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member's firm proprietary account.[12] The Exchange would not otherwise limit a market participant's ability to cross an order, other market participants other than public customer and firm proprietary orders would not be entitled to execute the contra side of the trade to the extent of at least 40% of the trade.

The Exchange does not propose to amend the current reporting requirements which require RFQs, responsive quotes and completed trades to be promptly reported to

[12] See proposed Rule 1079(b)(5).

OPRA and disseminated as an administrative text message.[13] Nor does the Exchange proposes to amend the provisions related to trading rotations which provide that there will be no trading rotations in FLEX options, either at the opening or at the close of trading.[14] Finally, the Exchange does not proposes to amend the hours of trading must currently state that FLEX options trading must be effected during the hours established by the Exchange. Such hours shall be within regular Exchange trading hours (for the non-FLEX option) on each business day, except that the Exchange in its discretion may determine at any time to narrow or expand FLEX trading hours to encompass, but not exceed, the trading hours of the non-FLEX option.[15]

Provision (c) of Rule 1079 related to who may trade FLEX Options, provision (d) relating to position limits and position (e) related to exercise limits are not being amended. Section (f) which provides that FLEX equity and currency options shall be subject to the exercise-by-exercise procedure of Rule 805 of the Options Clearing Corporation ("OCC") is being amended to capitalize the OCC title.

The Exchange is also proposing to amend Rule 1079(a) to add certain defined terms in connection with the proposed amendments to Rule 1079(b). Specifically, the Exchange proposes to define the term "Request for Quotes" as the initial request supplied by a Requesting Member to initiate FLEX bidding and offering. The Exchange proposes to define the term "Request Response Time" as the minimum period of time established by the Exchange, during which Exchange members participating in FLEX options may

[13] See Rule 1079(b)(7).

[14] See Rule 1079(b)(8).

[15] See Rule 1079(b)(9).

provide FLEX Quotes in response to a Request for Quotes. The Exchange proposes to define the term "FLEX Quote" as (i) FLEX bids and offers entered by specialists[16] and Registered Options Traders[17] and (ii) orders to purchase and orders to sell FLEX Options entered by Floor Brokers, in each case in response to a Request for Quotes. The Exchange proposes to define the term "BBO" as the best bid or offer, or both, as applicable, entered in response to a Request for Quotes. The Exchange proposes to define the term "BBO Improvement Interval" as the minimum period of time, to be established by the Exchange, during which members may submit FLEX Quotes to meet or improve the BBO established during the Request Response Time.

Finally, the Exchange proposes to eliminate OFPA F-28, which reiterates the procedures for quoting and trading FLEX options similar to Rule 1079, as this rule is no longer necessary. OFPA-F28 was enacted to parallel most of the provisions in Rule 1079(b), including those pertaining to requesting quotations, responses, determining the BBO, the BBO Improvement Interval, executing a trade and crossing. OFPA F-28 does not contain a fine schedule and is not included in the Exchange's minor rule violation enforcement and reporting plan.[18] The Exchange noted in its rule change that the purpose

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[16] A specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[17] A Registered Options Trader ("ROT") includes a Streaming Quote Trader ("SQT"), a Remote Streaming Quote Trader and a Non-SQT, which by definition is neither a SQT or a RSQT. A Registered Option Trader 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).

[18] See Securities Exchange Act Release No. 39549 (January14, 1998), 63 FR 3601 (January 23, 1998) (SR-Phlx-96-38).

of adopting OFPA F-28 was to incorporate it into the Floor Procedure Advice Handbook for easy reference on the trading floor.[19]

The Exchange believes that these amendments to the FLEX rules to model the rules after the current Amex rules, streamlines the current process for quoting and trading FLEX Options. Amex initially amended its rule in 2006[20] to increase the participation guarantee of a Requesting Member from 25% to 40% of the order.[21] Amex noted in its filing that they believed that providing Requesting Members or Requesting Member firms who are eligible to trade FLEX options and are seeking to cross or facilitate a trade with an across-the-board 40% member firm guarantee will provide an additional incentive for such Requesting Member or Requesting Member firm to bring large FLEX orders to the floor of the Amex rather than to the floor of another options exchange or to the over-the-counter ("OTC") market.[22] Additionally, Amex noted that the liquidity provided by such Requesting Member or Requesting Member firm seeking to facilitate their orders gives the Exchange the ability to provide deep liquid markets for investors.

The Exchange believes that the amendments proposed to Rule 1079(b) would also allow Phlx to remain competitive with other options exchanges. The proposal streamlines the current FLEX rules related to quoting and trading FLEX options and creates new opportunities for members and member organizations to trade FLEX options on the floor of the Exchange. The proposal provides for transparency in displaying the

[19] Id.

[20] See Securities Exchange Act Release No. 54104 (July 5, 2006), 71 FR 39374 (July 12, 2006) (SR-Amex-2006-47).

[21] Id.

[22] Id.

terms and specifications of the RFQ at the post and continues to provide for the dissemination of information through OPRA. The proposal eliminates the minimum response times imposed by the current rules and instead adopts Amex's more flexible approach to permit responses during the Request Response Time as designated by the Exchange. The amendments provide for opportunities to match or improve the BBO and sets priority rules as first in time as compared to price, as is the case today. The Exchange believes that these rules will permit the Exchange to remain competitive and will continue to encourage market participants to shift OTC options trading to the Exchange in order to eliminate counter-party risk. The Exchange is proposing to increase its guarantee from 25% to 40% consistent with current firm facilitation guarantees and, similar to Amex, offer requesting members that cross public customer and firm proprietary orders the opportunity to participate in 40% of the trade.[23] The Exchange believes that, as noted in the Amex filing, the liquidity provided by such Requesting Member or Requesting Member firm seeking to facilitate their orders gives the Exchange the ability to provide deep liquid markets for investors. The Exchange believes this proposal will allow the Exchange to remain competitive with other options exchanges and provide a comparable alternative to the OTC market.

The Exchange proposes, similar to Amex Rule 904G(f), to limit crossing orders that are entitled to participate in the trade and be guaranteed at least 40% of the trade to public customer orders and firm proprietary orders. Unlike Amex, the Exchange would not otherwise limit a market participant's ability to effect a crossing transaction. The Exchange is proposing to permit all market participants to cross a transaction, as is the

[23] See Exchange Rule 1064 at Commentary .02.

case today. The Exchange does not believe this proposal would amend the current practice of permitting market participants to participate in crossing orders, except for Broker-Dealer crosses which today are not eligible for the split referenced in current Rule 1079(b)(6)(A) and (B),[24] but they are executable as described in current Rule 1079(b)(5). The proposal would permit all market participants to effect crossing transactions, which is not a departure from the current rule, but would limit crossing orders that are entitled to participate in the trade and receive the 40% guarantee to public customer orders and firm proprietary orders, which is not a change for Broker-Dealers but is a change for other market participants that today may be eligible for the 25% guarantee in the current rule.

The Exchange is not adopting language in Amex Rule 904(G)(g). The Exchange does not trade the particular currencies listed in 904(G)(g) and is therefore not adopting language similar to section 904G(g).[25]

In addition, the Exchange proposes in Rule 1079(b)(1) to immediately announce the terms and specifications of the RFQ at the specialist post instead of posting the terms and specifications. The practice of announcing terms at the post is in line with current practices on Phlx's floor. The Exchange will continue to disseminate an administrative text message through OPRA, as is the case today.

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[24] Today, if the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned Specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ.

[25] The Exchange has separate rules relating to trading FLEX foreign currencies minimum increments. See Exchange Rule 1005C.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities and Exchange Act of 1934 ("Exchange Act"),[26] in general, and with Section 6(b)(5) of the Exchange Act,[27] 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 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.

FLEX options permit customization of certain variable terms as agreed between the buyer and seller. The Exchange believes that its proposed rules allow market participants to continue to trade FLEX options in a transparent environment with the same requisite disclosure requirements in order to ensure that presence of a price discovery process for such orders on the Exchange's trading floor. The Exchange believes that the proposed amendments will create new opportunities for members and member organizations to trade FLEX options. The amendments create clear guidelines for transacting FLEX options, which are complicated customized options. Additionally, the amendments streamline the process and adopt procedures for quoting and trading FLEX options similar to Amex.[28] The Exchange desires to provide investors deep liquid markets in which to trade FLEX options and believes that adopting rules similar to Amex will allow the Exchange to provide investors the tools to transact FLEX options in a

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[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78f(b)(5).

[28] See note 19.

transparent environment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange proposes to adopt rules to permit the quoting and trading of FLEX options on the Exchange's trading floor similar to Amex.[29] The Exchange believes that its ability to remain competitive and provide market participants multiple venues in which to trade FLEX options in a similar manner benefits market participants by providing them choices in which to seek markets to transact these products. The Exchange believes that this filing does not impose a burden on competition in as much as the rules are not novel but rather are the same as the rules of Amex.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable

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

Pursuant to Section 19(b)(3)(A) of the Act[30] and Rule 19b-4(f)(6)[31] 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

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[29] Id.

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b-4(f)(6).

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 proposal is to adopt the same rules as Amex with respect to the quoting and trading of FLEX options. The Exchange also provided the Commission with written notice of its intent to file the proposal, along with a brief description and text of the proposal, prior to the date of the filing of the proposed rule change as required by Rule 19b-4(f)(6).

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 change filed pursuant to Rule 19b-4(f)(6) under the Act[32] normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)[33] 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. The Exchange believes that because it is adopting the same verbiage as exists today in Amex Rule 904G, it should be permitted to provide market participants another venue to transact FLEX options in a similar manner. The Exchange believes that the Amex rules provide investors the ability to obtain price improvement, provide for transparency and reward market participants with a 40% guarantee. The

[32] 17 CFR 240.19b-4(f)(6).

[33] 17 CFR 240.19b-4(f)(6).

Exchange is proposing to provide market participants these same opportunities on Phlx. For the foregoing reasons, the Exchange believes the rule filing qualifies for expedited effectiveness as a "noncontroversial" rule change under Rule 19b-4(f)(6) of the Act.

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

The proposed rule change is based on Amex Rule 904G.[34]

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

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[34] The Exchange proposes, similar to Amex Rule 904G(f), to limit crossing orders that are entitled to participate in the trade and be guaranteed at least 40% of the trade to public customer orders and firm proprietary orders. Unlike Amex, the Exchange would not otherwise limit a market participant's ability to effect a crossing transaction. The Exchange is proposing to permit all market participants to cross a transaction, as is the case today. The Exchange does not believe this proposal would amend the current practice of permitting market participants to participate in crossing orders, except for Broker-Dealer crosses which today are not eligible for the split referenced in current Rule 1079(b)(6)(A) and (B), but they are executable as described in current Rule 1079(b)(5). The proposal would permit all market participants to effect crossing transactions, which is not a departure from the current rule, but would limit crossing orders that are entitled to participate in the trade and receive the 40% guarantee to public customer orders and firm proprietary orders, which is not a change for Broker-Dealers but is a change for other market participants that today may be eligible for the 25% guarantee in the current rule.
The Exchange is not adopting language in Amex Rule 904(G)(g). The Exchange does not trade the particular currencies listed in 904(G)(g) and is therefore not adopting language similar to section 904G(g). In addition, the Exchange proposes in Rule 1079(b)(1) to immediately announce the terms and specifications of the RFQ at the specialist post instead of posting the terms and specifications. The practice of announcing terms at the post is in line with current practices on Phlx's floor. The Exchange will continue to disseminate an administrative text message through OPRA, as is the case today.

11. 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-2013-50)

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 2, 2013, 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 Rule 1079 entitled "FLEX, Index, Equity and Currency Options" and Option Floor Procedure Advice ("OFPA") F-28 entitled "Trading FLEX Index, Equity and Currency Options."

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.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

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 amend Exchange Rule 1079(a) which concerns the characteristics applicable to FLEX options and 1079(b) and eliminate OFPA F-28 which concerns the procedures for quoting and trading FLEX options.[3] The Exchange is proposing to amend its FLEX rules in Rule 1079 to establish the same procedures for quoting and trading FLEX options as exist today on NYSE MKT LLC (“Amex”).[4]

Today, a Requesting Member shall obtain quotes and execute trades in certain non-listed FLEX options at the specialist post of the non-FLEX option on the Exchange. The Requesting Member is a Phlx member qualified to trade FLEX options pursuant to paragraph (c) of Rule 1079 who initiates a FLEX Request For Quotes (“RFQ”) pursuant to paragraph (b) of Rule 1079. FLEX options are not continuously quoted and series are not pre-established.[5] Today a Requesting Member may initiate an RFQ by first

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[3] The term “FLEX option” means a FLEX option contract that is traded subject to this Rule. Although FLEX options are generally subject to the rules in this section, to the extent that the provisions of this Rule are inconsistent with other applicable Exchange rules, this Rule takes precedence with respect to FLEX options.

[4] See Amex Rule 904G (FLEX Trading Procedures and Principles).

[5] The Exchange's electronic quoting and trading system is not available for FLEX options. The variable terms of FLEX options shall be established through the process described in Rule 1079. All transactions must be in compliance with Section 11 of the

announcing all of the following contract terms to the trading crowd of the non-FLEX option and then submitting an RFQ ticket to that specialist post: (1) underlying index, security or foreign currency, (2) type, size and crossing intention (3) in the case of FLEX index options and FLEX equity options, exercise style, (4) expiration date, (5) exercise price, and, (6) respecting index options, the settlement value. Thereafter, on receipt of an RFQ in proper form, the assigned specialist or Requesting Member shall cause the terms of the RFQ to be disseminated as an administrative text message through the Options Price Reporting Authority ("OPRA").

The Exchange proposes to adopt rules, similar to Amex, which requires a Requesting Member to submit to the FLEX Specialist an RFQ utilizing for that purpose the forms, formats and procedures established by the Exchange. Thereafter, on receipt of an RFQ in proper form, the assigned FLEX Specialist shall cause the terms and specifications of the RFQ to be immediately announced at the post. Such communication shall be disseminated as an administrative text message through the Options Price Reporting Authority ("OPRA").[6]

Today, following the RFQ announcement, a preset response time will begin, during which members may provide responsive quotes. The response time, between two and 15 minutes, will be determined by the Exchange. During the response time, members may provide responsive quotes to the RFQ, which may be entered, modified or

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Securities Exchange Act of 1934 and the rules promulgated thereunder, which may include yielding priority to customer orders.

[6] See proposed Rule 1079(b)(1).

withdrawn during such response time. Each assigned ROT and assigned specialist[7] who responds is required to respond with a market of the minimum size, but is not required to provide continuous quotes or a minimum bid-offer differential (quotation spread parameters).

The Exchange proposes to adopt rules, similar to Amex, which provide that Members may enter at the FLEX post FLEX Quotes responsive to each Request for Quotes. FLEX Quotes must be entered during the Request Response Time.[8] Each FLEX Quote shall refer to a reference indicator as the Exchange determines appropriate from time to time. All FLEX Quotes may be entered, modified or withdrawn at any point during the Request Response Time. At the expiration of the Request Response Time, the best bid or offer ("BBO") shall be identified in accordance with the price and time priority principles set forth by the Exchange.[9]

Today, with respect to the BBO, at the end of the response time, the assigned specialist, or if none, the Requesting Member shall determine the BBO, based on price, but not time or size. However, where two or more bids/offers are at parity, bids/offers

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[7] Pursuant to Rule 1079(c), a ROT or specialist may apply on a form prescribed by the Exchange to be assigned in FLEX options. At least two members shall be assigned to each FLEX option. Only the specialist in the non-FLEX option may be the assigned specialist in that FLEX option ("FLEX Specialist"). The provisions of Rule 1014(c) regarding market making obligations shall be applicable to assigned ROTs and assigned specialists, such that a market must be provided in any FLEX option when requested by an Options Exchange Official. The Exchange proposes to define "FLEX Specialist" within Rule 1079(c).

[8] The Exchange proposes to notify its members of the time period for the Request Response Time by issuing a memorandum to the Exchange members on the trading floor. The Exchange intends to provide a reasonable notice period to members if it determines to change the Request Response Time.

[9] See proposed Rule 1079(b)(2).

submitted by an assigned specialist, assigned ROT or customer will have priority over bids/offers submitted by non-assigned ROTs and by controlled accounts as defined in Rule 1014(g)(i). The BBO shall be disseminated with reference to the corresponding RFQ. Further, if the Requesting Member rejects the BBO or the BBO is for less than the entire size requested, the BBO Improvement Interval provides a two minute time period during which the BBO may be matched or improved. An assigned ROT or assigned specialist who responded with a market during the response time may immediately join any new BBO. The new BBO shall be determined, and disseminated with reference to the corresponding RFQ.

The Exchange proposes to amend this portion of the rule to instead state, similar to Amex, that at the expiration of the Request Response Time, the BBO shall be displayed on such market data systems as are available. If the Requesting Member has not indicated an intention to cross or act as principal with respect to any part of the FLEX trade, the member shall promptly accept or reject the displayed BBO: provided, however, that if such a Requesting Member either rejects the BBO or is given a BBO for less than the entire size requested, all FLEX participating members other than the Requesting Member will have an opportunity during the BBO Improvement Interval in which to match, or improve, (as applicable), the BBO. At the expiration of any such BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s). If the Requesting Member has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO shall be automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Requesting Member must indicate at the post the price at which the member expects to trade. In these circumstances, the Requesting Member may participate with all other FLEX-participating members in attempting to improve or match the BBO during the BBO Improvement Interval. At expiration of the BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s). The Requesting Member has no obligation to accept any FLEX bid or offer. Whenever, following the completion of FLEX bidding and offering responsive to a given RFQs, the Requesting Member rejects the BBO or the BBO size exceeds the FLEX transaction size indicated in the RFQs, members may accept the entire order or the unfilled balance of the BBO. The highest bid shall have priority, but where the two or more best bids are submitted at the same price, the bid(s) submitted first in time will have priority. The lowest offer shall have priority, but where the two or more best offers are submitted at the same price, the offer(s) submitted first in time will have priority. In the case of FLEX equity options only and notwithstanding Rule 1079(b)(4), whenever the Requesting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the Requesting Member will be permitted to execute the contra side of the trade that is the subject of the RFQs, to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member's firm proprietary account. Notwithstanding the foregoing, all market participants may effect crossing transactions.[10]

The Exchange would eliminate the provisions that today describe trading, such that a trade in FLEX options cannot be executed until the end of the response time or BBO Improvement Interval. Today, once the response time or Improvement Interval

[10] See proposed Rule 1079(b)(3).

ends, the Requesting Member is given the first opportunity to trade on the market, by voicing a bid/offer in the trading crowd. The Requesting Member has no obligation to accept any bid or offer for a FLEX option. If the Requesting Member rejects the BBO or the BBO size exceeds the entire size requested, another member may promptly accept such BBO or the unfilled balance of the BBO. Once the BBO is established and no trade has occurred, the RFQ remains open during that trading day, such that a member may re-quote the market with respect to the open RFQ, as opposed to submitting an additional RFQ. An assigned ROT or assigned specialist who responded to the open RFQ during the response time or BBO Improvement Interval may immediately join the re-quoted market, thus matching for parity purposes. The original Requesting Member is not given the first opportunity to trade on the re-quoted market, nor is the re-quoting member. If a trade occurs, that RFQ is no longer open and a new RFQ is required. The specialist in the listed non-FLEX equity, index or U.S. dollar-settled foreign currency option, whether or not assigned in FLEX options, must accept FLEX orders on the FLEX book after completion of the RFQ process. Only customer day limit orders may be placed on the FLEX index, equity or U.S. dollar-settled foreign currency option book. Booked orders expire at the end of each trading day. The limit price and size must be written on the RFQ ticket and submitted for dissemination. In order to trade with the book, an executing member must quote the market and announce the trade.[11]

Today, the Exchange has procedures for crossing which require that whenever a Requesting Member intends to cross, after the BBO is determined, with or without a BBO Improvement Interval, the Requesting Member, having announced an intention to

[11] Acceptance of a bid/offer creates a binding contract under Exchange Rules.

cross, must bid and offer at or better than the BBO. If the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of subparagraph (3) of Rule 1079(b). If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of sub-paragraph (3) of Rule 1079. Broker-dealer crosses and solicited orders, as defined in Rule 1064, are not eligible for the split afforded by sub-paragraphs (A) and (B) of Rule 1079(6), and instead, are, after the announcement of an intention to cross, executable in accordance with sub-paragraph (5) of Rule 1079.

The Exchange proposes to amend the crossing rules, similar to Amex, in that the Requesting Member would be entitled to cross a transaction where the BBO was matched or improved and could execute the contra side to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member’s firm proprietary account.[12] The Exchange would not otherwise limit a market participant’s ability to cross an order, other market participants other than public

[12] See proposed Rule 1079(b)(5).

customer and firm proprietary orders would not be entitled to execute the contra side of the trade to the extent of at least 40% of the trade.

The Exchange does not propose to amend the current reporting requirements which require RFQs, responsive quotes and completed trades to be promptly reported to OPRA and disseminated as an administrative text message.[13] Nor does the Exchange proposes to amend the provisions related to trading rotations which provide that there will be no trading rotations in FLEX options, either at the opening or at the close of trading.[14] Finally, the Exchange does not proposes to amend the hours of trading must currently state that FLEX options trading must be effected during the hours established by the Exchange. Such hours shall be within regular Exchange trading hours (for the non-FLEX option) on each business day, except that the Exchange in its discretion may determine at any time to narrow or expand FLEX trading hours to encompass, but not exceed, the trading hours of the non-FLEX option.[15]

Provision (c) of Rule 1079 related to who may trade FLEX Options, provision (d) relating to position limits and position (e) related to exercise limits are not being amended. Section (f) which provides that FLEX equity and currency options shall be subject to the exercise-by-exercise procedure of Rule 805 of the Options Clearing Corporation ("OCC") is being amended to capitalize the OCC title.

The Exchange is also proposing to amend Rule 1079(a) to add certain defined terms in connection with the proposed amendments to Rule 1079(b). Specifically, the

[13] See Rule 1079(b)(7).

[14] See Rule 1079(b)(8).

[15] See Rule 1079(b)(9).

Exchange proposes to define the term "Request for Quotes" as the initial request supplied by a Requesting Member to initiate FLEX bidding and offering. The Exchange proposes to define the term "Request Response Time" as the minimum period of time established by the Exchange, during which Exchange members participating in FLEX options may provide FLEX Quotes in response to a Request for Quotes. The Exchange proposes to define the term "FLEX Quote" as (i) FLEX bids and offers entered by specialists[16] and Registered Options Traders[17] and (ii) orders to purchase and orders to sell FLEX Options entered by Floor Brokers, in each case in response to a Request for Quotes. The Exchange proposes to define the term "BBO" as the best bid or offer, or both, as applicable, entered in response to a Request for Quotes. The Exchange proposes to define the term "BBO Improvement Interval" as the minimum period of time, to be established by the Exchange, during which members may submit FLEX Quotes to meet or improve the BBO established during the Request Response Time.

Finally, the Exchange proposes to eliminate OFPA F-28, which reiterates the procedures for quoting and trading FLEX options similar to Rule 1079, as this rule is no longer necessary. OFPA-F28 was enacted to parallel most of the provisions in Rule 1079(b), including those pertaining to requesting quotations, responses, determining the BBO, the BBO Improvement Interval, executing a trade and crossing. OFPA F-28 does

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[16] A specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[17] A Registered Options Trader ("ROT") includes a Streaming Quote Trader ("SQT"), a Remote Streaming Quote Trader and a Non-SQT, which by definition is neither a SQT or a RSQT. A Registered Option Trader 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).

not contain a fine schedule and is not included in the Exchange's minor rule violation enforcement and reporting plan.[18] The Exchange noted in its rule change that the purpose of adopting OFPA F-28 was to incorporate it into the Floor Procedure Advice Handbook for easy reference on the trading floor.[19]

The Exchange believes that these amendments to the FLEX rules to model the rules after the current Amex rules, streamlines the current process for quoting and trading FLEX Options. Amex initially amended its rule in 2006[20] to increase the participation guarantee of a Requesting Member from 25% to 40% of the order.[21] Amex noted in its filing that they believed that providing Requesting Members or Requesting Member firms who are eligible to trade FLEX options and are seeking to cross or facilitate a trade with an across-the-board 40% member firm guarantee will provide an additional incentive for such Requesting Member or Requesting Member firm to bring large FLEX orders to the floor of the Amex rather than to the floor of another options exchange or to the over-the-counter ("OTC") market.[22] Additionally, Amex noted that the liquidity provided by such Requesting Member or Requesting Member firm seeking to facilitate their orders gives the Exchange the ability to provide deep liquid markets for investors.

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[18] See Securities Exchange Act Release No. 39549 (January14, 1998), 63 FR 3601 (January 23, 1998) (SR-Phlx-96-38).

[19] Id.

[20] See Securities Exchange Act Release No. 54104 (July 5, 2006), 71 FR 39374 (July 12, 2006) (SR-Amex-2006-47).

[21] Id.

[22] Id.

The Exchange believes that the amendments proposed to Rule 1079(b) would also allow Phlx to remain competitive with other options exchanges. The proposal streamlines the current FLEX rules related to quoting and trading FLEX options and creates new opportunities for members and member organizations to trade FLEX options on the floor of the Exchange. The proposal provides for transparency in displaying the terms and specifications of the RFQ at the post and continues to provide for the dissemination of information through OPRA. The proposal eliminates the minimum response times imposed by the current rules and instead adopts Amex's more flexible approach to permit responses during the Request Response Time as designated by the Exchange. The amendments provide for opportunities to match or improve the BBO and sets priority rules as first in time as compared to price, as is the case today. The Exchange believes that these rules will permit the Exchange to remain competitive and will continue to encourage market participants to shift OTC options trading to the Exchange in order to eliminate counter-party risk. The Exchange is proposing to increase its guarantee from 25% to 40% consistent with current firm facilitation guarantees and, similar to Amex, offer requesting members that cross public customer and firm proprietary orders the opportunity to participate in 40% of the trade.[23] The Exchange believes that, as noted in the Amex filing, the liquidity provided by such Requesting Member or Requesting Member firm seeking to facilitate their orders gives the Exchange the ability to provide deep liquid markets for investors. The Exchange believes this proposal will allow the Exchange to remain competitive with other options exchanges and provide a comparable alternative to the OTC market.

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[23] See Exchange Rule 1064 at Commentary .02.

The Exchange proposes, similar to Amex Rule 904G(f), to limit crossing orders that are entitled to participate in the trade and be guaranteed at least 40% of the trade to public customer orders and firm proprietary orders. Unlike Amex, the Exchange would not otherwise limit a market participant's ability to effect a crossing transaction. The Exchange is proposing to permit all market participants to cross a transaction, as is the case today. The Exchange does not believe this proposal would amend the current practice of permitting market participants to participate in crossing orders, except for Broker-Dealer crosses which today are not eligible for the split referenced in current Rule 1079(b)(6)(A) and (B),[24] but they are executable as described in current Rule 1079(b)(5). The proposal would permit all market participants to effect crossing transactions, which is not a departure from the current rule, but would limit crossing orders that are entitled to participate in the trade and receive the 40% guarantee to public customer orders and firm proprietary orders, which is not a change for Broker-Dealers but is a change for other market participants that today may be eligible for the 25% guarantee in the current rule.

The Exchange is not adopting language in Amex Rule 904(G)(g). The Exchange does not trade the particular currencies listed in 904(G)(g) and is therefore not adopting language similar to section 904G(g).[25]

[24] Today, if the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned Specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ.

[25] The Exchange has separate rules relating to trading FLEX foreign currencies minimum increments. See Exchange Rule 1005C.

In addition, the Exchange proposes in Rule 1079(b)(1) to immediately announce the terms and specifications of the RFQ at the specialist post instead of posting the terms and specifications. The practice of announcing terms at the post is in line with current practices on Phlx's floor. The Exchange will continue to disseminate an administrative text message through OPRA, as is the case today.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities and Exchange Act of 1934 ("Exchange Act"),[26] in general, and with Section 6(b)(5) of the Exchange Act,[27] 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 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.

FLEX options permit customization of certain variable terms as agreed between the buyer and seller. The Exchange believes that its proposed rules allow market participants to continue to trade FLEX options in a transparent environment with the same requisite disclosure requirements in order to ensure that presence of a price discovery process for such orders on the Exchange's trading floor. The Exchange believes that the proposed amendments will create new opportunities for members and member organizations to trade FLEX options. The amendments create clear guidelines for transacting FLEX options, which are complicated customized options. Additionally,

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78f(b)(5).

the amendments streamline the process and adopt procedures for quoting and trading FLEX options similar to Amex.[28] The Exchange desires to provide investors deep liquid markets in which to trade FLEX options and believes that adopting rules similar to Amex will allow the Exchange to provide investors the tools to transact FLEX options in a transparent environment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange proposes to adopt rules to permit the quoting and trading of FLEX options on the Exchange’s trading floor similar to Amex.[29] The Exchange believes that its ability to remain competitive and provide market participants multiple venues in which to trade FLEX options in a similar manner benefits market participants by providing them choices in which to seek markets to transact these products. The Exchange believes that this filing does not impose a burden on competition in as much as the rules are not novel but rather are the same as the rules of Amex.

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

[28] See note 19.

[29] Id.

competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[30] and subparagraph (f)(6) of Rule 19b-4 thereunder.[31]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved. The Exchange has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

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

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[30] 15 U.S.C. 78s(b)(3)(a)(ii).

[31] 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-50 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-2013-50. 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-2013-50 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill
Deputy Secretary

[32] 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX Rules
Rules of the Exchange

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Rule 1079. FLEX Index, Equity and Currency Options
A Requesting Member shall obtain quotes and execute trades in certain non-listed FLEX options at the specialist post of the non-FLEX option on the Exchange. The term “FLEX option” means a FLEX option contract that is traded subject to this Rule. Although FLEX options are generally subject to the Rules in this section, to the extent that the provisions of this Rule are inconsistent with other applicable Exchange Rules, this Rule takes precedence with respect to FLEX options.

(a) **Characteristics:**

(1) Underlying interest —

(A) any index upon which options currently trade on the Exchange. The applicable index multiplier shall be the same multiplier, in the case of U.S. dollar-denominated FLEX index options, that applies to non-FLEX index options on the same underlying index;

(B) any security which is options-eligible pursuant to Rule 1009; or

(C) any foreign currency which is options-eligible pursuant to Rule 1009 and which underlies non-FLEX U.S. dollar-settled foreign currency options that are trading on the Exchange.

(2) Type—put, call or hedge order (as defined in Rule 1066);

(3) Exercise price—

(A) with respect to FLEX index options, may be specified in terms of a specific index value number, a percentage of the index value calculated as of the open or close of trading on the Exchange on the trade date, or a method for fixing such number;

(B) with respect to FLEX equity options, may be specified in terms of a specific dollar amount rounded to the nearest $.10 or a percentage of the underlying security rounded to the nearest minimum increment; or

(C) with respect to FLEX currency options, may be specified in terms of a specific dollar amount rounded to the nearest hundredth of a dollar.

(4) Quote format—

(A) in the case of FLEX index options and equity options, a bid and/or offer in the form of a decimal price (*e.g.* .10 or .25), pursuant to Rule 1034, a specific dollar amount, or a percentage of the underlying equivalent value, in the case of FLEX index options, or security, in the case of FLEX equity options, rounded to the nearest minimum increment; or

(B) in the case of FLEX currency options, in the form of dollars per unit of underlying foreign currency in the minimum increments set forth for U.S. dollar settled foreign currency options in Rule 1034(a).

(5) Exercise style—American or European in the case of FLEX index options and FLEX equity options, and European only in the case of FLEX U. S. dollar-settled foreign currency options;

(6) Expiration date—

(A) any month, business day and year within five years for FLEX index options and within three years for FLEX currency options, except that (i) a FLEX index option that expires on or within two business days prior or subsequent to a third Friday-of-the-month expiration day for a non-FLEX option (except quarterly expiring index options) or underlying currency may only have an exercise settlement value on the expiration date determined by reference to the reported level of the index as derived from the opening prices of the component securities ("a.m. settlement") and (ii) all FLEX currency options will expire at 11:59 p.m. eastern time on their designated expiration date; or

(B) any month, business day and year within three years for FLEX equity options, provided, however, that a Requesting Member may request a longer term to a maximum of five years, and upon the assessment of the Regulatory staff that sufficient liquidity exists among FLEX equity participants, such request may be granted. Regulatory staff are Exchange employees responsible for, among other things, assessing that sufficient liquidity exists among FLEX equity participants requesting a term exceeding three years to a maximum of five years. The Exchange may also designate other qualified Exchange employees to assist the Regulatory staff as the need arises.

(C) Provided the options on an underlying security or index are otherwise eligible for FLEX trading, FLEX options shall be permitted in puts and calls that do not have the same exercise style, same expiration date and same exercise price as non-FLEX options that are already available for trading on the same underlying security or index. FLEX options shall also be permitted before the options are listed for trading as non-FLEX options. Once and if the option series are listed for trading as non-FLEX options, then (i) all existing open positions established under the FLEX trading procedures shall be fully fungible with transactions in the respective non-FLEX option series, and (ii) any further trading in the series would be as non-FLEX options subject to the non-FLEX trading procedures and Rules. However, in the event the Non-FLEX series is added intra-day, a position established under the FLEX trading procedures would be permitted to be closed using the FLEX trading procedures for the balance of the trading day on which the Non-FLEX series is added against another closing only FLEX position. For such FLEX series, the Exchange will make an announcement that the FLEX series is now restricted to closing transactions; a FLEX Request for Quotes ("RFQ") may not be disseminated for any order representing a FLEX series having the same terms as a Non-FLEX series, unless such FLEX Order is a closing order (and it is the day the Non-FLEX series has been added); and only responses that close out an existing FLEX position are permitted. Any transactions in a restricted series that occur that do not conform to these requirements will be nullified by the Exchange.

(7) Requesting quotes—to request a quote in FLEX options, an RFQ shall be submitted pursuant to paragraph (b) of this Rule;

(8) Minimum size—

(A) **Opening—**If there is no open interest in the particular series when an RFQ is submitted, the minimum size of an RFQ is:

(i) except as provided in Commentary .01 below, $10 million underlying equivalent value, respecting FLEX market index options, and $5 million underlying equivalent value respecting FLEX industry index options;

(ii) except as provided in Commentary .01 below, the lesser of 250 contracts or the number of contracts overlying $1 million in the underlying securities, with respect to FLEX equity options; and

(iii) 50 contracts in the case of FLEX currency options.

(B) **Opened—**If there is open interest, the minimum size of an RFQ is:

(i) respecting FLEX index options, $1 million underlying equivalent value, or the remaining size on a closing transaction, whichever is less;

(ii) respecting FLEX equity options, the lesser of 100 contracts or the number of contracts overlying $1 million of the underlying securities in the case of an opening transaction, or 25 contracts or the remaining size in the case of a closing transaction, whichever is less; or

(iii) respecting FLEX currency options, 25 contracts, or the remaining size on a closing transaction, whichever is less.

(C) **Responsive—**The minimum value size for a responsive quote, other than an assigned ROT or assigned Specialist, is (includes non-assigned ROTs and a non-assigned Specialist):

(i) respecting FLEX index options, $1 million underlying equivalent value respecting index options, or the remaining size on a closing transaction, whichever is less. However, an assigned ROT and assigned Specialist are required to respond with at least $10 million underlying equivalent value respecting FLEX market index options, and $5 million underlying equivalent value respecting FLEX industry index options or Alpha Index options, or the size amount requested in the RFQ, whichever is less;

(ii) respecting FLEX equity options, 25 contracts, or the remaining size on a closing transaction, whichever is less. However, an assigned ROT and assigned Specialist are required to respond with at least 250 contracts, or the size amount requested in the RFQ, whichever is less; or

(iii) respecting FLEX currency options, 50 contracts, or the remaining size on a closing transaction, whichever is less. However, an assigned ROT and assigned Specialist are required to respond with at least 250 contracts, or the size amount requested in the RFQ, whichever is less.

(D) "Underlying equivalent value" means the aggregate value of a FLEX index option (index multiplier times the current index value) multiplied by the number of FLEX index options.

(9) Settlement

(A) respecting FLEX index options, the settlement value may be specified as the index value reported at the: (i) close (P.M.-settled); (ii) opening (A.M.-settled) of trading on the Exchange, or (iii) as an average over a specified period of time, within parameters established by the Exchange. American style index options exercised prior to the expiration date can only settle based on the closing value on the exercise date. FLEX index options are settled in U.S. dollars; or

(B) The settlement value for FLEX options on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on expiration day, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. FLEX currency options are settled in U.S. dollars. FLEX currency options will cease trading at 10:15 a.m. eastern time on their designated expiration date.

(10) Requesting Member—a member of the Exchange qualified to trade FLEX options pursuant to paragraph (c) of this Rule who initiates an RFQ for a FLEX option.

<u>(11) Request for Quotes—the term “Request for Quotes” means the initial request supplied by a Requesting Member to initiate FLEX bidding and offering.</u>

(12) Request Response Time—the term “Request Response Time” means the minimum period of time established by the Exchange, during which Exchange members participating in FLEX options may provide FLEX Quotes in response to a Request for Quotes.

(13) FLEX Quote - the term “FLEX Quote” means (i) FLEX bids and offers entered by Specialists and Registered Options Traders and (ii) orders to purchase and orders to sell FLEX Options entered by Floor Brokers, in each case in response to a Request for Quotes.

(14) BBO—the term “BBO” means the best bid or offer, or both, as applicable, entered in response to a Request for Quotes.

(15) BBO Improvement Interval—the term “BBO Improvement Interval” means the minimum period of time, to be established by the Exchange, during which members may submit FLEX Quotes to meet or improve the BBO established during the Request Response Time.

(b) **Procedure for Quoting and Trading FLEX Options.** FLEX options will not be continuously quoted and series are not pre-established. The Exchange's electronic quoting and trading system will not be available for FLEX options. The variable terms of FLEX options shall be established through the process described in this Rule. All transactions must be in compliance with Section 11(a) of the Securities Exchange Act of 1934 and the rules promulgated thereunder, which may include yielding priority to customer orders.

(1) **Requesting Quotations.** The Requesting Member may initiate a Request-for-Quote (“RFQ”) by [first announcing all of the following contract terms to the trading crowd of the non-FLEX option and then submitting an RFQ ticket to that specialist post: (1) underlying index, security or foreign currency, (2) type, size and crossing intention (3) in the case of FLEX index options and FLEX equity options, exercise style, (4) expiration date, (5) exercise price, and, (6) respecting index options, the settlement value.] submitting to the FLEX Specialist an RFQ utilizing for that purpose the forms, formats and procedures established by the Exchange. Thereafter, on receipt of an RFQ in proper form, the assigned FLEX Specialist [or Requesting Member] shall cause the terms and specifications of the RFQ to be immediately announced at the post. Such communication shall be disseminated as an administrative text message through the Options Price Reporting Authority (“OPRA”).

(2) **Responses.** Members may enter at the FLEX post FLEX Quotes responsive to each Request for Quotes. FLEX Quotes must be entered during the Request Response Time. [Following the RFQ announcement, a preset response time will begin, during which members may provide responsive quotes. The response time, between two and 15 minutes, will be determined by the Exchange.] Each FLEX Quote shall refer to a reference indicator as the Exchange determines appropriate from time to time. All FLEX Quotes [During the response time, members may provide responsive quotes to the RFQ, which] may be entered, modified or withdrawn at any point during the request

[during such] response time. At the expiration of the Request Response Time, the BBO shall be identified in accordance with the price and time priority principles set forth by the Exchange. [Each assigned ROT and assigned Specialist who responds is required to respond with a market of the minimum size, but is not required to provide continuous quotes or a minimum bid-offer differential (quotation spread parameters).]

(3) [**Determining the BBO.**]**Formation of Contracts Following the Process of Initial Quotes.** At the e[nd]xpiration of the Request [r]Response [t]Time, the BBO shall be displayed on such market data systems as are available. If the Requesting Member has not indicated an intention to cross or act as principal with respect to any part of the FLEX trade, the member shall promptly accept or reject the displayed BBO: provided, however, that if such a Requesting Member either rejects the BBO or is given a BBO for less than the entire size requested, all FLEX participating members other than the Requesting Member will have an opportunity during the BBO Improvement Interval in which to match, or improve, (as applicable), the BBO. At the expiration of any such BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s). If the Requesting Member has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO shall be automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Requesting Member must indicate at the post the price at which the member expects to trade. In these circumstances, the Requesting Member may participate with all other FLEX-participating members in attempting to improve or match the BBO during the BBO Improvement Interval. At expiration of the BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s). The Requesting Member has no obligation to accept any FLEX bid or offer. Whenever, following the completion of FLEX bidding and offering responsive to a given RFQs, the Requesting Member rejects the BBO or the BBO size exceeds the FLEX transaction size indicated in the RFQs, members may accept the entire order or the unfilled balance of the BBO. [assigned Specialist, or if none, the Requesting Member shall determine the best bid and offer ("BBO"), based on price, but not time or size. However, where two or more bids/offers are at parity, bids/offers submitted by an assigned Specialist, assigned ROT or customer will have priority over bids/offers submitted by non-assigned ROTs and by controlled accounts as defined in Rule 1014(g)(i). The BBO shall be disseminated with reference to the corresponding RFQ.]

(4) **Priority**. The highest bid shall have priority, but where the two or more best bids are submitted at the same price, the bid(s) submitted first in time will have priority. The lowest offer shall have priority, but where the two or more best offers are submitted at the same price, the offer(s) submitted first in time will have priority.

(5) **BBO Improvement Interval.** [If the Requesting Member rejects the BBO or the BBO is for less than the entire size requested, the BBO Improvement Interval provides a two minute time period during which the BBO may be matched or improved. An assigned ROT or assigned Specialist who responded with a market during the response time may immediately join any new BBO. The new BBO shall be determined, and disseminated with reference to the corresponding RFQ.] In the case of FLEX equity options only and

notwithstanding Rule 1079(b)(4), whenever the Requesting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the Requesting Member will be permitted to execute the contra side of the trade that is the subject of the RFQs, to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member's firm proprietary account. Notwithstanding the foregoing, all market participants may effect crossing transactions.

[(5) **Trading.** A trade in FLEX options cannot be executed until the end of the response time or BBO Improvement Interval. Once the response time or Improvement Interval ends, the Requesting Member is given the first opportunity to trade on the market, by voicing a bid/offer in the trading crowd. The Requesting Member has no obligation to accept any bid or offer for a FLEX option. If the Requesting Member rejects the BBO or the BBO size exceeds the entire size requested, another member may promptly accept such BBO or the unfilled balance of the BBO.]

[(A) RFQ Remains Open—Once the BBO is established and no trade has occurred, the RFQ remains open during that trading day, such that a member may re-quote the market with respect to the open RFQ, as opposed to submitting an additional RFQ. An assigned ROT or assigned Specialist who responded to the open RFQ during the response time or BBO Improvement Interval may immediately join the re-quoted market, thus matching for parity purposes. The original Requesting Member is not given the first opportunity to trade on the re-quoted market, nor is the re-quoting member. If a trade occurs, that RFQ is no longer open and a new RFQ is required.]

[(B) FLEX Book—The Specialist in the listed non-FLEX equity, index or U.S. dollar-settled foreign currency option, whether or not assigned in FLEX options, must accept FLEX orders on the FLEX book after completion of the RFQ process. Only customer day limit orders may be placed on the FLEX index, equity or U.S. dollar-settled foreign currency option book. Booked orders expire at the end of each trading day. The limit price and size must be written on the RFQ ticket and submitted for dissemination. In order to trade with the book, an executing member must quote the market and announce the trade.]

[(C) Acceptance of a bid/offer creates a binding contract under Exchange Rules.]

[(6) **Crossing.** Whenever a Requesting Member intends to cross, after the BBO is determined, with or without a BBO Improvement Interval, the Requesting Member, having announced an intention to cross, must bid and offer at or better than the BBO.]

[(A) **At the BBO.** If the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of subparagraph (3) above.]

[(B) **Improves the BBO.** If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned Specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of sub-paragraph (3) above.]

[(C) Broker-dealer crosses and solicited orders, as defined in Rule 1064, are not eligible for the split afforded by sub-paragraphs (A) and (B) above, and instead, are, after the announcement of an intention to cross, executable in accordance with sub-paragraph (5) above.]

([7]6) **Reporting Requirements.** RFQs, responsive quotes and completed trades will be promptly reported to OPRA and disseminated as an administrative text message.

([8]7) **Trading Rotations.** There will be no trading rotations in FLEX options, either at the opening or at the close of trading.

([9]8) **Hours of Trading.** FLEX options trading must be effected during the hours established by the Exchange. Such hours shall be within regular Exchange trading hours (for the non-FLEX option) on each business day, except that the Exchange in its discretion may determine at any time to narrow or expand FLEX trading hours to encompass, but not exceed, the trading hours of the non-FLEX option.

(c) Who May Trade FLEX Options.

(1) **Assigned ROTs and Assigned Specialists.** An ROT or Specialist may apply on a form prescribed by the Exchange to be assigned in FLEX options. At least two members shall be assigned to each FLEX option. Only the Specialist in the non-FLEX option may be the assigned Specialist in that FLEX option (“FLEX Specialist”). The provisions of Rule 1014(c) regarding market making obligations shall be applicable to assigned ROTs and assigned Specialists, such that a market must be provided in any FLEX option when requested by an Options Exchange Official.

(2) **Financial Requirements.** An assigned ROT in FLEX index options shall be required to maintain a minimum of $100,000 in net liquid assets. An assigned Specialist in FLEX index options shall be required to maintain a minimum of $1,000,000 in net capital. Floor Brokers shall be required to maintain a minimum of $50,000 in net capital to qualify to trade FLEX options. Each such assigned ROT, assigned Specialist or Floor Broker shall immediately inform the Exchange upon failure to be in compliance with such requirements. The Exchange may waive the financial requirements of this Rule in unusual circumstances.

(3) **Letters of Guarantee.** No ROT or Specialist shall effect any FLEX option unless a Letter of Guarantee has been issued by a clearing member organization and filed with the Exchange pursuant to Rule 703 specifically accepting financial responsibility for all FLEX option transactions made by such person and such letter has not been revoked.

(d) **Position Limits.**

(1) FLEX index options shall be subject to a separate position limit of 200,000 contracts on the same side of the market respecting market index options; 36,000, 48,000, or 60,000 contracts respecting industry index options, depending on the position limit tier determined pursuant to Rule 1001A(b)(i); the same number of contracts respecting Alpha Index options that would apply to such Alpha Index options if they were not FLEX; the same number of contracts respecting MSCI EM Index options that would apply to such MSCI EM Index options if they were not FLEX; and the same number of contracts respecting MSCI EAFE Index options that would apply to such MSCI EAFE Index options if they were not FLEX. Reduced value or mini-size FLEX index option contracts shall be aggregated with full value or full-size FLEX index option contracts and counted by the amount by which they equal a full value contract (e.g. ten (10) one tenth (1/10th) value contracts equal one (1) full value contract). Positions in P.M.-settled FLEX index options shall be aggregated with positions in quarterly expiring options listed pursuant to Rule 1101A(b)(iv) on the same underlying index, if the FLEX index option expires at the close of trading on or within two business days of the last day of trading in each calendar quarter. However, except as provided in subsection (4) of this section (d), positions in FLEX index options shall otherwise not be taken into account when calculating position limits for non-FLEX index options. There shall be no position limits for full value options on the Russell 2000® Index ("Full Value Russell 2000® Options") and for one tenth (1/10th) value options on the Russell 2000® Index ("Reduced Value Russell 2000® Options"). There shall be no position limits for full value options on the Nasdaq 100 Index ("Full Value Nasdaq 100 Options") and for the reduced value options on the Nasdaq 100 Index ("Reduced Value Nasdaq 100 Options"). Options on the Full Value and Reduced Value Russell Indexes for the following products (collectively "Russell U.S. Indexes"): Russell 3000® Index, Russell 3000® Value Index, Russell 3000® Growth Index, Russell 2500 ™ Index, Russell 2500 ™ Value Index, Russell 2500 ™ Growth Index, Russell 2000® Value Index, Russell 2000® Growth Index, Russell 1000® Index, Russell 1000® Value Index, Russell 1000® Growth Index, Russell Top 200® Index, Russell Top 200® Value Index, Russell Top 200® Growth Index, Russell MidCap® Index, Russell MidCap® Value Index, Russell MidCap® Growth Index, Russell Small Cap Completeness® Index, Russell Small Cap Completeness® Value Index and Russell Small Cap Completeness® Growth Index, are subject to an aggregate position limit of 50,000 contracts on the same side of the market, provided that no more than 30,000 of such contracts are in the nearest expiration month series.

(2) FLEX equity options shall not be subject to a separate FLEX position limit. Except as provided in subsection (4) of this section (d), positions in FLEX equity options shall not be taken into account when calculating position limits for non-FLEX equity options, or FLEX or non-FLEX index options.

However, each member or member organization (other than a Specialist or ROT) that maintains a position on the same side of the market in excess of the standard limit under Rule 1001 for non-FLEX equity options of the same class on behalf of its own account or for the account of a customer shall report information on the FLEX equity option position, positions in any related instrument, the purpose or strategy for the position and the collateral used by the account. This report shall be in the form and manner prescribed by the Exchange. In addition, whenever the Exchange determines that a higher margin requirement is necessary in light of the risks associated with a FLEX equity option position in excess of the standard limit for non-FLEX equity options of the same class, the Exchange may consider imposing additional margin upon the account maintaining such under-hedged position. Additionally, it should be noted that the clearing firm carrying the account will be subject to capital charges under SEC rule 15c3-1 to the extent of any margin deficiency resulting from the higher margin requirement.

(3) Positions in FLEX currency options will be aggregated with positions in non-FLEX U.S. dollar-settled foreign currency option contracts for purposes of determining compliance with the position limits established by Rule 1001.

(4) As long as the options positions remain open, positions in FLEX index options that expire on a third Friday-of-the-month shall be aggregated with positions in non-FLEX index options on the same underlying security ("comparable non-FLEX index options"), positions in FLEX equity options that expire on a third Friday-of-the-month shall be aggregated with positions in non-FLEX equity options on the same underlying security ("comparable non-FLEX equity options"), and shall be subject to the position and exercise limits set forth in this Rule 1079, and 1001, 1002, 1001A, and 1002A, as applicable.

(e) Exercise Limits. In determining compliance with Rules 1002 and 1002A, exercise limits for FLEX options shall be equivalent to position limits established in this Rule. Positions in FLEX options shall not be taken into account when calculating exercise limits for non-FLEX options, except as provided in paragraph (d) above. The minimum exercise size shall be the lesser of $1 million underlying equivalent value for FLEX index options, and 25 contracts for FLEX equity and currency options, or the remaining size of the position.

(f) FLEX equity and currency options shall be subject to the exercise-by-exception procedure of Rule 805 of [t]<u>T</u>he Options Clearing Corporation.

• • • *Commentary:* ------------------

.01 Notwithstanding subparagraphs (a)(8)(A)(i) and (a)(8)(A)(ii) above, for a pilot period ending March 28, 2014, there shall be no minimum value size requirements for FLEX options.

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OPTION FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS

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F. MISCELLANEOUS

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[F-28 Trading FLEX Index, Equity and Currency Options

A Requesting Member shall obtain quotes and execute trades in non-listed FLEX options at the Specialist post of the non-FLEX option on the Exchange, pursuant to Rule 1079. FLEX options will not be continuously quoted and series are not pre-established. The variable terms of FLEX options shall be established through the process described in the Rule. All transactions must be in compliance with Section 11 of the Securities and Exchange Act of 1934 and the Rule promulgated thereunder, which may include yielding priority to customer orders.

(1) Requesting Quotations. The Requesting Member may initiate a Request-for-Quote (RFQ) by first announcing all of the following contract terms to the trading crowd of the non-FLEX option and then submitting an RFQ ticket to the trading crowd of the non-FLEX option and then submitting an RFQ ticket to that Specialist post:

(1) underlying index, security or foreign currency,

(2) type,

(3) exercise style,

(4) expiration date,

(5) exercise price, and, respecting index options,

(6) settlement value and

(7) the currency.

Thereafter, on receipt of an RFQ in proper form, the Requesting Member shall cause the terms of the RFQ to be disseminated as an administrative text message through the Options Price Reporting Authority ("OPRA").

(2) Responses. Following the RFQ announcement, a preset response time will begin, during which members may provide responsive quotes. The response time, between two and 15 minutes, will be determined by the Exchange. During the response time, members may provide responsive quotes to the RFQ, which may be entered, modified or withdrawn during such response time. Each assigned ROT and assigned Specialist who responds is required to respond

with a market of the minimum size, but is not required to provide continuous quotes or a minimum bid-offer differential (quotation spread parameters).

(3) Determining the BBO. At the end of the response time, the assigned Specialist, or if none, the Requesting Member, shall determine the best bid and offer ("BBO"), based on price, but not time or size. However, where two or more bids/ offers are at parity, bids/offers submitted by an assigned Specialist, assigned ROT or customer will have priority over bids/offers submitted by non/assigned ROTs and by controlled accounts as defined in Rule 1014(g)(i). The BBO shall be disseminated with reference to the corresponding RFQ.

(4) BBO Improvement Interval. If the Requesting Member rejects the BBO or the BBO is for less than the entire size requested, the BBO Improvement Interval provides a two minute time period during which the BBO may be matched or improved. An assigned ROT or assigned Specialist who responded with a market during the response time may immediately join any new BBO. The new BBO shall be determined, and disseminated with reference to the corresponding RFQ.

(5) Trading. A trade in FLEX options cannot be executed until the end of the response time or BBO Improvement Interval. Once the response time or Improvement Interval ends, the Requesting Member is given the first opportunity to trade on the market, by voicing a bid/offer in the trading crowd. The Requesting Member has no obligation to accept any bid or offer for a FLEX option. If the Requesting Member rejects the BBO or the BBO size exceeds the entire size requested, another member may promptly accept such BBO or the unfilled balance of the BBO.

(A) RFQ Remains Open—Once the BBO is established and no trade has occurred, the RFQ remains open during that trading day, such that a member may re-quote the market with the respect to the open RFQ, as opposed to submitting an additional RFQ. An assigned ROT or assigned Specialist who responded to the open RFQ during the response time or BBO Improvement Interval may immediately join the re-quoted market, thus matching for parity purposes. The Requesting Member is not given the first opportunity to trade on the re-quoted market, nor is the re-quoting member. If a trade occurs, that RFQ is no longer open and a new RFQ is required.

(B) FLEX Book—The Specialist in the listed non-FLEX equity, index or U.S. dollar-settled foreign currency option, whether or not assigned in FLEX options, must accept FLEX orders on the FLEX book after completion of the RFQ process. Only customer day limit orders may be placed on the FLEX index, equity or U.S. dollar-settled foreign currency option book. Booked orders expire at the end of each trading day. The limit price and size must be written on the RFQ trade ticket and submitted for dissemination. In order to trade with the book, an executing member must quote the market and announce the trade.

(C) Acceptance of a bid/offer creates a binding contract under this Exchange Rule.

(6) Crossing. Whenever a Requesting Member intends to cross, after the BBO is determined, with or without a BBO Improvement Interval, the Requesting Member, having announced an intention to cross, must bid and offer at or better than the BBO.

(A) At the BBO. If the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of sub-paragraph (3) above.

(B) Improves the BBO. If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned Specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision of subparagraph (3) above.

(C) Broker-dealer crosses and solicited orders, as defined in Rule 1064, are not eligible for the split afforded by sub-paragraphs (A) and (B) above, and instead, are, after the announcement of an intention to cross, executable in accordance with sub-paragraph (5) above.

For additional provisions governing FLEX options, see Rule 1079.]

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