

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="33"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2014"/> - * <input type="text" value="62"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by NASDAQ OMX PHLX LLC.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

A proposed rule change to enable the Exchange to compete by revising the priority afforded to in-crowd participants respecting crossing, facilitation and solicited orders in open outcry trading.

**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 * <input type="text" value="Carla"/>	Last Name * <input type="text" value="Behnfeldt"/>
Title * <input type="text" value="Associate General Counsel"/>	
E-mail * <input type="text" value="carla.behnfeldt@nasdaqomx.com"/>	
Telephone * <input type="text" value="(215) 496-5208"/>	Fax <input type="text"/>

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date <input type="text" value="09/16/2014"/>	Executive Vice President and General Counsel
By <input type="text" value="Edward S. Knight"/>	<input type="text"/>
(Name *)	

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Persona Not Validated - 1383935917270,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup>, NASDAQ OMX PHLX LLC ("Exchange" or "Phlx") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to enable the Exchange to compete by revising the priority afforded to in-crowd participants respecting crossing, facilitation and solicited orders in open outcry trading. A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the amended rules is set forth in 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 on July 16, 2014. No other action by the Exchange is necessary for the filing of the proposed rule change.

Questions regarding this rule filing may be directed to Carla Behnfeldt, Associate General Counsel, The NASDAQ OMX Group, Inc., at 215-496-5208.

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

(a) Purpose

The Exchange proposes to amend Rule 1014, Commentary .05(c)(ii), to afford priority in open outcry trading to in-crowd participants over out-of-crowd Streaming

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

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

Quote Traders ("SQTs")<sup>3</sup>, Remote Specialists<sup>4</sup>, and Remote Streaming Quote Traders ("RSQTs")<sup>5</sup> and over out-of-crowd broker-dealer limit orders on the limit order book (but not over public customer orders) in crossing<sup>6</sup>, facilitation<sup>7</sup> and solicited<sup>8</sup> orders, regardless of order size.

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<sup>3</sup> An SQT is defined in Exchange Rule 1014(b)(ii)(A) as a Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. A ROT includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. A Registered Options 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).

<sup>4</sup> A Remote Specialist is a qualified RSQT approved by the Exchange to function as a specialist in one or more options if the Exchange determines that it cannot allocate such options to a floor based specialist. A Remote Specialist has all the rights and obligations of a specialist, unless Exchange rules provide otherwise. See Exchange Rules 501 and 1020. See also, Securities Exchange Act Release No. 63717 (January 14, 2011), 76 FR 4141 (January 24, 2011) (SR-Phlx-2010-145).

<sup>5</sup> A RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member affiliated with a Remote Streaming Quote Trader Organization ("RSQTO") with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may not submit option quotations in eligible options to which such RSQT is assigned to the extent that the RSQT is also approved as a Remote Specialist in the same options. An RSQT may only trade in a market making capacity in classes of options in which he is assigned or approved as a Remote Specialist. An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

<sup>6</sup> A crossing order occurs when an options Floor Broker holds orders to buy and sell the same option series. Such a Floor Broker may cross such orders, provided that the trading crowd is given an opportunity to bid and offer for such option series in accordance with Exchange rules. See Phlx Rule 1064(a).

<sup>7</sup> A facilitation order occurs when an options Floor Broker holds an options order for a public customer and a contraside order. Such a Floor Broker may execute

Current Priority Rule

Currently, Commentary .05(c)(i) to Phlx Rule 1014 provides that, in the event that a Floor Broker or specialist<sup>9</sup> presents a non-electronic order in which an RSQT is assigned or which is allocated to a Remote Specialist, and/or in which an SQT assigned in such option is not a crowd participant (collectively, “Non-Crowd Participants”), such Non-Crowd Participant may not participate in trades stemming from such a non-electronic order unless the non-electronic order is executed at the price quoted by the Non-Crowd Participant at the time of execution. However, if the non-electronic order is executed at the price quoted by the Non-Crowd Participant, the Non-Crowd Participant may participate in the trade unless the order was a crossing, facilitation or solicited order with a size of at least 500 contracts on each side.<sup>10</sup> If the order is a crossing, facilitation or solicited order with a size of at least 500 contracts on each side, Commentary .05(c)(ii) gives priority to in-crowd participants (including, for purposes of Commentary .05(c)(ii) only, Floor Brokers) over Non-Crowd Participants and over out-of-crowd broker-dealer

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such orders as a facilitation order, provided that such Floor Broker proceeds in accordance with Exchange rules concerning facilitation orders. See Phlx Rule 1064(b).

<sup>8</sup> A solicitation occurs whenever an order, other than a cross, is presented for execution in the trading crowd resulting from an away-from-the-crowd expression of interests to trade by one broker dealer to another. See Phlx Rule 1064(c).

<sup>9</sup> A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

<sup>10</sup> This in-crowd priority applies only to crossing, facilitation and solicited orders represented in open outcry, and does not apply to orders submitted electronically via the Exchange’s electronic options trading platform, to which other priority rules apply. See, e.g., Phlx Rules 1014(g)(vii) and (viii).

limit orders on the limit order book, but not over public customer orders.<sup>11</sup> Such orders are allocated in accordance with Exchange rules. By affording priority to in-crowd participants over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation and solicited orders with a size of at least 500 contracts represented and executed in open outcry, the Exchange encourages order flow providers to send such orders to the Exchange.

#### Proposed Priority Rule

The Exchange now proposes to further encourage order flow providers to send such orders to the Exchange by replacing the language discussed above with a definition of “in crowd market participant” or “ICMP,” and with a rule affording ICMPs’ bids and offers first priority, except with respect to public customer orders resting in the electronic book. The term ICMP as used throughout Commentary .05(c)(ii) would only include an in-crowd Non-SQT ROT, an in-crowd SQT, an in-crowd Specialist, or an in-crowd Floor Broker representing orders in the trading crowd. Thus, the definition of ICMP would not include Non-Crowd Participants or out-of-crowd broker-dealer limit orders on the limit order book. Then, for purposes of establishing priority for bids and offers, at the same price, the new language establishes that (A) bids and offers of ICMPs have first priority, except with respect to public customer orders resting in the electronic book; and (B) all other bids and offers (including bids and offers of broker-dealer orders

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<sup>11</sup> In keeping with current Exchange practices and rules, public customer limit orders represented in the trading crowd and resting on the limit order book have priority over all other participants and accordingly must be executed up to the aggregate size of such orders before any in-crowd participant is entitled to priority. Public customer orders on the limit order book that are eligible for execution are required to be executed before a Floor Broker may execute its order in the crowd and/or with a contra-side order it holds.

in the electronic book and electronic quotes of Remote Specialists, RSQTs and out-of-crowd SQTs ) have second priority.

As amended, the rule would afford priority to ICMPs over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation and solicited orders regardless of the size of those orders. The current 500 contract minimum size requirement presents the possibility that one of the two sides of a Floor Brokered cross will not be fully executed on the trading floor. Initially, to foster the new electronic trading of options, the Exchange permitted Non-Crowd Participants to participate in Floor Broker crosses.<sup>12</sup> In 2006 the Exchange adopted the 500 contract size requirement which continued to permit Non-Crowd Participants to participate in smaller (under five hundred contracts) Floor Broker crosses.<sup>13</sup> Today, electronic options trading is well-established and no longer requires such special rules and incentives to develop further.

The Exchange believes that by extending priority to ICMPs over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in all crossing, facilitation and solicited orders represented and executed in open outcry, regardless of size, ICMPs such as Floor Brokers will be enabled to provide full service to their clients as they seek to execute such orders. By way of explanation, the size of orders given to Floor Brokers by member participants varies throughout the trading day, and generally those participants

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<sup>12</sup> See Securities Exchange Act Release Nos. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR-Phlx-2003-59); and 51126 (Feb. 2, 2005), 70 FR 6915 (Feb. 9, 2005) (SR-Phlx-2004-90).

<sup>13</sup> See Securities Exchange Act Release No. 54267 (August 3, 2006), 71 FR 45888 (August 10, 2006). See also Securities Exchange Act Release No. 64401 (May 4, 2011), 76 FR 27105 (May 10, 2011) (amending the rule to state that in-crowd participants in such orders also have priority over out-of-crowd broker-dealer limit orders on the limit order book).

expect the same experience regardless of order size when evaluating priority of electronic quotes with respect to cross orders executed on the trading floor. The Chicago Board Options Exchange (“CBOE”) does not have the same differentiation of priority for orders of fewer than 500 contracts,<sup>14</sup> and the different priority for orders with a size under 500 contracts has become an impediment to Phlx members soliciting orders. By removing the 500 contract minimum size distinction, the Exchange would permit Floor Brokers to access ICMP liquidity for all order sizes, thereby providing full order execution service to their clients.

To illustrate the application of the revised rule, assume the following ranking of bids on Phlx:

RSQT market 1.00 bid x 1000

Out of crowd SQT market 1.00 bid x 200

ICMPs 1.00 bid x 100

Public customer order on the book 1.00 bid x 100

Broker-dealer order on the book 1.00 bid x 100

Assume a Floor Broker enters the trading crowd with a cross order. This cross order is an order to sell 10,000 contracts and a contra order to buy 10,000 contracts at 1.00. Under the current rule, after selling to all 1.00 public customer interest on the book (100 contracts) and to all 1.00 interest in the trading crowd (100 contracts), the Floor Broker is allowed to cross the remaining interest (9,800 contracts) at 1.00, with priority over RSQTs, out-of-crowd SQTs and broker-dealer limit orders on the book.<sup>15</sup>

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<sup>14</sup> See Chicago Board Options Exchange (“CBOE”) Rule 6.74, Crossing Orders.

<sup>15</sup> If the order in this paragraph’s example were a facilitation order or a solicitation order, the resulting allocation of contracts would be no different.



If in this example, however, the Floor Broker's order to sell and contra order to buy at 1.00 were only for 400 contracts, the Floor Broker would be unable to cross the 300 contracts remaining interest after selling to all 1.00 public customer interest on the book (100) because the current rule gives the Floor Broker no priority over RSQTs, out-of-crowd SQTs and broker-dealer orders on the book respecting orders less than 500 contracts. The rule as revised would remove the limitation of the 500 contract minimum. Thus, under the revised rule, the Floor Broker in the example could enter the trading crowd with an order to sell 400 contracts and a contra order to buy 400 contracts at 1.00. After selling to all 1.00 public customer interest on the book (100) and to all 1.00 interest in the trading crowd (100 contracts), the Floor Broker would be allowed to cross the remaining interest (200 contracts) at 1.00, with priority over RSQTs, out-of-crowd SQTs and broker-dealer orders on the book.<sup>16</sup>

#### Implementation

The Exchange intends to implement the proposed rule change on or before October 31, 2014. The Exchange would issue an Options Trader Alert in advance to inform market participants of the date of implementation of this proposal.

#### (b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>17</sup> in general, and with Section 6(b)(5) of the Act,<sup>18</sup> in particular,

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<sup>16</sup> As above, if the crossing order in this paragraph's example were a facilitation order or a solicited order, the resulting allocation of contracts would be no different.

<sup>17</sup> 15 U.S.C. 78f.

<sup>18</sup> 15 U.S.C. 78f(b)(5).

which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would encourage order flow providers to send additional crossing, facilitation and solicited orders to the Exchange, free of concerns that the order may not be completely executed by the ICMPs. As noted above, the size of orders given to Floor Brokers by member participants varies throughout the trading day, and generally those participants expect the same experience regardless of order size when evaluating priority of electronic quotes with respect to cross orders executed on the trading floor. By adopting the new rule language which has the effect of removing the 500 contract minimum size distinction, the Exchange would permit Floor Brokers to access ICMP liquidity for all order sizes thereby enabling them to provide full service to member participants no matter the order size.

The Exchange believes that treating crossing, facilitation and solicitation orders of under 500 contracts on each side no differently from such orders of greater size creates no unfair disadvantage to investors. Elimination of the 500 contract minimum threshold size is just and equitable, because Non-Crowd Participants are not required to respond to a Floor Broker entering the crowd and requesting a market, whereas in-crowd participants are required to verbalize a market in response to such a request. The Exchange also believes that the proposal promotes just and equitable principles of trade

by retaining public customer priority in all cases. The instant proposal will not affect public customer priority and the Exchange will continue to execute public customer limit orders up to their aggregate size at a particular price point.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, it should provide greater incentive for order flow providers to submit crossing, facilitation and solicited orders to the Exchange, thus enabling the Exchange to compete with another exchange that has similar rules in effect.<sup>19</sup>

Today, CBOE has the same market structure ICMPs have priority over out-of-crowd participants. Phlx believes this market structure has not burdened competition among members transacting an options business on CBOE. In fact, CBOE continues to have a robust, competitive marketplace despite the priority afforded ICMPs over non-crowd participants. For example, CBOE's market share in multiply-listed options has ranged from 16% to 22% on any given month over the last two years, and Phlx has observed no indication CBOE is seeing a reduction in members because ICMPs have priority over out-of-crowd participants. In addition, the Exchange is not aware of any public arguments from CBOE members against CBOE's current market structure. The Exchange believes CBOE's members, subject to the same rules proposed herein by Phlx,

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<sup>19</sup> See CBOE Rule 6.74 (which affords priority to in-crowd participants over out-of-crowd participants, including non-public customer orders on the limit order book, in all open outcry situations after public customers on the limit order book have been executed) and Securities Exchange Act Release No. 54726 (November 8, 2006), 71 FR 66810 (November 16, 2006) (SR-CBOE-2006-89).

are not burdened from competing. The Exchange believes that since CBOE has a healthy competitive market place where members freely compete, Phlx will have the same experience utilizing the same rules. This proposal would not create an undue burden on intramarket competition because customers would be afforded the opportunity to obtain better prices through exposure in the trading crowd.

The proposed rule change should actually bolster competition. For example, assume the following market:

RSQT market 2.00 bid x 200

Out-of-crowd SQT market 2.00 bid x 200

ICMPs 1.70 bid x 100

Public customer order no bid on the book

Assume that a Floor Broker walks into the crowd with a cross order to buy 400 contracts at 2.00 and to sell 400 contracts at 2.00. Under the current rule, the Floor Broker would not have priority at 2.00 to allow the buy order of 400 contracts at 2.00 to participate. The seller would forego the liquidity of the 2.00 bid the Floor Broker was handling and would need to sell 400 to the RSQT and out-of-crowd SQT utilizing their posted liquidity, and likely moving the market of the 2.00 bid lower after the trade. The rule as proposed would, instead, permit utilization of the liquidity of the Floor Broker's 2.00 bid by giving the 2.00 bid priority over the RSQT and out of crowd SQT thus keeping the posted liquidity intact at the existing bid of 2.00. The Exchange believes the residual 2.00 bidders would have extra incentive to compete by either maintaining their bid hoping to trade with additional selling interest or to increase their bid in order to vie for participation in the next sell order. The Exchange also believes that affording priority in

to ICMPs regardless of size will attract additional smaller cross orders to the Exchange, creating an opportunity for ICMPs to compete for the smaller crosses as well.<sup>20</sup> The Exchange would like to emphasize that any Exchange member may choose to structure its business model to include placing staff on the Exchange floor. The Exchange's rule proposal does not prohibit any Phlx member from conducting a floor trading business if it so chooses.

Finally, this proposal would not create an undue burden on intermarket competition because it would increase the number of floor venues that could provide price improvement for these types of orders. The rule proposal would allow Phlx floor participants to compete with CBOE to price improve orders. This competition would result in providing customers the opportunity for size improvement at the displayed price, or price improvement in between the displayed markets thereby improving the quality of execution.

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<sup>20</sup> The Exchange notes that it is not proposing to eliminate the 500 contract minimum eligible order size in Rule 1064, Commentary .02. This provision entitles a Floor Broker to cross (after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied) 40% of the remaining contracts in an order of the eligible size, if the order traded at or between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market. See Rule 1064, Commentary .02(iii). This aspect of intra-market competition in the context of orders under 500 contracts is being maintained.

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

Written comments were neither solicited nor received. However, a competitor of the Exchange submitted two comment letters regarding an earlier Exchange proposed rule change dealing with the same subject matter.<sup>21</sup>

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<sup>22</sup> and Rule 19b-4(f)(6)<sup>23</sup> thereunder, Phlx has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Phlx believes that the proposal does not significantly affect the protection of investors or the public interest, because it merely eliminates a minimum size requirement that is no longer useful or relevant given the evolution over recent years of the electronic options marketplace. As noted above, electronic options trading is well-established and no longer requires special rules and incentives to develop further. Additionally, the

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<sup>21</sup> See International Securities Exchange, LLC comment letters submitted with respect to Securities Exchange Act Release No. 72119 (May 7, 2014), 79 FR 27351 (May 13, 2014) (SR-Phlx-2014-23).

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

proposed rule change would retain public customer priority in all cases. Phlx believes that the proposal does not impose any significant burden on competition, as explained above. Phlx believes that the proposal is non-controversial, because, as explained above, another exchange already affords in-crowd participants priority in all open-outcry situations.<sup>24</sup> Because the Exchange's proposal therefore raises no novel regulatory issues, it does not significantly affect the protection of investors or the public interest.

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.

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

The rule is based upon the introductory paragraph of CBOE Rule 6.74, Crossing Orders, which provides priority for bids and offers at the same price to in-crowd market participants over all other bids and offers (except with respect to public customer orders resting in the electronic order book), without regard to order size.<sup>25</sup>

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<sup>24</sup> See CBOE Rule 6.74(d)(vi).

<sup>25</sup> See the introductory paragraph of CBOE Rule 6.74, Crossing Orders, which provides in relevant part: "The rules of priority and order allocation procedures set forth in this Rule shall apply only to crossing orders in open outcry. The term "in-crowd market participant" ("ICMP") as used throughout this Rule only includes an in-crowd Market-Maker, in-crowd DPM or LMM, and Floor Broker or PAR Official representing orders in the trading crowd. For purposes of establishing priority for bids and offers, at the same price: (A) bids and offers of ICMPs have first priority, except as is otherwise provided in the Rule below with respect to public customer orders resting in the electronic book; and (B) all other bids and offers (including bids and offers of broker-dealer orders in the electronic book and electronic quotes of Market Makers) have second priority."

The Phlx proposed rule change is nearly identical to the CBOE Rule 6.74 language (the “CBOE Language”) upon which it is based. The CBOE Language and the language proposed by Phlx herein differ in four minor respects.

First, the CBOE Language refers to “[t]he rules of priority and order allocation procedures set forth in this Rule” and “[t]he term “in-crowd market participant” (ICMP)” as used throughout this Rule...(emphases added).” The proposed Phlx language, by contrast, does not use the word “Rule” but instead uses the phrase “this subsection (ii)”. Quite simply, this is because (unlike the CBOE Language which is set forth in CBOE’s crossing rule, Rule 6.74) the proposed new Phlx language is located in Rule 1014, Obligations and Restrictions Applicable to Specialists and Registered Options Traders, as this is the rule where other, unrelated options priority rules are also found. Phlx has determined that placing the language in Rule 1014 (rather than in the Phlx crossing rule, Rule 1064, Crossing, Facilitation and Solicited Orders) will help any reader attempting to locate this priority provision. The new language simply takes the place of the existing priority language which is being deleted in the same place in Rule 1014.

Second, the CBOE Language recites that the term ICMP only includes an “in-crowd Market-Maker, in-crowd DPM or LMM, and Floor Broker or PAR Official representing orders in the trading crowd (emphases added).” The proposed Phlx language does not use the bolded terms in the previous sentence as they are not defined terms in the Phlx rulebook. Instead, Phlx’s proposed language defines ICMP as including only an “in-crowd Non-SQT ROT, in-crowd SQT, in-crowd Specialist, or Floor Broker representing orders in the trading crowd.” Although the names describing the Phlx ICMPs and the CBOE ICMPs are different, the CBOE’s in-crowd Market Maker is



equivalent to PHLX's in-crowd SQT and in-crowd non-SQT ROT. Similarly, CBOE's in-crowd DPM and LMM are equivalent to Phlx's in-crowd Specialist. Phlx understands that CBOE PAR Officials handle orders that drop from the electronic book into a manual state, a situation which does not occur on the Phlx (which consequently needs no PAR Official-equivalent in its definition of ICMP).

Third, the CBOE Language provides that "bids and offers of ICMPs have first priority, except as is otherwise provided in the Rule below with respect to public customer orders resting in the electronic book...(emphasis added)." The Phlx proposed language omits the words "as is otherwise provided in the Rule below" and simply states flatly that bids and offers of ICMPs have first priority, except with respect to customer orders resting in the electronic book..." The Phlx language is quite clear that public customers have priority over ICMPs. No further elaboration is needed. This public customer priority is consistent with the public customer priority in the existing Phlx Commentary .05(c)(ii) rule language which is being replaced by the language proposed herein.

Finally, the CBOE Language provides that, after ICMPs and public customer orders resting in the electronic book, all other bids and offers (including bids and offers of broker-dealer orders in the electronic book and electronic quotes of Market Makers) have second priority (emphasis added)." The proposed Phlx language simply replaces the term "Market Maker," which is not defined in Phlx's options rules, with the terms "Remote Specialists, RSQTs and out-of-crowd SQTs" which, collectively, are equivalent to CBOE's "Market Maker" in this sentence.

The Exchange believes that the minor wording changes discussed above are not significant and simply take account of the variations in market participant names and responsibilities on CBOE and Phlx, which differences are not material for purposes of the new priority language proposed herein. The Exchange's intent is simply that the proposed Phlx language have the same effect on execution priority for crossing, facilitation and solicitation orders executed pursuant to Phlx Rule 1064 that the CBOE Language has on execution priority for crossing, facilitation and solicitation orders executed pursuant to CBOE Rule 6.74.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2014-62)

September \_\_, 2014

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Revise the Priority Afforded to In-Crowd Participants Respecting Crossing, Facilitation and Solicited Orders in Open Outcry Trading.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 16, 2014, 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 revise the priority afforded to in-crowd participants respecting crossing, facilitation and solicited orders in open outcry trading.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqomxphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.]

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

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

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

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

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

1. Purpose

The Exchange proposes to amend Rule 1014, Commentary .05(c)(ii), to afford priority in open outcry trading to in-crowd participants over out-of-crowd Streaming Quote Traders ("SQTs")<sup>3</sup>, Remote Specialists<sup>4</sup>, and Remote Streaming Quote Traders ("RSQTs")<sup>5</sup> and over out-of-crowd broker-dealer limit orders on the limit order book (but

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<sup>3</sup> An SQT is defined in Exchange Rule 1014(b)(ii)(A) as a Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. A ROT includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. A Registered Options 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).

<sup>4</sup> A Remote Specialist is a qualified RSQT approved by the Exchange to function as a specialist in one or more options if the Exchange determines that it cannot allocate such options to a floor based specialist. A Remote Specialist has all the rights and obligations of a specialist, unless Exchange rules provide otherwise. See Exchange Rules 501 and 1020. See also, Securities Exchange Act Release No. 63717 (January 14, 2011), 76 FR 4141 (January 24, 2011) (SR-Phlx-2010-145).

<sup>5</sup> A RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member affiliated with a Remote Streaming Quote Trader Organization ("RSQTO") with no physical trading floor presence who has received permission from the

not over public customer orders) in crossing<sup>6</sup>, facilitation<sup>7</sup> and solicited<sup>8</sup> orders, regardless of order size.

#### Current Priority Rule

Currently, Commentary .05(c)(i) to Phlx Rule 1014 provides that, in the event that a Floor Broker or specialist<sup>9</sup> presents a non-electronic order in which an RSQT is assigned or which is allocated to a Remote Specialist, and/or in which an SQT assigned in such option is not a crowd participant (collectively, “Non-Crowd Participants”), such Non-Crowd Participant may not participate in trades stemming from such a non-electronic order unless the non-electronic order is executed at the price quoted by the

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Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may not submit option quotations in eligible options to which such RSQT is assigned to the extent that the RSQT is also approved as a Remote Specialist in the same options. An RSQT may only trade in a market making capacity in classes of options in which he is assigned or approved as a Remote Specialist. An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

<sup>6</sup> A crossing order occurs when an options Floor Broker holds orders to buy and sell the same option series. Such a Floor Broker may cross such orders, provided that the trading crowd is given an opportunity to bid and offer for such option series in accordance with Exchange rules. See Phlx Rule 1064(a).

<sup>7</sup> A facilitation order occurs when an options Floor Broker holds an options order for a public customer and a contraside order. Such a Floor Broker may execute such orders as a facilitation order, provided that such Floor Broker proceeds in accordance with Exchange rules concerning facilitation orders. See Phlx Rule 1064(b).

<sup>8</sup> A solicitation occurs whenever an order, other than a cross, is presented for execution in the trading crowd resulting from an away-from-the-crowd expression of interests to trade by one broker dealer to another. See Phlx Rule 1064(c).

<sup>9</sup> A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

Non-Crowd Participant at the time of execution. However, if the non-electronic order is executed at the price quoted by the Non-Crowd Participant, the Non-Crowd Participant may participate in the trade unless the order was a crossing, facilitation or solicited order with a size of at least 500 contracts on each side.<sup>10</sup> If the order is a crossing, facilitation or solicited order with a size of at least 500 contracts on each side, Commentary .05(c)(ii) gives priority to in-crowd participants (including, for purposes of Commentary .05(c)(ii) only, Floor Brokers) over Non-Crowd Participants and over out-of-crowd broker-dealer limit orders on the limit order book, but not over public customer orders.<sup>11</sup> Such orders are allocated in accordance with Exchange rules. By affording priority to in-crowd participants over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation and solicited orders with a size of at least 500 contracts represented and executed in open outcry, the Exchange encourages order flow providers to send such orders to the Exchange.

#### Proposed Priority Rule

The Exchange now proposes to further encourage order flow providers to send such orders to the Exchange by replacing the language discussed above with a definition of “in crowd market participant” or “ICMP,” and with a rule affording ICMPs’ bids and

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<sup>10</sup> This in-crowd priority applies only to crossing, facilitation and solicited orders represented in open outcry, and does not apply to orders submitted electronically via the Exchange's electronic options trading platform, to which other priority rules apply. See, e.g., Phlx Rules 1014(g)(vii) and (viii).

<sup>11</sup> In keeping with current Exchange practices and rules, public customer limit orders represented in the trading crowd and resting on the limit order book have priority over all other participants and accordingly must be executed up to the aggregate size of such orders before any in-crowd participant is entitled to priority. Public customer orders on the limit order book that are eligible for execution are required to be executed before a Floor Broker may execute its order in the crowd and/or with a contra-side order it holds.

offers first priority, except with respect to public customer orders resting in the electronic book. The term ICMP as used throughout Commentary .05(c)(ii) would only include an in-crowd Non-SQT ROT, an in-crowd SQT, an in-crowd Specialist, or an in-crowd Floor Broker representing orders in the trading crowd. Thus, the definition of ICMP would not include Non-Crowd Participants or out-of-crowd broker-dealer limit orders on the limit order book. Then, for purposes of establishing priority for bids and offers, at the same price, the new language establishes that (A) bids and offers of ICMPs have first priority, except with respect to public customer orders resting in the electronic book; and (B) all other bids and offers (including bids and offers of broker-dealer orders in the electronic book and electronic quotes of Remote Specialists, RSQTs and out-of-crowd SQTs ) have second priority.

As amended, the rule would afford priority to ICMPs over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation and solicited orders regardless of the size of those orders. The current 500 contract minimum size requirement presents the possibility that one of the two sides of a Floor Brokered cross will not be fully executed on the trading floor. Initially, to foster the new electronic trading of options, the Exchange permitted Non-Crowd Participants to participate in Floor Broker crosses.<sup>12</sup> In 2006 the Exchange adopted the 500 contract size requirement which continued to permit Non-Crowd Participants to participate in smaller (under five

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<sup>12</sup> See Securities Exchange Act Release Nos. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR-Phlx-2003-59); and 51126 (Feb. 2, 2005), 70 FR 6915 (Feb. 9, 2005) (SR-Phlx-2004-90).

hundred contracts) Floor Broker crosses.<sup>13</sup> Today, electronic options trading is well-established and no longer requires such special rules and incentives to develop further.

The Exchange believes that by extending priority to ICMPs over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in all crossing, facilitation and solicited orders represented and executed in open outcry, regardless of size, ICMPs such as Floor Brokers will be enabled to provide full service to their clients as they seek to execute such orders. By way of explanation, the size of orders given to Floor Brokers by member participants varies throughout the trading day, and generally those participants expect the same experience regardless of order size when evaluating priority of electronic quotes with respect to cross orders executed on the trading floor. The Chicago Board Options Exchange (“CBOE”) does not have the same differentiation of priority for orders of fewer than 500 contracts,<sup>14</sup> and the different priority for orders with a size under 500 contracts has become an impediment to Phlx members soliciting orders. By removing the 500 contract minimum size distinction, the Exchange would permit Floor Brokers to access ICMP liquidity for all order sizes, thereby providing full order execution service to their clients.

To illustrate the application of the revised rule, assume the following ranking of bids on Phlx:

RSQT market 1.00 bid x 1000

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<sup>13</sup> See Securities Exchange Act Release No. 54267 (August 3, 2006), 71 FR 45888 (August 10, 2006). See also Securities Exchange Act Release No. 64401 (May 4, 2011), 76 FR 27105 (May 10, 2011) (amending the rule to state that in-crowd participants in such orders also have priority over out-of-crowd broker-dealer limit orders on the limit order book).

<sup>14</sup> See Chicago Board Options Exchange (“CBOE”) Rule 6.74, Crossing Orders.



Out of crowd SQT market 1.00 bid x 200

ICMPs 1.00 bid x 100

Public customer order on the book 1.00 bid x 100

Broker-dealer order on the book 1.00 bid x 100

Assume a Floor Broker enters the trading crowd with a cross order. This cross order is an order to sell 10,000 contracts and a contra order to buy 10,000 contracts at 1.00. Under the current rule, after selling to all 1.00 public customer interest on the book (100 contracts) and to all 1.00 interest in the trading crowd (100 contracts), the Floor Broker is allowed to cross the remaining interest (9,800 contracts) at 1.00, with priority over RSQTs, out-of-crowd SQTs and broker-dealer limit orders on the book.<sup>15</sup>

If in this example, however, the Floor Broker's order to sell and contra order to buy at 1.00 were only for 400 contracts, the Floor Broker would be unable to cross the 300 contracts remaining interest after selling to all 1.00 public customer interest on the book (100) because the current rule gives the Floor Broker no priority over RSQTs, out-of-crowd SQTs and broker-dealer orders on the book respecting orders less than 500 contracts. The rule as revised would remove the limitation of the 500 contract minimum. Thus, under the revised rule, the Floor Broker in the example could enter the trading crowd with an order to sell 400 contracts and a contra order to buy 400 contracts at 1.00. After selling to all 1.00 public customer interest on the book (100) and to all 1.00 interest in the trading crowd (100 contracts), the Floor Broker would be allowed to cross the

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<sup>15</sup> If the order in this paragraph's example were a facilitation order or a solicitation order, the resulting allocation of contracts would be no different.

remaining interest (200 contracts) at 1.00, with priority over RSQTs, out-of-crowd SQTs and broker-dealer orders on the book.<sup>16</sup>

### Implementation

The Exchange intends to implement the proposed rule change on or before October 31, 2014. The Exchange would issue an Options Trader Alert in advance to inform market participants of the date of implementation of this proposal.

### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>17</sup> in general, and with Section 6(b)(5) of the Act,<sup>18</sup> in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would encourage order flow providers to send additional crossing, facilitation and solicited orders to the Exchange, free of concerns that the order may not be completely executed by the ICMPs. As noted above, the size of orders given to Floor Brokers by member participants varies throughout the trading day, and generally those participants expect the

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<sup>16</sup> As above, if the crossing order in this paragraph's example were a facilitation order or a solicited order, the resulting allocation of contracts would be no different.

<sup>17</sup> 15 U.S.C. 78f.

<sup>18</sup> 15 U.S.C. 78f(b)(5).

same experience regardless of order size when evaluating priority of electronic quotes with respect to cross orders executed on the trading floor. By adopting the new rule language which has the effect of removing the 500 contract minimum size distinction, the Exchange would permit Floor Brokers to access ICMP liquidity for all order sizes thereby enabling them to provide full service to member participants no matter the order size.

The Exchange believes that treating crossing, facilitation and solicitation orders of under 500 contracts on each side no differently from such orders of greater size creates no unfair disadvantage to investors. Elimination of the 500 contract minimum threshold size is just and equitable, because Non-Crowd Participants are not required to respond to a Floor Broker entering the crowd and requesting a market, whereas in-crowd participants are required to verbalize a market in response to such a request. The Exchange also believes that the proposal promotes just and equitable principles of trade by retaining public customer priority in all cases. The instant proposal will not affect public customer priority and the Exchange will continue to execute public customer limit orders up to their aggregate size at a particular price point.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, it should provide greater incentive for order flow providers to submit crossing, facilitation and solicited orders to the Exchange, thus

enabling the Exchange to compete with another exchange that has similar rules in effect.<sup>19</sup>

Today, CBOE has the same market structure ICMPs have priority over out-of-crowd participants. Phlx believes this market structure has not burdened competition among members transacting an options business on CBOE. In fact, CBOE continues to have a robust, competitive marketplace despite the priority afforded ICMPs over non-crowd participants. For example, CBOE's market share in multiply-listed options has ranged from 16% to 22% on any given month over the last two years, and Phlx has observed no indication CBOE is seeing a reduction in members because ICMPs have priority over out-of-crowd participants. In addition, the Exchange is not aware of any public arguments from CBOE members against CBOE's current market structure. The Exchange believes CBOE's members, subject to the same rules proposed herein by Phlx, are not burdened from competing. The Exchange believes that since CBOE has a healthy competitive market place where members freely compete, Phlx will have the same experience utilizing the same rules. This proposal would not create an undue burden on intramarket competition because customers would be afforded the opportunity to obtain better prices through exposure in the trading crowd.

The proposed rule change should actually bolster competition. For example, assume the following market:

RSQT market 2.00 bid x 200

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<sup>19</sup> See CBOE Rule 6.74 (which affords priority to in-crowd participants over out-of-crowd participants, including non-public customer orders on the limit order book, in all open outcry situations after public customers on the limit order book have been executed) and Securities Exchange Act Release No. 54726 (November 8, 2006), 71 FR 66810 (November 16, 2006) (SR-CBOE-2006-89).

Out-of-crowd SQT market 2.00 bid x 200

ICMPs 1.70 bid x 100

Public customer order no bid on the book

Assume that a Floor Broker walks into the crowd with a cross order to buy 400 contracts at 2.00 and to sell 400 contracts at 2.00. Under the current rule, the Floor Broker would not have priority at 2.00 to allow the buy order of 400 contracts at 2.00 to participate.

The seller would forego the liquidity of the 2.00 bid the Floor Broker was handling and would need to sell 400 to the RSQT and out-of-crowd SQT utilizing their posted liquidity, and likely moving the market of the 2.00 bid lower after the trade. The rule as proposed would, instead, permit utilization of the liquidity of the Floor Broker's 2.00 bid by giving the 2.00 bid priority over the RSQT and out of crowd SQT thus keeping the posted liquidity intact at the existing bid of 2.00. The Exchange believes the residual 2.00 bidders would have extra incentive to compete by either maintaining their bid hoping to trade with additional selling interest or to increase their bid in order to vie for participation in the next sell order. The Exchange also believes that affording priority in to ICMPs regardless of size will attract additional smaller cross orders to the Exchange, creating an opportunity for ICMPs to compete for the smaller crosses as well.<sup>20</sup> The Exchange would like to emphasize that any Exchange member may choose to structure

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<sup>20</sup> The Exchange notes that it is not proposing to eliminate the 500 contract minimum eligible order size in Rule 1064, Commentary .02. This provision entitles a Floor Broker to cross (after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied) 40% of the remaining contracts in an order of the eligible size, if the order traded at or between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market. See Rule 1064, Commentary .02(iii). This aspect of intra-market competition in the context of orders under 500 contracts is being maintained.

its business model to include placing staff on the Exchange floor. The Exchange's rule proposal does not prohibit any Phlx member from conducting a floor trading business if it so chooses.

Finally, this proposal would not create an undue burden on intermarket competition because it would increase the number of floor venues that could provide price improvement for these types of orders. The rule proposal would allow Phlx floor participants to compete with CBOE to price improve orders. This competition would result in providing customers the opportunity for size improvement at the displayed price, or price improvement in between the displayed markets thereby improving the quality of execution.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>21</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>22</sup>

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>22</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the

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.

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2014-62 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-2014-62. 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

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proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-2014-62 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

Kevin M O'Neill  
Deputy Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).



**EXHIBIT 5****NASDAQ OMX PHLX Rules****Options Rules**

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

(a) – (g) No Change

• • • *Commentary:* -----

.01 - .04 No Change.

.05 (a) – (b) No Change.

(c) *Non-Electronic Orders.*

(i) No Change.

(ii) [Notwithstanding the foregoing, respecting crossing, facilitation and solicited orders (as defined in Rule 1064) with a size of at least 500 contracts on each side that are represented and executed in open outcry, priority shall be afforded to in-crowd participants (including, for purposes of this rule only, Floor Brokers), over Remote Specialists, RSQTs, out-of crowd SQTs, and out-of-crowd broker-dealer limit orders on the limit order book, but not over public customer orders. Such orders shall be allocated in accordance with Exchange Rules.] The rules of priority and order allocation procedures set forth in this subsection (ii) shall apply only to crossing orders in open outcry. The term “in-crowd market participant” (“ICMP”) as used throughout this subsection (ii) only includes an in-crowd Non-SQT ROT, an in-crowd SQT, an in-crowd Specialist, or an in-crowd Floor Broker representing orders in the trading crowd. For purposes of establishing priority for bids and offers, at the same price: (A) bids and offers of ICMPs have first priority, except with respect to public customer orders resting in the electronic book; and (B) all other bids and offers (including bids and offers of broker-dealer orders in the electronic book and electronic quotes of Remote Specialists, RSQTs and out-of-crowd SQTs) have second priority.

(iii) – (iv) No Change.

.06 - .19 No Change.

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