

Required fields are shown with yellow backgrounds and asterisks.

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|---|--|--|--|---|--|--|--|
| Page 1 of * 23  |  | SECURITIES AND EXCHANGE COMMISSION<br>WASHINGTON, D.C. 20549<br>Form 19b-4   |  | File No.* SR - 2015 - * 86  |  | Amendment No. (req. for Amendments *)  |  |
| Filing by NASDAQ OMX PHLX LLC.<br>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 checked="" type="checkbox"/>   |  | Extension of Time Period<br>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<br>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 checked="" type="checkbox"/>  |  | Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>         |  |   |  |  |  |
| <b>Description</b>  |  |  |  |   |  |  |  |
| Provide a brief description of the action (limit 250 characters, required when Initial is checked *).   |  |  |  |   |  |  |  |
| <input type="text" value="A proposed rule change to extend the pilot program regarding Exchange Rule 1047(f)(v)."/>   |  |  |  |   |  |  |  |
| <b>Contact Information</b>  |  |  |  |   |  |  |  |
| Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.          |  |  |  |   |  |  |  |
| First Name * Edith  |  | Last Name * Hallahan   |  |   |  |  |  |
| Title *   |  | AVP Principal Associate General Counsel NS                                   |  |   |  |  |  |
| E-mail *  |  | edith.hallahan@nasdaq.com  |  |   |  |  |  |
| Telephone * (215) 496-5179  |  | Fax <input type="text"/>   |  |   |  |  |  |
| <b>Signature</b>  |  |  |  |   |  |  |  |
| Pursuant to the requirements of the Securities Exchange Act of 1934,  |  |  |  |   |  |  |  |
| has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  |  |  |  |   |  |  |  |
| (Title *)   |  |  |  |   |  |  |  |
| Date 10/20/2015   |  | Executive Vice President and General Counsel                                 |  |   |  |  |  |
| By 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. |  |  |  |   |  |  |  |
| <input type="button" value="edward.knight@nasdaq.com"/>   |  |  |  |   |  |  |  |

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF 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 \***

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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 extend the pilot program regarding Exchange Rule 1047(f)(v), which provides for how the Exchange treats obvious and catastrophic options errors in response to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the "Limit Up-Limit Down Plan" or the "Plan").<sup>3</sup> The Exchange proposes to extend the pilot period to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the applicable portion of the Exchange's Rules is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

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

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

<sup>3</sup> Securities Exchange Act Release Nos. 69141 (March 15, 2013), 78 FR 17262 (March 20, 2013); and 69344 (April 8, 2013), 78 FR 22001 (April 12, 2013) (SR-Phlx-2013-29).

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on February 22, 2013. No other action by the Exchange is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to Edith Hallahan, Principal Associate General Counsel, Nasdaq, Inc., at 215-496-5179.

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

a. Purpose

In April 2013,<sup>4</sup> the Commission approved a proposal, on a one year pilot basis, to adopt Exchange Rule 1047(f)(v) to provide for how the Exchange will treat obvious and catastrophic options errors in response to the Plan, which is applicable to all NMS stocks, as defined in Regulation NMS Rule 600(b)(47).<sup>5</sup> The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands.<sup>6</sup> The requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

The Exchange extended the operation of Rule 1047(f)(v), which provides that trades are not subject to an obvious error or catastrophic error review pursuant to Rule

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<sup>4</sup> Securities Exchange Act Release No. 69344 (April 8, 2013), 78 FR 22001 (April 12, 2013) (SR-Phlx-2013-29).

<sup>5</sup> The Plan was extended until February 20, 2015. The Plan was initially approved for a one-year pilot period, which began on April 8, 2013. Securities Exchange Act Release No. 71649 (March 5, 2014), 79 FR 13696 (March 11, 2014).

<sup>6</sup> Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

1092(c) or (d) during a Limit State or Straddle State in 2014,<sup>7</sup> and again in 2015.<sup>8</sup> The current pilot period expires October 23, 2015. Currently, the pilot period for the Plan is proposed to be extended until April 22, 2016.<sup>9</sup> The Exchange now proposes to extend the pilot program for an additional pilot period to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan. The Exchange believes conducting an obvious error or catastrophic error review is impracticable given the lack of a reliable National Best Bid/Offer ("NBBO") in the options market during Limit States and Straddle States, and that the resulting actions (i.e., nullified trades or adjusted prices) may not be appropriate given market conditions. Under the pilot, limit orders that are filled during a Limit State or Straddle State have certainty of execution in a manner that promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system. Moreover, given that options prices during brief Limit States or Straddle States may deviate substantially from those available shortly following the Limit State or Straddle State, the Exchange believes giving market participants time to re-evaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit States or Straddle States. On balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit States or Straddle States

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<sup>7</sup> Securities Exchange Act Release No. 71901 (April 8, 2014), 79 FR 20955 (April 14, 2014) (SR-Phlx-2014-21).

<sup>8</sup> Securities Exchange Act Release No. 74337 (February 20, 2015), 80 FR 10536 (February 26, 2015) (SR-Phlx-2015-19).

<sup>9</sup> Securities Exchange Act Release No. 75917 (September 14, 2015), 80 FR 56515 (September 18, 2015).

outweighs any potential benefits from applying those provisions during such unusual market conditions.

The Exchange believes the benefits to market participants from the pilot program should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences and permit the industry to gain further experience operating the Plan.

The Exchange will conduct an analysis concerning the elimination of obvious and catastrophic error provisions during Limit States and Straddle States and agrees to provide the Commission with relevant data to assess the impact of this proposed rule change. As part of its analysis, the Exchange will: (1) evaluate the options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious and catastrophic error provisions, including data relevant to assessing the various analyses noted above. No later than five months prior to the expiration of the pilot period, including any extensions to the pilot period for the Plan,<sup>10</sup> the Exchange shall provide to the Commission and the public assessments relating to the impact of the operation of the obvious error rules during Limit and Straddle States as follows:<sup>11</sup>

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<sup>10</sup> If the Plan extension is approved, the next data assessment will be due no later than December 18, 2015.

<sup>11</sup> The Exchange submitted a pilot report on September 30, 2014 and May 29, 2015.

1. Evaluate the statistical and economic impact of Limit and Straddle States on liquidity and market quality in the options markets.
2. Assess whether the lack of obvious error rules in effect during the Straddle and Limit States are problematic.

Each month the Exchange shall provide to the Commission and the public a dataset containing the data for each Straddle and Limit State in optionable stocks that had at least one trade on the Exchange during a Straddle or Limit State. For each of those options affected, each data record should contain the following information:

- Stock symbol, option symbol, time at the start of the Straddle or Limit State, an indicator for whether it is a Straddle or Limit State,
- For activity on the Exchange:
  - executed volume, time-weighted quoted bid-ask spread, time-weighted average quoted depth at the bid, time-weighted average quoted depth at the offer,
  - high execution price, low execution price,
  - number of trades for which a request for review for error was received during Straddle and Limit States,
  - an indicator variable for whether those options outlined above have a price change exceeding 30% during the underlying stock's Limit or Straddle State compared to the last available option price as reported by OPRA before the start of the Limit or Straddle State (1 if observe 30% and 0 otherwise). Another indicator variable for whether the option price within five minutes of the underlying stock leaving the

Limit or Straddle State (or halt if applicable) is 30% away from the price before the start of the Limit or Straddle State.<sup>12</sup>

b. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>13</sup> in general, and with Section 6(b)(5) of the Act,<sup>14</sup> in particular, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, because it should continue to provide certainty about how errors involving options orders and trades will be handled during periods of extraordinary volatility in the underlying security. The Exchange believes that it continues to be necessary and appropriate in the interest of promoting fair and orderly markets to exclude transactions executed during a Limit State or Straddle State from certain aspects of Rule 1092.

Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help the industry gain further experience operating the Plan as well as the pilot provisions.

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<sup>12</sup> The Exchange agreed to provide similar data in the original proposal. See Securities Exchange Act Release No. 69344 (April 8, 2013), 78 FR 22001 (April 12, 2013) (SR-Phlx-2013-29) at notes 4 and 12. However, that data included two additional filters pertaining to the top 10 options and an in-the-money amount, which no longer apply. The Exchange provided historical data in the new form pursuant to this proposed rule change, going back to the beginning of the original pilot period.

<sup>13</sup> 15 U.S.C. 78f.

<sup>14</sup> 15 U.S.C. 78f(b)(5).

Based on the foregoing, the Exchange believes the benefits to market participants should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

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. Specifically, the proposal does not impose an intra-market burden on competition, because it will apply to all members. Nor will the proposal impose a burden on competition among the options exchanges, because, in addition to the vigorous competition for order flow among the options exchanges, the proposal addresses a regulatory situation common to all options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct order flow to competing venues. The Exchange believes this proposal will not impose a burden on competition and will help provide certainty during periods of extraordinary volatility in an NMS stock.

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>15</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with 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, or such shorter time as designated by the Commission.<sup>17</sup>

The Exchange believes that the proposal is non-controversial and would not significantly affect the protection of investors or the public interest and will not impose any significant burden on competition because the proposed rule change seeks to extend the operation of a previously approved pilot program before it expires on October 23, 2015. As noted above, the extension of the pilot period for Rule 1047(f)(v), which would align with the pilot period for the Plan should ensure that trading in options that overlay NMS stocks continues to be appropriately modified to reflect market conditions that occur during a Limit State or a Straddle State in a manner that promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

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

<sup>16</sup> 17 CFR 240.19b-4.

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

In addition, the Exchange believes that extending the pilot period for Rule 1047(f)(v) to coincide with the pilot period for the Plan would allow the Exchange additional time to collect and evaluate data related to this provision now that the Plan has been fully implemented.

The Exchange respectfully requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>19</sup> Waiver of the 30-day operative delay will allow the Exchange to extend the pilot program prior to its expiration on October 23, 2015. Waiver of the operative delay is consistent with the protection of investors and the public interest for the reasons described above. The Exchange anticipates that other exchanges will similarly extend their corresponding pilot programs.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

Not applicable.

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

Not applicable.

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

10. Advance 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. Proposed Rule Text.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2015-86)

October \_\_, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Obvious Error Pilot Program

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 October 20, 2015, 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 extend the pilot program regarding Exchange Rule 1047(f)(v), which provides for how the Exchange treats obvious and catastrophic options errors in response to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or the “Plan”).<sup>3</sup> The Exchange proposes to extend the pilot period to coincide with the pilot

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

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

<sup>3</sup> Securities Exchange Act Release Nos. 69141 (March 15, 2013), 78 FR 17262 (March 20, 2013); and 69344 (April 8, 2013), 78 FR 22001 (April 12, 2013) (SR-Phlx-2013-29).

period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan.

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.

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

In April 2013,<sup>4</sup> the Commission approved a proposal, on a one year pilot basis, to adopt Exchange Rule 1047(f)(v) to provide for how the Exchange will treat obvious and catastrophic options errors in response to the Plan, which is applicable to all NMS stocks, as defined in Regulation NMS Rule 600(b)(47).<sup>5</sup> The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands.<sup>6</sup> The

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<sup>4</sup> Securities Exchange Act Release No. 69344 (April 8, 2013), 78 FR 22001 (April 12, 2013) (SR-Phlx-2013-29).

<sup>5</sup> The Plan was extended until February 20, 2015. The Plan was initially approved for a one-year pilot period, which began on April 8, 2013. Securities Exchange Act Release No. 71649 (March 5, 2014), 79 FR 13696 (March 11, 2014).

requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

The Exchange extended the operation of Rule 1047(f)(v), which provides that trades are not subject to an obvious error or catastrophic error review pursuant to Rule 1092(c) or (d) during a Limit State or Straddle State in 2014,<sup>7</sup> and again in 2015.<sup>8</sup> The current pilot period expires October 23, 2015. Currently, the pilot period for the Plan is proposed to be extended until April 22, 2016.<sup>9</sup> The Exchange now proposes to extend the pilot program for an additional pilot period to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan. The Exchange believes conducting an obvious error or catastrophic error review is impracticable given the lack of a reliable National Best Bid/Offer ("NBBO") in the options market during Limit States and Straddle States, and that the resulting actions (i.e., nullified trades or adjusted prices) may not be appropriate given market conditions. Under the pilot, limit orders that are filled during a Limit State or Straddle State have certainty of execution in a manner that promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a

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<sup>6</sup> Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

<sup>7</sup> Securities Exchange Act Release No. 71901 (April 8, 2014), 79 FR 20955 (April 14, 2014) (SR-Phlx-2014-21).

<sup>8</sup> Securities Exchange Act Release No. 74337 (February 20, 2015), 80 FR 10536 (February 26, 2015) (SR-Phlx-2015-19).

<sup>9</sup> Securities Exchange Act Release No. 75917 (September 14, 2015), 80 FR 56515 (September 18, 2015).

national market system. Moreover, given that options prices during brief Limit States or Straddle States may deviate substantially from those available shortly following the Limit State or Straddle State, the Exchange believes giving market participants time to re-evaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit States or Straddle States. On balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit States or Straddle States outweighs any potential benefits from applying those provisions during such unusual market conditions.

The Exchange believes the benefits to market participants from the pilot program should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences and permit the industry to gain further experience operating the Plan.

The Exchange will conduct an analysis concerning the elimination of obvious and catastrophic error provisions during Limit States and Straddle States and agrees to provide the Commission with relevant data to assess the impact of this proposed rule change. As part of its analysis, the Exchange will: (1) evaluate the options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious and catastrophic error

provisions, including data relevant to assessing the various analyses noted above. No later than five months prior to the expiration of the pilot period, including any extensions to the pilot period for the Plan,<sup>10</sup> the Exchange shall provide to the Commission and the public assessments relating to the impact of the operation of the obvious error rules during Limit and Straddle States as follows:<sup>11</sup>

1. Evaluate the statistical and economic impact of Limit and Straddle States on liquidity and market quality in the options markets.
2. Assess whether the lack of obvious error rules in effect during the Straddle and Limit States are problematic.

Each month the Exchange shall provide to the Commission and the public a dataset containing the data for each Straddle and Limit State in optionable stocks that had at least one trade on the Exchange during a Straddle or Limit State. For each of those options affected, each data record should contain the following information:

- Stock symbol, option symbol, time at the start of the Straddle or Limit State, an indicator for whether it is a Straddle or Limit State,
- For activity on the Exchange:
  - executed volume, time-weighted quoted bid-ask spread, time-weighted average quoted depth at the bid, time-weighted average quoted depth at the offer,
  - high execution price, low execution price,

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<sup>10</sup> If the Plan extension is approved, the next data assessment will be due no later than December 18, 2015.

<sup>11</sup> The Exchange submitted a pilot report on September 30, 2014 and May 29, 2015.

- number of trades for which a request for review for error was received during Straddle and Limit States,
- an indicator variable for whether those options outlined above have a price change exceeding 30% during the underlying stock's Limit or Straddle State compared to the last available option price as reported by OPRA before the start of the Limit or Straddle State (1 if observe 30% and 0 otherwise). Another indicator variable for whether the option price within five minutes of the underlying stock leaving the Limit or Straddle State (or halt if applicable) is 30% away from the price before the start of the Limit or Straddle State.<sup>12</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>13</sup> in general, and with Section 6(b)(5) of the Act,<sup>14</sup> in particular, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, because it should continue to provide certainty about how errors involving options orders

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<sup>12</sup> The Exchange agreed to provide similar data in the original proposal. See Securities Exchange Act Release No. 69344 (April 8, 2013), 78 FR 22001 (April 12, 2013) (SR-Phlx-2013-29) at notes 4 and 12. However, that data included two additional filters pertaining to the top 10 options and an in-the-money amount, which no longer apply. The Exchange provided historical data in the new form pursuant to this proposed rule change, going back to the beginning of the original pilot period.

<sup>13</sup> 15 U.S.C. 78f.

<sup>14</sup> 15 U.S.C. 78f(b)(5).

and trades will be handled during periods of extraordinary volatility in the underlying security. The Exchange believes that it continues to be necessary and appropriate in the interest of promoting fair and orderly markets to exclude transactions executed during a Limit State or Straddle State from certain aspects of Rule 1092.

Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help the industry gain further experience operating the Plan as well as the pilot provisions.

Based on the foregoing, the Exchange believes the benefits to market participants should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

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. Specifically, the proposal does not impose an intra-market burden on competition, because it will apply to all members. Nor will the proposal impose a burden on competition among the options exchanges, because, in addition to the vigorous competition for order flow among the options exchanges, the proposal addresses a regulatory situation common to all options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct order flow to competing venues. The Exchange believes this proposal will not impose a burden on competition and will help provide certainty during periods of extraordinary volatility in an NMS stock.

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)(iii) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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.

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

<sup>16</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 proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

#### 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-2015-86 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2015-86. 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-2015-86 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>17</sup>

Robert W. Errett  
Deputy Secretary

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

**EXHIBIT 5**

Proposed new text is underlined. Deleted text is [bracketed].

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**Options Rules**

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**Rule 1047. Trading Rotations, Halts and Suspensions**

(a) – (e) No change.

(f) This paragraph shall be in effect during a pilot period to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time (“LULD Plan”), except as specified in subparagraph (v) below. Capitalized terms used in this paragraph shall have the same meaning as provided for in the LULD Plan. During a Limit State and Straddle State in the Underlying NMS stock:

(i) - (iv) No change.

(v) For a pilot period to coincide with the pilot period for the LULD Plan, including any extensions to the pilot period for the LULD Plan [set to end on October 23, 2015], electronic trades are not subject to an obvious error or catastrophic error review pursuant to Rule 1092(c) or (d). Nothing in this provision shall prevent electronic trades from review on Exchange motion pursuant to Rule 1092(c)(3), or subject to nullification or adjustment pursuant to Rule 1092(e) - (k).

(g) No change.

**••• Commentary :**

**.01 - .03** No change.

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