

OMB APPROVAL	
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Page 1 of \* 23

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

File No.\* SR - 2016 - \* 104

Amendment No. (req. for Amendments \*)

Filing by NASDAQ PHLX LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pilot	Extension of Time Period for Commission Action *	Date Expires *	Rule		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	<input type="checkbox"/>
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	<input type="checkbox"/>
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	<input type="checkbox"/>
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) *		Section 806(e)(2) *	Section 3C(b)(2) *		
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document



### Description

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

A proposal to amend Phlx Rule 748, Supervision.

### 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 *	Carla	Last Name *	Behnfeldt
Title *	Associate General Counsel		
E-mail *	carla.behnfeldt@nasdaq.com		
Telephone *	(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 10/14/2016

Executive Vice President and General Counsel

By Edward S. Knight

(Name \*)

edward.knight@nasdaq.com

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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

Add Remove View

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

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

Add Remove View

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

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

Add Remove View

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

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

Add Remove View

Exhibit Sent As Paper Document



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

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

Add Remove View

Exhibit Sent As Paper Document



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

**Exhibit 4 - Marked Copies**

Add Remove View

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

**Exhibit 5 - Proposed Rule Text**

Add Remove View

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

**Partial Amendment**

Add Remove View

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

1. Text of the Proposed Rule Change

(a) NASDAQ PHLX LLC (“Phlx” or “Exchange”), 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> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Phlx Rule 748, Supervision, as explained further below.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on July 25, 2016. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Carla Behnfeldt  
Associate General Counsel  
Nasdaq, Inc.  
(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 is proposing to amend several provisions of Rule 748. The proposed rule change is intended to modernize, upgrade and strengthen the Exchange’s rules pertaining to supervisory obligations of its members and member organizations.

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

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

Rule 748(a)

Rule 748(a) currently provides in the first paragraph that each office, location, department, or business activity of a member or member organization (including foreign incorporated branch offices) shall be under the supervision and control of the member or member organization establishing it and of an appropriately qualified supervisor. The Exchange is amending the first paragraph of Rule 748(a) to clarify and state clearly that each trading system and internal surveillance system of a member or member organization (including foreign incorporated branch offices) shall, inasmuch as they are aspects of their business activity, be under the supervision and control of the member or member organization establishing it and of an appropriately qualified supervisor.

Rule 748(b)

Rule 748(b), Designation of Supervisor by Member Organizations, currently provides in relevant part that the general partners or directors of each member organization shall provide for appropriate supervisory control and shall designate a general partner or principal executive officer to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities' (sic) laws and regulations, including the By-Laws and Rules of the Exchange. It provides that the designated person shall delegate to qualified principals or qualified employees responsibility and authority for supervision and control of each office, location, department, or business activity, (including foreign incorporated branch offices), and provide for appropriate written procedures of supervision and control. The Exchange proposes to amend Rule 748(b) to provide that the delegated person shall likewise delegate to qualified principals or qualified employees responsibility and

authority for supervision and control of each trading system and internal surveillance system.<sup>3</sup>

**Rule 748(c)**

Rule 748(c) currently provides that each person with supervisory control, as described in paragraphs (a) and (b) of Rule 748, must meet the Exchange's qualification requirements for supervisors, including successful completion of the appropriate examination. The Exchange proposes to add to Rule 748(c) a new requirement that each member or member organization must make reasonable efforts to determine that each person with supervisory control, as described in paragraphs (a) and (b) of Rule 748, is qualified by virtue of experience or training to carry out his or her assigned responsibilities.

**Rule 748(g)**

Rule 748(g), Office Inspections, currently provides that each member or member organization for which the Exchange is the DEA shall inspect each office or location (including foreign incorporated branch offices) of the member or member organization according to a cycle that shall be established in its written supervisory procedures. In establishing such inspection cycle, the member or member organization shall give consideration to the nature and complexity of the securities activities for which the office or location is responsible, the volume of business done, and the number of registered representatives, employees, and associated persons at each office or location. Rule 748(g) is proposed to be amended to provide that an inspection may not be conducted by any person within that office or location who has supervisory responsibilities or by any

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<sup>3</sup> The Exchange is also deleting the extraneous apostrophe following the word "securities".

individual who is directly or indirectly supervised by such person. The Exchange also proposes to add language requiring the examination schedule and an explanation of the factors considered in determining the frequency of the examinations in the cycle to be set forth in the member or member organization's written supervisory procedures. It also proposes to require that the inspection be reasonably designed to assist in preventing and detecting violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable Exchange rules.

**Rule 748(h)**

Rule 748(h) in the first paragraph currently requires each member or member organization to establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be expected to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange. The Exchange proposes to substitute the word "designed" for the word "expected."

Rule 748(h) in the second paragraph currently requires that the written supervisory procedures set forth the supervisory system established by the member or member organization and include the name, title, registration status, and location of all supervisory personnel required by this rule, the dates for which supervisory designations were or are effective, and the responsibilities of supervisory personnel as these relate to the types of business(es) the member or member organization engages in, and securities

laws and regulations, including the By-Laws and Rules of the Exchange. The Exchange proposes to add a requirement that this record be preserved for a period of not less than three years, the first two in an easily accessible place.

Rule 748(h) in the third paragraph currently requires a copy of the written supervisory procedures to be kept and maintained at each location where supervisory activities are conducted on behalf of the member or member organization. It requires each member or member organization to amend its written supervisory procedures as appropriate within a reasonable time after changes occur in supervisory personnel or supervisory procedures, and to communicate such changes throughout its organization within a reasonable time. The Exchange proposes to amend Rule 748(h) to likewise amend and communicate changes to its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable securities laws and regulations and Exchange rules.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enhancing its rules relating to supervision as set forth in Rule 748. Requiring increased comprehensive supervision by members and member organizations of their activities

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<sup>4</sup> 15 U.S.C. 78f(b).

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

should promote the Exchange's ability to enforce compliance by members and member organizations with the Act and the regulations thereunder.

Amending Rules 748(a) and (b) to require trading systems and internal surveillance systems to be under the supervision and control of the member or member organization establishing them and of an appropriately qualified supervisor, and requiring the general partner or principal executive officer with overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations to delegate responsibility and authority for supervision and control of each trading system and internal surveillance system to qualified principals or qualified employees, should protect investors and the public interest by specifically requiring supervision and control of these aspects of the member or member organization's business by an appropriately qualified individual.

The proposed amendment to Rule 748(c) should protect investors and the public interest by requiring that each person with supervisory control as described in Rules 748(a) and (b) to be qualified by virtue of experience or training to carry out his or her assigned responsibilities, such that the individual has the actual capacity to fulfill those responsibilities.

The proposed amendments to Rule 748(g) regarding office inspections should protect investors and the public interest by minimizing the potential for conflicts of interest in the conduct of office inspections. The amendments would prohibit the required inspections from being conducted by any person within that office or location who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such a person who may be incentivized to minimize any compliance issues

identified in the inspection. The proposed amendments to Rule 748(g) concerning the examination schedule and specifically requiring that the inspection be reasonably designed to assist in preventing and detecting violations of, and achieving compliance with, applicable securities laws and regulations and with applicable Exchange rules should assure that inspections take place with a predictable and adequate frequency and are reasonably designed to identify violations of applicable law and rules.

The proposed amendments to Rule 748(h) are also designed to protect investors and the public interest, by requiring the written supervisory procedures to be preserved for a period of not less than three years, the first two in an easily accessible place, in order to facilitate identification of instances where the procedures were not followed. Stating that the written supervisory procedures and the system for applying such procedures shall reasonably be “designed” rather than “expected” to prevent and detect violations clarifies the affirmative nature of the member or member organization’s obligations under the rule when creating such procedures.

Finally, the Rule 748(h) amendment requiring members or member organizations to update their written supervisory procedures following changes in applicable securities laws and regulations, and Exchange rules should promote the continued usefulness of the procedures in the context of ongoing changes in the regulatory environment in which members and member organizations conduct their business.

#### 4. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments will apply to all members and member organizations subject to Rule 748.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Commission action.

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

Not applicable.

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

The proposed rule change is not based upon the rules of another self-regulatory organization. However, the proposed amendments contain certain language similar to that found in in Chicago Board Options Exchange (“CBOE”) Rule 4.24, Supervision.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of proposed rule 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-2016-104)

October \_\_, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing of Proposed Rule Change to Amend Phlx Rule 748, Supervision

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 14, 2016, NASDAQ 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 a proposal to amend Phlx Rule 748, Supervision, as explained further below.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.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

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

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

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange is proposing to amend several provisions of Rule 748. The proposed rule change is intended to modernize, upgrade and strengthen the Exchange's rules pertaining to supervisory obligations of its members and member organizations.

Rule 748(a)

Rule 748(a) currently provides in the first paragraph that each office, location, department, or business activity of a member or member organization (including foreign incorporated branch offices) shall be under the supervision and control of the member or member organization establishing it and of an appropriately qualified supervisor. The Exchange is amending the first paragraph of Rule 748(a) to clarify and state clearly that each trading system and internal surveillance system of a member or member organization (including foreign incorporated branch offices) shall, inasmuch as they are aspects of their business activity, be under the supervision and control of the member or member organization establishing it and of an appropriately qualified supervisor.

Rule 748(b)

Rule 748(b), Designation of Supervisor by Member Organizations, currently provides in relevant part that the general partners or directors of each member organization shall provide for appropriate supervisory control and shall designate a general partner or principal executive officer to assume overall authority and

responsibility for internal supervision and control of the organization and compliance with securities' (sic) laws and regulations, including the By-Laws and Rules of the Exchange. It provides that the designated person shall delegate to qualified principals or qualified employees responsibility and authority for supervision and control of each office, location, department, or business activity, (including foreign incorporated branch offices), and provide for appropriate written procedures of supervision and control. The Exchange proposes to amend Rule 748(b) to provide that the delegated person shall likewise delegate to qualified principals or qualified employees responsibility and authority for supervision and control of each trading system and internal surveillance system.<sup>3</sup>

Rule 748(c)

Rule 748(c) currently provides that each person with supervisory control, as described in paragraphs (a) and (b) of Rule 748, must meet the Exchange's qualification requirements for supervisors, including successful completion of the appropriate examination. The Exchange proposes to add to Rule 748(c) a new requirement that each member or member organization must make reasonable efforts to determine that each person with supervisory control, as described in paragraphs (a) and (b) of Rule 748, is qualified by virtue of experience or training to carry out his or her assigned responsibilities.

Rule 748(g)

Rule 748(g), Office Inspections, currently provides that each member or member organization for which the Exchange is the DEA shall inspect each office or location

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<sup>3</sup> The Exchange is also deleting the extraneous apostrophe following the word "securities".

(including foreign incorporated branch offices) of the member or member organization according to a cycle that shall be established in its written supervisory procedures. In establishing such inspection cycle, the member or member organization shall give consideration to the nature and complexity of the securities activities for which the office or location is responsible, the volume of business done, and the number of registered representatives, employees, and associated persons at each office or location. Rule 748(g) is proposed to be amended to provide that an inspection may not be conducted by any person within that office or location who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such person. The Exchange also proposes to add language requiring the examination schedule and an explanation of the factors considered in determining the frequency of the examinations in the cycle to be set forth in the member or member organization's written supervisory procedures. It also proposes to require that the inspection be reasonably designed to assist in preventing and detecting violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable Exchange rules.

**Rule 748(h)**

Rule 748(h) in the first paragraph currently requires each member or member organization to establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be expected to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations,

including the By-Laws and Rules of the Exchange. The Exchange proposes to substitute the word “designed” for the word “expected.”

Rule 748(h) in the second paragraph currently requires that the written supervisory procedures set forth the supervisory system established by the member or member organization and include the name, title, registration status, and location of all supervisory personnel required by this rule, the dates for which supervisory designations were or are effective, and the responsibilities of supervisory personnel as these relate to the types of business(es) the member or member organization engages in, and securities laws and regulations, including the By-Laws and Rules of the Exchange. The Exchange proposes to add a requirement that this record be preserved for a period of not less than three years, the first two in an easily accessible place.

Rule 748(h) in the third paragraph currently requires a copy of the written supervisory procedures to be kept and maintained at each location where supervisory activities are conducted on behalf of the member or member organization. It requires each member or member organization to amend its written supervisory procedures as appropriate within a reasonable time after changes occur in supervisory personnel or supervisory procedures, and to communicate such changes throughout its organization within a reasonable time. The Exchange proposes to amend Rule 748(h) to likewise amend and communicate changes to its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable securities laws and regulations and Exchange rules.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enhancing its rules relating to supervision as set forth in Rule 748. Requiring increased comprehensive supervision by members and member organizations of their activities should promote the Exchange's ability to enforce compliance by members and member organizations with the Act and the regulations thereunder.

Amending Rules 748(a) and (b) to require trading systems and internal surveillance systems to be under the supervision and control of the member or member organization establishing them and of an appropriately qualified supervisor, and requiring the general partner or principal executive officer with overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations to delegate responsibility and authority for supervision and control of each trading system and internal surveillance system to qualified principals or qualified employees, should protect investors and the public interest by specifically requiring supervision and control of these aspects of the member or member organization's business by an appropriately qualified individual.

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<sup>4</sup> 15 U.S.C. 78f(b).

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

The proposed amendment to Rule 748(c) should protect investors and the public interest by requiring that each person with supervisory control as described in Rules 748(a) and (b) to be qualified by virtue of experience or training to carry out his or her assigned responsibilities, such that the individual has the actual capacity to fulfill those responsibilities.

The proposed amendments to Rule 748(g) regarding office inspections should protect investors and the public interest by minimizing the potential for conflicts of interest in the conduct of office inspections. The amendments would prohibit the required inspections from being conducted by any person within that office or location who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such a person who may be incentivized to minimize any compliance issues identified in the inspection. The proposed amendments to Rule 748(g) concerning the examination schedule and specifically requiring that the inspection be reasonably designed to assist in preventing and detecting violations of, and achieving compliance with, applicable securities laws and regulations and with applicable Exchange rules should assure that inspections take place with a predictable and adequate frequency and are reasonably designed to identify violations of applicable law and rules.

The proposed amendments to Rule 748(h) are also designed to protect investors and the public interest, by requiring the written supervisory procedures to be preserved for a period of not less than three years, the first two in an easily accessible place, in order to facilitate identification of instances where the procedures were not followed. Stating that the written supervisory procedures and the system for applying such procedures shall reasonably be “designed” rather than “expected” to prevent and detect

violations clarifies the affirmative nature of the member or member organization's obligations under the rule when creating such procedures.

Finally, the Rule 748(h) amendment requiring members or member organizations to update their written supervisory procedures following changes in applicable securities laws and regulations, and Exchange rules should promote the continued usefulness of the procedures in the context of ongoing changes in the regulatory environment in which members and member organizations conduct their business.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments will apply to all members and member organizations subject to Rule 748.

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

No written comments were either solicited or received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2016-104 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-2016-104. 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-2016-104 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>6</sup>

Robert W. Errett  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).

**Deleted text is [bracketed]. New text is underlined.**

## NASDAQ PHLX Rules

\* \* \* \* \*

### Rule 748. Supervision

(a) *General*—Each office, location, department, [or] business activity, trading system and internal surveillance system of a member or member organization (including foreign incorporated branch offices) shall be under the supervision and control of the member or member organization establishing it and of an appropriately qualified supervisor, as described in (c) below.

Each member or member organization and registered representative, employee, and associated person of a member or member organization shall be under the supervision and control of an appropriately qualified supervisor, as described in (c) below.

For the purposes of this Rule, individuals engaged in acting as back-up specialist unit will be considered to be engaged in a business activity for the specialist unit they are assisting pursuant to Rule 501(b)(4).

(b) *Designation of Supervisor by Member Organizations*—The general partners or directors of each member organization shall provide for appropriate supervisory control and shall designate a general partner or principal executive officer to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities['] laws and regulations, including the By-Laws and Rules of the Exchange. The designated person shall:

- (1) Delegate to qualified principals or qualified employees responsibility and authority for supervision and control of each office, location, department, [or] business activity, trading system and internal surveillance system (including foreign incorporated branch offices), and provide for appropriate written procedures of supervision and control; and
- (2) Establish a separate system of follow-up and review to determine that the delegated authority and responsibility is being properly exercised.

(c) *Qualification of Supervisor*—Each member or member organization must make reasonable efforts to determine that each person with supervisory control, as described in paragraphs (a) and (b) above, is qualified by virtue of experience or training to carry out his or her assigned responsibilities. Each person with supervisory control, as described in paragraphs (a) and (b) above, must meet the Exchange's qualification requirements for supervisors, including successful completion of the appropriate examination.

(d) *Standards for Supervision*—Each person with supervisory control, as described in paragraphs (a) and (b) above, shall reasonably discharge his duties and obligations in connection with such supervision and control to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange.

(e) *Interviews or Meetings and Reviews of Business*—At least annually, each member or member organization for which the Exchange is the Designated Examining Authority ("DEA") shall:

- (1) Conduct an interview or meeting with all registered representatives, employees, or associated persons, at which compliance matters relevant to the activities of the registered representatives, employees, or associated persons are discussed; and
- (2) Conduct a review of the business(es) in which it engages, which shall be reasonably designed to assist in detecting and preventing violations of and achieving compliance with applicable securities laws and regulations, including the By-Laws and Rules of the Exchange.

Each member or member organization shall retain a written record of the dates upon which each interview or meeting and review of business occurred, the participants in the interview or meeting, and the results thereof.

(f) *Branch Offices*—Each member organization for which the Exchange is the Designated Examining Authority ("DEA") shall file with the Exchange a list identifying each of its branch offices by completing a Branch Office Disclosure Form and submitting the Form to the Exchange's Membership Department. Member organizations for which the Exchange is the DEA shall file amendments to the Branch Office Disclosure Form with the Exchange no later than thirty (30) days from the date of any change to the information in the Form. Member organizations for which the Exchange is the DEA shall provide information about its branch offices, including, but not limited to: location, designated supervisor, contact information, number of traders at the location and type of activity conducted at the branch office.

(g) *Office Inspections*—Each member or member organization for which the Exchange is the DEA shall inspect each office or location (including foreign incorporated branch offices) of the member or member organization according to a cycle that shall be established in its written supervisory procedures. An inspection may not be conducted by any person within that office or location who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such person(s). In establishing such inspection cycle, the member or member organization shall give consideration to the nature and complexity of the securities activities for which the office or location is responsible, the volume of business done, and the number of registered representatives, employees, and associated persons at each office or location. The inspection schedule and an explanation of the factors considered in determining the frequency of the inspections in the cycle shall be set forth in the member's or member organization's written supervisory procedures. The inspection shall be reasonably designed to assist in preventing and detecting violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable Exchange rules.

Each member or member organization shall retain a written record of the dates upon which each inspection is conducted, the participants in the inspection, and the results thereof.

(h) *Written Supervisory Procedures*—Each member or member organization shall establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages in and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be [expected]designed to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange.

The written supervisory procedures shall set forth the supervisory system established by the member or member organization and shall include the name, title, registration status, and location of all supervisory personnel required by this rule, the dates for which supervisory designations were or are effective, and the responsibilities of supervisory personnel as these relate to the types of business(es) the member or member organization engages in, and securities laws and regulations, including the By-Laws and Rules of the Exchange. This record must be preserved for a period of not less than three years, the first two in an easily accessible place.

A copy of the written supervisory procedures shall be kept and maintained at each location where supervisory activities are conducted on behalf of the member or member organization. Each member or member organization shall amend its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable securities laws and regulations, Exchange rules, supervisory personnel or supervisory procedures. Each member or member organization shall be responsible for communicating such changes throughout its organization within a reasonable time.

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