

Required fields are shown with yellow backgrounds and asterisks.

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

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) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

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

**Description**

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

Proposal to amend Exchange Rule 1034, Minimum Increments.

**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

**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 10/20/2016 Executive Vice President and General Counsel

By Edward S. Knight

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 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 \***

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**

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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 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 Exchange Rule 1034, Minimum Increments.

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 senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”) on August 15, 2016. Exchange staff will advise the Board of any action taken pursuant to delegated authority. 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

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

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

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

a. Purpose

The Exchange proposes to amend Rule 1034(a)(iii) to delete the current outdated provision relating to Alpha Index options which the Exchange no longer lists, and to provide that all FLEX equity and index options traded pursuant to Rule 1079, FLEX Index, Equity and Currency Options, shall have a minimum trading increment of \$.01. The Exchange will implement the amendment five days following publication of notice of the proposed rule change in the Federal Register.

FLEX equity and index options have been traded on the Exchange since 1998.<sup>3</sup> FLEX options are not continuously quoted and series are not pre-established. Rather, variable terms of FLEX options are established on the trading floor through the process described in Rule 1079. The Exchange's electronic quoting and trading system is not available for FLEX options.

Under Rule 1079(b) a Requesting Member may obtain quotes and execute trades in FLEX options at the specialist post of the non-FLEX option on the Exchange's trading floor. A Requesting Member is a Phlx member, qualified to trade FLEX options pursuant to paragraph (c) of Rule 1079, who initiates a FLEX Request For Quotes ("RFQ")

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<sup>3</sup> See Securities Exchange Act Release No. 39549 (January 14, 1998), 63 FR 3601 (January 23, 1998) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2, 4, and 5 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Traded Equity and Index Options) (SR-Phlx-96-38) (the "1998 Approval Order").

pursuant to Rule 1079(b).<sup>4</sup> In response to an RFQ, Members may enter at the FLEX post FLEX Quotes<sup>5</sup> responsive to the RFQ during a Request Response Time.<sup>6</sup>

At the expiration of the Request Response Time, the BBO is identified in accordance with the price and time priority principles set forth by the Exchange and is displayed on such market data systems as are available. If the Requesting Member has not indicated an intention to cross or act as principal with respect to any part of the FLEX trade, the member must promptly accept or reject the displayed BBO. If the Requesting Member either rejects the BBO or is given a BBO for less than the entire size requested, all FLEX participating members, other than the Requesting Member, have an opportunity during a BBO Improvement Interval to match or improve (as applicable) the BBO. At the expiration of any such BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s).

If the Requesting Member has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO is automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Requesting Member must indicate at the post the price at which the member expects to trade. The Requesting Member may participate with all

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<sup>4</sup> All transactions must be in compliance with Section 11(a) of the Securities Exchange Act of 1934 and the rules promulgated thereunder, which may include yielding priority to customer orders.

<sup>5</sup> The term “FLEX Quote” means (i) FLEX bids and offers entered by Specialists and Registered Options Traders and (ii) orders to purchase and orders to sell FLEX Options entered by Floor Brokers, in each case in response to a Request for Quotes.

<sup>6</sup> The term “Request Response Time” means the minimum period of time established by the Exchange, during which Exchange members participating in FLEX options may provide FLEX Quotes in response to a Request for Quotes.

other FLEX-participating members in attempting to improve or match the BBO during the BBO Improvement Interval at the expiration of which the Requesting Member must promptly accept or reject the BBO(s). In the case of FLEX equity options only, whenever the Requesting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the Requesting Member will be permitted to execute the contra side of the trade that is the subject of the RFQs, to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member's firm proprietary account. Notwithstanding the foregoing, all market participants may effect crossing transactions.

Rule 1034, Minimum Increments, provides that with certain exceptions all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at \$3.00 or higher shall have a minimum increment of \$.10, and all options on stocks and index options quoting in decimals under \$3.00, shall have a minimum increment of \$.05.<sup>7</sup> Rule 1034(a)(i)(A) provides that the Board of Directors may establish different minimum trading increments, and that the Exchange will designate any such change as a stated policy, practice, or interpretation with respect to the administration of Rule 1034, within the meaning of Section 19(b)(3)(A) of the Exchange Act and will file a proposed rule change with the Commission to be effective upon filing. Pursuant to Rule 1034(a)(i)(A)

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<sup>7</sup> These minimum increments are not applicable to options trading pursuant to a pilot program under Rule 1034(a)(i)(B) (the "Penny Pilot") or to complex orders entered into the trading system which may be entered in increments of \$0.01 under Rule 1098(b). Additionally, Rule 1034(a)(ii) already provides that "[a]ll options on foreign currencies where the underlying foreign currency is not the U.S. dollar shall have a minimum increment of \$.01." Accordingly, no change is proposed with respect to minimum increments for FLEX contracts in foreign currency options.

the Exchange is proposing to amend Rule 1034(a)(iii) to establish a minimum trading increment of \$.01 for all FLEX equity and index option contracts traded on the Exchange.<sup>8</sup>

To illustrate the effect of the new \$.01 minimum trading increment, assume that today a Floor Broker (in this example, the Requesting Member) wishes to cross an order to buy 1000 equity option contracts and an order sell 1000 equity option contracts in a FLEX option at a price of \$5.55.<sup>9</sup> Assume that, in response to an RFQ, the Floor Broker receives a two-sided market of \$5.00 bid /\$6.00 offered. Since the options are quoting at higher than \$3.00, the minimum increment imposed by Rule 1034(a) is \$.10. Therefore, in order for the Floor Broker to cross the two orders at a price of \$5.55 he or she would need to trade at a split price, in two separate transactions, trading 500 contracts at \$5.50 and 500 contracts \$5.60 (for a net price of \$5.55). Under Rule 1034 as proposed to be amended, however, transactions in this FLEX option would not be required to take place at increments of \$.10. The Floor Broker would therefore be able to efficiently cross the orders in a single transaction, at a price of \$5.55.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular,

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<sup>8</sup> As noted above, the Exchange is deleting the current language at Rule 1034(a)(iii) providing for Alpha Index option minimum increments as Alpha Index options are no longer listed on the Exchange.

<sup>9</sup> Assume the options are not included in the Penny Pilot.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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 increasing the range of permitted execution prices of FLEX equity and index option trades, thereby eliminating the additional trades, paperwork, time, and potential risk of manual trade input errors associated with split price transactions currently required to achieve the same net result. By providing this flexibility, the Exchange should be able to attract additional FLEX option transactions to the Exchange.

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

The Exchange does not believe that amendments proposed herein will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(1)<sup>13</sup> thereunder, the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(1).

existing rule of the SRO, and therefore has become effective. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable. However, the Exchange notes that AMEX Rule 960NY and NYSE ARCA Rule 6.72 (Trading Differentials) both provide that the minimum trading increment for option contracts traded on those Exchanges will be \$.01 for all series. Unlike AMEX and NYSE ARCA, the Exchange is proposing a \$.01 minimum trading increment only for equity and index option contracts traded in FLEX transactions pursuant to Rule 1079.

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-2016-108)

October \_\_, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Rule 1034

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, 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 amend Exchange Rule 1034, Minimum Increments.

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 received on the proposed rule change. The text of these statements may be examined at

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

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

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Rule 1034(a)(iii) to delete the current outdated provision relating to Alpha Index options which the Exchange no longer lists, and to provide that all FLEX equity and index options traded pursuant to Rule 1079, FLEX Index, Equity and Currency Options, shall have a minimum trading increment of \$.01. The Exchange will implement the amendment five days following publication of notice of the proposed rule change in the Federal Register.

FLEX equity and index options have been traded on the Exchange since 1998.<sup>3</sup> FLEX options are not continuously quoted and series are not pre-established. Rather, variable terms of FLEX options are established on the trading floor through the process described in Rule 1079. The Exchange's electronic quoting and trading system is not available for FLEX options.

Under Rule 1079(b) a Requesting Member may obtain quotes and execute trades in FLEX options at the specialist post of the non-FLEX option on the Exchange's trading floor. A Requesting Member is a Phlx member, qualified to trade FLEX options pursuant to paragraph (c) of Rule 1079, who initiates a FLEX Request For Quotes ("RFQ")

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<sup>3</sup> See Securities Exchange Act Release No. 39549 (January 14, 1998), 63 FR 3601 (January 23, 1998) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2, 4, and 5 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Traded Equity and Index Options) (SR-Phlx-96-38) (the "1998 Approval Order").

pursuant to Rule 1079(b).<sup>4</sup> In response to an RFQ, Members may enter at the FLEX post FLEX Quotes<sup>5</sup> responsive to the RFQ during a Request Response Time.<sup>6</sup>

At the expiration of the Request Response Time, the BBO is identified in accordance with the price and time priority principles set forth by the Exchange and is displayed on such market data systems as are available. If the Requesting Member has not indicated an intention to cross or act as principal with respect to any part of the FLEX trade, the member must promptly accept or reject the displayed BBO. If the Requesting Member either rejects the BBO or is given a BBO for less than the entire size requested, all FLEX participating members, other than the Requesting Member, have an opportunity during a BBO Improvement Interval to match or improve (as applicable) the BBO. At the expiration of any such BBO Improvement Interval, the Requesting Member must promptly accept or reject the BBO(s).

If the Requesting Member has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO is automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Requesting Member must indicate at the post the price at which the member expects to trade. The Requesting Member may participate with all

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<sup>4</sup> All transactions must be in compliance with Section 11(a) of the Securities Exchange Act of 1934 and the rules promulgated thereunder, which may include yielding priority to customer orders.

<sup>5</sup> The term “FLEX Quote” means (i) FLEX bids and offers entered by Specialists and Registered Options Traders and (ii) orders to purchase and orders to sell FLEX Options entered by Floor Brokers, in each case in response to a Request for Quotes.

<sup>6</sup> The term “Request Response Time” means the minimum period of time established by the Exchange, during which Exchange members participating in FLEX options may provide FLEX Quotes in response to a Request for Quotes.

other FLEX-participating members in attempting to improve or match the BBO during the BBO Improvement Interval at the expiration of which the Requesting Member must promptly accept or reject the BBO(s). In the case of FLEX equity options only, whenever the Requesting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the Requesting Member will be permitted to execute the contra side of the trade that is the subject of the RFQs, to the extent of at least 40% of the trade, provided the order is a public customer order or an order respecting the Requesting Member's firm proprietary account. Notwithstanding the foregoing, all market participants may effect crossing transactions.

Rule 1034, Minimum Increments, provides that with certain exceptions all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at \$3.00 or higher shall have a minimum increment of \$.10, and all options on stocks and index options quoting in decimals under \$3.00, shall have a minimum increment of \$.05.<sup>7</sup> Rule 1034(a)(i)(A) provides that the Board of Directors may establish different minimum trading increments, and that the Exchange will designate any such change as a stated policy, practice, or interpretation with respect to the administration of Rule 1034, within the meaning of Section 19(b)(3)(A) of the Exchange Act and will file a proposed rule change with the Commission to be effective upon filing. Pursuant to Rule 1034(a)(i)(A)

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<sup>7</sup> These minimum increments are not applicable to options trading pursuant to a pilot program under Rule 1034(a)(i)(B) (the "Penny Pilot") or to complex orders entered into the trading system which may be entered in increments of \$0.01 under Rule 1098(b). Additionally, Rule 1034(a)(ii) already provides that "[a]ll options on foreign currencies where the underlying foreign currency is not the U.S. dollar shall have a minimum increment of \$.01." Accordingly, no change is proposed with respect to minimum increments for FLEX contracts in foreign currency options.

the Exchange is proposing to amend Rule 1034(a)(iii) to establish a minimum trading increment of \$.01 for all FLEX equity and index option contracts traded on the Exchange.<sup>8</sup>

To illustrate the effect of the new \$.01 minimum trading increment, assume that today a Floor Broker (in this example, the Requesting Member) wishes to cross an order to buy 1000 equity option contracts and an order sell 1000 equity option contracts in a FLEX option at a price of \$5.55.<sup>9</sup> Assume that, in response to an RFQ, the Floor Broker receives a two-sided market of \$5.00 bid /\$6.00 offered. Since the options are quoting at higher than \$3.00, the minimum increment imposed by Rule 1034(a) is \$.10. Therefore, in order for the Floor Broker to cross the two orders at a price of \$5.55 he or she would need to trade at a split price, in two separate transactions, trading 500 contracts at \$5.50 and 500 contracts \$5.60 (for a net price of \$5.55). Under Rule 1034 as proposed to be amended, however, transactions in this FLEX option would not be required to take place at increments of \$.10. The Floor Broker would therefore be able to efficiently cross the orders in a single transaction, at a price of \$5.55.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular,

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<sup>8</sup> As noted above, the Exchange is deleting the current language at Rule 1034(a)(iii) providing for Alpha Index option minimum increments as Alpha Index options are no longer listed on the Exchange.

<sup>9</sup> Assume the options are not included in the Penny Pilot.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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 increasing the range of permitted execution prices of FLEX equity and index option trades, thereby eliminating the additional trades, paperwork, time, and potential risk of manual trade input errors associated with split price transactions currently required to achieve the same net result. By providing this flexibility, the Exchange should be able to attract additional FLEX option transactions to the Exchange.

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

The Exchange does not believe that amendments proposed herein will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

Pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(1)<sup>13</sup> thereunder, the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO, and therefore has become effective.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(1).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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-2016-108 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-2016-108. 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-2016-108 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>14</sup>

Robert W. Errett  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

**Rules of the Exchange**

\* \* \* \* \*

**Options Rules**

\* \* \* \* \*

**Rule 1034. Minimum Increments**

(a) Except as provided in sub-paragraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at \$3.00 or higher shall have a minimum increment of \$.10, and all options on stocks and index options quoting in decimals under \$3.00 shall have a minimum increment of \$.05.

(i) – (ii) No change

(iii) [All options on Alpha Indexes shall have a minimum increment of \$.01 if options on either component of the index have a minimum increment of \$.01.]The minimum trading increment for FLEX equity and index option contracts traded on the Exchange, pursuant to Rule 1079, will be one cent (\$0.01).

(iv) – (v) No change.

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