

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

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

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

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

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

A proposal to amend Rule 1042A, Exercise of Options Contracts and Options Floor Procedure Advice G-1, Index Option Exercise Advice Forms.

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 *)
 Executive Vice President and General Counsel

Date 08/22/2016
 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 EFFF website.

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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 (“Exchange” or “Phlx”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend Rule 1042A, Exercise of Options Contracts and Options Floor Procedure Advice G-1, Index Option Exercise Advice Forms. The proposed rule change will become operative thirty days following its effective date.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The Phlx Index Option Exercise Advice Form is attached as Exhibit 3. 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 July 1, 2015. 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., at (215) 496-5208.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange is amending Rule 1042A to provide additional clarity to member organizations and add additional requirements regarding the procedures to be followed in order to exercise American style index option contracts. Currently, Rule 1042A states that “[a] memorandum to exercise any American style stock index option contract, issued or to be issued in a customer, market maker or firm account at the Options Clearing Corporation must be received or prepared by the member organization no later than five minutes after the close of trading on that day and must be time-stamped at the time it is received or prepared.”³ Commentary .01 further states that “[a]ll memoranda of exercise instructions prepared pursuant to this Rule 1042A are subject to Securities and Exchange Commission rules 17a-3(a)(6) and 17a-4(b).” However, the rule does not state what a “memorandum of exercise” is. Nor does it state from whom the member organization may “receive” it.

Rule 1042A also requires a member or member organization to that intends to submit an “exercise notice” for any American style option contract(s) on behalf of a customer, specialist, Registered Options Trader, or firm account to deliver an "Exercise Advice" on a form prescribed by the Exchange, to a place designated by the Exchange, no later than five minutes after the close of trading.⁴ However, the rule does not state what an “Exercise Advice” or an “exercise notice” is, or whether they may be the same thing or a different thing, or how they relate to the “memorandum to exercise” (though

³ See existing Rule 1042A(i).

⁴ See existing Rule 1042A(ii).

both the memorandum to exercise and the exercise advice are due no later than five minutes after the close of trading). The Exchange believes therefore that the current rule is susceptible to misinterpretation and confusion on the part of the reader.

The Exchange has consequently determined to provide additional clarity to member organizations regarding procedures to be followed in order to exercise an American-style index option contract. It proposes to delete all rule text currently found in section (a) of Rule 1042A with the exception of the first part of the first sentence, which reads simply and clearly that “[w]ith respect to index option contracts, clearing members are required to follow the procedures of the Options Clearing Corporation for tendering exercise notices”. In place of the deleted text, the Exchange proposes to adopt several new provisions that clearly articulate the procedures to be followed.

The new language specifies that Clearing Members must follow the procedures of the Options Clearing Corporation (“OCC”) when exercising American-style cash-settled index options contracts issued or to be issued in any account at OCC. Member organizations must also observe certain procedures with respect to American-style cash-settled index options. Specifically, for all contracts exercised by the member organization or by any customer of the member organization, an "exercise advice" must be delivered by the member organization in such form or manner prescribed by the Exchange no later than five (5) minutes after the close of trading on that day.⁵ Subsequent to the delivery of an "exercise advice," should the member organization or a customer of the member organization determine not to exercise all or part of the advised contracts, the member organization must also deliver an "advice cancel" in such form or

⁵ See proposed Rule 1042A(i). An exercise advice is a notification to the Exchange of a member’s intention to exercise one or more options contracts.

manner prescribed by the Exchange no later than five (5) minutes after the close of trading on that day.⁶ These procedures would not apply on the business day prior to expiration in a series expiring on a day other than a business day, or on the expiration day in series expiring on a business day.⁷

The new rule language also adds some new provisions not covered by the existing rule text. It provides that the Exchange may determine to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to this paragraph if unusual circumstances are present.⁸ It prohibits member organizations from time stamping or submitting an "exercise advice" prior to the purchase of the contracts to be exercised if the member organization knew or had reason to know that the contracts had not yet been purchased.⁹ The new language adds a provision specifying that the failure of any member organization to follow the procedures in the rule could result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Exchange.¹⁰ The new language also states that preparing or submitting an "exercise

⁶ See proposed Rule 1042A(ii).

⁷ See proposed Rule 1042A(vii). Existing Rule 1042A(b) is being deleted as redundant.

⁸ See proposed Rule 1042A(iii).

⁹ See proposed Rule 1042A(iv).

¹⁰ See proposed Rule 1042A(v). Exchange Rule 960.1 provides that any member alleged to have violated rules of the Exchange shall be subject to the disciplinary jurisdiction of the Exchange, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, fine, censure, limitation or termination as to activities, functions, operations, or association with a member or member organization, or any other fitting sanction in accordance with the provisions of the Exchange's disciplinary rules.

advice" or "advice cancel" after the applicable deadline on the basis of material information released after such deadline, in addition to constituting a violation of the Rule, is activity inconsistent with just and equitable principles of trade.¹¹

The new language requires each member organization to prepare a memorandum of every exercise instruction received showing by time stamp the time when such instruction was so received. It provides that such memoranda shall be subject to the requirements of Commission Rule 17a-4(b).¹² Finally, the new language requires each member organization to establish fixed procedures to ensure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options.¹³

The Exchange also proposes to amend Options Floor Procedure Advice ("OFPA") G-1 by conforming it to the requirements of updated Rule 1042A. References to a specific "Exercise Advice Form" are replaced with general references to exercise advices to eliminate any suggestion that a specified form must be used in order to comply with Rule 1042A. The Exchange intends that any written evidence reflecting that Rule

¹¹ See proposed Rule 1042A(vi).

¹² See proposed Rule 1042A(viii). The Exchange is deleting existing Commentary .01 of Rule 1042A as redundant. The Exchange believes that including the requirement in the text of the rule rather than as a "Commentary" is a preferable approach in terms of organization and presentation of the rule. Although the proposed language does not contain the requirement that memoranda of exercise instructions are subject to Commission Rule 17a-3(a)(6), the Exchange notes that the rule upon which its proposal is based, NOM Rulebook Chapter VIII, Exercises and Deliveries, Section 1, Exercise of Options Contracts, Supplementary Material .02, does not contain this requirement. The Exchange seeks to conform its Rule 1042A to the counterpart NOM rule in this respect.

¹³ See proposed Rule 1042A(ix).

1042A's requirements have been met will be sufficient to constitute an exercise advice.¹⁴ The amendments also eliminate an outdated reference to C/MACS, which is no longer in use at OCC¹⁵, and modify the OFPA to reflect that expiration now typically occurs on a business day rather than on a Saturday.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁷ in particular, in that it is designed to promote just and equitable principles of trade, to remove

¹⁴ The Exchange currently does not require the use of a specific form of exercise advice. Nonetheless, certain floor-based members currently use a "Phlx Index Option Exercise Advice Form." The Exchange has attached as Exhibit 3 a revised version of the form, updated to conform to this proposed rule change. These updates include (1) the addition of a statement that the rule does not apply in series expiring on a day other than a business day or on the expiration day in series expiring on a business day, (2) the deletion of capitalization of the terms memorandum of exercise and exercise advice, as these are not defined terms in the rule, (3) the addition of a reference to memorandum of exercise instructions, which is a term used in the rule, (4) the deletion of a statement that the form must be time stamped "contemporaneously with its submission" and addition of new language that conforms to the rule, (5) the adjustment of a cross reference to the rule, in order for the form to refer to the correct rule section required by the context, and (6) the updating of the name of the Exchange from Philadelphia Stock Exchange to NASDAQ OMX PHLX. Members may continue to use the form, updated as reflected in Exhibit 3, if they choose to do so. Members will also be able to continue to fill the Rule 1042A exercise advice requirements by sending an email to the Exchange, or by providing the required exercise advice notification in any other manner directed by the Exchange. The Exchange accepts the time indicated on an email as satisfaction of the time stamp requirement.

¹⁵ According to OCC, C/MACS was an on-line, menu-driven system that allowed OCC member firms to access or input trade information directly from or to OCC's clearing systems. See Securities Exchange Act Release No. 35982 (July 18, 1995), 60 FR 38072 (July 25, 1995), at footnote 6.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

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 adding rules providing clear procedures concerning exercise of American index options. Rule 1042A is intended to provide for the maintenance of a level playing field between holders of long and short positions in expiring index options. After trading has ended on the final trading day before expiration, persons who are short the option have no way to close out their short positions. To put option holders on equal footing, the rule minimizes the time period in which a holder can exercise an index option after the close of trading on the last business day prior to expiration in series expiring on a day other than a business day or on the expiration day in series expiring on a business day.

The Exchange believes that the introductory language of Rule 1042A as revised, as well as sections (i), (vii) and (viii) largely restate the existing rule, but in a much more clear and understandable way. New sections (ii) and (iii) provide, respectively, for the delivery of “advice cancels” if made on a timely basis and for the extension of applicable deadlines for delivery of exercise advices and advice cancel notifications in unusual circumstances. The advice cancel language codifies existing practice that is not spelled out in the current rule, and the rule providing for extension of deadlines provides the Exchange with flexibility to deal with unusual market circumstances in a way that is fair to market participants. New subsection (iv) clearly prohibits the preparation, time stamping or submitting an “exercise advice” prior to the purchase of the contracts to be exercised, if the member organization knew or had reason to know that the contracts had not yet been purchased. New sections (v) and (vi) articulate clearly that violation of Rule 1042A may result in consequences including disgorgement and that preparing or

submitting an exercise advice or advice cancel after the applicable deadline on the basis of material information released after the deadline violates Rule 1042A and constitutes activity inconsistent with just and equitable principles of trade. These provisions should discourage lack of compliance with Rule 1042A. Finally, compliance should be enhanced by the adoption of section (ix), a new requirement to establish procedures to ensure secure time stamps for the recording of submissions to exercise or not exercise expiring options. The proposed amendments to OFPA G-1 are designed to promote just and equitable principles of trade and to protect investors and the public interest by conforming it to the requirements of updated Rule 1042A, eliminating potential confusion concerning a requirement that a specified form must be used in order to comply with Rule 1042A, eliminating an outdated reference to C/MACS, reflecting current practice that exercise advices may be delivered to Exchange staff in the trading crowd as well as at the Surveillance Post on the Exchange floor, and acknowledging that expiration now typically occurs on a business day rather than on a Saturday.

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 because the rule provides additional detail and requirements relating to procedures for exercise of American index options that apply to all members equally.

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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹⁸ of the Act and Rule 19b-4(f)(6) thereunder¹⁹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange believes this proposed rule change does not significantly affect the protection of investors or the public interest and it does not impose any significant burden on competition because it largely provides additional detail and requirements regarding the procedures for member organizations to follow in connection with the exercise of American style index options and regarding the consequences of failure to comply with the procedures, as discussed above. Rule 1042A (iii) is a new provision stating that the Exchange may extend the deadline for delivery of exercise advices and advice cancels and is in the public interest in that it provides the Exchange explicit authority to deal with unusual circumstances if required. Rule 1042A(iv) is a new provision prohibiting members from time stamping or submitting an exercise advice prior to the purchase of the contracts to be exercised and is in the public interest because it eliminates the possibility that a member that fails to actually obtain the contracts will be assigned to deliver them. Finally, the new 1042A(ix) requirement to establish fixed procedures to ensure secure time stamps in connection with members' electronic systems is in the

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6).

public interest because it should prevent inaccurate time stamps which could adversely impact the Exchange's surveillance for compliance with Rule 1042A.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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.

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

The amended language of Rule 1042A is based upon and nearly identical to that of Chapter VIII, Exercises and Deliveries, Section 1, Exercise of Options Contracts, subsection (l)(i) – (vii) and Supplementary Material .02 and .04, of the NOM rulebook (the “NOM Rule”).²⁰ The Exchange did not add provisions limiting exercise comparable to those in subsection l(viii) of the NOM Rule, inasmuch as Exchange Rule 1006(a)(iii)

²⁰ Section l(i) and Supplementary Material .02 of the NOM Rule differ slightly from the language of proposed Exchange Rules 1042A(i) and (viii) in that the Exchange rules would explicitly require exercise advices and memoranda of exercise to bear a time stamp, consistent with existing Exchange requirements set forth in OFPA G-1. Additionally, unlike the requirements of Sections l(i) and (ii) of the NOM Rule, the Exchange is not permitting exercise advices and advice cancels to be submitted up to 4:20 p.m. on a routine basis. Rather, as is the case today, it will require these submissions to be made no later than five minutes after the close of trading.

already limits exercise in cases of delayed, halted or suspended trading. Similarly, the Exchange did not include provisions comparable to those in Supplementary Material .01 of the NOM Rule because the terms it defines, “customer account” and “noncustomer account,” are not being used in the Exchange’s rule. Finally, the Exchange did not include provisions comparable to Supplementary Material .05 of the NOM Rule as that language does not apply in any event to the portions of the NOM Rule upon which this proposed rule change is based.

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.
 3. Phlx Index Option Exercise Advice Form.
 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2016-84)

August __, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 1042A, Exercise of Options Contracts and Options Floor Procedure Advice G-1, Index Option Exercise Advice Forms

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 22, 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 Rule 1042A, Exercise of Options Contracts and Options Floor Procedure Advice G-1, Index Option Exercise Advice Forms

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The Exchange is amending Rule 1042A to provide additional clarity to member organizations and add additional requirements regarding the procedures to be followed in order to exercise American style index option contracts. Currently, Rule 1042A states that “[a] memorandum to exercise any American style stock index option contract, issued or to be issued in a customer, market maker or firm account at the Options Clearing Corporation must be received or prepared by the member organization no later than five minutes after the close of trading on that day and must be time-stamped at the time it is received or prepared.”³ Commentary .01 further states that “[a]ll memoranda of exercise instructions prepared pursuant to this Rule 1042A are subject to Securities and Exchange Commission rules 17a-3(a)(6) and 17a-4(b).” However, the rule does not state what a “memorandum of exercise” is. Nor does it state from whom the member organization may “receive” it.

³ See existing Rule 1042A(i).

Rule 1042A also requires a member or member organization to that intends to submit an “exercise notice” for any American style option contract(s) on behalf of a customer, specialist, Registered Options Trader, or firm account to deliver an "Exercise Advice" on a form prescribed by the Exchange, to a place designated by the Exchange, no later than five minutes after the close of trading.⁴ However, the rule does not state what an “Exercise Advice” or an “exercise notice” is, or whether they may be the same thing or a different thing, or how they relate to the “memorandum to exercise” (though both the memorandum to exercise and the exercise advice are due no later than five minutes after the close of trading). The Exchange believes therefore that the current rule is susceptible to misinterpretation and confusion on the part of the reader.

The Exchange has consequently determined to provide additional clarity to member organizations regarding procedures to be followed in order to exercise an American-style index option contract. It proposes to delete all rule text currently found in section (a) of Rule 1042A with the exception of the first part of the first sentence, which reads simply and clearly that “[w]ith respect to index option contracts, clearing members are required to follow the procedures of the Options Clearing Corporation for tendering exercise notices”. In place of the deleted text, the Exchange proposes to adopt several new provisions that clearly articulate the procedures to be followed.

The new language specifies that Clearing Members must follow the procedures of the Options Clearing Corporation (“OCC”) when exercising American-style cash-settled index options contracts issued or to be issued in any account at OCC. Member organizations must also observe certain procedures with respect to American-style cash-

⁴ See existing Rule 1042A(ii).

settled index options. Specifically, for all contracts exercised by the member organization or by any customer of the member organization, an "exercise advice" must be delivered by the member organization in such form or manner prescribed by the Exchange no later than five (5) minutes after the close of trading on that day.⁵ Subsequent to the delivery of an "exercise advice," should the member organization or a customer of the member organization determine not to exercise all or part of the advised contracts, the member organization must also deliver an "advice cancel" in such form or manner prescribed by the Exchange no later than five (5) minutes after the close of trading on that day.⁶ These procedures would not apply on the business day prior to expiration in a series expiring on a day other than a business day, or on the expiration day in series expiring on a business day.⁷

The new rule language also adds some new provisions not covered by the existing rule text. It provides that the Exchange may determine to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to this paragraph if unusual circumstances are present.⁸ It prohibits member organizations from time stamping or submitting an "exercise advice" prior to the purchase of the contracts to be exercised if the member organization knew or had reason to know that the contracts

⁵ See proposed Rule 1042A(i). An exercise advice is a notification to the Exchange of a member's intention to exercise one or more options contracts.

⁶ See proposed Rule 1042A(ii).

⁷ See proposed Rule 1042A(vii). Existing Rule 1042A(b) is being deleted as redundant.

⁸ See proposed Rule 1042A(iii).

had not yet been purchased.⁹ The new language adds a provision specifying that the failure of any member organization to follow the procedures in the rule could result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Exchange.¹⁰ The new language also states that preparing or submitting an "exercise advice" or "advice cancel" after the applicable deadline on the basis of material information released after such deadline, in addition to constituting a violation of the Rule, is activity inconsistent with just and equitable principles of trade.¹¹

The new language requires each member organization to prepare a memorandum of every exercise instruction received showing by time stamp the time when such instruction was so received. It provides that such memoranda shall be subject to the requirements of Commission Rule 17a-4(b).¹² Finally, the new language requires each

⁹ See proposed Rule 1042A(iv).

¹⁰ See proposed Rule 1042A(v). Exchange Rule 960.1 provides that any member alleged to have violated rules of the Exchange shall be subject to the disciplinary jurisdiction of the Exchange, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, fine, censure, limitation or termination as to activities, functions, operations, or association with a member or member organization, or any other fitting sanction in accordance with the provisions of the Exchange's disciplinary rules.

¹¹ See proposed Rule 1042A(vi).

¹² See proposed Rule 1042A(viii). The Exchange is deleting existing Commentary .01 of Rule 1042A as redundant. The Exchange believes that including the requirement in the text of the rule rather than as a "Commentary" is a preferable approach in terms of organization and presentation of the rule. Although the proposed language does not contain the requirement that memoranda of exercise instructions are subject to Commission Rule 17a-3(a)(6), the Exchange notes that the rule upon which its proposal is based, NOM Rulebook Chapter VIII, Exercises and Deliveries, Section 1, Exercise of Options Contracts, Supplementary Material .02, does not contain this requirement. The Exchange seeks to conform its Rule 1042A to the counterpart NOM rule in this respect.

member organization to establish fixed procedures to ensure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options.¹³

The Exchange also proposes to amend Options Floor Procedure Advice (“OFPA”) G-1 by conforming it to the requirements of updated Rule 1042A. References to a specific “Exercise Advice Form” are replaced with general references to exercise advices to eliminate any suggestion that a specified form must be used in order to comply with Rule 1042A. The Exchange intends that any written evidence reflecting that Rule 1042A’s requirements have been met will be sufficient to constitute an exercise advice.¹⁴ The amendments also eliminate an outdated reference to C/MACS, which is no longer in

¹³ See proposed Rule 1042A(ix).

¹⁴ The Exchange currently does not require the use of a specific form of exercise advice. Nonetheless, certain floor-based members currently use a “Phlx Index Option Exercise Advice Form.” The Exchange has attached as Exhibit 3 a revised version of the form, updated to conform to this proposed rule change. These updates include (1) the addition of a statement that the rule does not apply in series expiring on a day other than a business day or on the expiration day in series expiring on a business day, (2) the deletion of capitalization of the terms memorandum of exercise and exercise advice, as these are not defined terms in the rule, (3) the addition of a reference to memorandum of exercise instructions, which is a term used in the rule, (4) the deletion of a statement that the form must be time stamped “contemporaneously with its submission” and addition of new language that conforms to the rule, (5) the adjustment of a cross reference to the rule, in order for the form to refer to the correct rule section required by the context, and (6) the updating of the name of the Exchange from Philadelphia Stock Exchange to NASDAQ OMX PHLX. Members may continue to use the form, updated as reflected in Exhibit 3, if they choose to do so. Members will also be able to continue to fill the Rule 1042A exercise advice requirements by sending an email to the Exchange, or by providing the required exercise advice notification in any other manner directed by the Exchange. The Exchange accepts the time indicated on an email as satisfaction of the time stamp requirement.

use at OCC¹⁵, and modify the OFPA to reflect that expiration now typically occurs on a business day rather than on a Saturday.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁷ 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 adding rules providing clear procedures concerning exercise of American index options. Rule 1042A is intended to provide for the maintenance of a level playing field between holders of long and short positions in expiring index options. After trading has ended on the final trading day before expiration, persons who are short the option have no way to close out their short positions. To put option holders on equal footing, the rule minimizes the time period in which a holder can exercise an index option after the close of trading on the last business day prior to expiration in series expiring on a day other than a business day or on the expiration day in series expiring on a business day.

The Exchange believes that the introductory language of Rule 1042A as revised, as well as sections (i), (vii) and (viii) largely restate the existing rule, but in a much more clear and understandable way. New sections (ii) and (iii) provide, respectively, for the

¹⁵ According to OCC, C/MACS was an on-line, menu-driven system that allowed OCC member firms to access or input trade information directly from or to OCC's clearing systems. See Securities Exchange Act Release No. 35982 (July 18, 1995), 60 FR 38072 (July 25, 1995), at footnote 6.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

delivery of “advice cancels” if made on a timely basis and for the extension of applicable deadlines for delivery of exercise advices and advice cancel notifications in unusual circumstances. The advice cancel language codifies existing practice that is not spelled out in the current rule, and the rule providing for extension of deadlines provides the Exchange with flexibility to deal with unusual market circumstances in a way that is fair to market participants. New subsection (iv) clearly prohibits the preparation, time stamping or submitting an “exercise advice” prior to the purchase of the contracts to be exercised, if the member organization knew or had reason to know that the contracts had not yet been purchased. New sections (v) and (vi) articulate clearly that violation of Rule 1042A may result in consequences including disgorgement and that preparing or submitting an exercise advice or advice cancel after the applicable deadline on the basis of material information released after the deadline violates Rule 1042A and constitutes activity inconsistent with just and equitable principles of trade. These provisions should discourage lack of compliance with Rule 1042A. Finally, compliance should be enhanced by the adoption of section (ix), a new requirement to establish procedures to ensure secure time stamps for the recording of submissions to exercise or not exercise expiring options. The proposed amendments to OFPA G-1 are designed to promote just and equitable principles of trade and to protect investors and the public interest by conforming it to the requirements of updated Rule 1042A, eliminating potential confusion concerning a requirement that a specified form must be used in order to comply with Rule 1042A, eliminating an outdated reference to C/MACS, reflecting current practice that exercise advices may be delivered to Exchange staff in the trading

crowd as well as at the Surveillance Post on the Exchange floor, and acknowledging that expiration now typically occurs on a business day rather than on a Saturday.

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 because the rule provides additional detail and requirements relating to procedures for exercise of American index options that apply to all members equally.

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 Act¹⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁹

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

¹⁸ 15 U.S.C. 78s(b)(3)(a)(iii).

¹⁹ 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.

Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2016-84 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-2016-84. 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-2016-84 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.²⁰

Robert W. Errett
Deputy Secretary

²⁰ 17 CFR 200.30-3(a)(12).

PHLX Index Option Exercise Advice Form

(Filed pursuant to Rule 1042A and Advice G-1)

I, the undersigned, hereby notify NASDAQ OMX PHLX that I intend to exercise the following American style index option contract(s) on this date. I understand that, in accordance with Exchange Rule 1042A, this form must be completed, time stamped and submitted to the Exchange Staff at the Options Surveillance Post or in the trading crowd within 5 minutes of the close of each respective index option, regardless of trading hour modifications or extensions ("cut-off time"), except the last business day prior to the expiration date for such options in series expiring on a day other than a business day or on the expiration day in series expiring on a business day. I further understand the filing of this form does not relieve me of my obligation to prepare a memorandum of exercise instructions pursuant to Exchange Rule 1042A(viii).

The exercise intentions noted on this form may be amended by the submission of a new exercise advice form for the same series, which replaces the prior submission in its entirety; if no contracts are to be exercised, that series must be listed on the amended form followed by a zero. I understand that any such amendment must be submitted to the Surveillance Post or Exchange Staff in the trading crowd by the applicable cut-off time. I also understand that my exercise instruction to the Options Clearing Corporation must be consistent with the intentions noted on this form (as amended, if applicable).

PHLX Firm Acct. # _____ Date: _____

Submission (check one): Original Amendment

Acct Type (check one): ROT/Spec. Firm Customer

| ROT/Spec. or Cust. Acct. # | Quantity | Index Symbol | Month | Strike | Put/Call |
|----------------------------|----------|--------------|-------|--------|----------|
| | | | | | |
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List FLEX Options Below:

| ROT/Spec. or Cust. Acct. #- | Quantity | Put/Call | Root Symbol | Month | Day | Strike | Settlement Type |
|-----------------------------|----------|----------|-------------|-------|-----|--------|-----------------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Authorized Signature _____

Print Name _____

Exhibit 5

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

Rules of the Exchange

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Options Rules

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Rule 1042A. Exercise of Option Contracts

[(a)] With respect to index option contracts, clearing members are required to follow the procedures of the Options Clearing Corporation for tendering exercise notices[, and member organizations are also required to comply with the following procedures and to exercise the amount of option contracts indicated pursuant to subsections (i) and (ii) below:

- (i) **Memorandum to Exercise**—A memorandum to exercise any American style stock index option contract, issued or to be issued in a customer, market maker or firm account at the Options Clearing Corporation must be received or prepared by the member organization no later than five minutes after the close of trading on that day and must be time-stamped at the time it is received or prepared.
- (ii) **Exercise Advices**—In addition to the requirements above, any member or member organization that intends to submit an exercise notice for any American style option contract(s) on behalf of a customer, specialist, Registered Options Trader, or firm account must deliver an "Exercise Advice" on a form prescribed by the Exchange, to a place designated by the Exchange, no later than five minutes after the close of trading]. Clearing Members must follow the procedures of the Options Clearing Corporation when exercising American-style cash-settled index options contracts issued or to be issued in any account at the Option Clearing Corporation. Member organizations must also follow the procedures set forth below with respect to American-style cash-settled index options:

(i) For all contracts exercised by the member organization or by any customer of the member organization, an "exercise advice" must be time stamped and delivered by the member organization in such form or manner prescribed by the Exchange no later than five (5) minutes after the close of trading on that day.

(ii) Subsequent to the delivery of an "exercise advice," should the member organization or a customer of the member organization determine not to exercise all or part of the advised contracts, the member organization must also deliver an "advice cancel" in such

form or manner prescribed by the Exchange no later than five (5) minutes after the close of trading on that day.

(iii) The Exchange may determine to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to this paragraph if unusual circumstances are present.

(iv) No member organization may time stamp or submit an "exercise advice" prior to the purchase of the contracts to be exercised if the member organization knew or had reason to know that the contracts had not yet been purchased.

(v) The failure of any member organization to follow the procedures in this rule may result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Exchange.

(vi) Preparing or submitting an "exercise advice" or "advice cancel" after the applicable deadline on the basis of material information released after such deadline, in addition to constituting a violation of this Rule, is activity inconsistent with just and equitable principles of trade.

(vii) The procedures set forth in subparagraphs (i)-(ii) above do not apply (a) on the business day prior to expiration in series expiring on a day other than a business day or (b) on the expiration day in series expiring on a business day.

(viii) Each member organization shall prepare a memorandum of every exercise instruction received showing by time stamp the time when such instruction was so received. Such memoranda shall be subject to the requirements of SEC Rule 17a-4(b).

(ix) Each member organization shall establish fixed procedures to ensure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options.

[(b) The provisions of paragraph (a) of this Rule 1042A are not applicable with respect to any series of stock index options on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the business day prior to the expiration date of such series of options.

••• *Commentary:* -----

.01 All memoranda of exercise instructions prepared pursuant to this Rule 1042A are subject to Securities and Exchange Commission rules 17a-3(a)(6) and 17a-4(b).]

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OPTION FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS

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G. INDICES

G-1 Index Option Exercise Advices [Forms]

In accordance with the provisions of Exchange Rule 1042A, all Specialists, ROTs, customers and Firms must complete an [Exercise Advice Form]exercise advice when exercising any American style index option contract(s) and exercise the amount of option contracts indicated on the [Exercise Advice Form]exercise advice.

Specialists, ROTs, customers and Firms must time stamp and submit the completed [Exercise Advice Form]exercise advice to Exchange staff at the Surveillance Post or in the trading crowd no later than five minutes after the close of trading on the day of the exercise with respect to any American style index option traded on the Exchange. Exercise [A]advices for index options are not required on (a) the business day prior to expiration in series expiring on a day other than a business day or (b) the expiration day in series expiring on a business day.[the last business day prior to expiration for that particular series.]

Those Firms utilizing the electronic [Clearing Management and Control System (C/MACS)] systems of the Options Clearing Corporation to meet the time requirements of this Advice must transmit to the Options Clearing Corporation index exercise instructions according to the time frames described above.

The fine schedule below provides sanctions for infractions of the index option [Exercise Advice Form]exercise advice procedures which are minor in nature. Any violation of the procedure which has been deemed serious by the Exchange will be referred directly to the Exchange's Business Conduct Committee where stronger sanctions may result.

FINE SCHEDULE (Implemented on a two-year running calendar basis)

| | |
|-------------------------------|---|
| 1st Occurrence | \$250.00 |
| 2nd Occurrence | \$500.00 |
| 3rd Occurrence | \$1,000.00 |
| 4th Occurrence and Thereafter | Sanction is discretionary with Business Conduct Committee |

* * * * *