

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 39	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2017 - * 94	Amendment No. (req. for Amendments *)
Filing by Nasdaq PHLX LLC Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <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 type="checkbox"/> 19b-4(f)(6)	
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
<b>Description</b>				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="A new Rule 1081, entitled Electronic Market Maker Obligations and Quoting"/>				
<b>Contact Information</b>				
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.				
First Name *	<input type="text" value="Angela"/>	Last Name *	<input type="text" value="Dunn"/>	
Title *	<input type="text" value="Principal Associate General Counsel"/>			
E-mail *	<input type="text" value="angela.dunn@nasdaq.com"/>			
Telephone *	<input type="text" value="(215) 496-5692"/>	Fax	<input type="text"/>	
<b>Signature</b>				
Pursuant to the requirements of the Securities Exchange Act of 1934,				
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.				
(Title *)				
Date	<input type="text" value="11/03/2017"/>	<input type="text" value="Executive Vice President and General Counsel"/>		
By	<input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(Name *)				
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.				
<input type="button" value="edward.knight@nasdaq.com"/>				

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

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

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

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

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

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

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) Nasdaq Phlx, LLC (“Phlx” or the “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 new Rule 1081, entitled “Electronic Market Maker Obligations and Quoting” to amend electronic quoting obligations for market makers<sup>3</sup>.

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1 and the text of the amended Exchange Rule is at Exhibit 5.

(b) Not applicable.

(c) Not applicable.

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

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

<sup>3</sup> On Phlx a market maker includes Specialists and Registered Options Traders (“ROTs”) (which includes Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”)) and non-SQT ROTs. A Specialist is an Exchange member who is registered as an options Specialist. See Phlx Rule 1020(a). A ROT is a regular member or a foreign currency options participant of the Exchange who has received permission from the Exchange to trade in options for his own account. See Rule 1014(b)(i). An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned. See Rule 1014(b)(ii)(A). An RSQT is an ROT that is a member affiliated with and RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. See Rule 1014(b)(ii)(B). For purposes of this rule changes electronic Specialists, SQTs and RSQTs shall be collectively referred to as “Market Makers.”

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on June 21, 2017. No other action is necessary for the filing of the rule change.

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

Angela Saccomandi Dunn  
Principal Associate General Counsel  
Nasdaq, Inc.  
215-496-5692.

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

a. Purpose

The purpose of this rule change is to reserve the current quoting obligations in Rule 1014(b)(ii)(D) and adopt new Rule 1081, which is currently reserved, to describe the obligations of electronic Market Makers on Phlx and the respective quoting obligations for electronic Market Markers. The Exchange proposes to entitle Rule 1081, "Electronic Market Maker Obligations and Quoting" and adopt language similar to rule text contained in NASDAQ BX, Inc. ("BX") Rules at Chapter VII, Sections 5 and 6.

The Exchange proposes to adopt new sections (a) and (b) of Rule 1081 to specify the various obligations of electronic Market Makers on Phlx. Generally, the Exchange proposes to indicate that a ROT's transactions must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those members or member organizations should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Specifically, a ROT must: (i) maintain a two-sided market in those options in which the ROT is registered to trade, in a manner that enhances the depth, liquidity and competitiveness of the market; (ii)

engage, to a reasonable degree under the existing circumstances, in dealings for their own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class; (iii) compete with other ROT firms in all options in all capacities in which the ROT firms are registered to trade;<sup>4</sup> (iv) update quotations in response to changed market conditions in all options in which ROTs are registered to trade; (v) maintain active markets in all options in which the ROT is registered; (vi) honor all orders attributed to the ROT that the trading system (hereinafter “System”) routes to away markets pursuant to Rule 1080(m).<sup>5</sup> The Exchange also proposes to require at proposed Rule 1081(a)(vii) that ROTs should not effect purchases or sales except in a reasonable and orderly manner.<sup>6</sup> Similar to BX Rules at Chapter VII, Section 5(c), Phlx proposes at Rule 1081(b) to provide, “If Phlx Regulation finds any substantial or continued failure to engage in a course of dealings as specified in paragraph (a) of this section, the Exchange will institute disciplinary action or suspension or revocation of registration in one or more of the securities in which the ROT is registered. Nothing in this rule will limit any other power of the Board under these Rules, or procedures of Phlx with respect to the registration of an ROT or in respect of any violation by an ROT pursuant to this rule.”

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<sup>4</sup> SQTs must compete with other SQTs.

<sup>5</sup> Proposed Phlx Rule 1081(a)(i) – (vii) are similar to BX Rules at Chapter VII, Section 5(a).

<sup>6</sup> BX Rules have similar obligations at Chapter VII, Section 5(b).

The Exchange believes that the addition of these obligations will provide additional context as to the obligations of electronic Market Makers on Phlx.

### Current Quoting Requirements

The Exchange proposes to amend the current market making quoting obligations at Rule 1014(b)(ii)(D). Currently, Phlx requires that when an RSQT<sup>7</sup> functions as a Remote Specialist in particular options, an SQT and an RSQT shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQT or RSQT is assigned, provided that, on any given day, a Directed SQT or a Directed RSQT shall be responsible to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair,<sup>8</sup> in each case in at least 60% of the options in which such Directed SQT or Directed RSQT is assigned. Whenever a Directed SQT or Directed RSQT enters a quotation in an option in which such Directed SQT or Directed RSQT is assigned, such Directed SQT or Directed RSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable quoting requirements with respect to quoting a series, an SQT, RSQT, Directed SQT, or Directed RSQT must quote such series 90% of the trading day (as a percentage of the total number

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<sup>7</sup> With respect to RSQTS, the quoting requirements in this Rule 1081(c)(ii)(A) shall apply to the extent that the RSQT functions as a Remote Specialist. Similar language is contained in Rule 1014(b)(ii)(D)(1) and (4).

<sup>8</sup> A “call-put pair” refers to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price. See Rule 1014(b)(ii)(D)(6).

of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.

With respect to a Specialist, the Exchange requires, “The Specialist (including the RSQT functioning as a Remote Specialist in particular options) shall be responsible to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such Specialist is assigned. To satisfy the quoting with respect to quoting a series, the Specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.”

The current rule text further states that these obligations apply collectively to all appointed issues of the Specialist, rather than on an issue-by-issue basis. Compliance is determined on a monthly basis. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve the Specialist (including the RSQT functioning as a Remote Specialist in particular options) of the obligation to provide continuous two-sided quotes on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against the Specialist (including the RSQT functioning as a Remote Specialist in particular options) for failing to meet the continuous quoting obligation each trading day. Further, the Exchange may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. SQTs, RSQTs and the Specialist assigned in such option shall submit electronic quotations with a size of not less than the minimum number of contracts determined by the Exchange on a class by class basis, which minimum shall be at least one contract. Notwithstanding the

foregoing, SQTs, Directed SQTs, RSQTs<sup>9</sup> and Directed RSQTs shall be deemed not to be assigned in any Quarterly Option Series, any adjusted option series,<sup>10</sup> and any option series until the time to expiration for such series is less than nine months. The obligations do not apply to SQTs, Directed SQTs, RSQTs and Directed RSQTs respecting Quarterly Option Series, adjusted option series, and series with an expiration of nine months or greater. If a technical failure or limitation of a system of the Exchange prevents a participant from maintaining, or prevents a participant from communicating to the Exchange, timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under Rule 1014(b)(ii)(D) with respect to the affected quotes.

#### Proposed Quoting Requirements

The Exchange proposes to amend its electronic quoting requirements at proposed Rule 1081(c). With respect to ROTs, similar to the existing Phlx language at Rule 1014(b)(ii)(D)(3), the Exchange proposes to continue to require the best bid and best offer entered by an ROT to have a size of not less than the minimum number of contracts determined by the Exchange on a class by class basis, which minimum shall be at least one (1) contract. Further, the rule text specifies that a ROT's bid and offer for a series of options contracts shall be accompanied by the number of contracts at that price the ROT

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<sup>9</sup> This provision does not apply to RSQTs when they are functioning as Remote Specialists in particular options.

<sup>10</sup> Phlx defines an adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.



is willing to buy or sell.<sup>11</sup> This language is similar to BX Rules at Chapter VII, Section 6(a).

The Exchange proposes language at Rule 1081(c)(ii) that requires a ROT that enters a bid (offer) in a series of an option in which he is registered on Phlx to enter an offer (bid).<sup>12</sup> This requirement to maintain a two-sided quote is similar is required today on Phlx.<sup>13</sup>

Proposed Rule 1081(c)(ii)(a)(i)(A) requires a ROT to enter continuous bids and offers for 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as Phlx may announce in advance. This requirement is not being amended.<sup>14</sup>

Proposed Rule 1081(c)(ii)(b)(i)(A) requires a Specialist to enter continuous bids and offers for 90% of the time the Exchange is open for trading in each issue. This is an amendment from the current Phlx requirement which requires a Specialist to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such Specialist is assigned. To satisfy the requirement the Specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.<sup>15</sup>

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<sup>11</sup> See proposed Phlx Rule 1081(c)(i).

<sup>12</sup> See proposed Phlx Rule 1081(c)(ii).

<sup>13</sup> See Phlx Rule 1014(b)(ii)(D)(1).

<sup>14</sup> See Phlx Rule 1014(b)(ii)(D)(1).

<sup>15</sup> See Phlx Rule 1014(b)(ii)(D)(2).

Proposed Rule 1081(c)(ii)(c)(i)(A) requires a Directed ROT to enter continuous bids and offers for 90% of the time the Exchange is open for trading in each issue. This is an amendment from the current Phlx requirement which requires a Directed ROT to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair, in each case in at least 60% of the options in which such Directed SQT or Directed RSQT is assigned. Whenever a Directed SQT or Directed RSQT enters a quotation in an option in which such Directed SQT or Directed RSQT is assigned, such Directed SQT or Directed RSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable requirements with respect to quoting a series, an SQT, RSQT, Directed SQT, or Directed RSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.<sup>16</sup> The percentage is being lowered for a Directed ROT with this revised requirement.

The new proposed text provides that Phlx Regulation may consider exceptions to the requirement to quote 60% (or higher) for a ROT and 90% or higher for a Specialist or Directed ROT of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

The language in proposed Rule 1081(c)(ii)(a)(1)(A), “This obligation will apply to all of an ROT's registered options collectively to all appointed issues, rather than on an option-by-option basis. The Exchange may determine an ROT's compliance with this

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<sup>16</sup> See Phlx Rule 1014(b)(ii)(D)(1).

obligation on a monthly basis” is consistent with language in current Rule 1014(b)(ii)(D)(1). Similarly, the language in proposed Rule 1081(c)(ii)(a)(1)(A), “The Exchange’s monthly compliance evaluation of the continuous quoting requirement does not relieve an ROT of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an ROT for failing to meet the continuous quoting obligation each trading day” is similar to current Rule 1014(b)(ii)(D)(1).

Similarly, the language in proposed Rule 1081(c)(ii)(a)(1)(A), “However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve a Specialist of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Specialist for failing to meet the continuous quoting obligation each trading day” is similar to current Rule 1014(b)(ii)(D)(1).

Proposed rule text at Rule 1081(c)(ii)(a)(B), which provides “Notwithstanding the foregoing, ROTs shall not be required to make two-sided markets pursuant to 1081(c)(ii) in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater. Accordingly, the continuous quotation obligations set forth in this rule shall not apply to ROTs when quoting Quarterly Option Series, adjusted option series, and a series with an expiration of nine months or greater is similar to current Phlx Rule 1014(b)(ii)(D)(4). Directed ROTs shall likewise not be required to make two-sided markets pursuant to 1081(c)(ii) in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or

greater,<sup>17</sup> as is the case today.<sup>18</sup> Similar rule text is contained in Rule 1081(c)(ii)(b)(1)(B) and 1081(c)(ii)(c)(1)(C). With respect to Specialists, the proposed rule provides that a Specialist shall be required to make two-sided markets in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater. This proposal is consistent with the current rule where Specialists were not excluded from Rule 1014(b)(ii)(D)(4).

The proposed rule text at Rule 1081(c)(ii)(a)(C), which provides “If a technical failure or limitation of a system of Phlx prevents an ROT from maintaining, or prevents an ROT from communicating to Phlx timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under this subparagraph (A) with respect to the affected quotes” is similar to current Rule 1014(b)(ii)(D)(5). Similar rule text is contained in Rule 1081(c)(ii)(b)(1)(C) and 1081(c)(ii)(c)(1)(B).

The Exchange’s proposed rule text at Rule 1081(d) makes clear that the quoting obligations set forth in Rule 1081(c) will be satisfied collectively with ROTs of the same member organization. With respect to SQTs, the quoting requirements in Rule 1081(c)(ii)(A) shall apply to the extent that the SQT was streaming quotes. If an SQT conducted a transaction on the trading floor, the trade would not be attributed to meeting the quoting obligations of Rule 1081(c). The obligations and duties for quoting described in this Rule 1081 apply on a per class basis and only when the ROT is appointed in a particular class during the applicable trading session on a given trading day an ROT is

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<sup>17</sup> See Rule 1081(c)(ii)(c)(1)(B).

<sup>18</sup> See Rule 1014(b)(ii)(D)(4).

quoting in an appointed class. The obligations and duties are not applicable to an appointed class if an ROT is not quoting in that appointed class. To the extent an ROT is also a Specialist and/or Directed ROT, the ROT will be held to the highest standard. The Exchange believes that this language will serve to further define the applicability of the electronic Market Maker quoting requirements.

(b) Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>19</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>20</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 for the reasons stated below.

The Exchange believes that its proposed rule change provides further detail as to obligations of electronic Market Makers on Phlx. The Exchange's proposed obligations, which are similar to BX Rules at Chapter VII, Section 5, delineates examples of the type of activity that constitutes a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. This proposal is consistent with the Act because it removes impediments to and perfects the mechanism of a free and open market and a national market system by imposing obligations on market makers with respect to making markets on Phlx.

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<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

With respect to the quoting obligations, the Exchange's proposal is similar to its current proposal, except that the quoting obligations for Specialists and Directed ROTs are being reduced to 90%. Despite the reduction, the Exchange believes that the proposed rule text is consistent with the Act because the quoting obligations are similar to quoting obligations on BX today.<sup>21</sup> Further, the Exchange continues to impose higher quoting obligations on Specialists and Directed ROTs because they are entitled to certain allocation benefits that other ROTs are not entitled to today. Phlx Rule 1014(g)(vii)(A) provides for the allocation method for ROTs on Phlx after the Specialist Participation Entitlement and Directed SQT and Directed RSQT priorities have been applied, depending on the number of ROTs present. The Specialist receives an entitlement after all Customer orders have been fully executed provided the Specialist's bid/offer is at or improves on the Exchange's disseminated price and up to the Specialist's displayed size.<sup>22</sup> A Directed SQT or a Directed RSQT shall be allocated a participation entitlement provided the Directed SQT or Directed RSQT receives a Directed Order, Customer orders have been fully executed and the Directed SQT's or Directed RSQT's bid/offer is at the better of the internal PBBO.<sup>23</sup> Phlx Rule 1014(g)(viii)(A) and (B) provides that if there are multiple Directed ROT quotes at the same price which are at or improve on the NBBO when the Directed Order is received, the Directed ROT participation entitlement

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<sup>21</sup> See BX Rules at Chapter VII, Section 6.

<sup>22</sup> The Specialist Participation Entitlement shall be 60% of remaining interest if there is one other ROT at that price. The Specialist Participation Entitlement shall be 40% of remaining interest if there are two ROTs at that price. Finally, the Specialist Participation Entitlement 30% of remaining interest if there are more than two other ROTs at that price. See Phlx Rule 1014(g)(vii)(B)(1)(c).

<sup>23</sup> The PBBO is the Exchange's best bid or offer. This excludes AON orders or the NBBO and the entitlement is up to the displayed size at a given price point.

applies only to the Directed ROT quote which has the highest time priority at the last price executed upon receipt of the Directed Order which is equal to or better than the NBBO; the Directed ROT quote that received the Directed Order may not receive any further allocation of the Directed Order.

While ROTs will be subject to lower quoting requirements as compared to Specialists and Directed ROTs, they will also be entitled to lower allocations. The Exchange believes that the proposed rule text is consistent with the Act because the obligations are commensurate with the ability to achieve certain allocations. The Exchange believes that its proposal will continue to align ROTs, Specialists and Directed ROTs accordingly. Also, the proposal will align with quoting requirements on BX today.

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. Market Makers will continue to be entitled to certain allocations, similar to today. Market Makers, unlike other market participants, have obligations which the Exchange has memorialized within the proposed rule text. The Exchange believes that treating Market Makers differently than other market participants does not impose an undue burden on competition because Market Makers provide liquidity to the market which benefits of market participants who interact with that liquidity. The Exchange requires Market Makers today to maintain fair and orderly markets. The Exchange believes the allocation benefits are commensurate with the quoting obligations imposed on Market Makers. Additionally, the Exchange believes that the varying quoting requirements as between ROTs and Specialists and Directed ROTs does not impose an undue burden on competition because while ROTs will be subject to lower quoting requirements as

compared to Specialists and Directed ROTs, they will also be entitled to lower allocations.

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 rules are similar to BX Rules at Chapter VII, Sections 5 and 6.

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-2017-94)

November \_\_, 2017

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change to Add New Rule 1081, Entitled “Electronic Market Maker Obligations and Quoting”

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 November 3, 2017, 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 add a new Rule 1081, entitled “Electronic Market Maker Obligations and Quoting” to amend electronic quoting obligations for market makers<sup>3</sup>.

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

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

<sup>3</sup> On Phlx a market maker includes Specialists and Registered Options Traders (“ROTs”) (which includes Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”)) and non-SQT ROTs. A Specialist is an Exchange member who is registered as an options Specialist. See Phlx Rule 1020(a). A ROT is a regular member or a foreign currency options participant of the Exchange who has received permission from the Exchange to trade in options for his own account. See Rule 1014(b)(i). An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the

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 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 purpose of this rule change is to reserve the current quoting obligations in Rule 1014(b)(ii)(D) and adopt new Rule 1081, which is currently reserved, to describe the obligations of electronic Market Makers on Phlx and the respective quoting obligations for electronic Market Makers. The Exchange proposes to entitle Rule 1081, "Electronic Market Maker Obligations and Quoting" and adopt language similar to rule text contained in NASDAQ BX, Inc. ("BX") Rules at Chapter VII, Sections 5 and 6.

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Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned. See Rule 1014(b)(ii)(A). An RSQT is an ROT that is a member affiliated with and RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. See Rule 1014(b)(ii)(B). For purposes of this rule changes electronic Specialists, SQTs and RSQTs shall be collectively referred to as "Market Makers."

The Exchange proposes to adopt new sections (a) and (b) of Rule 1081 to specify the various obligations of electronic Market Makers on Phlx. Generally, the Exchange proposes to indicate that a ROT's transactions must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those members or member organizations should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Specifically, a ROT must: (i) maintain a two-sided market in those options in which the ROT is registered to trade, in a manner that enhances the depth, liquidity and competitiveness of the market; (ii) engage, to a reasonable degree under the existing circumstances, in dealings for their own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class; (iii) compete with other ROT firms in all options in all capacities in which the ROT firms are registered to trade;<sup>4</sup> (iv) update quotations in response to changed market conditions in all options in which ROTs are registered to trade; (v) maintain active markets in all options in which the ROT is registered; (vi) honor all orders attributed to the ROT that the trading system (hereinafter "System") routes to away markets pursuant to Rule 1080(m).<sup>5</sup> The Exchange also proposes to require at proposed Rule 1081(a)(vii) that ROTs should not effect purchases or sales except in a reasonable and orderly manner.<sup>6</sup> Similar to BX Rules at Chapter VII, Section

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<sup>4</sup> SQTs must compete with other SQTs.

<sup>5</sup> Proposed Phlx Rule 1081(a)(i) – (vii) are similar to BX Rules at Chapter VII, Section 5(a).

<sup>6</sup> BX Rules have similar obligations at Chapter VII, Section 5(b).

5(c), Phlx proposes at Rule 1081(b) to provide, “If Phlx Regulation finds any substantial or continued failure to engage in a course of dealings as specified in paragraph (a) of this section, the Exchange will institute disciplinary action or suspension or revocation of registration in one or more of the securities in which the ROT is registered. Nothing in this rule will limit any other power of the Board under these Rules, or procedures of Phlx with respect to the registration of an ROT or in respect of any violation by an ROT pursuant to this rule.”

The Exchange believes that the addition of these obligations will provide additional context as to the obligations of electronic Market Makers on Phlx.

#### Current Quoting Requirements

The Exchange proposes to amend the current market making quoting obligations at Rule 1014(b)(ii)(D). Currently, Phlx requires that when an RSQT<sup>7</sup> functions as a Remote Specialist in particular options, an SQT and an RSQT shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQT or RSQT is assigned, provided that, on any given day, a Directed SQT or a Directed RSQT shall be responsible to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair,<sup>8</sup> in each case in at least 60% of the options in which such Directed SQT or Directed RSQT is assigned. Whenever a Directed SQT or Directed RSQT enters a quotation in an option in

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<sup>7</sup> With respect to RSQTS, the quoting requirements in this Rule 1081(c)(ii)(A) shall apply to the extent that the RSQT functions as a Remote Specialist. Similar language is contained in Rule 1014(b)(ii)(D)(1) and (4).

<sup>8</sup> A “call-put pair” refers to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price. See Rule 1014(b)(ii)(D)(6).

which such Directed SQT or Directed RSQT is assigned, such Directed SQT or Directed RSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable quoting requirements with respect to quoting a series, an SQT, RSQT, Directed SQT, or Directed RSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.

With respect to a Specialist, the Exchange requires, “The Specialist (including the RSQT functioning as a Remote Specialist in particular options) shall be responsible to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such Specialist is assigned. To satisfy the quoting with respect to quoting a series, the Specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.”

The current rule text further states that these obligations apply collectively to all appointed issues of the Specialist, rather than on an issue-by-issue basis. Compliance is determined on a monthly basis. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve the Specialist (including the RSQT functioning as a Remote Specialist in particular options) of the obligation to provide continuous two-sided quotes on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against the Specialist (including the RSQT functioning as a Remote Specialist in particular options) for failing to meet the continuous quoting

obligation each trading day. Further, the Exchange may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. SQTs, RSQTs and the Specialist assigned in such option shall submit electronic quotations with a size of not less than the minimum number of contracts determined by the Exchange on a class by class basis, which minimum shall be at least one contract. Notwithstanding the foregoing, SQTs, Directed SQTs, RSQTs<sup>9</sup> and Directed RSQTs shall be deemed not to be assigned in any Quarterly Option Series, any adjusted option series,<sup>10</sup> and any option series until the time to expiration for such series is less than nine months. The obligations do not apply to SQTs, Directed SQTs, RSQTs and Directed RSQTs respecting Quarterly Option Series, adjusted option series, and series with an expiration of nine months or greater. If a technical failure or limitation of a system of the Exchange prevents a participant from maintaining, or prevents a participant from communicating to the Exchange, timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under Rule 1014(b)(ii)(D) with respect to the affected quotes.

#### Proposed Quoting Requirements

The Exchange proposes to amend its electronic quoting requirements at proposed Rule 1081(c). With respect to ROTs, similar to the existing Phlx language at Rule 1014(b)(ii)(D)(3), the Exchange proposes to continue to require the best bid and best

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<sup>9</sup> This provision does not apply to RSQTs when they are functioning as Remote Specialists in particular options.

<sup>10</sup> Phlx defines an adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

offer entered by an ROT to have a size of not less than the minimum number of contracts determined by the Exchange on a class by class basis, which minimum shall be at least one (1) contract. Further, the rule text specifies that a ROT's bid and offer for a series of options contracts shall be accompanied by the number of contracts at that price the ROT is willing to buy or sell.<sup>11</sup> This language is similar to BX Rules at Chapter VII, Section 6(a).

The Exchange proposes language at Rule 1081(c)(ii) that requires a ROT that enters a bid (offer) in a series of an option in which he is registered on Phlx to enter an offer (bid).<sup>12</sup> This requirement to maintain a two-sided quote is similar is required today on Phlx.<sup>13</sup>

Proposed Rule 1081(c)(ii)(a)(i)(A) requires a ROT to enter continuous bids and offers for 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as Phlx may announce in advance. This requirement is not being amended.<sup>14</sup>

Proposed Rule 1081(c)(ii)(b)(i)(A) requires a Specialist to enter continuous bids and offers for 90% of the time the Exchange is open for trading in each issue. This is an amendment from the current Phlx requirement which requires a Specialist to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such Specialist is assigned. To satisfy the requirement the

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<sup>11</sup> See proposed Phlx Rule 1081(c)(i).

<sup>12</sup> See proposed Phlx Rule 1081(c)(ii).

<sup>13</sup> See Phlx Rule 1014(b)(ii)(D)(1).

<sup>14</sup> See Phlx Rule 1014(b)(ii)(D)(1).

Specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.<sup>15</sup>

Proposed Rule 1081(c)(ii)(c)(i)(A) requires a Directed ROT to enter continuous bids and offers for 90% of the time the Exchange is open for trading in each issue. This is an amendment from the current Phlx requirement which requires a Directed ROT to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair, in each case in at least 60% of the options in which such Directed SQT or Directed RSQT is assigned.

Whenever a Directed SQT or Directed RSQT enters a quotation in an option in which such Directed SQT or Directed RSQT is assigned, such Directed SQT or Directed RSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable requirements with respect to quoting a series, an SQT, RSQT, Directed SQT, or Directed RSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance.<sup>16</sup> The percentage is being lowered for a Directed ROT with this revised requirement.

The new proposed text provides that Phlx Regulation may consider exceptions to the requirement to quote 60% (or higher) for a ROT and 90% or higher for a Specialist or

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<sup>15</sup> See Phlx Rule 1014(b)(ii)(D)(2).

<sup>16</sup> See Phlx Rule 1014(b)(ii)(D)(1).



Directed ROT of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

The language in proposed Rule 1081(c)(ii)(a)(1)(A), “This obligation will apply to all of an ROT's registered options collectively to all appointed issues, rather than on an option-by-option basis. The Exchange may determine an ROT’s compliance with this obligation on a monthly basis” is consistent with language in current Rule 1014(b)(ii)(D)(1). Similarly, the language in proposed Rule 1081(c)(ii)(a)(1)(A), “The Exchange’s monthly compliance evaluation of the continuous quoting requirement does not relieve an ROT of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an ROT for failing to meet the continuous quoting obligation each trading day” is similar to current Rule 1014(b)(ii)(D)(1).

Similarly, the language in proposed Rule 1081(c)(ii)(a)(1)(A), “However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve a Specialist of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Specialist for failing to meet the continuous quoting obligation each trading day” is similar to current Rule 1014(b)(ii)(D)(1).

Proposed rule text at Rule 1081(c)(ii)(a)(B), which provides “Notwithstanding the foregoing, ROTs shall not be required to make two-sided markets pursuant to 1081(c)(ii) in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater. Accordingly, the continuous quotation obligations set forth in this rule shall not apply to ROTs when quoting Quarterly Option Series,

adjusted option series, and a series with an expiration of nine months or greater is similar to current Phlx Rule 1014(b)(ii)(D)(4). Directed ROTs shall likewise not be required to make two-sided markets pursuant to 1081(c)(ii) in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater,<sup>17</sup> as is the case today.<sup>18</sup> Similar rule text is contained in Rule 1081(c)(ii)(b)(1)(B) and 1081(c)(ii)(c)(1)(C). With respect to Specialists, the proposed rule provides that a Specialist shall be required to make two-sided markets in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater. This proposal is consistent with the current rule where Specialists were not excluded from Rule 1014(b)(ii)(D)(4).

The proposed rule text at Rule 1081(c)(ii)(a)(C), which provides “If a technical failure or limitation of a system of Phlx prevents an ROT from maintaining, or prevents an ROT from communicating to Phlx timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under this subparagraph (A) with respect to the affected quotes” is similar to current Rule 1014(b)(ii)(D)(5). Similar rule text is contained in Rule 1081(c)(ii)(b)(1)(C) and 1081(c)(ii)(c)(1)(B).

The Exchange’s proposed rule text at Rule 1081(d) makes clear that the quoting obligations set forth in Rule 1081(c) will be satisfied collectively with ROTs of the same member organization. With respect to SQTs, the quoting requirements in Rule 1081(c)(ii)(A) shall apply to the extent that the SQT was streaming quotes. If an SQT

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<sup>17</sup> See Rule 1081(c)(ii)(c)(1)(B).

<sup>18</sup> See Rule 1014(b)(ii)(D)(4).

conducted a transaction on the trading floor, the trade would not be attributed to meeting the quoting obligations of Rule 1081(c). The obligations and duties for quoting described in this Rule 1081 apply on a per class basis and only when the ROT is appointed in a particular class during the applicable trading session on a given trading day an ROT is quoting in an appointed class. The obligations and duties are not applicable to an appointed class if an ROT is not quoting in that appointed class. To the extent an ROT is also a Specialist and/or Directed ROT, the ROT will be held to the highest standard. The Exchange believes that this language will serve to further define the applicability of the electronic Market Maker quoting requirements.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>19</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>20</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 for the reasons stated below.

The Exchange believes that its proposed rule change provides further detail as to obligations of electronic Market Makers on Phlx. The Exchange's proposed obligations, which are similar to BX Rules at Chapter VII, Section 5, delineates examples of the type of activity that constitutes a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. This proposal is consistent with the Act

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<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

because it removes impediments to and perfects the mechanism of a free and open market and a national market system by imposing obligations on market makers with respect to making markets on Phlx.

With respect to the quoting obligations, the Exchange's proposal is similar to its current proposal, except that the quoting obligations for Specialists and Directed ROTs are being reduced to 90%. Despite the reduction, the Exchange believes that the proposed rule text is consistent with the Act because the quoting obligations are similar to quoting obligations on BX today.<sup>21</sup> Further, the Exchange continues to impose higher quoting obligations on Specialists and Directed ROTs because they are entitled to certain allocation benefits that other ROTs are not entitled to today. Phlx Rule 1014(g)(vii)(A) provides for the allocation method for ROTs on Phlx after the Specialist Participation Entitlement and Directed SQT and Directed RSQT priorities have been applied, depending on the number of ROTs present. The Specialist receives an entitlement after all Customer orders have been fully executed provided the Specialist's bid/offer is at or improves on the Exchange's disseminated price and up to the Specialist's displayed size.<sup>22</sup> A Directed SQT or a Directed RSQT shall be allocated a participation entitlement provided the Directed SQT or Directed RSQT receives a Directed Order, Customer orders have been fully executed and the Directed SQT's or Directed RSQT's bid/offer is

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<sup>21</sup> See BX Rules at Chapter VII, Section 6.

<sup>22</sup> The Specialist Participation Entitlement shall be 60% of remaining interest if there is one other ROT at that price. The Specialist Participation Entitlement shall be 40% of remaining interest if there are two ROTs at that price. Finally, the Specialist Participation Entitlement 30% of remaining interest if there are more than two other ROTs at that price. See Phlx Rule 1014(g)(vii)(B)(1)(c).

at the better of the internal PBBO.<sup>23</sup> Phlx Rule 1014(g)(viii)(A) and (B) provides that if there are multiple Directed ROT quotes at the same price which are at or improve on the NBBO when the Directed Order is received, the Directed ROT participation entitlement applies only to the Directed ROT quote which has the highest time priority at the last price executed upon receipt of the Directed Order which is equal to or better than the NBBO; the Directed ROT quote that received the Directed Order may not receive any further allocation of the Directed Order.

While ROTs will be subject to lower quoting requirements as compared to Specialists and Directed ROTs, they will also be entitled to lower allocations. The Exchange believes that the proposed rule text is consistent with the Act because the obligations are commensurate with the ability to achieve certain allocations. The Exchange believes that its proposal will continue to align ROTs, Specialists and Directed ROTs accordingly. Also, the proposal will align with quoting requirements on BX today.

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. Market Makers will continue to be entitled to certain allocations, similar to today. Market Makers, unlike other market participants, have obligations which the Exchange has memorialized within the proposed rule text. The Exchange believes that treating Market Makers differently than other market participants does not impose an undue burden on competition because Market Makers provide liquidity to the market which benefits of market participants who interact with that liquidity. The Exchange requires

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<sup>23</sup> The PBBO is the Exchange's best bid or offer. This excludes AON orders or the NBBO and the entitlement is up to the displayed size at a given price point.

Market Makers today to maintain fair and orderly markets. The Exchange believes the allocation benefits are commensurate with the quoting obligations imposed on Market Makers. Additionally, the Exchange believes that the varying quoting requirements as between ROTs and Specialists and Directed ROTs does not impose an undue burden on competition because while ROTs will be subject to lower quoting requirements as compared to Specialists and Directed ROTs, they will also be entitled to lower allocations.

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-2017-94 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2017-94. 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-2017-94 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>24</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>24</sup> 17 CFR 200.30-3(a)(12).



**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**Nasdaq PHLX Rules**

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**Options Rules**

\* \* \* \* \*

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

(a) No change.

(b) *ROT*. (i) An ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. For purposes of this Rule 1014, the term "ROT" shall include a Streaming Quote Trader, and a Remote Streaming Quote Trader, as defined below.

Each ROT electing to engage in Exchange options transactions shall be assigned by the Exchange one or more classes of options, and Exchange options transactions initiated by such ROT on the Floor for any account in which he had an interest shall to the extent prescribed by the Exchange be in such assigned classes.

(ii) (A) *Streaming Quote Trader ("SQT")*. An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned.

(B) and (C) No change.

(D) Reserved. [*Market Making Obligations*]

- (1) In addition to the other requirements for ROTs set forth in this Rule 1014, except as provided in sub-paragraph (4) below, and except as provided in subparagraph (2) below when an RSQT functions as a Remote Specialist in particular options, an SQT and an RSQT shall be responsible to quote two-sided markets in not less than 60% of the series in which such SQT or RSQT is assigned, provided that, on any given day, a Directed SQT ("DSQT") or a Directed RSQT ("DRSQT") (as defined in Rule 1080(l)(i)(C)) shall be responsible to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair, in each case in at least 60% of the options in which such DSQT or DRSQT is assigned. Whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or

DRSQT is assigned, such DSQT or DRSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. To satisfy the applicable requirements of this subparagraph (D)(1) with respect to quoting a series, an SQT, RSQT, DSQT, or DRSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. These obligations will apply collectively to all appointed issues of an SQT, RSQT, DSQT, or DRSQT, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve an SQT, RSQT, DSQT, or DRSQT of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an SQT, RSQT, DSQT, or DRSQT for failing to meet the continuous quoting obligation each trading day.

The Exchange may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

(2) The specialist (including the RSQT functioning as a Remote Specialist in particular options) shall be responsible to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such specialist is assigned. To satisfy the requirement of this subparagraph (D)(2) with respect to quoting a series, the specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. These obligations will apply collectively to all appointed issues of the specialist, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve the specialist (including the RSQT functioning as a Remote Specialist in particular options) of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against the specialist (including the RSQT functioning as a Remote Specialist in particular options) for failing to meet the continuous quoting obligation each trading day.

The Exchange may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

(3) SQTs, RSQTs and the specialist assigned in such option shall submit electronic quotations with a size of not less than the minimum number of contracts determined by the Exchange on a class by class basis, which minimum shall be at least one contract.

(4) Notwithstanding the foregoing, SQTs, DSQTs, RSQTs and DRSQTs shall be deemed not to be assigned in any Quarterly Option Series, any adjusted option series, and any option series until the time to expiration for such series is less than nine months.

Accordingly, the obligations set forth in this Rule shall not apply to SQTs, DSQTs, RSQTs and DRSQTs respecting Quarterly Option Series, adjusted option series, and series with an expiration of nine months or greater.

For purposes of this subsection (4), an adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

This sub-section (4) does not apply to RSQTs when they are functioning as Remote Specialists in particular options.

(5) If a technical failure or limitation of a system of the Exchange prevents a participant from maintaining, or prevents a participant from communicating to the Exchange, timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under this paragraph (D) with respect to the affected quotes.

(6) In this paragraph (D), the term "call-put pair" refers to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price.]

(E) No change.

(c) – (g) No change.

••• *Commentary:* -----

.01 -.19 No change.

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**Rule 1081. Electronic Market Maker Obligations and Quoting [Reserved]**

(a) In registering as an ROT, a member or member organization commits to various obligations. Transactions of an ROT must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those members or member organizations must make bids or offers or enter into transactions that are inconsistent with such course of dealings. Ordinarily during trading hours the following obligations apply:

(i) An ROT must maintain a two-sided market in those options in which the ROT is registered to trade, in a manner that enhances the depth, liquidity and competitiveness of the market.

(ii) ROT must engage, to a reasonable degree under the existing circumstances, in dealings for their own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class.

(iii) Compete with other ROT firms in all options in all capacities in which the ROT firms are registered to trade. SQTs must compete with other SQTs.

(iv) Update quotations in response to changed market conditions in all options in which ROTS are registered to trade.

(v) Maintain active markets in all options in which the ROT is registered.

(vi) Honor all orders attributed to the ROT that the System routes to away markets pursuant to Rule 1080(m) of these Rules.

(vii) ROTs should not effect purchases or sales except in a reasonable and orderly manner.

(b) If Phlx Regulation finds any substantial or continued failure to engage in a course of dealings as specified in paragraph (a) of this section, the Exchange will institute disciplinary action or suspension or revocation of registration in one or more of the securities in which the ROT is registered. Nothing in this rule will limit any other power of the Board under these Rules, or procedures of Phlx with respect to the registration of an ROT or in respect of any violation by an ROT pursuant to this rule.

(c) Market Maker Electronic Quoting

(i) Size Associated with Quotes. An ROT's bid and offer for a series of options contracts shall be accompanied by the number of contracts at that price the ROT is willing to buy or sell. The best bid and best offer submitted by an ROT must have a size of not less than the minimum number of contracts determined by the Exchange on a class by class basis, which minimum shall be at least one (1) contract.

(ii) Two-Sided Quotes. An ROT that enters a bid (offer) in a series of an option in which he is registered on Phlx must enter an offer (bid).

(a) **Continuous Quotes** – ROTs must enter continuous bids and offers for the options to which it is registered, as follows:

(1) On a daily basis, an ROT must during regular market hours make markets consistent with the applicable quoting requirements specified in these rules, on a continuous basis in options in which the ROT is registered:

(A) To satisfy this requirement, an ROT must quote 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as Phlx may announce in advance. Phlx Regulation may consider exceptions to the requirement to quote 60% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating

circumstances. This obligation will apply to all of an ROT's registered options collectively to all appointed issues, rather than on an option-by-option basis. The Exchange may determine an ROT's compliance with this obligation on a monthly basis. The Exchange's monthly compliance evaluation of the continuous quoting requirement does not relieve an ROT of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an ROT for failing to meet the continuous quoting obligation each trading day.

(B) Notwithstanding the foregoing, ROTs shall not be required to make two-sided markets pursuant to 1081(c)(ii) in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater. Accordingly, the continuous quotation obligations set forth in this rule shall not apply to ROTs respecting Quarterly Option Series, adjusted option series, and series with an expiration of nine months or greater. For purposes of this subsection (2), an adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

(C) If a technical failure or limitation of a system of Phlx prevents an ROT from maintaining, or prevents an ROT from communicating to Phlx timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under this subparagraph (A) with respect to the affected quotes.

**(b) Continuous Quotes – Specialists.** A Specialist must enter continuous bids and offers for the options to which it is registered, as follows:

(1) On a daily basis, a Specialist must, during regular market hours, make markets consistent with the applicable quoting requirements specified in these rules, on a continuous basis in options in which the Specialist is registered:

(A) A Specialist must provide continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue. Such quotations must meet the legal quote width requirements specified in Rule 1014(c)(i)(A)(1)(a). These obligations will apply to all of the Specialists appointed issues collectively, rather than on an option-by-option basis. Compliance with this obligation will be determined on a monthly basis. Phlx Regulation may consider

exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve a Specialist of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Specialist for failing to meet the continuous quoting obligation each trading day.

(B) Notwithstanding the foregoing, Specialists shall be required to make two-sided markets pursuant to this rule in any Quarterly Option Series, any adjusted option series, and any option series with an expiration of nine months or greater. Accordingly, the continuous quotation obligations set forth in this rule shall apply to Specialists respecting Quarterly Option Series, adjusted option series, and series with an expiration of nine months or greater. For purposes of this subsection, an adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

(C) If a technical failure or limitation of a system of Phlx prevents a Specialist from maintaining, or prevents a Specialist from communicating to Phlx timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under this subparagraph (B) with respect to the affected quotes.

(c) **Continuous Quotes – Directed ROT.** A Directed ROT must enter continuous bids and offers for the options to which it is registered, as follows:

(1) On a daily basis, a Directed ROT must during regular market hours make markets consistent with the applicable quoting requirements specified in these rules, on a continuous basis in options in which the Directed ROT is registered:

(A) A Directed ROT must provide continuous two-sided quotations throughout the trading day in all options issues for which the Directed ROT is assigned for 90% of the time the Exchange is open for trading in each issue. These obligations will apply collectively to all series in all of the issues, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis. Phlx Regulation may consider exceptions to the requirement to quote 90% (or higher) of the

trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

(B) Notwithstanding the foregoing, Directed ROTs shall not be required to comply with the obligations in section (1) above, with respect to Quarterly Options Series, adjusted option series, or any series with an expiration of nine months or greater. For purposes of this Rule, an adjusted option series is an option series wherein, as a result of a corporate action by the issuer of the underlying security, one option contract in the series represents the delivery of other than 100 shares of underlying security. However, a Directed ROT may still receive a participation entitlement in such series if it elects to quote in such series and otherwise satisfies the requirements of Rule 1080(l).

(C) If a technical failure or limitation of a system of the Exchange prevents a Directed ROT from maintaining, or prevents a Directed ROT from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the Directed ROT has satisfied the 90% quoting standard with respect to that option issue.

(d) The quoting obligations set forth in Rule 1081(c) will be satisfied collectively with ROTs of the same member organization. With respect to SQTs, the quoting requirements in Rule 1081(c)(ii)(A) shall apply to the extent that the SQT was streaming quotes. If a SQT conducted a transaction on the trading floor, the trade would not be attributed to meet the quoting obligations of Rule 1081(c). The obligations and duties for quoting described in this Rule 1081 apply on a per class basis and only when the ROT is appointed in a particular class during the applicable trading session on a given trading day an ROT is quoting in an appointed class. The obligations and duties are not applicable to an appointed class if an ROT is not quoting in that appointed class. To the extent an ROT is also a Specialist and/or Directed ROT, the ROT will be held to the highest standard.

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