

objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by allowing the Exchange additional time to consider whether to propose, as part of a separate rule filing, a related enhancement to the Closing Cross process that would be implemented in conjunction with EOII.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the adoption of the EOII functionality does not impose an undue burden on competition. Delaying EOII will simply allow the Exchange additional time to determine whether to propose, as part of a separate rule filing, a related enhancement to the Closing Cross process that would be implemented in conjunction with EOII.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative prior to 30 days after

the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can provide notice of the implementation delay as soon as possible. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>11</sup>

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

### **IV. Solicitation of Comments**

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

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2019-032 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-NASDAQ-2019-032. This file number should be included on the subject line if email 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 website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-032 and should be submitted on or before May 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Eduardo A. Aleman,**  
*Deputy Secretary.*

[FR Doc. 2019-09020 Filed 5-2-19; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-85740; File No. SR-Phlx-2019-17]

### **Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Floor Trading Rules to Options 8**

April 29, 2019.

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 April 16, 2019, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

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

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

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 relocate rules related to the trading floor into the new Rulebook shell at Options 8, entitled "Options Floor Trading."

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 relocate all rules that relate to the Exchange's trading floor into the new Rulebook shell at Options 8, titled "Floor Trading." The Exchange proposes to relocate the various rules or portion of rules into sections with titles within Options 8. Each rule in the new Options 8 will be described in greater detail below. The Exchange notes that cross-references within the relocated rules have been amended where appropriate to reflect relocations. Also, with respect to the relocation of a portion of a rule, a reference was added to the original rule. The Exchange is not substantively amending rule text unless noted otherwise within this rule change.

##### General Provisions

The Exchange proposes to add a title "General Provisions" into Options 8 along with two sections, Section 1, titled "Applicability" and Section 2, titled "Definitions." The Exchange's new proposed Section 1 seeks to clarify the interplay between Options 8 and the remainder of the Phlx Rulebook. A member may execute a transaction on Phlx electronically or from the trading

floor. The Exchange seeks to identify which rules are applicable to the trading floor within Options 8. To the extent that a portion of a rule applied to the trading floor, the Exchange relocated only that portion of the rule to Options 8. The Exchange proposes to provide at Section 1,

(a) The Options 8 Rules shall apply to Exchange options transactions by and among members and member organizations physically located on the Exchange's options trading floor, including the trading crowds, and shall govern all activity that occurs in the physical space designated by the Exchange as "trading floor" as well as trading conducted through the Options Floor Based Management. All executions that occur automatically within the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions ("System" or "Electronic System") shall be governed by all other Options Rules except for the Options 8 Rules.

(b) All Options Rules shall apply to Exchange Floor Trading, in addition to the Options 8 Rules, however where the Options 8 Rules disagree with another Options Rule not within Options 8 a conflict shall be resolved in favor of the Options 8 Rule as it applies to the Exchange Trading Floor.

The Exchange seeks to make clear that the Options 8 Rules should be read together with rules in the remainder of the Rulebook and makes clear that in the event of a conflict, the Options 8 rules apply to the trading floor.

Today, Rules Applicable to Trading of Options on Indices are drafted in a similar fashion. With respect to the Rules Applicable to Trading of Options on Indices (Rules 1000A—1109A), Phlx Rule 1000A, "Applicability and Definitions," currently provides:

The Rules in this Section are applicable only to index options (options on indices of securities as defined below). In addition, except to the extent that specific rules in this Section govern, or unless the context otherwise requires, the provisions of the Option Rules applicable to stock options and of the By-Laws and all other Rules and Policies of the Board of Directors shall be applicable to the trading on the Exchange of index options.

Similarly, Cboe Exchange, Inc. ("Cboe") Rule 6.1A. Global Trading Hours has an applicability rule that is similarly drafted. The rule provides,

(a) Applicability of Rules. All Rules of the Exchange apply to trading during Global Trading Hours except as set forth in this Rule and except for Rules that by their terms are inapplicable during Global Trading Hours or where the context otherwise requires.<sup>3</sup>

<sup>3</sup> Cboe Rule 613, Cboe Options Hybrid System Automatic Execution Feature, similarly has an applicability rule that provides, ". . . This rule is applicable only to those classes specifically designated for trading on the Cboe Options Hybrid System. The Cboe Options Hybrid System is a

Proposed Section 2 contains definitions applicable to the trading floor. Unless otherwise stated, the proposed relocations do not modify the existing definition. The term "floor" at proposed Section 2(1) is relocated from Rule 1(n). The term "Floor Broker" at proposed Section 2(2) is relocated from Rule 1060. The term is being modified to "Floor Broker" instead of "Options Floor Broker" because these rules appear in the Options section of the Phlx Rulebook. The term "Inactive Nominee" at proposed Section 2(3) is being relocated from Rule 1(p). The term "Presiding Exchange Officials" at proposed Section 2(4) is being relocated from Rule 1000(e). The term "Permit" at proposed Section 2(5) references Rule 1(z) and also relocates portions of Rule 908(b)(i). The term "Public Outcry" at proposed Section 2(6) is being relocated in part from Rule 1000(g). The term "Non-SQT ROT" at proposed Section 2(7) is being relocated from Rule 1014(b)(ii)(C) and renamed "Floor Market Maker." The Exchange proposes to rename the term "Non-SQT ROT" throughout Options 8 as "Floor Market Maker."

##### Administration

The Exchange proposes a new title "Administration" into new Options 8 along with new proposed Sections 3–10. Proposed Section 3, titled "Imposition" is being relocated from Rule 714. Proposed Section 4, titled "Rights and Privileges of A–1 Permits" is relocated in part from Rule 908(b)(i)<sup>4</sup> with the addition of the sentence, "A Series A–1 permit holder shall be subject to Rule 908." Proposed Section 5, titled "Qualification as a Member Organization" is relocated in part from Rule 910(f)(3)<sup>5</sup> with the addition of the phrase, "In addition to the requirements of Rule 910." Proposed Section 6, titled "Registration of Floor Brokers" is being relocated from Rule 1061. Proposed Section 7, titled "Inactive Nominees" is being relocated from Rule 925. Proposed Section 8, "Trading Floor Registration" is being relocated from Rule 1260. Proposed Section 9, "Trading Floor Admittance" is being relocated from Rule 443. Proposed Section 10, "Training" is being relocated from Rule

trading platform that allows automatic executions to occur electronically and open outcry trades to occur on the floor of the Exchange pursuant to the priority and allocation principles contained in Rule 6.45."

<sup>4</sup> Specifically, the Exchange is relocating Rule 908(b)(i) and deleting (c)(i) which is now highlighted with proposed new Section 4.

<sup>5</sup> Specifically, the Exchange is relocating a portion of Rule 910(f)(3).

625, in part<sup>6</sup> with the addition of the phrase, “In addition to Rule 625 requirements.” The proposed rule changes are non-substantive rule changes that simply seek to relocate and add transparency to the current rule text.

#### Market Participants

The Exchange proposes a new title “Market Participants” into new Options 8 along with new proposed Sections 11 and 12. Proposed Section 11 titled “Specialist Appointment” is being relocated in part from Rule 501<sup>7</sup> with the addition of the phrase, “In addition to the requirements specified in Rule 501 related to the appointment of a Specialist, each Specialist unit . . . .” Proposed Section 12, titled “Clerks” is being relocated from Rule 1090. The proposed rule changes are non-substantive rule changes that simply seek to relocate and add transparency to the current rule text.

#### Regulation

The Exchange proposes a new title “Regulation” into new Options 8 along with new proposed Sections 13–19. Proposed Section 13, titled “Acts Detrimental to the Interest or Welfare of the Exchange” is being relocated, in part, from Rule 708<sup>8</sup> and adds the phrase, “In addition to Rule 708, acts which could be deemed detrimental to the interest or welfare of the Exchange include, but are not limited to.” Proposed Section 14, titled, “Financial Responsibility and Reporting” is being relocated, in part, from Rule 703 and adding the phrase, “In addition to the obligations specified within Rule 703.”<sup>9</sup> Proposed Section 15, titled “Stopping” An Option” is being relocated from Rule 1018. Proposed Section 16, titled “Trading for Joint Account” is being relocated from Rule 772. Proposed Section 17, titled “Limitations on Members Trading Because of Customers’ Orders” is being relocated, in part, from Rule 452<sup>10</sup> and adding phrase, “In addition to the limitations in Rule 452.” Proposed Section 18, titled “General Responsibility of Floor Brokers” is being relocated from Rule 155. Proposed Section 19, titled “Responsibilities of Floor Brokers—Treasury Securities Options” is being relocated from Rule

1017D. The proposed rule changes are non-substantive rule changes that simply seek to relocate and add transparency to the current rule text.

#### Floor Trading Rules

The Exchange proposes a new title “Floor Trading Rules” into new Options 8 along with new proposed Sections 20–35. Proposed Section 20, titled “Dealings on Floor—Hours” is being relocated from Rule 102. Proposed Section 21, titled “Dealings on Floor—Persons” is being relocated from Rule 104. Proposed Section 22, titled “Execution of Options Transactions on the Trading Floor” is being relocated, in part, from Rule 1000(f) and (g). Proposed Section 23, titled “Precedence of Highest Bid” is being relocated, in part, from Rule 119.<sup>11</sup> The Exchange proposes to replicate the first part of that rule, “The highest bid shall have precedence in all cases pursuant to Rule 119. Where bids are made at the same price, the priority and precedence shall be determined in accordance with the following rules:” before the relocated sections of Rule 119(e) and (f). Proposed Section 24, titled “Bids And Offers—Premium” is being relocated from Rule 1033.<sup>12</sup>

Proposed Section 25, titled “Floor Allocation” is being relocated, in part, from Rule 1014(g)(i)–(vi) into Options 8, Section 25.<sup>13</sup> The Exchange proposes to add a sentence at the beginning of this rule as “a”, which states, “The following applies to the allocation of orders on the Trading Floor” to introduce the information which follows. The Exchange proposes to relocate the first paragraph of Commentary .01 to Rule 1014.<sup>14</sup> Commentary .05(c) of Rule 1014 will be relocated to Options 8, Section 25(f). Commentary .07 and .08 of Rule 1014 are being relocated to Options 8, Section 25(d)(1) and (e). Commentary .09 of

<sup>11</sup> Specifically, rule text is being relocated from Rule 119(e) and (f).

<sup>12</sup> The Exchange is capitalizing the “The” before “Options Clearing Corporation” to properly represent the name.

<sup>13</sup> The term “Options Floor Broker System” is being amended to “Options Floor Based System” to conform to the remainder of the rulebook. This term was amended in a prior rule change. See Securities Exchange Act Release No. 83656 (July 17, 2018), 83 FR 34899 (July 23, 2018) (SR-Phlx–2018–40). The same change was made to E–1, “Use of Identification Letters and Numbers.”

<sup>14</sup> The paragraph of Commentary .01 of Rule 1014 will remain within this rule. Commentary .02–.04 and .06 of Rule 1014 rule text will remain within Rule 1014. Commentary .05(b) will remain within Rule 1014, except that “(a) RESERVED and (b)” will be deleted. Commentary .10 of Rule 1014 is being renumbered as “.07”. Commentary .15 and .16 of Rule 1014 are being renumbered as “.08” and “.09” respectively. Commentary .18 of Rule 1014 is being renumbered as “.10”.

Rule 1014 is being relocated to Options 8, Section 25(g). Commentary .11, .12, .13 and .14 of Rule 1014 are being relocated to Options 8, Section 25(h)–(k). Commentary .17 of Rule 1014 is being relocated to Options 8, Section 25(l). Commentary .19 of Rule 1014 is being relocated to Options 8, Section 25(m).

Proposed Section 26, titled “Trading Halts” is being relocated in part from Rule 1047<sup>15</sup> and 1047A.<sup>16</sup> Proposed Section 27, titled “Quoting Obligations and Required Transactions” is being relocated, in part, from Rule 1014 to Options 8, Section 27. Specifically, current Rule 1014(b)(ii)(E) and (c)(i)(A)(1) are being relocated.<sup>17</sup> The Exchange proposes to add this sentence “Without limiting the foregoing, a Specialist and an ROT is expected to perform the following activities in the course of maintaining a fair and orderly market:” prior to the current text within Rule 1014(c)(i)(A)(2). The Exchange also proposes to relocate Rule 1014(d), in part, and to replicate the phrase “Furthermore, an ROT should not:” in relocating Rule 1014(d)(ii) to proposed Options 8, Section 27(d). The Exchange proposes to renumber current Rule 1014(d)(iii) as (ii). The Exchange proposes to relocate Rule 1014(e) to proposed Options 8, Section 27(e). The Exchange proposes to amend Rule 1014(g) to reserve the rule text in (i)–(vi).<sup>18</sup> The Exchange proposes to relocate rule text from the second and third paragraphs of Commentary .01 to Rule 1014 into proposed Options 8, Section 27(f).

Proposed Section 28, titled “Responsibilities of Floor Brokers”, similar to current Rule 1063, is being relocated from “General Responsibility of Floor Brokers” in Rule 155, Rule 1063 and Rule 1069, titled “Snapshot Feature.” Current Rule 155 is relocated within Options 8, Section 28(a) in the first sentence. Current Rule 1069 is relocated at Options 8, Section 28(i). Proposed Section 29, titled “Use of Floor Based Management System by Registered Options Traders and Specialists” is being relocated from Rule

<sup>15</sup> Specifically, the Commentary to Rule 1047 is being relocated.

<sup>16</sup> Specifically, the Exchange proposes to relocate Rule 1047A(f)(ii) and renumber the remaining paragraphs in Rule 1047A(f). The Exchange proposes to add the phrase “in addition to Rule 1047A.”

<sup>17</sup> The Exchange noted above that the term “non-SQT ROT” is being amended to Floor Market Maker throughout these rules.

<sup>18</sup> As noted above, Rule 1014(g)(i)–(vi) as well as Commentaries .01 (in part), .05 (in part), .07, .08, .09, .11–.14, .17 and .19 is being relocated to Options 8, Section 25 and no changes are proposed for Rule 1014(g)(vii) and (viii).

<sup>6</sup> Specifically, the last sentence of Rule 625 is being relocated.

<sup>7</sup> Specifically, rule text is being relocated from Rule 501(d) and (f).

<sup>8</sup> Specifically, Commentary .01(e) to Rule 708 is being relocated.

<sup>9</sup> Specifically, sections of Rule 703(c)(vi) are being relocated.

<sup>10</sup> Specifically, rule text is being relocated from Supplementary Material .03 to Rule 452.

1085. The Exchange is not relocating the following outdated rule text:<sup>19</sup>

*The Exchange anticipates that it will make FBMS available to Registered Options Traders and Specialists during the Second Quarter of 2018. To facilitate the transition to FBMS, the Exchange will not require Registered Options Traders or Specialists to utilize FBMS until one month after the date on which the Commission approves the Exchange's proposal. The Exchange will notify members via an Options Trader Alert, to be posted on the Exchange's website, at least seven calendar days prior to the date when FBMS will be available for use by Registered Options Traders and Specialists. The alert will also contain the mandatory start date.*

Proposed Section 30 is being "Reserved." The Exchange will relocate Rule 1064, titled "Crossing, Facilitation and Solicited Orders" to Section 30 at a later date. Proposed Section 31, titled "Discretionary Transactions" is being relocated from 1065. Proposed Section 32 titled, "Certain Types of Floor-Based (Non-System) Orders Defined" is being relocated from Rule 1066 and retitled from "Certain Types of Floor Based (Non-PHLX XL) Orders Defined." Proposed Section 33 titled, "Accommodation Transactions" is being relocated from Rule 1059. Proposed Section 34 is proposed to be reserved. The Exchange proposes to relocate current Rule 1079, titled "FLEX Index, Equity and Currency Options" into proposed Section 34. Proposed Section 35, titled "Disputes" is being relocated from Rule 124 and renamed from "Disputes-Options." The proposed rule changes are non-substantive rule changes that simply seek to relocate and add transparency to the current rule text.

#### Floor Trade Administration

The Exchange proposes a new title "Floor Trade Administration" into new Options 8 along with new proposed Sections 36–38. Proposed Section 36 is titled, "Resolution of Uncompared Trade" is being relocated from Rule 1039. Proposed Section 37, titled "Letters of Authorization" is being relocated from Rule 1062. Proposed Section 38 titled, "Communications and Equipment" is being relocated from Rule 606. The proposed rule changes are non-substantive rule changes that simply seek to relocate and add transparency to the current rule text.

#### Option Floor Procedure Advices and Order and Decorum Regulations

The currently titled "Option Floor Procedure Advices and Order and

Decorum Regulations" within the Rulebook is proposed to be renamed "Options Minor Rule Violations and Order and Decorum Regulations" and numbered Section 39.<sup>20</sup> The Options Floor Procedure Advices related to the trading floor are being relocated to proposed Section 39 and all Order and Decorum Regulations are also being relocated within Section 39. The Exchange proposes to re-letter and re-number the rules within the current Rulebook that will continue to be located within the section proposed to be renamed "Options Minor Rule Violations."

The Exchange proposes to delete reserved rules from this section. The following Option Floor Procedure Advices are proposed to be relocated into Section 39:

- A-2 "Options Floor Based Management System" (re-numbered as A-1);
- A-3 "Requesting Market Quotations" (re-numbered as A-2);
- A-9 "All-or-None Options Orders" (re-numbered as A-3);
- B-1 "Responsibility to Make Markets";
- B-2 "Crowd Courtesy";
- B-3 "Trading Requirements";
- B-4 "Entering Orders from On-Floor and Off-Floor for Execution on the Exchange";
- B-5 "Agency-Principal Restrictions";
- B-6 "Priority of Options Orders for Equity Options, Index Options and U.S. Dollar-Settled Foreign Currency Options by Account Type (EQUITY OPTION, INDEX OPTION AND U.S. DOLLAR-SETTLED FOREIGN CURRENCY OPTION ONLY)";
- B-7 "Options Floor Based Management System"
- B-8 "Use of Floor Brokers by an ROT While on the Floor" (renumbered as B-7);
- B-9 "Use of Tickets" (renumbered as B-8);
- B-10 "Responsibility for Mismatched or "Out" Trades
- B-11 "ROTs and Specialists Entering Orders for Execution on Other Exchanges in Multiply Traded Options" (renumbered as B-9);
- B-12 "ROTs and Specialists Entering Orders for Execution on Other Exchanges in Multiply Traded Options" (renumbered as B-11);
- C-1 "Ascertaining the Presence of Registered Options Traders in a Trading Crowd";
- C-2 "Options Floor Broker Management System";

- C-3 "Handling Orders of ROTs and Other Registered Options Market Makers";
- C-4 "Floor Brokers Handling Orders for Same Firm";
- C-5 "ROTs Acting as Floor Brokers";
- C-7 "Responsibility to Represent Orders to the Trading Crowd" (re-numbered as C-6);
- C-9 "Floor Brokers and Clerks Trading in their Customer Accounts" (renumbered as C-7);
- Staffing is re-lettered from "E" to "D";
- E-1 "Required Staffing of Options Floor" (re-lettered as D-1);
- Miscellaneous is re-lettered from "F" to "E";
- F-1 Use of Identification Letters and Numbers (re-lettered and re-numbered to E-1);
- F-2 Allocation, Time Stamping, Matching and Access to Matched Trades (re-lettered and re-numbered to E-2);
- F-4 "Orders Executed as Spreads, Straddles, Combinations or Synthetics and Other Order Ticket Marking Requirements" (re-lettered and re-numbered to E-3);
- F-5 "Changes or Corrections to Material Terms of a Matched Trade" (re-lettered and re-numbered to E-4);
- F-6 "Option Quote Parameters," in part, (re-lettered and re-numbered as E-5);
- F-8 "Failure to Comply with an Exchange Inquiry," in part, (re-lettered and renumbered as E-6);
- F-9 "Affiliations," in part, (re-lettered and renumbered as E-7);
- F-11 "Splitting Orders" (re-lettered and renumbered as E-8);
- F-12 "Responsibility for Assigning Participation" (re-lettered and renumbered as E-9);
- F-14 Executing Multi-leg and Synthetic Option Orders" (re-lettered and renumbered as E-10);
- F-16 Two-Way, Three Way and Multi-Spread Transactions (FOREIGN CURRENCY OPTION ONLY) (re-lettered and renumbered as E-11);
- F-22 Intra-Day Addition of Strike Prices (re-lettered and renumbered as E-12);
- F-23 Clerks in the Crowd (re-lettered and renumbered as E-13);
- F-25 Fingerprinting Floor Personnel (re-lettered and renumbered as E-14);
- F-30 Options Trading Floor Training (re-lettered and renumbered as E-15);
- F-31 Communications and Equipment (re-lettered and renumbered as E-16);
- F-32 Solicitation of Quotations (re-lettered and renumbered as E-17);

<sup>19</sup>This feature was made available in 2018 as per Options Trader Alert #2018-20.

<sup>20</sup>The Exchange proposes to also retile "Equity Floor Procedure Advices" as "Minor Rule Violations."

Finally, all Regulations are being relocated to Section 41 and re-lettered from “H” to “F”.

The Exchange is retaining the following rules in the new Options Minor Rule Plan Section:

- A-4 “Specialist as ROT” (re-numbered as A-1);
- F-6 “Option Quote Parameters” (re-numbered as F-1);
- F-8 “Failure to Comply with an Exchange Inquiry (re-numbered as (F-2);
- F-9 “Affiliations” (re-numbered as (F-3);
- F-10 “Unusual Market Conditions” (re-numbered as (F-4);
- F-13 “Supervisory Procedures Relating to ITSFEA” (re-numbered as (F-5);
- F-19 “Clearing Agents’ Responsibility for Carrying Positions in Market Maker Accounts” (re-numbered as (F-6);
- F-27 “Options Exchange Official Rulings” (re-numbered as (F-7);
- F-33 “Failure to Provide Notification of Changes in Business Operations” (re-numbered as (F-9);
- F-34 “Failure to Timely Submit Amendments to Form U4, Form U5 and Form BD” (re-numbered as (F-10); and
- F-35 Violations of Exercise and Exercise Advice Rules for Noncash-Settled Equity Option Contracts (re-numbered as (F-11).

The Exchange notes that were a rule applied to both the electronic market and floor trading, the rule was replicated in both the Options Minor Rule Violations and the options Floor Procedure Advice with the applicable parts.<sup>21</sup> The proposed rule changes are non-substantive rule changes that simply seek to relocate and add transparency to the current rule text.

#### Other Administrative Changes

The Exchange proposes to amend references to “XL” or “Phlx XL” to “System” as the terms “XL” and “Phlx XL” are obsolete terms. The Exchange has removed “reserved” sections throughout the rules and also re-numbered and re-lettered various rules to bring conformity to the Rulebook. Finally, the Exchange proposes to capitalize the term “specialist” throughout the new proposed rules.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>22</sup> in general, and furthers the

<sup>21</sup> The following Options Floor Procedure Advices were replicated: F-6, “Option Quote Parameters;” F-8, “Failure to Comply with an Exchange Inquiry;” and F-9, “Affiliations.”

<sup>22</sup> 15 U.S.C. 78f(b).

objectives of Section 6(b)(5) of the Act,<sup>23</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by bringing greater transparency to its rules. The Exchange is not substantively amending rule text unless noted otherwise within this rule change. The Exchange’s proposal to relocate trading floor rules to new Options 8 will make clear which rules are applicable to the trading floor. The renaming of the term “Non-ROT SQT” as “Floor Market Maker” is a non-substantive rule change. Finally, renumbering, re-lettering, deleting reserved rules and obsolete rule text and amending cross-references and other minor technical changes will bring greater transparency to Phlx’s Rules.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendments do not impose an undue burden on competition because the amendments to relocate the floor trading rules are non-substantive. This rule change is intended to bring greater clarity to the Exchange’s Rules. The renaming of the term “Non-ROT SQT” as “Floor Market Maker” is a non-substantive rule change. Finally, renumbering, re-lettering, deleting reserved rules and obsolete rule text and amending cross-references will bring greater transparency to Phlx’s Rules. The Exchange is not substantively amending rule text unless noted otherwise within this rule change.

#### 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) of the Act<sup>24</sup> and Rule 19b-4(f)(6) thereunder.<sup>25</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>26</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>27</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to promptly relocate rules relating to the Exchange’s trading floor, which the Exchange believes will improve the organization and readability of the Exchange’s Rulebook. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>28</sup>

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

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>26</sup> 17 CFR 240.19b-4(f)(6).

<sup>27</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>28</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>23</sup> 15 U.S.C. 78f(b)(5).

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2019-17 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-2019-17. This file number should be included on the subject line if email 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 website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2019-17 and should be submitted on or before June 3, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Eduardo A. Aleman,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-85751; File No. SR-NYSEArca-2019-28]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Virtus WMC Risk-Managed Alternative Equity ETF**

April 30, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 15, 2019, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 list and trade shares of the Virtus WMC Risk-Managed Alternative Equity ETF under NYSE Arca Rule 8.600-E. The proposed change is available on the Exchange's website at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

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

**1. Purpose**

The Exchange proposes to list and trade shares ("Shares") of the Virtus

WMC Risk-Managed Alternative Equity ETF (the "Fund") under NYSE Arca Rule 8.600-E, which provides generic criteria applicable to the listing and trading of Managed Fund Shares on the Exchange.<sup>4</sup>

The Fund is a series of ETFs Series I ("Trust"). Virtus ETF Advisors LLC (the "Adviser") is the investment adviser for the Fund. Wellington Management Company LLP is the sub-adviser to the Fund (the "Sub-Adviser"). The Trust and the Adviser have engaged the Sub-Adviser to manage the Fund's investments, subject to the oversight and supervision of the Adviser and the Board of Trustees of the Trust.<sup>5</sup> ETF Distributors LLC ("Distributor"), a registered broker-dealer, will act as the distributor for the Fund's Shares. The Bank of New York Mellon ("BNY Mellon") will serve as the custodian, administrator and transfer agent ("Transfer Agent") for the Fund.

Commentary .06 to Rule 8.600-E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2-E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> The Trust is registered under the 1940 Act. On February 28, 2019, the Trust filed with the Commission Post-Effective Amendment No. 155 to the Trust's registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"), and under the 1940 Act relating to the Fund (File Nos. 333-187668 and 811-22819) ("Registration Statement"). The Trust will file an amendment to the Registration Statement as necessary to conform to the representations in this filing. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30607 (July 23, 2013) (File No. 812-14080).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>29</sup> 17 CFR 200.30-3(a)(12).