

Required fields are shown with yellow backgrounds and asterisks.

Filing by Nasdaq PHLX LLC
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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 checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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Description
 Provide a brief description of the action (limit 250 characters, required when Initial is checked *).
 Proposal to amend Phlx Rules at Options 3, Section 8, titled Openings in Options

Contact Information
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Angela Last Name * Dunn
 Title * Principal Associate General Counsel
 E-mail * angela.dunn@nasdaq.com
 Telephone * (201) 469-5692 Fax

Signature
 Pursuant to the requirements of the Securities Exchange Act of 1934,
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.
 (Title *)
 Date 03/23/2020 EVP and Chief Legal Officer
 By John Zecca
 (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.
 john.zecca@nasdaq.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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 “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend Phlx Rules at Options 3, Section 8, titled “Openings in Options.”

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”) on September 25, 2019. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes to amend Phlx Rules at Options 3, Section 8, titled “Openings in Options.” The Exchange proposes to rename this rule “Options Opening Process.” Specifically, the Exchange is proposing to amend the definition of “market for the underlying security” within Options 3, Section 8(a)(ii).

Today Options 3, Section 8(a)(ii) describes “market for the underlying security” as “...either the primary listing market or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's web site.”

The Exchange proposes to amend this definition by replacing the term “primary volume market” with “an alternative market designated by the primary market.” The Exchange anticipates that an alternative market would be necessary if the primary listing market were impaired.³ In the event that a primary market is impaired and utilizes its designated alternative market, the Exchange would utilize that market as the underlying.⁴ The Exchange further proposes an additional contingency. In the event that the primary market is unable to open, and an alternative market is not designated (and/or the

³ The Exchange notes that the primary listing market and the primary volume market as defined in Phlx’s Rules could be the same market and therefore an alternative market is not available under the current Rule.

⁴ For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca, Inc. (“NYSE Arca”) as its alternative market, then PHLX would utilize NYSE Arca as the market for the underlying.

designated alternative market does not open), the Exchange may utilize a non-primary market to open all underlying securities from the primary market. The Exchange will select the non-primary market with the most liquidity in the aggregate for all underlying securities that trade on the primary market for the previous two calendar months, excluding the primary and alternate markets. The Exchange notes that in order to open an option series it would require an equity market's underlying quote. If another equity market displays opening prices for the underlying security, the Exchange proposes to utilize those quotes. This proposed change to the current System would allow the Exchange to open in situations where the primary market is experiencing an issue and also where an alternative market designated by the primary market may not be designated by the primary market or is unable to open. The Exchange believes that this proposal would effectively provide the Exchange with additional opportunities to open the market and provide its members with a venue in which to transact options trading. The Exchange notes that utilizing a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months will ensure that the Exchange opens with quotes which are representative of the volume on that primary market. The Exchange believes that this proposal will enable it to open in the event that there are issues with the primary market or the alternate market assigned by the primary.

The Exchange also proposes to make a corresponding amendment to Options 3, Section 8(d)(ii) to replace the reference to "primary market" with the defined term "market for the underlying security."

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by providing for alternative processes to determine the market for the underlying.. The Exchange’s proposal to amend the definition of “market for the underlying security” within Options 3, Section 8(a)(ii) is consistent with the Act.

First, the Exchange’s proposal would remove the concept of a primary volume market and replace that concept with an alternative market designated by the primary market. The Exchange notes that it is most likely the case that the primary market is the primary volume market, so this term offers no contingency in most cases. The primary market has the ability to designate an alternate primary market when the primary market is experiencing difficulties. In those situations, the Exchange proposes to utilize the alternate primary market to open its market. For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca as its alternative market, then Phlx would utilize NYSE Arca as the market for the underlying security.

Second, the Exchange proposes another alternative in the event that the primary market does not open and an alternate primary market is not designated and/or is also unable to open. In this situation, the Exchange proposes to utilize a non-primary market to open its market. The Exchange will select the non-primary market with the most

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

liquidity in the aggregate for all underlying securities from the primary market for the previous two calendar months, excluding the primary and alternate markets. For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca as its alternative market, and the alternate primary was unable to open or NYSE was unable to designate an alternate market because of system difficulties, then Phlx would determine which non-primary market had the most liquidity in the aggregate for all underlying securities for the previous two calendar months, excluding the primary and alternate markets. The Exchange would utilize that market to open all underlying securities from the primary market. The Exchange notes that in order to open an option series it would require an equity market's underlying quote. The Exchange notes that utilizing a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months will ensure that the Exchange opens based on the next best alternative to the primary market given the circumstances. This contingency will provide the Exchange with the ability to open in situations where the primary market is experiencing an issue and also where an alternative primary market may also be impacted.

The Exchange believes that this proposal would protect investors and the general public by providing additional venues for Phlx to utilize as part of its Opening Process and thereby allow investors to transact on its market. The Exchange desires to open its market despite any issues that may arise with the underlying market. The Exchange is proposing alternate methods to open its market to account for situations which may arise if the primary market is unable to open, and if the proposed alternate designated market is

unable to open. The Exchange notes that once the market opens with an underlying price, the options market may continue to trade for the remainder of the trading day. The Exchange believes it benefits investors and the general public to have the options market available to enter new positions, or close open positions.

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. Amending the definition of “market for the underlying security” within Options 3, Section 8(a)(ii) does not burden competition. The Exchange’s proposal offers alternative paths to open Phlx in the event that the primary market or even a designated alternate primary market experiences an issue. The Exchange’s proposal is intended to create additional certainty that in the event of an issue with the primary market, the Exchange would have other equity markets to look to with respect to underlying prices on which to open Phlx. This proposal also does not impact the ability of other options markets to open.

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)

The foregoing rule change has become effective pursuant to Section

19(b)(3)(A)(iii)⁷ of the Act and Rule 19b-4(f)(6) thereunder⁸ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest. The Exchange's proposal to amend the definition of "market for the underlying security" by replacing the a primary volume market with an alternative market designated by the primary market, and then in the case that both the primary and alternative market, if designated, are unavailable, designating a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months, excluding the primary and alternate markets, will permit the Exchange to open in situations where the primary market is experiencing an issue and also where a designated alternative primary market may also be impacted. The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest because it provides the Exchange with additional venues to utilize as part of its Opening Process and thereby allow investors to transact on its market. The Exchange desires to open its market despite any issues that may arise with the underlying market. The Exchange is proposing alternate methods to open its market to account for situations which may arise if the primary market is unable to open, and if

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6).

the proposed alternate designated market is unable to open. The Exchange notes that once the market opens with an underlying price, the options market may continue to trade for the remainder of the trading day. The Exchange believes it benefits investors and the general public to have the options market available to enter new positions, or close open positions. The proposal does not impose any significant burden on competition. The Exchange's proposal to amend the definition of "market for the underlying security" by replacing the a primary volume market with an alternative market designated by the primary market, alternatively, if there is no primary market or alternative market, utilizing or a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months, excluding the primary and alternate markets will provide the Exchange will the ability to open in situations where the primary market is experiencing an issue and also where an alternative primary market, if designated, may also be impacted. This proposal does not impose any significant burden on competition because it does not impact the ability of other options markets to open. The proposed amendments provide market participants more choice about where, and when, they can send orders for the opening that would afford them the best experience. Further, the proposal would allow all Phlx members to transact business on Phlx in series of options which opened for trading.

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

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

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that it may amend its definition of “market for the underlying security” within Options 3, Section 8(a)(ii). This proposal would protect investors and the general public by providing additional venues for Phlx to utilize as part of its Opening Process and thereby allow investors to transact on its market. The Exchange desires to open its market despite any issues that may arise with the underlying market. The Exchange is proposing alternate methods to open its market to account for situations which may arise if the primary market is unable to open, and if the proposed alternate designated market is unable to open. The Exchange believes it benefits investors and the general public to have the options market available to enter new positions, or close open positions.

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

Not applicable.

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 Change 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-2020-14)

March __, 2020

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx Rules at Options 3, Section 8

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 24, 2020, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rules at Options 3, Section 8, titled “Openings in Options.”

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange proposes to amend Phlx Rules at Options 3, Section 8, titled "Openings in Options." The Exchange proposes to rename this rule "Options Opening Process." Specifically, the Exchange is proposing to amend the definition of "market for the underlying security" within Options 3, Section 8(a)(ii).

Today Options 3, Section 8(a)(ii) describes "market for the underlying security" as "...either the primary listing market or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's web site."

The Exchange proposes to amend this definition by replacing the term "primary volume market" with "an alternative market designated by the primary market." The Exchange anticipates that an alternative market would be necessary if the primary listing market were impaired.³ In the event that a primary market is impaired and utilizes its designated alternative market, the Exchange would utilize that market as the underlying.⁴

³ The Exchange notes that the primary listing market and the primary volume market as defined in Phlx's Rules could be the same market and therefore an alternative market is not available under the current Rule.

⁴ For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca, Inc.

The Exchange further proposes an additional contingency. In the event that the primary market is unable to open, and an alternative market is not designated (and/or the designated alternative market does not open), the Exchange may utilize a non-primary market to open all underlying securities from the primary market. The Exchange will select the non-primary market with the most liquidity in the aggregate for all underlying securities that trade on the primary market for the previous two calendar months, excluding the primary and alternate markets. The Exchange notes that in order to open an option series it would require an equity market's underlying quote. If another equity market displays opening prices for the underlying security, the Exchange proposes to utilize those quotes. This proposed change to the current System would allow the Exchange to open in situations where the primary market is experiencing an issue and also where an alternative market designated by the primary market may not be designated by the primary market or is unable to open. The Exchange believes that this proposal would effectively provide the Exchange with additional opportunities to open the market and provide its members with a venue in which to transact options trading. The Exchange notes that utilizing a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months will ensure that the Exchange opens with quotes which are representative of the volume on that primary market. The Exchange believes that this proposal will enable it to open in the event that there are issues with the primary market or the alternate market assigned by the primary.

(“NYSE Arca”) as its alternative market, then PHLX would utilize NYSE Arca as the market for the underlying.

The Exchange also proposes to make a corresponding amendment to Options 3, Section 8(d)(ii) to replace the reference to “primary market” with the defined term “market for the underlying security.”

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by providing for alternative processes to determine the market for the underlying.. The Exchange’s proposal to amend the definition of “market for the underlying security” within Options 3, Section 8(a)(ii) is consistent with the Act.

First, the Exchange’s proposal would remove the concept of a primary volume market and replace that concept with an alternative market designated by the primary market. The Exchange notes that it is most likely the case that the primary market is the primary volume market, so this term offers no contingency in most cases. The primary market has the ability to designate an alternate primary market when the primary market is experiencing difficulties. In those situations, the Exchange proposes to utilize the alternate primary market to open its market. For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca as its alternative market, then Phlx would utilize NYSE Arca as the market for the underlying security.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

Second, the Exchange proposes another alternative in the event that the primary market does not open and an alternate primary market is not designated and/or is also unable to open. In this situation, the Exchange proposes to utilize a non-primary market to open its market. The Exchange will select the non-primary market with the most liquidity in the aggregate for all underlying securities from the primary market for the previous two calendar months, excluding the primary and alternate markets. For example, in the event that the New York Stock Exchange LLC was unable to open because of an issue with its market and it designated NYSE Arca as its alternative market, and the alternate primary was unable to open or NYSE was unable to designate an alternate market because of system difficulties, then Phlx would determine which non-primary market had the most liquidity in the aggregate for all underlying securities for the previous two calendar months, excluding the primary and alternate markets. The Exchange would utilize that market to open all underlying securities from the primary market. The Exchange notes that in order to open an option series it would require an equity market's underlying quote. The Exchange notes that utilizing a non-primary market with the most liquidity in the aggregate for all underlying securities for the previous two calendar months will ensure that the Exchange opens based on the next best alternative to the primary market given the circumstances. This contingency will provide the Exchange with the ability to open in situations where the primary market is experiencing an issue and also where an alternative primary market may also be impacted.

The Exchange believes that this proposal would protect investors and the general public by providing additional venues for Phlx to utilize as part of its Opening Process

and thereby allow investors to transact on its market. The Exchange desires to open its market despite any issues that may arise with the underlying market. The Exchange is proposing alternate methods to open its market to account for situations which may arise if the primary market is unable to open, and if the proposed alternate designated market is unable to open. The Exchange notes that once the market opens with an underlying price, the options market may continue to trade for the remainder of the trading day. The Exchange believes it benefits investors and the general public to have the options market available to enter new positions, or close open positions.

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. Amending the definition of "market for the underlying security" within Options 3, Section 8(a)(ii) does not burden competition. The Exchange's proposal offers alternative paths to open Phlx in the event that the primary market or even a designated alternate primary market experiences an issue. The Exchange's proposal is intended to create additional certainty that in the event of an issue with the primary market, the Exchange would have other equity markets to look to with respect to underlying prices on which to open Phlx. This proposal also does not impact the ability of other options markets to open.

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 Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

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

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

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

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2020-14 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-2020-14. 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-2020-14 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.⁹

J. Matthew DeLesDernier
Assistant Secretary

⁹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq PHLX LLC Rules

* * * * *

Options Rules

* * * * *

Options 3 Options Trading Rules

* * * * *

Section 8. Options Opening[s] [In Options]Process

(a) Definitions. The Exchange conducts an electronic opening for all option series traded on Phlx using its System.

(i) No change.

(ii) The "market for the underlying security" is either the primary listing market or an alternative market designated by the primary market. [or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's web site.] In the event that the primary market is unable to open and an alternative market is not designated by the primary market and/or the alternative market designated by the primary market does not open, the Exchange may utilize a non-primary market to open all underlying securities from the primary market. The Exchange will select the non-primary market with the most liquidity in the aggregate for all underlying securities that trade on the primary market for the previous two calendar months, excluding the primary and alternative markets.

(iii) - (x) No change.

(b) and (c) No change.

(d) Phlx Electronic Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.

(i) No change.

(ii) For all options, the underlying security, including indexes, must be open on the [primary]market for the underlying security for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.

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