

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 45	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2021 - * 32	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 type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" 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 checked="" type="checkbox"/> 19b-4(f)(6)		
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 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"/>			
<b>Description</b> Provide a brief description of the action (limit 250 characters, required when Initial is checked *).  A proposal to to amend various Phlx Rules.					
<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 * Angela Last Name * Dunn Title * Principal Associate General Counsel E-mail * angela.dunn@nasdaq.com Telephone * (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 05/24/2021 By John Zecca (Name *) EVP and Chief Legal Counsel  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 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 “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 (“Commission”) a proposal to amend Phlx Rules at Options 1, Section 1, Applicability, Definitions and References; Options 2, Section 4, Obligations of Market Makers; Options 2, Section 12, Registration and Functions of Options Lead Market Makers; Options 3, Section 7, Types of Orders and Order and Quote Protocols; Options 3, Section 15, Simple Order Risk Protections; and Options 3, Section 16, Complex Order Risk Protections. The Exchange also proposes to add a new Equity 3A, which will be reserved, to the Rulebook Shell.

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 November 5, 2020. 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

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

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

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 Exchange proposes to amend Phlx Rules at Options 1, Section 1, Applicability, Definitions and References; Options 2, Section 4, Obligations of Market Makers; Options 2, Section 12, Registration and Functions of Options Lead Market Makers; Options 3, Section 7, Types of Orders and Order and Quote Protocols; Options 3, Section 15, Simple Order Risk Protections; and Options 3, Section 16, Complex Order Risk Protections. The Exchange also proposes to add and reserve a new Equity 3A to the Rulebook Shell. Each change is described below.

Options 2, Section 4

The Exchange proposes to amend Options 2, Section 4, Obligations of Market Makers. First, the Exchange proposes some technical amendments. The Exchange proposes to amend Options 2, Section 4(b) and 4(b)(1) to change the term “an” to “a”. The Exchange also proposes to capitalize the term “market maker” within Options 2, Section 4(b)(4). Finally, the Exchange proposes to amend the term “is” to “are” within Options 2, Section 4(c). These corrections are non-substantive and intended to make the rule text clearer.

Second, the Exchange proposes to amend the current rule text within Options 2, Section 4(b)(5) which states,

An RSQT electing to engage in Exchange options transactions is designated as a Lead Market Maker on the Exchange for all purposes under the Exchange Act and the rules and regulations thereunder with respect to options transactions initiated and effected by him in his capacity as a Market Maker.

The Exchange proposes to amend the rule to replace the term “RSQT” with the broader term “Market Maker” and replace the term “Lead Market Maker” with the term “specialist.” Phlx filed a rule change<sup>3</sup> to amend certain rules, the rule text previously at Commentary .01 of Rule 1014, which is now located at Options 2, Section 4(b)(5) stated,

An ROT electing to engage in Exchange Options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him on the floor in his capacity as an ROT. For purposes of this commentary, the term “transactions initiated and effected on the floor” shall not include transactions initiated by an ROT off the floor, but which are considered “on-floor” pursuant to Commentaries .07 and .08 of Rule 1014. Similarly, an RSQT electing to engage in Exchange Options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him in his capacity as an ROT.

At this time, the Exchange proposes to revert the rule text back to a part of original language and state, “A Market Maker electing to engage in Exchange Options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him on the floor in his capacity as an Market Maker.” Pursuant to Options 1, Section 1(b)(28), the term “Market Maker” means a Streaming Quote Trader (“SQT”) or a Remote Streaming Quote Trader (“RSQT”) who enters quotations for his own account electronically into the System. An

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<sup>3</sup> See Securities Exchange Act Release No. 51126 (February 9, 2005), 70 FR 6915 (February 9, 2005) (SR-Phlx-2004-90) (Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Remote Streaming Quote Traders).

RSQT is only one type of Market Maker, the other is an SQT. In 2020, the Exchange amended the term “ROT” to “Market Maker.”<sup>4</sup> The original term “ROT” included both SQTs and RSQTs and therefore the broader term “Market Maker” should replace “RSQT.” While the Rulebook Relocation amended the term “specialist” to “Lead Market Maker,” the Exchange notes that the term “specialist” within prior Rule 1014, which is now Options 2, Section 4(b)(5), did not refer to a Phlx participant also known as a “specialist,” rather the term referred to an individual that engages in market making pursuant to the Act. The Exchange proposes to replace the term “Lead Market Maker” with the term “specialist” which shall mean, for purposes of this rule, an individual that engages in market making. The term “specialist” is broader than the term “Lead Market Maker.” This proposal reverts back to language previously used and should capture the universe of market makers the rule was originally intended to capture.

Options 3, Section 15 and Options 3, Section 16

The Exchange proposes to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify. Specifically, for simple orders, the maximum number of contracts, which shall not be less than 10,000 contracts, is established by the Exchange from time-to-time. For Complex Orders, the maximum number of contracts (or shares), which shall not be less than 10,000 contracts (or 100,000 shares), is established by the Exchange from time-

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<sup>4</sup> See Securities Exchange Act 88213 (February 14, 2020), 85 FR 9859 (February 20, 2020) (SR-Phlx-2020-03)( Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate Rules From Its Current Rulebook Into Its New Rulebook Shell) (“Rulebook Relocation”).

to-time. Orders or quotes that exceed the maximum number of contracts/shares are rejected. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>5</sup> Today, Nasdaq ISE, LLC (“ISE”), Nasdaq GEMX, LLC (“GEMX”) and Nasdaq MRX, LLC (“MRX”) describe this limitation within their rules at Options 3, Section 15(a)(2)(B). ISE and MRX also describe the Size Limitation within Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules.

#### Options 3, Section 7

The Exchange also proposes to amend Options 3, Section 7(c)(2), Types of Orders and Order and Quote Protocols, which describes Immediate-or-Cancel Orders or “IOC” Orders. Today, the Exchange describes an IOC order as a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled.<sup>6</sup> Options 3, Section 7(c)(2)(B) provides that IOC orders may be entered through FIX<sup>7</sup> or SQF,<sup>8</sup> provided that an IOC order entered by a Market Maker<sup>9</sup> through

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<sup>5</sup> The Exchange recently filed to add Size Limitation to BX and The Nasdaq Stock Market LLC. See Securities Exchange Act Release Nos. 91838 (May 11, 2021), 86 FR 26750 (May 17, 2021) (SR-BX-2021-020) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX Rules at Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Options 3, Section 15, Risk Protections); and 91841 (May 11, 2021), 86 FR 26753 (May 17, 2021) (SR-NASDAQ-2021-030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Nasdaq Options Market LLC Rules at Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Options 3, Section 15, Risk Protections).

<sup>6</sup> See Options 3, Section 7(c)(2). The Exchange also notes that IOC orders entered with a TIF of IOC are not eligible for routing.

<sup>7</sup> “Financial Information eXchange” or “FIX” is an interface that allows members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. See Options 3, Section 7(a)(i)(A).

SQF is not subject to the Order Price Protection or the Market Order Spread Protection in Options 3, Section 15(a)(1) and (a)(2), respectively. With the proposed addition of the Size Limitation to proposed new Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF.

Today, orders that are entered as IOC by a Market Maker through SQF are subject to the protections in Options 3, Section 15, except for Order Price Protection and Market Order Spread Protection. The Exchange proposes to add Size Limitation to the list of protections that are available for IOC orders entered through FIX, but not SQF. In addition, the Exchange proposes to note within Options 3, Section 7(c)(2), that, “IOC orders may be entered through FIX or SQF, provided that an IOC order entered by a Market Maker through SQF is not subject to the Order Price Protection, the Market Order Spread Protection, or the Size Limitation in Options 3, Section 15(a)(1), (a)(2) and (b)(2), respectively, or Size Limitation within Options 3, Section 16(e).” The addition of this rule text will bring greater clarity to the order type.

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<sup>8</sup> “Specialized Quote Feed” or “SQF” is an interface that allows Lead Market Makers, RSQTs, SQTs to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g. underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series.

<sup>9</sup> The Exchange notes that Lead Market Makers are also Market Makers for purposes of the Options 3, Section 7 discussion.



The Exchange notes that while only orders are entered into FIX, SQF is a quote protocol that also permits Market Makers to enter IOC orders that do not rest on the order book. The Exchange has not elected to utilize Size Limitation on SQF as it did for FIX because Market Makers only utilize SQF to enter IOC orders and Market Makers are professional traders with their own risk settings. FIX, on the other hand, is utilized by all market participants who may not have their own risk settings, unlike Market Makers.

Market Makers utilize IOC orders to trade out of accumulated positions and manage their risk when providing liquidity on the Exchange. Proper risk management, including using these IOC orders to offload risk, is vital for Market Makers, and allows them to maintain tight markets and meet their quoting and other obligations to the market. Market Makers handle a large amount of risk when quoting and in addition to the risk protections required by the Exchange. Market Makers utilize their own risk management parameters when entering orders, minimizing the likelihood of a Market Maker's erroneous order from being entered. The Exchange believes that Market Makers, unlike other market participants, have the ability to manage their risk when submitting IOC orders through SQF and should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the continuous quoting obligations the Exchange imposes on these participants.

The Exchange believes that allowing Market Makers to submit IOC orders through their preferred protocol increases their efficiency in submitting such orders and thereby allows them to maintain quality markets to the benefit of all market participants that trade on the Exchange. Further, unlike other market participants, Market Makers

provide liquidity to the market place and have obligations.<sup>10</sup> Thus, the Exchange opted to not offer Size Limitation for IOC orders entered through SQF because Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk.

Similarly, the Exchange also proposes to amend Options 3, Section 7(c)(3) which describes an Opening Only or “OPG” order. Today, an OPG order can only be executed in the Opening Process pursuant to Options 3, Section 8. The rule currently states that this order type is not subject to any protections listed in Options 3, Section 15 describing risk protections. With the proposed addition of Size Limitation to proposed new Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange proposes to note within Options 3, Section 7(c)(3) that OPG orders are subject to Size Limitation. OPG orders are entered during the Opening Process “Financial Information eXchange” or “FIX”. Also, any participant may enter an OPG order and be subject to Size Limitation protections.

#### Non-Substantive Amendments

The Exchange proposes to amend the Rulebook shell to add a new Equity 3A and reserve that section. Equity 3A will be utilized by the Nasdaq BX, Inc. (“BX”) Rulebook and the Exchange proposes to reserve that section in this Rulebook to demonstrate the section does not exist for the Exchange’s equity market.

The Exchange proposes to make minor technical amendments to Options 1, Section 1(b)(27) which describes a Lead Market Maker. The Exchange proposes to

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<sup>10</sup> Lead Market Makers have quoting obligations during the Opening Process as specified in Options 3, Section 8 and Market Makers and Lead Market Makers have intra-day quoting obligations as specified in Options 2, Section 5.

change an “an” to “the” and capitalize the term “Trading Floor.”

The Exchange proposes to amend Options 2, Section 12(a)(1), Registration and Functions of Options Lead Market Makers, to add a parenthetical and space that were missing.

Finally, the Exchange proposes to amend the description of a Specialized Quote Feed within Options 3, Section 7(a)(i)(B) to make plural the word “request” and also add an “.” after an e.g to conform the punctuation in the paragraph.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Options 2, Section 4

The Exchange’s proposal to amend Options 2, Section 4(b)(5) is consistent with the Act because the paragraph will read as intended. In the Rulebook Relocation, the Exchange amended the term “ROT” to “Market Maker.”<sup>13</sup> Pursuant to Options 1, Section 1(b)(28), the term “Market Maker” means an SQT or an RSQT who enters quotations for his own account electronically into the System. An RSQT is only one type of Market Maker, the other is an SQT. The original term “ROT” included both SQTs and RSQTs and therefore the Exchange proposes to revert back to the broader term “Market

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See supra note 4.

Maker.” While the Rulebook Relocation amended the term “specialist” to “Lead Market Maker,” the Exchange notes that the term “specialist” within prior Rule 1014, which is now Options 2, Section 4(b)(5), did not refer to a Phlx participant also known as a “specialist,” rather the term referred to an individual that engages in market making pursuant to the Act. The Exchange proposes to replace the term “Lead Market Maker” with the term “specialist” which shall mean, for purposes of this rule, an individual that engages in market making. The term “specialist” is broader than the term “Lead Market Maker.” This proposal reverts back to language previously used and should capture the universe of market makers the rule was originally intended to capture.

The remainder of the proposed amendments to Options 2, Section 4 are non-substantive technical amendments that are intended to bring greater clarity to the Exchange’s Rules.

Options 3, Section 15 and Options 3, Section 16

The Exchange’s proposal to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify is consistent with the Act. The proposal is intended to describe a current limitation that exists today as to the number of contracts an incoming order or quote may specify. Specifically, for simple orders, the maximum number of contracts, which shall not be less than 10,000 contracts, is established by the Exchange from time-to-time. For Complex Orders, the maximum number of contracts (or shares), which shall not be less than 10,000 contracts (or 100,000 shares), is established by the Exchange from time-to-

time. Orders or quotes that exceed the maximum number of contracts/shares are rejected. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>14</sup> Today, ISE, GEMX and MRX describe this limitation within its rules at Options 3, Section 15(a)(2)(B) and ISE and MRX describe the limitation in Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules.

Options 3, Section 7

The Exchange's proposal to amend Options 3, Section 7(c)(2) with respect to IOC orders is consistent with the Act. Today, the Exchange describes an IOC order as a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled.<sup>15</sup> Options 3, Section 7(c)(2)(B) provides that IOC orders may be entered through FIX or SQF, provided that an IOC order entered by a Market Maker through SQF is not subject to the Order Price Protection or the Market Order Spread Protection in Options 3, Section 15(a)(1) and (a)(2) respectively. With the proposed additions of the Size Limitation within Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF. The Exchange notes these exceptions within this rule to make clear that this information is available to market participants within the description of IOC.

The Exchange notes that while only orders are entered into FIX, SQF is a quote protocol that also permits Market Makers to enter IOC orders that do not rest on the order book. The Exchange has not elected to utilize Size Limitation on SQF as it did for FIX

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<sup>14</sup> See supra note 5.

<sup>15</sup> See Options 3, Section 7(c)(2).

because Market Makers only utilize SQF to enter IOC orders and Market Makers are professional traders with their own risk settings. FIX, on the other hand, is utilized by all market participants who unlike Market Makers may not have their own risk settings. Market Makers utilize IOC orders to trade out of accumulated positions and manage their risk when providing liquidity on the Exchange. Proper risk management, including using these IOC orders to offload risk, is vital for Market Makers, and allows them to maintain tight markets and meet their quoting and other obligations to the market. Market Makers handle a large amount of risk when quoting and in addition to the risk protections required by the Exchange. Market Makers utilize their own risk management parameters when entering orders, minimizing the likelihood of a Market Maker's erroneous order from being entered. The Exchange believes that Market Makers, unlike other market participants, have the ability to manage their risk when submitting IOC orders through SQF and should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the continuous quoting obligations the Exchange imposes on these participants.

The Exchange believes that allowing Market Makers to submit IOC orders through their preferred protocol increases their efficiency in submitting such orders and thereby allows them to maintain quality markets to the benefit of all market participants that trade on the Exchange. Further, unlike other market participants, Market Makers provide liquidity to the market place and have obligations.<sup>16</sup> The Exchange believes not offering Size Limitation for IOC orders entered through SQF is consistent with the Act

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<sup>16</sup> See supra note 10.

because Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk.

The Exchange's proposal to amend OPG orders within Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders is consistent with the Act as this rule text will clarify the existing language and make clear that Size Limitation is applicable to the order type. OPG orders are entered during the Opening Process utilizing FIX. Any participant may enter an OPG order. The Exchange's proposal to amend Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders is consistent with the Act as this rule text will clarify the existing language and make clear that Size Limitation is applicable to this order type.

#### Non-Substantive Amendments

The Exchange's proposal to add a new Equity 3A and reserve that section, and amend Options 1, Section 1(b)(27), Options 2, Section 12 and Options 3, Section 7(a)(i)(B) to make technical changes, are consistent with the Act as these changes will add clarity to the Exchange's rules.

#### 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.

#### Options 2, Section 4

The Exchange's proposal to amend Options 2, Section 4(b)(5) does not impose an undue burden on competition because the paragraph will read as intended. The

Exchange's proposal will make clear that all participants engaged in market making activities are specialists pursuant to the Act.<sup>17</sup>

The remainder of the proposed amendments to Options 2, Section 4 are non-substantive technical amendments.

Options 3, Section 15 and Options 3, Section 16

The Exchange's proposal to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify does not impose an undue burden on competition. The proposal is intended to describe a current limitation that exists today as to the number of contracts an incoming order or quote may specify. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>18</sup> Today, ISE, GEMX and MRX describe this limitation within its rules at Options 3, Section 15(a)(2)(B) and ISE and MRX describe this limitation within Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules.

Options 3, Section 7

The Exchange's proposal to amend Options 3, Section 7(c)(2) with respect to IOC orders does not impose an undue burden on competition. With the proposed additions of the Size Limitation within Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered

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<sup>17</sup> 15 U.S.C. 78s(b)(1).

<sup>18</sup> See supra note 5.



through SQF. Unlike other market participants, Market Makers provide liquidity to the market place and have obligations.<sup>19</sup>

The Exchange's proposal to amend Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders does not impose an undue burden on competition as this rule text will clarify the existing language and make clear that Size Limitation is applicable to this order type. OPG orders are entered during the Opening Process utilizing FIX.

#### Non-Substantive Amendments

The Exchange's proposal to add a new Equity 3A and reserve that section, and amend Options 1, Section 1(b)(27), Options 2, Section 12 and Options 3, Section 7(a)(i)(B) to make technical changes, do not impose an undue burden on competition as these changes will add clarity to the Exchange's rules.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not Applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>20</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>21</sup> in that it effects a change

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<sup>19</sup> See supra note 10.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

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 remove the current rule text within Options 2, Section 4(b)(5) does not significantly affect the protection of investors or the public interest. Pursuant to Options 1, Section 1(b)(28), the term "Market Maker" means an SQT or an RSQT who enters quotations for his own account electronically into the System. An RSQT is only one type of Market Maker, the other is an SQT. The original term "ROT" included both SQTs and RSQTs. While the Rulebook Relocation amended the term "specialist" to "Lead Market Maker," the Exchange notes that the term "specialist" within prior Rule 1014, which is now Options 2, Section 4(b)(5), did not refer to a Phlx participant also known as a "specialist," rather the term referred to an individual that engages in market making pursuant to the Act. The Exchange proposes to replace the term "Lead Market Maker" with the term "specialist" which shall mean, for purposes of this rule, an individual that engages in market making. The term "specialist" is broader than the term "Lead Market Maker." This proposal reverts back to language previously used and should capture the universe of market makers the rule was originally intended to capture. The Exchange's proposal to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk

Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify does not significantly affect the protection of investors or the public interest. The proposal is intended to describe a current limitation that exists today as to the number of contracts an incoming order or quote may specify. Specifically, for simple orders, the maximum number of contracts, which shall not be less than 10,000 contracts, is established by the Exchange from time-to-time. For Complex Orders, the maximum number of contracts (or shares), which shall not be less than 10,000 contracts (or 100,000 shares), is established by the Exchange from time-to-time. Orders or quotes that exceed the maximum number of contracts/shares are rejected. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>22</sup> Today, ISE, GEMX and MRX describe this limitation within its rules at Options 3, Section 15(a)(2)(B) and ISE and MRX describe this limitation within Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules. The Exchange's proposal to amend Options 3, Section 7(c)(2) with respect to IOC orders does not significantly affect the protection of investors or the public interest. Options 3, Section 7(c)(2)(B) provides that IOC orders may be entered through FIX or SQF, provided that an IOC order entered by a Market Maker through SQF is not subject to the Order Price Protection or the Market Order Spread Protection in Options 3, Section 15(a)(1) and (a)(2) respectively. With the proposed addition of the Size Limitation within Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF. The Exchange notes these exceptions within this rule to make clear that this information

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See supra note 5.

is available to market participants within the description of IOC. The Exchange notes that while only orders are entered into FIX, SQF is a quote protocol that also permits Market Makers to enter IOC orders that do not rest on the order book. The Exchange has not elected to utilize Size Limitation on SQF as it did for FIX because Market Makers only utilize SQF to enter IOC orders and Market Makers are professional traders with their own risk settings. FIX, on the other hand, is utilized by all market participants who unlike Market Makers may not have their own risk settings. The Exchange's proposal to amend Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders does not significantly affect the protection of investors or the public interest as this rule text will clarify the existing language and make clear that Size Limitation is applicable to this order type. OPG orders are entered during the Opening Process utilizing FIX.

The Exchange believes that this proposal does not impose any significant burden on competition. The Exchange's proposal to amend Options 2, Section 4(b)(5) does not impose any significant burden on competition because the paragraph will read as intended. The remainder of the proposed amendments to Options 2, Section 4 are non-substantive technical amendments. The Exchange's proposal to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify does not impose any significant burden on competition. The proposed amendment is intended to describe a current limitation that exists today as to the number of contracts an incoming order or quote may specify.

This System limitation is the same on all Nasdaq affiliated exchanges. Today, ISE, GEMX and MRX describe this limitation within its rules at Options 3, Section 15(a)(2)(B) and ISE and MRX describe this limitation within Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules. The Exchange's proposal to amend Options 3, Section 7(c)(2) with respect to IOC orders does not impose any significant burden on competition. With the proposed addition of the Size Limitation within Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF. Unlike other market participants, Market Makers provide liquidity to the market place and have obligations.<sup>23</sup> The Exchange's proposal to amend Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders does not impose any significant burden on competition as this rule text will clarify the existing language and make clear that Size Limitation is applicable to this order type. OPG orders are entered during the Opening Process utilizing FIX. The Exchange's proposal to add a new Equity 3A and reserve that section, and amend Options 1, Section 1(b)(27), Options 2, Section 12 and Options 3, Section 7(a)(i)(B) to make technical changes, does not impose any significant burden on competition as these non-substantive changes will add clarity to the Exchange's rules.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>24</sup> requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that

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<sup>23</sup> See supra note 10.

<sup>24</sup> 17 CFR 240.19b-4(f)(6)(iii).

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 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.

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 immediately amend Options 2, Section 4(b)(5) to make clear the intended meaning of that rule text. This amendment will bring greater clarity to the rule. The proposal to add Size Limitation to proposed new Options 3, Section 15(b)(2) and Options 3, Section 16(e) will clarify the current rules to specify the current limitation that exists today as to the number of contracts an incoming order or quote may contain. Further, this proposal would amend OPG orders and IOC orders to make clear that the manner in which Size Limitation will apply to those orders types. These amendments will bring greater clarity to Phlx's rules and serve to protect investors and the public interest.

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

ISE, GEMX and MRX describe size limitation at Options 3, Section 15(a)(2)(B) and ISE and MRX describe this limitation within Options 3, Section 16(c)(2). Size Limitation currently exists on Phlx, but is not noted within Phlx's current rule text. Adding Size Limitation to OPG orders and IOC orders is similar to NOM and BX.<sup>25</sup>

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.

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See supra note 4.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2021-32)

May \_\_, 2021

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Various Phlx Rules

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 May 24, 2021, 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 1, Section 1, Applicability, Definitions and References; Options 2, Section 4, Obligations of Market Makers; Options 2, Section 12, Registration and Functions of Options Lead Market Makers; Options 3, Section 7, Types of Orders and Order and Quote Protocols; Options 3, Section 15, Simple Order Risk Protections; and Options 3, Section 16, Complex Order Risk Protections. The Exchange also proposes to add a new Equity 3A, which will be reserved, to the Rulebook Shell.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the

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

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



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 Exchange proposes to amend Phlx Rules at Options 1, Section 1, Applicability, Definitions and References; Options 2, Section 4, Obligations of Market Makers; Options 2, Section 12, Registration and Functions of Options Lead Market Makers; Options 3, Section 7, Types of Orders and Order and Quote Protocols; Options 3, Section 15, Simple Order Risk Protections; and Options 3, Section 16, Complex Order Risk Protections. The Exchange also proposes to add and reserve a new Equity 3A to the Rulebook Shell. Each change is described below.

Options 2, Section 4

The Exchange proposes to amend Options 2, Section 4, Obligations of Market Makers. First, the Exchange proposes some technical amendments. The Exchange proposes to amend Options 2, Section 4(b) and 4(b)(1) to change the term "an" to "a". The Exchange also proposes to capitalize the term "market maker" within Options 2, Section 4(b)(4). Finally, the Exchange proposes to amend the term "is" to "are" within

Options 2, Section 4(c). These corrections are non-substantive and intended to make the rule text clearer.

Second, the Exchange proposes to amend the current rule text within Options 2, Section 4(b)(5) which states,

An RSQT electing to engage in Exchange options transactions is designated as a Lead Market Maker on the Exchange for all purposes under the Exchange Act and the rules and regulations thereunder with respect to options transactions initiated and effected by him in his capacity as a Market Maker.

The Exchange proposes to amend the rule to replace the term “RSQT” with the broader term “Market Maker” and replace the term “Lead Market Maker” with the term “specialist.” Phlx filed a rule change<sup>3</sup> to amend certain rules, the rule text previously at Commentary .01 of Rule 1014, which is now located at Options 2, Section 4(b)(5) stated,

An ROT electing to engage in Exchange Options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him on the floor in his capacity as an ROT. For purposes of this commentary, the term “transactions initiated and effected on the floor” shall not include

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<sup>3</sup> See Securities Exchange Act Release No. 51126 (February 9, 2005), 70 FR 6915 (February 9, 2005) (SR-Phlx-2004-90) (Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Remote Streaming Quote Traders).

transactions initiated by an ROT off the floor, but which are considered “on-floor” pursuant to Commentaries .07 and .08 of Rule 1014. Similarly, an RSQT electing to engage in Exchange Options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him in his capacity as an ROT.

At this time, the Exchange proposes to revert the rule text back to a part of original language and state, “A Market Maker electing to engage in Exchange Options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him on the floor in his capacity as an Market Maker.” Pursuant to Options 1, Section 1(b)(28), the term “Market Maker” means a Streaming Quote Trader (“SQT”) or a Remote Streaming Quote Trader (“RSQT”) who enters quotations for his own account electronically into the System. An RSQT is only one type of Market Maker, the other is an SQT. In 2020, the Exchange amended the term “ROT” to “Market Maker.”<sup>4</sup> The original term “ROT” included both SQTs and RSQTs and therefore the broader term “Market Maker” should replace “RSQT.” While the Rulebook Relocation amended the term “specialist” to “Lead Market Maker,” the Exchange notes that the term “specialist” within prior Rule 1014,

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<sup>4</sup> See Securities Exchange Act 88213 (February 14, 2020), 85 FR 9859 (February 20, 2020) (SR-Phlx-2020-03) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate Rules From Its Current Rulebook Into Its New Rulebook Shell) (“Rulebook Relocation”).

which is now Options 2, Section 4(b)(5), did not refer to a Phlx participant also known as a “specialist,” rather the term referred to an individual that engages in market making pursuant to the Act. The Exchange proposes to replace the term “Lead Market Maker” with the term “specialist” which shall mean, for purposes of this rule, an individual that engages in market making. The term “specialist” is broader than the term “Lead Market Maker.” This proposal reverts back to language previously used and should capture the universe of market makers the rule was originally intended to capture.

Options 3, Section 15 and Options 3, Section 16

The Exchange proposes to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify. Specifically, for simple orders, the maximum number of contracts, which shall not be less than 10,000 contracts, is established by the Exchange from time-to-time. For Complex Orders, the maximum number of contracts (or shares), which shall not be less than 10,000 contracts (or 100,000 shares), is established by the Exchange from time-to-time. Orders or quotes that exceed the maximum number of contracts/shares are rejected. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>5</sup> Today,

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<sup>5</sup> The Exchange recently filed to add Size Limitation to BX and The Nasdaq Stock Market LLC. See Securities Exchange Act Release Nos. 91838 (May 11, 2021), 86 FR 26750 (May 17, 2021) (SR-BX-2021-020) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX Rules at Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Options 3, Section 15, Risk Protections); and 91841 (May 11, 2021), 86 FR 26753 (May 17, 2021) (SR-NASDAQ-2021-030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Nasdaq Options Market LLC Rules at

Nasdaq ISE, LLC (“ISE”), Nasdaq GEMX, LLC (“GEMX”) and Nasdaq MRX, LLC (“MRX”) describe this limitation within their rules at Options 3, Section 15(a)(2)(B).

ISE and MRX also describe the Size Limitation within Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules.

#### Options 3, Section 7

The Exchange also proposes to amend Options 3, Section 7(c)(2), Types of Orders and Order and Quote Protocols, which describes Immediate-or-Cancel Orders or “IOC” Orders. Today, the Exchange describes an IOC order as a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled.<sup>6</sup> Options 3, Section 7(c)(2)(B) provides that IOC orders may be entered through FIX<sup>7</sup> or SQF,<sup>8</sup> provided that an IOC order entered by a Market Maker<sup>9</sup> through

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Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Options 3, Section 15, Risk Protections).

- <sup>6</sup> See Options 3, Section 7(c)(2). The Exchange also notes that IOC orders entered with a TIF of IOC are not eligible for routing.
- <sup>7</sup> “Financial Information eXchange” or “FIX” is an interface that allows members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. See Options 3, Section 7(a)(i)(A).
- <sup>8</sup> “Specialized Quote Feed” or “SQF” is an interface that allows Lead Market Makers, RSQTs, SQTs to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g. underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series.

SQF is not subject to the Order Price Protection or the Market Order Spread Protection in Options 3, Section 15(a)(1) and (a)(2), respectively. With the proposed addition of the Size Limitation to proposed new Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF.

Today, orders that are entered as IOC by a Market Maker through SQF are subject to the protections in Options 3, Section 15, except for Order Price Protection and Market Order Spread Protection. The Exchange proposes to add Size Limitation to the list of protections that are available for IOC orders entered through FIX, but not SQF. In addition, the Exchange proposes to note within Options 3, Section 7(c)(2), that, “IOC orders may be entered through FIX or SQF, provided that an IOC order entered by a Market Maker through SQF is not subject to the Order Price Protection, the Market Order Spread Protection, or the Size Limitation in Options 3, Section 15(a)(1), (a)(2) and (b)(2), respectively, or Size Limitation within Options 3, Section 16(e).” The addition of this rule text will bring greater clarity to the order type.

The Exchange notes that while only orders are entered into FIX, SQF is a quote protocol that also permits Market Makers to enter IOC orders that do not rest on the order book. The Exchange has not elected to utilize Size Limitation on SQF as it did for FIX because Market Makers only utilize SQF to enter IOC orders and Market Makers are professional traders with their own risk settings. FIX, on the other hand, is utilized by all market participants who may not have their own risk settings, unlike Market Makers.

Market Makers utilize IOC orders to trade out of accumulated positions and

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<sup>9</sup> The Exchange notes that Lead Market Makers are also Market Makers for purposes of the Options 3, Section 7 discussion.

manage their risk when providing liquidity on the Exchange. Proper risk management, including using these IOC orders to offload risk, is vital for Market Makers, and allows them to maintain tight markets and meet their quoting and other obligations to the market. Market Makers handle a large amount of risk when quoting and in addition to the risk protections required by the Exchange. Market Makers utilize their own risk management parameters when entering orders, minimizing the likelihood of a Market Maker's erroneous order from being entered. The Exchange believes that Market Makers, unlike other market participants, have the ability to manage their risk when submitting IOC orders through SQF and should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the continuous quoting obligations the Exchange imposes on these participants.

The Exchange believes that allowing Market Makers to submit IOC orders through their preferred protocol increases their efficiency in submitting such orders and thereby allows them to maintain quality markets to the benefit of all market participants that trade on the Exchange. Further, unlike other market participants, Market Makers provide liquidity to the market place and have obligations.<sup>10</sup> Thus, the Exchange opted to not offer Size Limitation for IOC orders entered through SQF because Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk.

Similarly, the Exchange also proposes to amend Options 3, Section 7(c)(3) which describes an Opening Only or "OPG" order. Today, an OPG order can only be executed

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<sup>10</sup> Lead Market Makers have quoting obligations during the Opening Process as specified in Options 3, Section 8 and Market Makers and Lead Market Makers have intra-day quoting obligations as specified in Options 2, Section 5.

in the Opening Process pursuant to Options 3, Section 8. The rule currently states that this order type is not subject to any protections listed in Options 3, Section 15 describing risk protections. With the proposed addition of Size Limitation to proposed new Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange proposes to note within Options 3, Section 7(c)(3) that OPG orders are subject to Size Limitation. OPG orders are entered during the Opening Process “Financial Information eXchange” or “FIX”. Also, any participant may enter an OPG order and be subject to Size Limitation protections.

#### Non-Substantive Amendments

The Exchange proposes to amend the Rulebook shell to add a new Equity 3A and reserve that section. Equity 3A will be utilized by the Nasdaq BX, Inc. (“BX”) Rulebook and the Exchange proposes to reserve that section in this Rulebook to demonstrate the section does not exist for the Exchange’s equity market.

The Exchange proposes to make minor technical amendments to Options 1, Section 1(b)(27) which describes a Lead Market Maker. The Exchange proposes to change an “an” to “the” and capitalize the term “Trading Floor.”

The Exchange proposes to amend Options 2, Section 12(a)(1), Registration and Functions of Options Lead Market Makers, to add a parenthetical and space that were missing.

Finally, the Exchange proposes to amend the description of a Specialized Quote Feed within Options 3, Section 7(a)(i)(B) to make plural the word “request” and also add an “.” after an e.g to conform the punctuation in the paragraph.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the



Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Options 2, Section 4

The Exchange's proposal to amend Options 2, Section 4(b)(5) is consistent with the Act because the paragraph will read as intended. In the Rulebook Relocation, the Exchange amended the term "ROT" to "Market Maker."<sup>13</sup> Pursuant to Options 1, Section 1(b)(28), the term "Market Maker" means an SQT or an RSQT who enters quotations for his own account electronically into the System. An RSQT is only one type of Market Maker, the other is an SQT. The original term "ROT" included both SQTs and RSQTs and therefore the Exchange proposes to revert back to the broader term "Market Maker." While the Rulebook Relocation amended the term "specialist" to "Lead Market Maker," the Exchange notes that the term "specialist" within prior Rule 1014, which is now Options 2, Section 4(b)(5), did not refer to a Phlx participant also known as a "specialist," rather the term referred to an individual that engages in market making pursuant to the Act. The Exchange proposes to replace the term "Lead Market Maker" with the term "specialist" which shall mean, for purposes of this rule, an individual that engages in market making. The term "specialist" is broader than the term "Lead Market Maker." This proposal reverts back to language previously used and should capture the universe of market makers the rule was originally intended to capture.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See supra note 4.

The remainder of the proposed amendments to Options 2, Section 4 are non-substantive technical amendments that are intended to bring greater clarity to the Exchange's Rules.

Options 3, Section 15 and Options 3, Section 16

The Exchange's proposal to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify is consistent with the Act. The proposal is intended to describe a current limitation that exists today as to the number of contracts an incoming order or quote may specify. Specifically, for simple orders, the maximum number of contracts, which shall not be less than 10,000 contracts, is established by the Exchange from time-to-time. For Complex Orders, the maximum number of contracts (or shares), which shall not be less than 10,000 contracts (or 100,000 shares), is established by the Exchange from time-to-time. Orders or quotes that exceed the maximum number of contracts/shares are rejected. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>14</sup> Today, ISE, GEMX and MRX describe this limitation within its rules at Options 3, Section 15(a)(2)(B) and ISE and MRX describe the limitation in Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules.

Options 3, Section 7

The Exchange's proposal to amend Options 3, Section 7(c)(2) with respect to IOC orders is consistent with the Act. Today, the Exchange describes an IOC order as a

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<sup>14</sup> See supra note 5.

Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled.<sup>15</sup> Options 3, Section 7(c)(2)(B) provides that IOC orders may be entered through FIX or SQF, provided that an IOC order entered by a Market Maker through SQF is not subject to the Order Price Protection or the Market Order Spread Protection in Options 3, Section 15(a)(1) and (a)(2) respectively. With the proposed additions of the Size Limitation within Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF. The Exchange notes these exceptions within this rule to make clear that this information is available to market participants within the description of IOC.

The Exchange notes that while only orders are entered into FIX, SQF is a quote protocol that also permits Market Makers to enter IOC orders that do not rest on the order book. The Exchange has not elected to utilize Size Limitation on SQF as it did for FIX because Market Makers only utilize SQF to enter IOC orders and Market Makers are professional traders with their own risk settings. FIX, on the other hand, is utilized by all market participants who unlike Market Makers may not have their own risk settings. Market Makers utilize IOC orders to trade out of accumulated positions and manage their risk when providing liquidity on the Exchange. Proper risk management, including using these IOC orders to offload risk, is vital for Market Makers, and allows them to maintain tight markets and meet their quoting and other obligations to the market. Market Makers handle a large amount of risk when quoting and in addition to the risk protections required by the Exchange. Market Makers utilize their own risk management parameters

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<sup>15</sup> See Options 3, Section 7(c)(2).

when entering orders, minimizing the likelihood of a Market Maker's erroneous order from being entered. The Exchange believes that Market Makers, unlike other market participants, have the ability to manage their risk when submitting IOC orders through SQF and should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the continuous quoting obligations the Exchange imposes on these participants.

The Exchange believes that allowing Market Makers to submit IOC orders through their preferred protocol increases their efficiency in submitting such orders and thereby allows them to maintain quality markets to the benefit of all market participants that trade on the Exchange. Further, unlike other market participants, Market Makers provide liquidity to the market place and have obligations.<sup>16</sup> The Exchange believes not offering Size Limitation for IOC orders entered through SQF is consistent with the Act because Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk.

The Exchange's proposal to amend OPG orders within Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders is consistent with the Act as this rule text will clarify the existing language and make clear that Size Limitation is applicable to the order type. OPG orders are entered during the Opening Process utilizing FIX. Any participant may enter an OPG order. The Exchange's proposal to amend Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders is consistent with the Act as this rule text will clarify the existing language and make clear that Size Limitation is applicable to this order type.

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<sup>16</sup> See supra note 10.

### Non-Substantive Amendments

The Exchange's proposal to add a new Equity 3A and reserve that section, and amend Options 1, Section 1(b)(27), Options 2, Section 12 and Options 3, Section 7(a)(i)(B) to make technical changes, are consistent with the Act as these changes will add clarity to the Exchange'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.

#### Options 2, Section 4

The Exchange's proposal to amend Options 2, Section 4(b)(5) does not impose an undue burden on competition because the paragraph will read as intended. The Exchange's proposal will make clear that all participants engaged in market making activities are specialists pursuant to the Act.<sup>17</sup>

The remainder of the proposed amendments to Options 2, Section 4 are non-substantive technical amendments.

#### Options 3, Section 15 and Options 3, Section 16

The Exchange's proposal to add provisions within Options 3, Section 15 at paragraph (b)(2), related to Simple Order Risk Protections, and Options 3, Section 16 at paragraph (e), related to Complex Order Risk Protections, to describe a current limitation that exists within its rules today as to the number of contracts an incoming order or quote may specify does not impose an undue burden on competition. The proposal is intended

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<sup>17</sup> 15 U.S.C. 78s(b)(1).

to describe a current limitation that exists today as to the number of contracts an incoming order or quote may specify. This System limitation is the same on all Nasdaq affiliated exchanges.<sup>18</sup> Today, ISE, GEMX and MRX describe this limitation within its rules at Options 3, Section 15(a)(2)(B) and ISE and MRX describe this limitation within Options 3, Section 16(c)(2). Phlx proposes to similarly describe this limitation in its rules.

#### Options 3, Section 7

The Exchange's proposal to amend Options 3, Section 7(c)(2) with respect to IOC orders does not impose an undue burden on competition. With the proposed additions of the Size Limitation within Options 3, Section 15(b)(2) and Options 3, Section 16(e), the Exchange also proposes to note that Size Limitation does not apply to IOC orders entered through SQF. Unlike other market participants, Market Makers provide liquidity to the market place and have obligations.<sup>19</sup>

The Exchange's proposal to amend Options 3, Section 7(c)(3) to make clear that Size Limitation applies to OPG orders does not impose an undue burden on competition as this rule text will clarify the existing language and make clear that Size Limitation is applicable to this order type. OPG orders are entered during the Opening Process utilizing FIX.

#### Non-Substantive Amendments

The Exchange's proposal to add a new Equity 3A and reserve that section, and amend Options 1, Section 1(b)(27), Options 2, Section 12 and Options 3, Section

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<sup>18</sup> See supra note 5.

<sup>19</sup> See supra note 10.

7(a)(i)(B) to make technical changes, do not impose an undue burden on competition as these changes will add clarity to the Exchange's rules.

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>20</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>21</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.

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>21</sup> 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.

#### 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-2021-32 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-2021-32. 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-2021-32 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>22</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>22</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

**NASDAQ PHLX LLC Rules**

\* \* \* \* \*

**Equity Rules**

\* \* \* \* \*

**Equity 3 Reserved****Equity 3A Reserved**

\* \* \* \* \*

**Options Rules****Options 1 General Provisions****Section 1. Applicability, Definitions and References**

\* \* \* \* \*

(b) **Definitions.** The following terms as used in the Rules shall, unless the context otherwise indicates, have the meanings herein specified:

\* \* \* \* \*

(27) A “**Lead Market Maker**” means a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). A Lead Market Maker includes a Remote Lead Market Maker which is defined as a Lead Market Maker in one or more classes that does not have a physical presence on [an]the Exchange’s [t]Trading [f]Floor and is approved by the Exchange pursuant to Options 2, Section 11.

\* \* \* \* \*

**Options 2 Options Market Participants**

\* \* \* \* \*

**Section 4. Obligations of Market Makers**

(a) *General.* Transactions of a Lead Market Maker and a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those members should not enter into transactions or make bids or offers that are inconsistent with such a course of dealings.

(b) Each Market Maker electing to engage in Exchange options transactions shall be assigned by the Exchange one or more classes of options. The obligations of a[n] Market

Maker with respect to those classes of options to which he is assigned shall take precedence over his other Market Maker activities.

(1) The off-floor orders for which a Market Maker receives Lead Market Maker margin treatment shall be subject to the obligations of paragraph (a) and, in general, be effected for the purpose of hedging, reducing risk of, or rebalancing positions of the Market Maker. A[n] Market Maker is responsible for evidencing compliance with these provisions. The Exchange may exempt one or more classes of options.

(2) An RSQT may only submit quotations electronically from off the floor of the Exchange. An RSQT may not simultaneously quote both as RSQT and Remote Lead Market Maker in a particular security. If an RSQT is a Remote Lead Market Maker in a particular security, the Remote Lead Market Maker must make a market as a Remote Lead Market Maker and may not make a market as an RSQT in that particular security.

(3) The Exchange shall assign SQTs and RSQTs in accordance with Options 2, Section 1 and allocate one or more options to Remote Lead Market Makers in accordance with Options 2, Section 11. An SQT or RSQT may be assigned to and a Remote Lead Market Maker may be allocated (and thus submit quotes electronically in) any option for which they are approved by the Exchange.

(4) An RSQT shall be required to maintain information barriers that are reasonably designed to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in options assigned to the RSQT or act as a Lead Market Maker or [m]Market [m]Maker in any security underlying options assigned to the RSQT, and otherwise comply with the requirements of Options 2, Section 12 regarding restrictions on the flow of privileged information between the affiliate and the Lead Market Maker organization.

(5) A[n RSQT] Market Maker electing to engage in Exchange options transactions is designated as a [Lead Market Maker]specialist on the Exchange for all purposes under the Exchange Act and the rules and regulations thereunder with respect to options transactions initiated and effected by him in his capacity as a Market Maker.

(c) **Appointment.** Without limiting the foregoing, a Lead Market Maker and a Market Maker [is]are expected to perform the following activities in the course of maintaining a fair and orderly market. The following bid/ask differentials only apply to electronic quotations following the Opening Process.

\* \* \* \* \*

## Section 12. Registration and Functions of Options Lead Market Makers

(a) A Lead Market Maker is not required to be assigned to an options series.

(1) Notwithstanding the foregoing, no member shall act as an options Lead Market Maker (to include a Remote Lead Market Maker as defined in paragraph (a)(2) below) in any option unless such member is registered as an options Lead Market Maker in such option by the Exchange pursuant to Options 2, Section 11 and such registration may be revoked or suspended at any time by the Exchange.

\* \* \* \* \*

### Options 3 Options Trading Rules

\* \* \* \* \*

### Section 7. Types of Orders and Order and Quote Protocols

\* \* \* \* \*

(a) **Entry and Display of Orders and Quotes.** Members may enter orders and quotes into the System as specified below.

(i) The Exchange offers members the following protocols for entering orders and quotes respectively:

\* \* \* \* \*

(B) **“Specialized Quote Feed” or “SQF”** is an interface that allows Lead Market Makers, Streaming Quote Traders ("SQTs") and Remote Streaming Quote Traders ("RSQTs") to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series.

\* \* \* \* \*

(c) **Time in Force or “TIF.”** The term "Time in Force" shall mean the period of time that the System will hold an order for potential execution, and shall include:

\* \* \* \* \*

(2) **Immediate-or-Cancel.** An Immediate-or-Cancel (“IOC”) Order entered with a TIF of “IOC” is a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled.

(A) Orders entered with a TIF of IOC are not eligible for routing.

(B) IOC orders may be entered through FIX or SQF, provided that an IOC Order entered by a Market Maker or Lead Market Maker through SQF is not subject to the Order Price Protection, [or ]the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2), and (b)(2), respectively, or Size Limitation within Options 3, Section 16(e).

\* \* \* \* \*

(3) **Opening Only.** An Opening Only (“OPG”) order is entered with a TIF of “OPG”. This order can only be executed in the Opening Process pursuant to Options 3, Section 8. This order type is not subject to any protections listed in Options 3, Section 15, except Size Limitation. Any portion of the order that is not executed during the Opening Process is cancelled. OPG orders may not route.

\* \* \* \* \*

### Section 15. Simple Order Risk Protections

\* \* \* \* \*

(b) The following are order and quote protections on Phlx:

\* \* \* \* \*

(2) **Size Limitation.** There is a limit on the number of contracts an incoming order or quote may specify. Orders or quotes that exceed the maximum number of contracts are rejected. The maximum number of contracts, which shall not be less than 10,000, is established by the Exchange from time-to-time.

\* \* \* \* \*

### Section 16. Complex Order Risk Protections

(a)- (d) No change.

(e) **Size Limitation.** There is a limit on the number of contracts (and shares in the case of a stock-option order) any single leg of an incoming Complex Order may specify. Orders that exceed the maximum number of contracts (or shares) are rejected. The maximum number of contracts (or shares), which shall not be less than 10,000 contracts (or 100,000 shares), is established by the Exchange from time-to-time.

\* \* \* \* \*