

Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301-415-1969), or you may email [Patricia.Jimenez@nrc.gov](mailto:Patricia.Jimenez@nrc.gov) or [Wendy.Moore@nrc.gov](mailto:Wendy.Moore@nrc.gov).

Dated: June 28, 2018.

**Denise L. McGovern,**  
Policy Coordinator, Office of the Secretary.  
[FR Doc. 2018-14471 Filed 6-29-18; 4:15 pm]  
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## POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018-163; MC2018-187 and CP2018-261]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* July 5, 2018.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an

officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

#### II. Docketed Proceeding(s)

1. *Docket No(s):* CP2018-163; *Filing Title:* USPS Notice of Amendment to Priority Mail Express & First-Class Package Service Contract 2, Filed Under Seal; *Filing Acceptance Date:* June 26, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Christopher C. Mohr, *Comments Due:* July 5, 2018.

2. *Docket No(s):* MC2018-187 and CP2018-261; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 40 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 26, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Christopher C. Mohr, *Comments Due:* July 5, 2018.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**  
Secretary.

[FR Doc. 2018-14228 Filed 7-2-18; 8:45 am]

BILLING CODE 7710-FW-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83537; File No. SR-CboeBZX-2018-042]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.9, Orders and Modifiers

June 28, 2018.

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 June 18, 2018, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 filed a proposal to add a new optional order type modifier to be known as Non-Displayed Swap. The proposed amendments are substantively identical to the rules of Cboe EDGX Exchange, Inc. ("EDGX")<sup>5</sup> and substantially similar to the rules of the Nasdaq Stock Market LLC ("Nasdaq")<sup>6</sup> and NYSE Arca, Inc. ("Arca").<sup>7</sup>

The text of the proposed rule change is available at the Exchange's website at

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

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

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

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

<sup>5</sup> See EDGX Rules 11.6(n)(7), 11.8(b)(7) and 11.8(d)(5); see also Securities Exchange Act Release No. 80841 (June 1, 2017), 82 FR 26559 (June 7, 2017), (Notice of Filing and Immediate Effectiveness To Add a New Optional Order Instruction Known as Non-Displayed Swap).

<sup>6</sup> See Nasdaq Rule 4703(m) (defining the Trade Now order modifier); see also Securities Exchange Act Release No. 79282 (November 10, 2016), 81 FR 81219 (November 17, 2016) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 4702 and Rule 4703 to Add a "Trade Now" Instruction to Certain Order Types).

<sup>7</sup> See Arca Rule 7.31-E(d)(2)(B) (describing the Non-Display Remove Modifier); see also Securities Exchange Act Release No. 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (Order Approving Proposed Rule Change Adopting New Equity Trading Rules Relating to Orders and Modifiers and Retail Liquidity Program To Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform).

[www.markets.cboe.com](http://www.markets.cboe.com), at the Exchange's principal office and at the Public Reference Room of the Commission.

## 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 parts 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 add a new optional order type modifier to be known as Non-Displayed Swap. The proposed amendments are substantively identical to the rules of EDGX<sup>8</sup> and substantially similar to the rules of Nasdaq and Arca.<sup>9</sup>

The proposed Non-Displayed Swap ("NDS") instruction would provide resting limit orders that are not displayed on the Exchange<sup>10</sup> and Mid-Point Peg Orders resting on the BZX Book<sup>11</sup> with a greater ability to receive an execution when that resting order is locked by an incoming order (*e.g.*, the price of the resting non-displayed order is equal to the price of the incoming order that is to be placed on the BZX Book). The NDS instruction would be an optional order instruction that would allow Users<sup>12</sup> to have their resting non-displayed orders execute against an incoming order with a Post Only instruction rather than have it be locked by the incoming order. NDS would be defined as an instruction on an order resting on the BZX Book that, when locked by an incoming order with a Post Only instruction that does not remove liquidity pursuant to paragraph (c)(6) of Exchange Rule 11.9,<sup>13</sup> causes such order

to be converted to an executable order that removes liquidity against such incoming order. An NDS instruction would only be eligible for inclusion on a non-displayed limit order or a Mid-Point Peg Order. An order with a NDS instruction would not be eligible for routing pursuant to Exchange Rule 11.13, Order Execution and Routing. The proposed NDS instruction assists in the avoidance of an internally locked BZX Book (though such lock would not be displayed by the Exchange)<sup>14</sup> by facilitating the execution of orders that would otherwise lock each other.

The following example illustrates the operation of an order with a NDS instruction. Assume the National Best Bid and Offer is \$10.00 by \$10.04. There is a non-displayed limit order to buy resting on the BZX Book at \$10.03. A BZX Post Only Order to sell priced at \$10.03 is entered. Under current behavior, the incoming sell order marked as Post Only would post to the BZX Book because it would not receive sufficient price improvement.<sup>15</sup> This would result in the BZX Book being internally locked.<sup>16</sup> As proposed, if the non-displayed limit order to buy also included a NDS instruction, the orders would instead execute against each other at \$10.03, with the resting buy order with the NDS instruction becoming the remover of liquidity and the incoming BZX Post Only Order to sell becoming the liquidity provider.

Assume the same facts as above, but that a non-displayed limit order to buy at \$10.03 ("Order A") is also resting on the BZX Book with time priority ahead of the non-displayed limit order mentioned above ("Order B"). Like above, a BZX Post Only Order to sell priced at \$10.03 is entered. Under current behavior, the incoming BZX Post Only Order to sell would post to the BZX Book because the value of such execution against the resting buy interest when removing liquidity does not equal or exceed the value of such

instead posted to the BZX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. To determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the BZX Book and subsequently provided liquidity, the Exchange will use the highest possible rebate paid and highest possible fee charged for such executions on the Exchange.

<sup>14</sup> See Exchange Rule 11.13(a)(4)(C).

<sup>15</sup> *Id.* [sic]

<sup>16</sup> In the event the incoming order with a Post Only instruction was to be displayed, it would post and display at \$10.03 and the resting buy order with a Non-Displayed instruction would not execute against it or subsequent incoming sell orders at \$10.03 for so long as the sell order was displayed on the Exchange. See Exchange Rule 11.13(a)(4)(C) and (D).

execution if the order instead posted to the BZX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. As proposed, if Order B also included a NDS instruction, the incoming sell order would execute against Order B and such order would become the remover of liquidity and the BZX Post Only Order to sell would become the liquidity provider. In such case, Order A cedes time priority to Order B because Order A did not also include a NDS instruction and thus the User that submitted Order A did not indicate the preference to be treated as the remover of liquidity in favor of an execution; instead, by not using NDS, a User indicates the preference to remain posted on the BZX Book as a liquidity provider.<sup>17</sup> However, if the incoming sell order was priced at \$10.02, it would receive sufficient price improvement to execute upon entry against all resting buy limit orders in time priority at \$10.03.<sup>18</sup>

If the order with a NDS instruction is only partially executed, the unexecuted portion of that order remains on the BZX Book and maintains its priority, as is the case today for an order that is partially executed and not cancelled by the User.<sup>19</sup> The Exchange is proposing to make the NDS instruction available to limit orders<sup>20</sup> that are not displayed on the Exchange<sup>21</sup> and MidPoint Peg Orders.<sup>22</sup> Because the NDS instruction would be only available to limit orders not displayed on the Exchange and to MidPoint Peg Orders, the NDS instruction would not be available to other order types provided by the Exchange under its Rule 11.9, such as BZX Market Orders, Reserve Orders, and Market Maker Peg Orders,<sup>23</sup> as the NDS instruction would be inconsistent with the use of those order types. The NDS instruction could, however, be combined with other instructions also

<sup>17</sup> Should the limit order to buy at \$10.03 with time priority (*i.e.*, Order A) be displayed on the BZX Book, the incoming BZX Post Only Order to sell at \$10.03 will not execute against the non-displayed buy order with a NDS instruction because displayed orders have priority over non-displayed orders. In such a case, the incoming limit order would be handled as it is today in accordance with existing Exchange rules. See, *e.g.*, Exchange Rules 11.9 and 11.13(a).

<sup>18</sup> The execution occurs here because the value of the execution against the buy order when removing liquidity exceeds the value of such execution if the order instead posted to the BZX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. See *supra* note 13.

<sup>19</sup> See Exchange Rule 11.12(a)(5).

<sup>20</sup> See Exchange Rule 11.9(a)(1).

<sup>21</sup> See Exchange Rule 11.9(c)(11).

<sup>22</sup> See Exchange Rule 11.9(c)(9).

<sup>23</sup> See Exchange Rules 11.9(a)(2), 11.9(c)(1) and 11.9(c)(16), respectively.

<sup>8</sup> See *supra* note 5.

<sup>9</sup> See *supra* notes 6 and 7.

<sup>10</sup> See Exchange Rule 11.9(c)(11).

<sup>11</sup> See Exchange Rule 1.5(e).

<sup>12</sup> See Exchange Rule 1.5(cc).

<sup>13</sup> Under Exchange Rule 11.9(c)(6), a BZX Post Only Order will remove contra-side liquidity from the BZX Book if the order is an order to buy or sell a security priced below \$1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order

available to non-displayed limit orders, such as the Minimum Quantity Order instruction, the Primary Pegged Order instruction, the Market Pegged Order instruction or the Discretionary Order instruction.<sup>24</sup>

The Exchange notes that similar functionality exists on Nasdaq and Arca. Nasdaq refers to their functionality as the “Trade Now” instruction<sup>25</sup> and Arca refers to their functionality as the “Non-Display Remove Modifier”.<sup>26</sup> On Arca, a Limit Non-Displayed Order may be designated with a Non-Display Remove Modifier. If so designated, a Limit Non-Displayed Order to buy (sell) will trade as the remover of liquidity with an incoming Adding Liquidity Only Order (“ALO Order”) to sell (buy) that has a working price equal to the working price of the Limit Non-Displayed Order.<sup>27</sup> On Nasdaq, Trade Now is an order attribute that allows a resting order that becomes locked by an incoming Displayed Order to execute against the available size of the contra-side locking order as a liquidity taker, and any remaining shares of the resting order will remain posted on the Nasdaq Book with the same priority.<sup>28</sup> Nasdaq requires the contra-side order to be display eligible, while the Exchange proposes to enable an order with a NDS instruction to remove liquidity regardless of whether the incoming order would have ultimately been

eligible for display consistent with Arca’s Non-Display Remove Modifier.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>29</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>30</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest by offering Users optional functionality that will facilitate the execution of orders that would otherwise remain unexecuted, thereby increasing the efficient functioning of the Exchange. The NDS instruction is an optional feature that is intended to reflect the order management practices of various market participants. The proposed NDS instruction assists in the avoidance of an internally locked BZX Book by facilitating the execution of orders that would otherwise post, or remain posted, to the BZX Book.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the Exchange believes the proposed rule change promotes competition because it will enable the Exchange to offer functionality substantially similar to that offered by Nasdaq and Arca (in addition to the fact that such functionality is identical to that already offered by the Exchange’s affiliate, EDGX).<sup>31</sup> Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As the NDS feature will be equally available to all Users, the Exchange does not believe the proposed rule change will result in any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

No comments were solicited or received on the proposed rule change.

## 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>32</sup> and subparagraph (f)(6) of Rule 19b–4 thereunder.<sup>33</sup>

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)<sup>34</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing, BZX requested that the Commission waive the 30-day operative delay so that the Exchange can implement the proposed rule change promptly after filing. The Exchange noted that the proposed functionality is optional, may lead to increased order interaction on the Exchange, and is identical to functionality already provided on EDGX. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, as such waiver will permit the Exchange to update its rule without delay so that it provides the same optional NDS functionality as is available on EDGX and potentially increase order interaction on the Exchange. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>35</sup>

At any time within 60 days of the filing of the proposed rule change, the

<sup>32</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>33</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.

<sup>34</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>35</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>24</sup> See Exchange Rules 11.9(c)(5), 11.9(c)(8)(A), 11.9(c)(8)(B) and 11.9(c)(10), respectively.

<sup>25</sup> See Nasdaq Rule 4703(m). See also Securities and Exchange Act Release No. 79282 (November 10, 2016), 81 FR 81219 (November 17, 2016) (SR–Nasdaq–2016–156) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 4703 and Rule 4703 to add a “Trade Now” Instruction to Certain Order Types).

<sup>26</sup> See Arca Rule 7.31–E(d)(2)(B). See also Securities and Exchange Act Release No. 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR–NYSEArca–2015–56) (Order Approving Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 Thereto, Adopting New Equity Trading Rules Relating to Orders and Modifiers and the Retail Liquidity Program To Reflect the Implementation of Pillar, the Exchange’s New Trading Technology Platform) (including the Non-Display Remove Modifier).

<sup>27</sup> See Arca Rule 7.31–E(d)(2)(B).

<sup>28</sup> Arca provides their Non-Display Remove Modifier to their Mid-Point Liquidity Orders (“MPL Orders”) designated Day and MPL–ALO Orders and Arca Only Orders. Nasdaq’s Trade Now functionality is available to Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, Post-Only Orders, Midpoint Peg Post-Only Orders, and Market Maker Peg Orders. To the extent the NDS instruction is only available to non-displayed limit orders and MidPoint Peg Orders, the Exchange notes that the NDS instruction will apply to different order types than Arca’s Non-Display Remove Modifier and Nasdaq’s Trade Now functionality.

<sup>29</sup> 15 U.S.C. 78f(b).

<sup>30</sup> 15 U.S.C. 78f(b)(5).

<sup>31</sup> See *supra* notes 5–7.

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.

#### IV. Solicitation of Comments

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

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2018-042 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-CboeBZX-2018-042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2018-042, and should be submitted on or before July 24, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-14297 Filed 7-2-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83547; File No. SR-Phlx-2018-48]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Firm Participation Guarantee for a Floor Broker

June 28, 2018.

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 June 14, 2018, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit 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 Commentary .02 to Rule 1064.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

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

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

##### 1. Purpose

The Exchange proposes to amend Rule 1064 entitled "Crossing, Facilitation and Solicited Orders." Specifically, the Exchange proposes to amend Commentary .02(ii) to Rule 1064 to amend the firm participation guarantee for a Floor Broker.

Today, Phlx offers certain firm participation guarantees to a Floor Broker who holds an equity, index or U.S. dollar-settled foreign currency option order of the eligible order size or greater ("original order"), the Floor Broker is entitled to cross a certain percentage of the original order with other orders that he is holding or in the case of a public customer order, with a facilitation order of the originating firm (*i.e.*, the firm from which the original customer order originated). Today, the Exchange may determine, on an option by option basis, the eligible size for an order that may be transacted pursuant to this Commentary, however, the eligible order size may not be less than 500 contracts. Orders for less than 500 contracts may be crossed pursuant to Rule 1064 but are not subject to Commentary .02, subsection (iii) to Rule 1064 pertaining to participation guarantees. Similar to Cboe Exchange, Inc. ("CBOE") the Exchange proposes to lower the eligible minimum order size from 500 to not less than 50 contracts.<sup>3</sup> The Commission noted in an approval of the reduction from 500 to 50 for CBOE that it had already approved the facilitation mechanism of ISE, which guarantees 40% of orders to facilitating firms for order sizes of 50 or more contracts.<sup>4</sup> In that approval order the Exchange approved the reduction in the size requirement, from 500 to 50 contracts, because the CBOE proposal raised no new regulatory issues.<sup>5</sup> The Commission noted that it will benefit options market participants by allowing

<sup>3</sup> See CBOE Rule 6.74(d).

<sup>4</sup> See Securities Exchange Act Release No. 42835 (May 26, 2000), 65 FR 35683 (June 5, 2000) (SR-CBOE-99-10) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Participation Rights for Firms Crossing Orders.)

<sup>5</sup> *Id.*

<sup>36</sup> 17 CFR 200.30-3(a)(12) and (59).

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

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