

consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

Because the 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>16</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow the Exchange to extend the pilot program prior to its expiration on May 3, 2018, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates

the proposed rule change to be operative upon filing.<sup>17</sup>

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

**IV. Solicitation of Comments**

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

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2018-038 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-CBOE-2018-038. 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-CBOE-2018-038, and should be submitted on or before May 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**Proposed Collection; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*

Rule 17g-7, SEC File No. 270-563, OMB Control No. 3235-0656.

\*\* This corrected notice replaces the notice published on May 2, 2018 in the **Federal Register** Vol. 83, No. 85, page 19370.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 17g-7 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).<sup>1</sup>

Rule 17g-7 contains disclosure requirements for Nationally Recognized Statistical Rating Organizations ("NRSROs") including certain information to be published when taking a rating action with respect to a credit rating. Currently, there are 10 credit rating agencies registered as NRSROs with the Commission. The Commission estimates that the total burden for respondents to comply with Rule 17g-7 is 695,797 hours.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</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>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> *See* 17 CFR 240.17g-1 and 17 CFR 249b.300.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

Background documentation for this information collection may be viewed at the following website: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta\_Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE, Washington, DC 20549 or send an email to: *PRA\_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 4, 2018.

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

[FR Doc. 2018-09884 Filed 5-8-18; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83167; File No. SR-Phlx-2018-20]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Approving a Proposed Rule Change Amending Rule 1079, FLEX Index, Equity and Currency Options, and Rule 1059, Accommodation Transactions, To Allow the Closing of Flexible Exchange Options (“FLEX options”) in Cabinet Trading

May 3, 2018.

#### I. Introduction

On February 28, 2018, Nasdaq PHLX LLC (“Exchange” or “Phlx”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change amending Phlx’s Rule 1079, relating to FLEX Options, and Phlx Rule 1059, relating to accommodation transactions. The proposed rule change was published for comment in the

**Federal Register** on March 19, 2018.<sup>3</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

#### II. Description of the Proposed Rule Change

The Exchange has proposed to amend Phlx Rule 1079, governing FLEX option transactions, and Phlx Rule 1059, governing accommodation transactions (also known as cabinet trades), to permit open FLEX positions to be closed pursuant to the cabinet procedures in Phlx Rule 1059.

Phlx Rule 1079 permits the trading of FLEX options, which are options customized to fit specific investment strategies and goals.<sup>4</sup> Further, Phlx Rule 1079(a)(4) requires that bids or offers in FLEX trades be made at the minimum increments specified in Phlx Rule 1034.<sup>5</sup> Generally, the minimum increments for stock, index and exchange traded fund options are either \$.10 or \$.05, unless such options are subject to a penny pilot set forth in the rule.

Phlx Rule 1059 permits trading of cabinet orders, defined as closing limit orders at a price of \$1 per option contract for the account of a customer, firm, specialist or registered options trader<sup>6</sup> (“ROT”).<sup>7</sup> Thus, cabinet trades are generally effectuated at less than the minimum increments required for FLEX options, as described above, under the Phlx Rules 1079 and 1034. According to Phlx, cabinet trading is intended to accommodate persons wishing to effect closing transactions in options for

<sup>3</sup> See Securities Exchange Act Release No. 82866 (Mar. 13, 2018), 83 FR 12058 (Mar. 19, 2018) (“Notice”).

<sup>4</sup> See Phlx Rule 1079. See also Notice, *supra* note 3, at 12059. Pursuant to Phlx Rule 1079, investors can specify the characteristics for FLEX Option contracts such as the expiration date, the strike price, and the exercise-style.

<sup>5</sup> Phlx Rule 1034 (a) provides that with certain exceptions, “all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at \$3.00 or higher shall have a minimum increment of \$.10, and all options on stocks and index options quoting in decimals under \$3.00 shall have a minimum increment of \$.05.”

<sup>6</sup> See Phlx Rule 1014(b). An ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. Each ROT electing to engage in Exchange options transactions shall be assigned by the Exchange one or more classes of options, and Exchange options transactions initiated by such ROT on the Floor for any account in which he had an interest shall to the extent prescribed by the Exchange be in such assigned classes.

<sup>7</sup> See Phlx Rule 1059(a). Commentary .02 to Phlx Rule 1059 provides that limit orders with a price of at least \$0 but less than \$1 per option contract may also trade under the terms and conditions in Phlx Rule 1059, subject to certain limitations.

which there is no auction market. Cabinet trading, according to the Exchange, allows market participants to close listed options on the Exchange that are of minimal value or worthless, or not actively traded, often for the purpose of establishing tax losses.<sup>8</sup>

The Exchange has proposed to add Phlx Rule 1079(g) and Commentary .03 to Phlx Rule 1059 to state that open FLEX option positions are eligible to be closed in accordance with the minimum increments set forth in Phlx Rule 1059 governing cabinet trading.<sup>9</sup> The Exchange further proposed that a FLEX option cabinet order may be executed against contra side interest that closes the FLEX option position or, to the extent permitted by the cabinet rule (specifically Phlx Rule 1059(a)(iii)), against contra side interest that opens a FLEX option position.<sup>10</sup>

Under existing Phlx rules all FLEX options are governed by the procedures for FLEX options in Phlx Rule 1079. To accommodate FLEX options trading as a cabinet order under Phlx Rule 1059, the Exchange also proposed in new Section 1079(g) that sections (a) and (b) of Phlx Rule 1079 would not apply to FLEX option transactions in the cabinet.<sup>11</sup> According to the Exchange, Phlx Rule 1079(a), which sets forth the potential characteristics of FLEX options, such as underlying interest and the quote format, would not be applicable for the closing of FLEX options in the cabinet because the characteristics of the FLEX options in the cabinet would already be known.<sup>12</sup> Further, Phlx stated that because FLEX options trading in the cabinet would be governed by the cabinet trading rules set forth in Phlx Rule 1059, except for the provisions of Phlx Rule 1079 noted below which will continue to apply, Phlx Rule 1079(b), which covers procedures for quoting and trading FLEX options, and the provisions of Phlx Rule 1079(a) defining aspects of a FLEX request for the RFQ process, are not applicable.<sup>13</sup>

Under the Phlx’s proposal, Phlx Rules 1079(c)–(f) would, however, continue to apply to FLEX option cabinet

<sup>8</sup> See Notice, *supra* note 3, at 12059 n.3. A cabinet trade is a transaction in which the per-contract value of the cabinet trade is less than the per-contract value of a trade at the specified minimum increment for the option contract. See *id.*

<sup>9</sup> See proposed Phlx Rule 1079(g) and proposed Commentary .03 to Phlx Rule 1059.

<sup>10</sup> See *id.* Phlx Rule 1059(a)(iii) provides that floor brokers would represent the orders in the crowd. See Phlx Rule 1059(a).

<sup>11</sup> See proposed Phlx Rule 1079(g) and proposed Commentary .03 to Phlx Rule 1059.

<sup>12</sup> See Notice, *supra* note 3, at 12059 n.6.

<sup>13</sup> See *id.*

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

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