19(b)(3)(A)(iii) of the Act[27] and Rule 19b–4(f)(6) thereunder.[28] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)[29] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

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.* Please include File Number SR–NYSEAMER–2019–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–17 and should be submitted on or before June 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–10642 Filed 5–21–19; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6).

[29] 15 U.S.C. 78s(b)(2)(B).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85876; File No. SR–Phlx–2019–20]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change Relating to the Allocation and Prioritization of Automatically Executed Trades

May 16, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2019, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, 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 reserve Rule 1014(g)(vii) and (viii), which describes the allocation of automatically executed trades, and adopt a new Rule 1089 and title that rule ''Electronic Execution Priority and Processing in the System.''

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 remove the current rule text describing the allocation of automatically executed trades from Phlx Rule 1014(g)(vii) and (viii)[3] and, in its place, adopt new Phlx Rule 1089 titled ''Electronic Execution Priority and Processing in the System.'' This relocated new proposed rule would describe in greater detail the manner in which Phlx will process, prioritize and allocate transactions in the System.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange proposes to reserve Phlx Rule 1014(g)(vii) and (viii).

[4] The term ''System'' shall mean the automated system for order execution and trade reporting owned and operated by the Exchange which comprises: (A) An order execution service that enables members to automatically execute transactions in System Securities; and provides members with sufficient monitoring and updating capability to participate in an automated execution environment; (B) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority (''OPRA'') for dissemination to the public and industry; and provides participants

Continued

The Exchange will explain this process as a timeline. The current Phlx rule describes the allocation process in a general fashion indicating how different market participants may be allocated. The proposed new rule would sequentially describe the manner in which an order would be allocated in the System, including the allocation method, rounding and all potential allocation scenarios. The proposed rule explains the order in which market participants will be allocated. The Exchange believes that the new proposed rule text would be more easily understood. The proposal codifies the Exchange's current practices while adding more explicit language to the rule text. In adopting Rule 1089, the Exchange proposes to model the format of the rule on Nasdaq BX, Inc.'s (''BX'') ''Book Processing'' rule at Chapter VI, Section 10.

Proposed Amendments to Current Practice

This proposal codifies the Exchange's current allocation methodology. Phlx is not proposing to amend its current electronic allocation process, except in one specific circumstance. The Exchange proposes herein to amend the current allocation a Specialist is entitled to receive when a Specialist is also the Directed Registered Option Trader (''DROT''). In the situation where the Specialist is the DROT, the proposal provides that the Specialist would be entitled to the greater of: (1) The Enhanced Specialist Priority; (2) the allocation for Orders of 5 contracts or fewer (''Entitlement for Orders of 5 contracts or fewer'') or (3) the DROT allocation. Specifically, this proposal would amend the current practice of allocating Orders of 5 contracts or fewer. Today, a Specialist is only entitled to allocation for Orders of 5 contracts or fewer when such order is received and such order is either not a Directed Order or is a Directed Order for 5 contracts or fewer, but the DROT is not quoting at the Exchange's price. If the DROT is also the Specialist, then the Specialist is only be entitled to receive the DROT allocation of 40% rather than the full size of the allocation of the Order for 5 contracts or fewer. This is explained below in greater detail within this proposal. The Exchange notes that the other functionality described in this proposal reflects current practice.

with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (C) the data feeds described at Rule 1070. *See* Phlx Rule 1000(b)(45).

Proposed Rule 1089

Today, Rule 1014(g)(vii) provides that after public customer market and marketable limit orders have been executed, trades automatically executed in such options shall be allocated automatically in the following manner:

(A) If the specialist, an SQT, RSQT or a non-SQT ROT that has placed a limit order on the limit order book (''Phlx XL Participant'') is quoting alone at the disseminated price and their quote is not matched by another Phlx XL participant prior to execution, such Phlx XL Participant shall be entitled to receive a number of contracts up to the size associated with his/her quotation.

(B) *Parity.* Quotations entered electronically by the specialist, an RSQT or an SQT that do not cause an order resting on the limit order book to become due for execution may be matched at any time by quotations entered electronically by the specialist and/or other SQTs and RSQTs, and by ROT limit orders and shall be deemed to be on parity, subject to the requirement that orders of controlled accounts must yield priority to customer orders as set forth in Rule 1014(g)(i)(A).

The Exchange proposes new rule text at proposed Rule 1089(a) which would state that the Exchange would apply a Size Pro-Rata execution algorithm [5] to electronic orders, unless otherwise specified. The Exchange's proposal also provides that ''The System shall execute trading interest within the System in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. If the result is not a whole number, it will be rounded down to the nearest whole number, unless otherwise specified. Generally, and as described in this proposal below, the Exchange would execute interest in price priority at each level of priority separately, other than Public Customers,[6] unless otherwise specified.[7] Public Customers would continue to retain priority over other market participants. For purposes of this rule, a Public Customer shall be defined as a person or entity that is not a broker or dealer in securities.[8]

Proposed Rule 1089(a)(1)(A) describes priority overlays. The Exchange proposes to state within proposed Rule 1089(a)(1) that ''No participant shall be entitled to receive a number of contracts that is greater than the displayed size [9] that is associated with their quotation or order.'' Current Rule 1014(g)(vii)(A) provides the same restriction for market making participants. Also, current Rule 1014(g)(vii)(B)(1)(e) generally provides for this size limitation for purposes of allocation.

Today, the Exchange allocates contracts utilizing a Public Customer Priority Size Pro-Rata allocation model. Public Customer contracts are allocated first in Price-Time priority at a given price level.[10] After all Public Customer contracts have been allocated, Specialist electronic orders/quotes are allocated utilizing a Size Pro-Rata allocation model [11] or the DROT Priority is applied.[12] Orders for 5 contracts or

[5] The Exchange describes Size Pro-Rata Priority at proposed Rule 1089(a) to mean resting orders and quotes in the order book are prioritized according to price. If there are two or more resting orders or quotes at the same price, the System allocates contracts from an incoming order or quote to resting orders and quotes proportionally according to size, based on the total number of contracts available to be executed at that price.

[6] Public Customer orders have a different priority as compared to other market participants. Orders are allocated such that the highest bid and lowest offer shall have priority, except that Public Customer orders have priority over non-Public Customer orders at the same price, provided the Public Customer order is executable. If there are two or more Public Customer orders for the same options series at the same price, priority shall be afforded to such Public Customer orders in the sequence in which an order is received by the System.

[7] For example, Size Pro-Rata allocation is applied to market maker priority and separately for all other remaining interest. On Phlx, market makers include Specialists and Registered Options Traders (''ROTs'') (which includes Streaming Quote Traders (''SQTs'') and Remote Streaming Quote Traders (''RSQTs'')) and floor market makers. A Specialist is an Exchange member who is registered as an options specialist. *See* Phlx Rule 1020(a). A ROT is a regular member or a foreign currency options participant of the Exchange who has received permission from the Exchange to trade in options for his own account. An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned. An RSQT is an ROT that is a member affiliated with an RSQT with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. A floor market maker is known as a non-SQT ROT in Rule 1014(b)(ii)(C). A non-SQT ROT is an ROT who is neither an SQT nor an RSQT.

[8] Professionals are separately defined at Phlx Rule 1000(b)(14) and not included in the definition of a Public Customer.

[9] The Exchange notes that All-or-None Orders are eligible for execution, but remain non-displayed and are not part of Phlx's best bid or offer. An All-or-None Order is a limit or market order that is to be executed in its entirety or not at all.

[10] Price-Time allocations are filled among Public Customer orders in time priority as described below in this Purpose section. *See* Rule 1014(g)(vii).

[11] The Specialist allocation or Enhanced Specialist Priority is described below in the Purpose section. *See* Rule 1014(g)(vii)(B)(1)(c). *See also* DROT priority at Rule 1014(g)(viii).

[12] A Specialist or ROT that receives a Directed Order is a DROT as defined above. The term ''Directed Order'' means any order (other than a stop or stop-limit order as defined in Rule 1066) to

fewer are separately considered for allocation to the Specialist or as remaining contracts as specified in the proposed rule text.[13] ROT priority is applied after Public Customer and Specialist/DROT interest is handled.[14] Remaining interest is allocated to broker dealer orders[15] utilizing a Size Pro-Rata allocation model, which includes orders of all market participants, excluding Public Customers and Specialists because they have already been allocated. The Exchange also accounts for odd lot allocation and rounding within this rule. Each step is described below in greater detail along with proposed new language. The Exchange believes that its proposed allocation language within Rule 1089 is consistent with the Act because it brings greater transparency to the Exchange's rules. The Exchange believes the proposed rule will protect investors and the public interest by providing clear expectations on the manner in which interest will be electronically allocated within Phlx's System.

Public Customer Priority

As is the case today, Public Customer orders are always allocated first at a given price. Public Customer orders will continue to have priority over non-Public Customer interest at the same price, provided the Public Customer order is an executable order.[16] If there are two or more Public Customer orders for the same options series at the same price, priority shall be afforded to such Public Customer orders in the sequence in which they are received by the System.[17]

Currently, Public Customer priority is described at Rule 1014(g)(vii). The current rule text simply states, ''After public customer market and marketable limit orders have been executed, trades automatically executed in such options shall be allocated automatically in the following manner. . . .'' The manner in which Public Customer orders are allocated is not being amended; it is simply restated for clarity.[18] As noted within proposed Rule 1089(a)(1)(A), a Public Customer order does not include a Professional Order.[19] The Exchange believes that it is consistent with the protection of investors and the public interest to allocate Public Customer orders ahead of all other interest. Public Customer liquidity benefits all market participants by providing opportunities for order interaction.

Enhanced Specialist Participation

The proposed rule describes how Specialists will be specifically allocated. Current Rule 1014(g)(vii)(B)(1)(c) describes Enhanced Specialist Participation as follows, ''For options subject to the Enhanced Specialist Participation as set forth in Rule 1014(g)(ii), the specialist shall be entitled to receive a number of contracts (not to exceed the size of the specialist's quote) that is the greater of the amount he would be entitled to receive pursuant to Rule 1014(g)(ii), or the amount he would otherwise receive pursuant to the operation of the algorithm. . . .''

The Exchange notes that in proposed Rule 1089(a)(1)(B), the allocation described in current Rule 1014(g)(vii)(B)(1)(c) is being amended to permit the Specialist to receive the greater of the 3 allocations proposed within Rule 1089(a)(1)(B)(i) as noted at the beginning of the Purpose section. Today, after all Public Customer orders have been fully executed, provided the Specialist's quote is at the better of the internal PBBO,[20] excluding all-or-none orders[21] that cannot be satisfied, or the NBBO the Specialist may be afforded a participation entitlement. As is the case today, the Specialist shall not be entitled to receive a number of contracts that is greater than the displayed size associated with such Specialist.[22] The Exchange's current rule specifically notes that the Specialist is entitled to the Enhanced Specialist Enhancement if quoting at the disseminated price.[23] The proposed rule adds more granularity to the current rule text with respect to the price at which the quote may execute. The Exchange's proposed rule provides, ''After all Public Customer orders have been fully executed, provided the Specialist's quote is at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO, the Specialist may be afforded a participation entitlement.'' The Exchange notes that a quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market.[24] Certain Phlx contingency orders are non-displayed and are

buy or sell which has been directed to a particular specialist, Remote Streaming Quote Trader or ''RSQT'', or Streaming Quote Trader or ''SQT'' by an Order Flow Provider. *See* Phlx Rule 1068.

[13] *See* Phlx Rule 1014(g)(vii)(B)(1)(a) and (b).

[14] *See* Phlx Rule 1014(g)(vii)(B).

[15] *See* Phlx Rule 1014(g)(vi)(B)(1)(d). The term ''off-floor broker-dealer order'' means an order delivered from off the floor of the Exchange by or on behalf of a broker-dealer for the proprietary account(s) of such broker-dealer, including an order for a market maker located on an exchange or trading floor other than the Exchange's trading floor delivered for the proprietary account(s) of such market maker. *See* Phlx Rule 1000(b)(50).

[16] An executable order would be for example a non-contingent order or a contingent order that can have its contingency satisfied. The Phlx contingency orders, which are non-displayed, are exclusively: (i) All-or-none orders; and (ii) stop orders. An all-or-none order is a limit or market order that is to be executed in its entirety or not at all. A stop order is a limit or market order to buy or sell at a limit price when a trade or quote on the Exchange for a particular option contract reaches a specified price. A stop-market or stop-limit order shall not be triggered by a trade that is reported late or out of sequence or by a complex order trading with another complex order.

[17] *See* proposed Phlx Rule 1089(a)(1)(A).

[18] Proposed Rule 1089(a)(1)(A) states, ''Public Customer Priority: The highest bid and lowest offer shall have priority except that Public Customer orders shall have priority over non-Public Customer interest at the same price, provided the Public Customer order is an executable order. If there are two or more Public Customer orders for the same options series at the same price, priority shall be afforded to such Public Customer orders in the sequence in which they are received by the System. For purposes of this rule a Public Customer shall be defined as a person or entity that is not a broker or dealer in securities. Professionals are separately defined at Phlx Rule 1000(b)(14) and not included in the definition of a Public Customer.''

[19] The term Professional means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A professional will be treated in the same manner as an off-floor broker-dealer for purposes of Rules 1014(g) (except with respect to all-or-none orders, which will be treated like customer orders, except that orders submitted pursuant to Phlx Rule 1080(n) for the beneficial account(s) of professionals with an all-or-none designation will be treated in the same manner as off-floor broker-dealer orders), 1033(e), 1064.02 (except professional orders will be considered customer orders subject to facilitation), 1080(n) and 1080.07 as well as Options Floor Procedure Advices B–6 and F–5. Member organizations must indicate whether orders are for professionals. *See* Phlx Rule 1000(b)(14).

[20] The words ''internal PBBO'' refer to the actual better price of an order resting on Phlx's order book that is not displayed, but available for execution.

[21] An All-or None Order may only be submitted by a public customer. All-or-None Orders are non-displayed and non-routable. All-or-None Orders are executed in price-time priority among all public customer orders if the size contingency can be met. The Acceptable Trade Range protection in Rule 1099(a) is not applied to All-Or-None Orders. *See* Phlx Rule 1078.

[22] *See* proposed Rule 1089(a)(1)(B).

[23] Current Rule 1014(vii)(A) provides, ''If the specialist, an SQT, RSQT or a non-SQT ROT that has placed a limit order on the limit order book (''Phlx XL Participant'') is quoting alone at the disseminated price and their quote is not matched by another Phlx XL participant prior to execution, such Phlx XL Participant shall be entitled to receive a number of contracts up to the size associated with his/her quotation.''

[24] The Exchange notes that ISO orders may be routed pursuant to Rule 1083(h). An ''Intermarket Sweep Order'' or ''ISO'' order is defined within Phlx Rule 1083(h) as a limit order for an options series that meets the following requirements: (i) When routed to an Eligible Exchange, the order is identified as an ISO; (ii) Simultaneously with the routing of the order, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the ISO, with such additional orders also marked as ISOs.

exclusively: (i) All-or-None Orders and (ii) stop orders [25] (collectively ''Non-Displayed Contingency Orders''). These Non-Displayed Contingency Orders are not protected orders generally. An All-or-None Order would not be protected, unless the size of the contingency may be satisfied.[26] Similar to other markets, a stop order would be unprotected until such order is triggered. The Exchange notes that these Non-Displayed Contingency Orders are distinct from other order types. The ''NBBO'' is the best Protected Bid and Protected Offer as defined in the Options Order Protection and Locked/Crossed Markets Plan; Protected Bids and Protected Offers that are displayed at a price but available on the Exchange at a better non-displayed price shall be included in the NBBO at their better non-displayed price for purposes of this rule.[27] Rule 1083(o) defines a ''Protected Bid'' or ''Protected Offer'' as a Bid or Offer in an options series, respectively, that: (i) is disseminated pursuant to the OPRA Plan; [28] and (ii) is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange. Non-Displayed Contingency Orders are not disseminated to OPRA and not part of the displayed PBBO. The Exchange proposes to note that the Order Book may include a Non-Displayed Contingency Order with a price that is better than the displayed NBBO (''internal PBBO''). The Exchange therefore proposes to note that the Specialist's quote must be at the better of the internal PBBO or the NBBO. This rule text will make clear that the Specialist must quote at the best price. Further, with respect to locked and crossed markets, certain orders are repriced on Phlx because the order locks or crosses the ABBO.[29] The System will automatically re-price that order from its one minimum price variation inferior to the original away best bid/offer price to one minimum trading increment away from the new away best bid/offer price or its original limit price.[30] Therefore, the Exchange may have a quote or order that will not be displayed at its actual better price.

Specialist Participation Entitlements are applied throughout the trading day as well as during the Opening Process,[31] except that, the entitlement for orders of 5 contracts or fewer shall only apply after the Opening Process and shall not apply to auctions. The allocation for Orders of 5 contracts or fewer will be separately described below. The Exchange is adding clarifying language to provide more detail to the current rule as to Enhanced Specialist Priority.

Proposed Rule 1089(a)(1)(B)(i) provides, that when the Specialist is at the same price as an SQT, RSQT or non-SQT ROT and the number of contracts is greater than 5, the Specialist shall receive the greater of: (i) 60% of remaining interest if there is one other ROT at that price; (ii) 40% of remaining interest if there are two other ROTs at that price; or 30% of remaining interest if there are more than two other ROTs at that price (the ''Specialist Participation Entitlement''); or the Specialist's Size Pro-Rata share under subparagraph (a)(1)(E) (''ROT Priority''); or the Directed ROT (''DROT'') participation entitlement, if any, set forth in subparagraph (a)(1)(C) to proposed Rule 1089 below (if the order is a Directed Order [32] and the Specialist is also the DROT) (''DROT Priority'').

The addition of proposed Rule 1089(a)(1)(B)(i)(c), which describes allocation when a Specialist is also DROT, is a proposed change to the current practice; the remainder of the rule reflects current practice. Today, Rule 1014(g)(vii)(B)(1)(c) only provides that the Specialist could obtain the Specialist Participation Entitlement or the ROT Priority. With this proposal, if the Specialist is the DROT, the proposal provides that the Specialist would be entitled to the greater of; (1) the Enhanced Specialist Priority; (2) the allocation for Orders of 5 contracts or fewer (''Entitlement for Orders of 5 contracts or fewer); or (3) the DROT allocation. Specifically, this proposal would amend the current practice of allocating Orders of 5 contracts or fewer. Today, a Specialist is only entitled to Orders of 5 contracts or fewer when such order is received and the order is either not a Directed Order or is a Directed Order for 5 contracts or fewer, but the DROT is not quoting at the Exchange's price. If the DROT is also the Specialist, then the Specialist is only entitled to receive the DROT allocation of 40% rather than the full size of the 5 lot allocation.

Finally, the Exchange proposes to note that, ''When the Specialist is also the DROT the Specialist/DROT does not participate in the ROT Priority at (a)(i)(E).'' This removal of volume is described in current Rule 1014(g)(viii)(B)(2).[33] The Exchange notes that after the DROT Priority is applied, the System excludes the Specialist/DROT from the total number of contracts that is utilized (denominator) in calculating the ROT Priority in Rule 1089(a)(1)(E).

---

[25] A stop order is a limit or market order to buy or sell at a limit price when a trade or quote on the Exchange for a particular option contract reaches a specified price. A stop-market or stop-limit order shall not be triggered by a trade that is reported late or out of sequence or by a complex order trading with another complex order.

[26] A ''Protected Bid'' or ''Protected Offer'' means a Bid or Offer in an options series, respectively, that: (i) Is disseminated pursuant to the Options Price Reporting Authority (''OPRA'') Plan; and (ii) Is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange. *See* Phlx Rule 1083(o). Phlx Rule 1083 defines a ''Protected Bid'' or ''Protected Offer'' as a Bid or Offer in an options series, respectively, that: (i) is disseminated pursuant to the Options Price Reporting Authority (''OPRA'') Plan; and (ii) is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange. Once triggered, stop orders are treated as any other disseminated orders and would be displayed on OPRA.

[27] *See* Reg. NMS Rule 600(a)(42). National best bid and national best offer means, with respect to quotations for an NMS security, the best bid and best offer for such security that are calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan; provided, that in the event two or more market centers transmit to the plan processor pursuant to such plan identical bids or offers for an NMS security, the best bid or best offer (as the case may be) shall be determined by ranking all such identical bids or offers (as the case may be) first by size (giving the highest ranking to the bid or offer associated with the largest size), and then by time (giving the highest ranking to the bid or offer received first in time).

[28] ''OPRA Plan'' means the plan filed with the SEC pursuant to Section 11Aa(1)(C)(iii) of the Act, approved by the SEC and declared effective as of January 22, 1976, as from time to time amended.

[29] ABBO shall mean the away best bid or offer.

[30] *See* Phlx Rule 1093(a)(iii)(A), (B)(4), (C)(4).

[31] *See* proposed Rule 1089(a)(1)(D). The Opening Process is described within Rule 1017.

[32] *See* note 12 above.

[33] (2) (a) A Directed RSQT or SQT (where applicable) shall be allocated a number of contracts that is the greater of the proportion of the aggregate size at the NBBO associated with such Directed SQT or RSQT's quote, the specialist's quote, other SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book via electronic interface at the disseminated price represented by the size of the Directed RSQT or SQT's quote at the NBBO, or (b) 40% of the remaining contracts. (c) Thereafter, the specialist, SQTs and RSQTs (excluding the Directed SQT or RSQT) quoting at the disseminated price, and non-SQT ROTs that have placed limit orders on the limit order book via electronic interface at the Exchange's disseminated price, shall be allocated a number of contracts according to the following formula:

Equal percentage based on the Number of SQTs, RSQTs, specialist and Non-SQT ROTs quoting or with limit orders at BBO (Component A) + Pro rata percentage based on size of SQT, RSQT, specialist and Non-SQT quotes and limit orders (Component B) × Remaining Order Size

Where:

Component A: The percentage to be used for Component A shall be an equal percentage, derived by dividing 100 by the number of SQTs, RSQTs (other than the Directed SQT or RSQT) specialist and non-SQTs quoting or with limit orders at the BBO.

Component B: Size Pro Rata Allocation. The percentage to be used for Component B of the allocation algorithm formula is that percentage that the size of each SQT, RSQT RSQTs (*other than the Directed SQT or RSQT*), specialist or non-SQT ROT's quote or limit order at the best price represents relative to the total number of contracts in the disseminated quote.

Example Number 1:

ABBO = 1.00 − 1.10
PBBO = 1.00 − 1.10

Orders/Quotes entered into Trading System in the following order of receipt:

Specialist: 1.00 bid (10 contracts) − 1.10 offer (15 contracts)
Public Customer A: 5 contracts offered at 1.10
Firm: 5 contracts offered at 1.10
ROT 1: 1.00 bid (10 contracts) − 1.10 offer (20 contracts)
ROT 2: 1.00 bid (10 contracts) − 1.10 offer (10 contracts)
Public Customer B: 2 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts

Allocated as follows:

Size Pro-Rata results in Public Customer A trading 5 contracts, Public Customer B trading 2 contracts, Specialist trading 11 contracts (15/45 * 33 remaining), ROT1 trading 14 contracts (20/45 * 33 = 15.67 rounded down), ROT2 trading 7 contracts (10/45 * 33 = 7.33 rounded down), and then Specialist receiving an additional 1 lot based on random assignment.

Specialist Participation Entitlement would result in Public Customer A trading 5 contracts, Public Customer B trading 2 contracts, and Specialist trading 40% of remaining 33 contracts = 13 (13.2 rounded down); then Size Pro-Rata for remaining with ROT1 trading 13 contracts (20/30 * 20 = 13.33 rounded down) and ROT2 trading 6 contracts (10/30 * 20 = 6.67 rounded down) and Specialist trading an additional 1 lot based on random assignment.

The Specialist Participation Entitlement would prevail in this example, pursuant to proposed Rule 1089(A)(1)(ii)(1), because the Specialist Participation Enhancement receives greater allocation.

Example Number 2

ABBO = 1.00 − 1.10
PBBO = 1.00 − 1.10

Orders/Quotes entered into Trading System in the following order of receipt:

ROT 1: 1.00 bid (10 contracts) − 1.10 offer (10 contracts)
Public Customer A: 10 contracts offered at 1.10
Firm: 15 offered at 1.10
Specialist: 1.00 bid (10 contracts) − 1.10 offer (10 contracts)
ROT 2: 1.00 bid (10 contracts) − 1.10 offer (10 contracts)
Public Customer B: 10 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts

Allocated as follows:

Size Pro-Rata results in Public Customer A trading 10 contracts, Public Customer B trading 10 contracts, Specialist trading 6 contracts (10/30 * 20 remaining rounded down), ROT1 trading 6 contracts (10/30 * 20 = 6.67 rounded down), ROT2 trading 6 contracts (10/30 * 20 = 6.67 rounded down), and then ROT1 and Specialist each receiving an additional 1 lot based on random assignment.

Specialist Participation Entitlement would result in Public Customer A trading 10 contracts, Public Customer B trading 10 contracts, and Specialist trading 40% of remaining 20 contracts = 8; then normal pro rata resumes with ROT1 and ROT2 each being allocated 6 contracts.

Pursuant to proposed Rule 1089(A)(1)(ii)(1), the Specialist Participation Entitlement would prevail in this example because the Specialist Participation Entitlement receives greater allocation.

Example Number 3

ABBO = 1.00 − 1.10
PBBO = 1.00 − 1.10

Orders/Quotes entered into Trading System in the following order of receipt:

ROT 1: 1.00 bid (10 contracts) − 1.10 offer (10 contracts)
Firm: 25 contracts offered at 1.10
Specialist: 1.00 bid (10 contracts) − 1.10 offer (20 contracts)
ROT 2: 1.00 bid (5 contracts) − 1.10 offer (10 contracts)
ROT 3 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Public Customer B: 2 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts

Allocated as follows:

Size Pro-Rata results in Public Customer B trading 2 contracts, ROT1 trading 6 contracts (10/60 * 38 = 6.33 rounded down), Specialist trading 12 (20/60 * 38 = 12.67 rounded down), ROT2 trading 6 contracts (10/60 * 38 = 6.33 rounded down), and ROT3 trading 12 contracts (20/60 * 38 = 12.67 rounded down) and then ROT1 and Specialist each trading an additional 1 contract by random assignment.

Specialist Participation Entitlement would result in Public Customer B trading 2 contracts and Specialist trading 30% of remaining 38 contracts = 11 (11.4 rounded down); then normal pro rata resumes and ROT1 trades 6 contracts (10/40 * 27 = 6.75 rounded down), ROT2 trades 6 (10/40 * 27 = 6.75 rounded down), and ROT3 trades 13 contracts (20/40 * 27 = 13.5 rounded down) and ROT1 and Specialist each trade an additional 1 lot by random assignment.

Pursuant to proposed Rule 1089(A)(1)(ii)(1), the Specialist Participation Entitlement would prevail in this example because the Specialist Participation Entitlement receives greater allocation.

Rounding

Current Rule 1014(g)(vii) does not address the manner in which the System handles rounding. The Exchange proposes to memorialize the manner in which rounding will be handled in proposed Rule 1089(a)(1)(C)(i). Phlx rounds down to the nearest integer with one exception which is described below.

The Exchange proposes to state within proposed Rule 1089(a)(1)(C)(i), with respect to a DROT, ''If rounding would result in an allocation of less than one contract, the DROT shall receive one contract.'' The Exchange notes that when allocating pursuant to proposed Rule 1089(a)(1)(C), a DROT is entitled to a percentage allocation based on the method described within proposed Rule 1089(a)(1)(C)(i). As stated above, DROT volume does not participate in the ROT Priority at (a)(1)(E). The Exchange notes that for example if there is 1 contract to be allocated at 40% pursuant to proposed Rule 1089(a)(1)(C)(i)(a) the DROT would receive a full contract because the result would yield a fractional amount of less than one contract. The Exchange notes that this provision only applies where the full allocation is less than one contract; thereby not applying to remainders. This aforementioned allocation of a full contract (1 contract) when rounding yields a fractional amount of less than one contract only applies when allocating pursuant to DROT Priority and does not apply with respect to the Specialist Participation Entitlement or the Specialist entitlement for Orders of 5 contracts or fewer. The Exchange believes that the proposed rounding permits the DROT to receive an allocation where there is a possibility that a fractional share would otherwise yield no allocation to the DROT where the DROT was quoting at the NBBO. The Exchange believes that this methodology is consistent with the Act because the Exchange seeks to reward the Directed Market Maker for bringing order flow to the Exchange. The Exchange notes that while the Specialist will be rounded down, the Specialist is entitled to Orders of 5 Contracts or fewer, provided the Specialist is quoting at the NBBO and no higher interest is present. Also, the Specialist volume is entitled to participate in the ROT

Priority as proposed in Rule 1089(a)(1)(E).

The Exchange believes that otherwise rounding down uniformly is consistent with the Act because it provides for the equitable allocation of contracts among the Exchange's market participants. The Exchange proposes to provide market participants with transparency as to the number of contracts that they are entitled to receive as the result of rounding. Further, the Exchange believes that this methodology produces an equitable outcome during allocation that is consistent with the protection of investors and the public interest because all market participants are aware of the methodology that will be utilized to calculate outcomes for allocation purposes.

Examples With Rounding and Remainders

Example Number 1

Presume an order of 200 contracts is being allocated in the Exchange's Order Book. Allocation will first occur with Public Customer orders at the best price filled in time priority, since Public Customers always have priority on the Exchange. Presume there are 63 contracts remaining after Public Customer orders are filled. Assume no Specialist is present thus ROTs would be allocated next pursuant to Rule 1089 in Size Pro-Rata fashion. Presume 5 ROTs are at the best price and the allocation of the remaining 63 contracts, after Public Customer orders have been satisfied, is as follows:

ROT A 1.10 (30) × 1.20 (30)—25.2 rounded down to 25 contracts
ROT B 1.10 (15) × 1.20 (15)—12.6 rounded down to 12 contracts
ROT C 1.10 (10) × 1.20 (10)—8.4 rounded down to 8 contracts
ROT D 1.10 (10) × 1.20 (10)—8.4 rounded down to 8 contracts
ROT E 1.10 (10) × 1.20 (10)—8.4 rounded down to 8 contracts

After this Size Pro-Rata allocation, 2 contracts remain to be allocated. Presume for this trading day these ROTs are assigned the following order of assignment: First is ROT A, second is ROT B, third is ROT C, fourth is ROT D and fifth is ROT E. The 2 remaining contracts would be allocated as follows:

ROT A 1.10 (30) × 1.20 (30)—1 contract
ROT B 1.10 (15) × 1.20 (15)—1 contract
ROT C 1.10 (10) × 1.20 (10)—zero
ROT D 1.10 (10) × 1.20 (10)—zero
ROT E 1.10 (10) × 1.20 (10)—zero

The next order which results in contracts remaining after the Size Pro-Rata allocation to ROTs will have such remaining contracts allocated one at a time beginning with ROT C since he was next in line based on that trading day's order of assignment, provided ROT C is at the best price with remaining interest.

Example Number 2

Presume an order of 200 contracts is being allocated in the Exchange's Order Book. Presume all Public Customer orders and ROT interest that was at the best price have been filled and there are 9 contracts remaining to be executed.

Broker-dealers would be allocated next pursuant to Rule 1089 in a Size Pro-Rata fashion. Presume 3 broker-dealers are at the best price and their interest had arrived in the following order. The allocation of the remaining 9 contracts is as follows:

Broker-dealer C 1.10 (5) × 1.20 (5)—4.09 contracts rounded down to 4
Broker-dealer B 1.10 (3) × 1.20 (3)—2.45 contracts rounded down to 2
Broker-dealer A 1.10 (3) × 1.20 (3)—2.45 contracts rounded down to 2

After this Size Pro-Rata allocation, there remains one contract to be allocated. This residual contract will be allocated in time priority as follows:

Broker-dealer C 1.10 (5) × 1.20 (5)—1 contract
Broker-dealer B 1.10 (3) × 1.20 (3)—zero
Broker-dealer A 1.10 (3) × 1.20 (3)—zero

Parity

Current Rule 1014(g)(vii)(B) includes a parity concept. Specifically, current Rule 1014(g)(vii)(B) states, ''[q]uotations entered electronically by the specialist, an RSQT or an SQT that do not cause an order resting on the limit order book to become due for execution may be matched at any time by quotations entered electronically by the specialist and/or other SQTs and RSQTs, and by ROT limit orders and shall be deemed to be on parity, subject to the requirement that orders of controlled accounts must yield priority to customer orders as set forth in Rule 1014(g)(i)(A).'' The Exchange believes that the parity provision is unnecessary if the proposed rule is approved because the Exchange has drafted the rule to describe the order in which allocations will occur among different classes of market participants. The proposed rule is intended to provide a timeline approach to the manner in which the System will consider each group of market participant and allocate accordingly. The priority for ROTs and Specialists in current Rule 1014(g)(vii)(A) is described differently than proposed within proposed Rule 1089, however the priority treatment remains unchanged from how the System functions today. The outline of the new rule describes the manner in which the System will allocate orders to various market participants based on a Size Pro-Rata model. The Exchange notes that the concept of priority is detailed within each section when describing similarly situated market participants. The Exchange believes that removing the rule text related to parity from the proposed rule is consistent with the Act because while the Exchange is not specifically describing parity within the proposed rule, the Exchange will allocate based on parity as described in more detail within the specific allocations provided for within the proposed rule.

DROT Priority

As noted herein, a Specialist or ROT who receives a Directed Order is a ''DROT'' with respect to that Directed Order.[34] Today, the Exchange allocates Directed Orders first to Public Customers orders. After all Public Customer orders have been fully executed, upon receipt of a Directed Order pursuant to Rule 1068, provided the DROT's quote or market maker order is at the better of the internal PBBO excluding all-or-none orders that cannot be satisfied, or the NBBO,[35] the DROT

[34] The term ''Directed Order'' means any order (other than a stop or stop-limit order as defined in Rule 1066) to buy or sell which has been directed to a particular Specialist, RSQT, or SQT by an Order Flow Provider, as defined below. To qualify as a Directed Order, an order must be delivered to the Exchange via the System. *See* Rule 1068(a)(i)(A). When the Exchange's disseminated price is the NBBO at the time of receipt of the Directed Order, and the Directed Specialist, SQT or RSQT is quoting at the Exchange's best price, the Directed Order shall be automatically executed and allocated in accordance with Rule 1014(g)(viii). *See* Rule 1068(a)(ii). When the Exchange's disseminated price is the NBBO, and the quotation disseminated by the Directed Specialist, RSQT, or SQT on the opposite side of the market from the Directed Order is inferior to the NBBO at the time of receipt of the Directed Order, the Directed Order shall be automatically executed and allocated to those quotations and orders at the NBBO in accordance with Exchange Rule 1014(g)(vii). *See* Rule 1068(a)(iii). If the Exchange's disseminated price is not the NBBO at the time of receipt of the Directed Order, the Directed Order shall be handled in accordance with Exchange rules. *See* Rule 1068(a)(iv).

[35] The ''NBBO'' is the best Protected Bid and Protected Offer as defined in the Options Order Protection and Locked/Crossed Markets Plan; Protected Bids and Protected Offers that are displayed at a price but available on the Exchange at a better non-displayed price shall be included in the NBBO at their better non-displayed price for purposes of this rule. *See* Reg. NMS Rule 600(a)(42). National best bid and national best offer means, with respect to quotations for an NMS security, the best bid and best offer for such security that are calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan; provided, that in the event two or more market centers transmit to the plan processor pursuant to such plan identical bids or offers for an NMS security,

receives a participation entitlement (''DROT Priority''). DROT participation entitlements will be permitted only after the Opening Process. When the DROT is at the same price as an SQT, RSQT or non-SQT ROT (collectively ''ROTs''), pursuant to the DROT participation entitlement, the DROT shall receive, with respect to a Directed Order, the greater of: (a) 40% of remaining interest; or (b) the DROT's Size Pro-Rata share under subparagraph (a)(1)(E) (''ROT Priority''); or (c) the Specialist Participation Entitlement in subparagraph (a)(1)(B), if the DROT is also the Specialist. When a DROT Priority is applied, the DROT does not participate in the ROT Priority at (a)(i)(E) as illustrated in example number 4 below as described in this proposal.

Current Rule 1014(g)(viii) describes the manner in which Directed Orders are allocated. Directed Orders (as defined in Rule 1080(l)(i)(A)) other than Directed Complex Orders that are executed electronically shall be automatically allocated as follows:

(A) First, to customer limit orders resting on the limit order book at the execution price. (B) Thereafter, contracts remaining in the Directed Order, if any, shall be allocated automatically as follows: (1) The Directed Specialist (where applicable), shall be allocated a number of contracts that is the greater of: (a) the proportion of the aggregate size at the NBBO associated with such Directed Specialist's quote, SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book at the disseminated price represented by the size of the Directed Specialist's quote; (b) the Enhanced Specialist Participation as described in Rule 1014(g)(ii); or (c) 40% of the remaining contracts.

* * * * *

(2) (a) A Directed RSQT or SQT (where applicable) shall be allocated a number of contracts that is the greater of the proportion of the aggregate size at the NBBO associated with such Directed SQT or RSQT's quote, the specialist's quote, other SQT and RSQT quotes, and non- SQT ROT limit orders entered on the book via electronic interface at the disseminated price represented by the size of the Directed RSQT or SQT's quote at the NBBO, or (b) 40% of the remaining contracts.

As is the case today, if there are multiple quotes or orders [36] for the same DROT at the same price [37] which are at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO when the Directed Order is received, the DROT participation entitlement applies only to the DROT quote or order which has the highest priority.[38] The DROT quote or order that received the Directed Order may not receive any further allocation of the Directed Order, except as described in the ROT Priority section within proposed Rule 1080(a)(1)(E). If rounding would result in an allocation of less than one contract, the DROT shall receive one contract.

As is the case today, if the DROT Priority is not awarded at the time of receipt of the Directed Order pursuant to Rule 1063, no DROT priority will apply and the order will be handled as though it were not a Directed Order for the remainder of the life of the order.[39] The Exchange is not amending the DROT Priority. The proposed rule text reflects current practice. As is the case today, under no circumstances would the DROT quote receive an allocation of greater than 40% of an order at a price at which they receive a directed entitlement.

Below are some examples of DROT Participation Entitlement under Size Pro-Rata Algorithm. Examples 1 through 3 below illustrate the manner in which a DROT will be allocated pursuant to the Size Pro-Rata model.

Example Number 1

Assume a Specialist is assigned and the DROT is *not* the Specialist.

ABBO = 1.00 − 1.10

PBBO = 1.00 − 1.10 comprised of the following in order of receipt:

Specialist: 1.00 (10) − 1.10 (15)

Public Customer A: 5 offered at 1.10

Firm: 5 offered at 1.10

DROT: 1.00 (10) − 1.10 (20)

ROT1: 1.00 (10) − 1.10 (10)

Public Customer B: 2 offered at 1.10

Incoming Directed Order to pay 1.10 for 40 contracts

Determination of Allocation:

Size Pro-Rata would result in Public Customer A trading 5, Public Customer B trading 2, DROT trading 14 contracts due to rounding down(20/45 * 33), Specialist trading 11 due to rounding down (15/25 * 19) ROT1 trading 7 (10/25 * 19), and then Specialist receiving the residual 1 lot based on random assignment.

DROT Priority would result in Public Customer A trading 5, Public Customer B trading 2, and DROT trading 40% of remaining 33 = 13 (13.2 rounded down); then normal Size Pro-Rata for remaining with the Specialist trading 12 (15/25 * 20) and ROT1 trading 8 (10/25 * 20).

The Specialist Participation Entitlement would not be calculated since the Specialist is not the DROT.

In this example, the Size Pro-Rata allocation would prevail since the DROT would receive the greater allocation this way.

Example Number 2

Assume that no Specialist is present.

ABBO = 1.00 − 1.10

PBBO = 1.00 − 1.10

DROT: 1.00 (10) − 1.10 (15)

Public Customer A: 5 offered at 1.10

Firm: 5 offered at 1.10

ROT1: 1.00 (10) − 1.10 (20)

ROT2: 1.00 (10) − 1.10 (10)

Public Customer B: 2 offered at 1.10

Incoming Directed Order to pay 1.10 for 40 contracts

Determination of Allocation:

Size Pro-Rata would result in Public Customer A trading 5, Public Customer B trading 2, DROT trading 11 (15/45 * 33 remaining), ROT1 trading 14 (20/30 * 22 = 14.67 rounded down), ROT2 trading 7 (10/30 * 22 = 7.33 rounded down), and the DROT receiving the residual 1 lot based on random assignment.

DROT Priority would result in Public Customer A trading 5, Public Customer B trading 2, and DROT trading 40% of remaining 33 = 13 (13.2 rounded down); then normal Size Pro-Rata for remaining with ROT1 trading 13 (20/30 * 20 = 13.33 rounded down) and ROT2 trading 6 (10/30 * 20 = 6.67 rounded down), and the DROT receiving the residual 1 lot based on random assignment.

The Specialist Participation Entitlement would not be calculated since the Specialist is not the DROT.

In this example, the DROT Priority would prevail since the DROT would receive the greater allocation this way.

Example Number 3

Assume that the DROT is also the Specialist.

ABBO = 1.00 − 1.10

PBBO = 1.00 − 1.10 comprised of the following in order of receipt:

DROT/Specialist: 1.00 (10) − 1.10 (15)

Public Customer A: 5 offered at 1.10

Firm: 5 offered at 1.10

ROT1: 1.00 (10)—1.10 (30)

Public Customer B: 2 offered at 1.10

Incoming Directed Order to pay 1.10 for 40 contracts

Determination of Allocation:

the best bid or best offer (as the case may be) shall be determined by ranking all such identical bids or offers (as the case may be) first by size (giving the highest ranking to the bid or offer associated with the largest size), and then by time (giving the highest ranking to the bid or offer received first in time).

[36] A member may have multiple DROT quotes or orders submitted into the System.

[37] There may be multiple DROTs within the same member organization, for example multiple SQTs or RSQTs at Firm A.

[38] Orders are time-stamped and quotes receive an order assignment for that trading day.

[39] *See* Phlx Rule 1068(a)(iv).

Size Pro-Rata would result in Public Customer A trading 5, Public Customer B trading 2, DROT/Specialist trading 11 (15/45 * 33 remaining), ROT1 trading 22 remaining contracts.

DROT Priority would result in Public Customer A trading 5, Public Customer B trading 2, and DROT/Specialist trading 40% of remaining 33 = 13 (13.2 rounded down); then Size Pro-Rata for remaining with ROT1 trading full size of 20.

The Specialist Participation Entitlement would result in Public Customer A trading 5, Public Customer B trading 2, and DROT/Specialist entitled to 60% of remaining 33 = 19 (19.8 rounded down) but capped at his size of 15 thus trading 15; then normal Size Pro-Rata for remaining with ROT1 trading 18.

In this example, the Specialist Participation Entitlement would prevail since the DROT is the Specialist and would receive a greater allocation this way.

Example Number 4

Assume that the DROT is *also* the Specialist.

Scenario 3:

ABBO = 1.00 − 1.10

PBBO = 1.00 − 1.10 comprised of the following in order of receipt:

ROT1: 31 contracts offered at 1.10

ROT2: 7 contracts offered at 1.10

DROT: 51 contracts offered at 1.10

Contra-side Directed Order to pay 1.10 for 63 contracts

DROT gets Size Pro Rata allocation of 36 contracts (51/89 of 63 = 36.1 rounded down [better than 40% Directed/Specialist allocation = 25.2 contracts])

(ROT1 gets 31/38 of 27 = 22.02 rounded down to 22)

ROT2 gets 4 contracts (7/38 of 27 = 4.97 rounds down to 4)

Odd lot of 1 contract goes to whoever is 1st in odd lot priority

In this example, the DROT received the Size Pro Rata allocation, which was the greater of the entitlements pursuant to proposed Rule 1089(a)(1)(C). The DROT volume would be excluded from ROT priority in 1089(a)(1)(E).

Entitlement for Orders of 5 Contracts or Fewer

Current Rule 1014(g)(vii)(B)(1)(a) contains the following language for Orders of 5 contracts or fewer:

orders for 5 contracts or fewer shall be allocated first to the specialist, provided, however, that on a quarterly basis, the Exchange will evaluate what percentage of the volume executed on the Exchange is comprised of orders for 5 contracts or fewer allocated to specialists, and will reduce the size of the orders included in this provision if such percentage is over 25%. In order to be entitled to receive the 5 contract or fewer order preference set forth in this sub-paragraph (B)(1)(a), the specialist must be quoting at the Exchange's disseminated price, and shall not be entitled to receive a number of contracts that is greater than the size that is associated with its quote. If the specialist is not quoting at the Exchange's disseminated price at the time of execution, orders for 5 contracts or fewer shall be allocated to Phlx XL Participants on parity as set forth in paragraph (b) below.

The provision for Orders of 5 contracts or fewer is carried over into new proposed Rule 1089(a)(1)(D). The Exchange proposes to provide the Entitlement for Orders of 5 contracts or fewer shall be allocated to the Specialist as described below. The allocation may only apply after the Opening Process and shall not apply to auctions. A Specialist is not entitled to receive a number of contracts that is greater than the size that is associated with its quote. On a quarterly basis, the Exchange will evaluate what percentage of the volume executed on the Exchange is comprised of orders for 5 contracts or fewer allocated to Specialists, and will reduce the size of the orders included in this provision if such percentage is over 25%.[40]

(i) A Specialist is entitled to priority with respect to Orders of 5 contracts or fewer, including when the Specialist is also the DROT, if the Specialist has a quote at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO, with no other Public Customer or DROT interest with a higher priority.

(ii) If the Specialist's quote is at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO, with other Public Customer (including when the Specialist is also the DROT) or other DROT interest with a higher priority at the time of execution, a Specialist is not entitled to priority with respect to Orders of 5 contracts or fewer, however the Specialist is eligible to receive such contracts pursuant to Rule 1089(a)(1)(E); thereafter orders will be allocated pursuant to Rule 1089(a)(1)(F).

In order to be entitled to receive Orders for 5 contracts or fewer, the Specialist's quote must be at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO with no other Public Customer or DROT interest which has a higher priority. If the Specialist is quoting at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO with other Public Customer or DROT interest present which has a higher priority at the time of execution, a Specialist is not entitled to priority with respect to Orders of 5 contracts or fewer, however the Specialist is eligible to receive such contracts pursuant to ROT Priority as described in Rule 1089(a)(1)(E), thereafter orders will be allocated pursuant to Rule 1089(a)(1)(F).

With this proposal, the Specialist would be entitled to the entire allocation of the Order of 5 contracts or fewer where the Specialist is also the DROT and the Specialist receives the Directed Order and has a quote at the best price (described as the better of the internal PBBO or the NBBO) at the time the Directed Order was received. This means that no other interest, including Public Customer or DROT interest is present with a higher priority, if the Specialist is to receive the allocation. If, for example, a Public Customer is resting at the NBBO at the time of execution, a Specialist is not entitled to priority with respect to Orders of 5 contracts or fewer. The Exchange believes that this proposed change is consistent with the Act because the Specialist will not be entitled to priority with respect to allocation of Orders of 5 contracts or fewer because there is interest present with a higher priority or because the Specialist is not quoting at the NBBO. In these situations, the Specialist will receive the ROT Priority, and be treated on par with other ROTs, pursuant to proposed Rule 1089(a)(1)(E). This Entitlement for Orders of 5 contracts or fewer shall only apply after the Opening Process and shall not apply to auctions.[41]

Elimination of Current Rule Text

Current Rule 1014(g)(vii)(B)(1)(b) provides that:

Respecting orders for greater than 5 contracts (regardless of whether the specialist is quoting at the Exchange's disseminated price), or orders for 5 contracts or fewer when the specialist is not quoting at the Exchange's disseminated price, inbound electronic orders shall be allocated pursuant to the following allocation algorithm:

[40] The Exchange monitors the percentage of the volume for Orders of 5 contracts or fewer executed on the Exchange on a quarterly basis.

[41] For example, the Exchange's PIXL auction and the Opening Process would not be subject to proposed Rule 1089(A)(1)(ii)(2). The Opening Process is explained in Phlx Rule 1017.

$$\frac{\text{Equal percentage based on the number of Phlx XL Participants quoting or with limit orders at BBO (Component A)} + \text{Pro rata percentage based on size of Phlx XL participant quotes/limit orders (Component B)}}{2} \times \text{Incoming Order Size}$$

Where:

Component A: The percentage to be used for Component A shall be an equal percentage, derived by dividing 100 by the number of Phlx XL participants quoting at the BBO.

Component B: Size Pro Rata Allocation. The percentage to be used for Component B of the allocation algorithm formula is that percentage that the size of each Phlx XL Participant's quote at the best price represents relative to the total number of contracts in the disseminated quote.

Final Weighting: The final weighting formula for equity options, which shall be determined by a three-member special committee of the Board of Directors, chaired by the President of the Exchange, and two Directors (the ''Special Committee''), and apply uniformly across all equity options, shall be a weighted average of the percentages derived for Components A and B multiplied by the size of the incoming order. Initially, the weighting of components A and B shall be equal, represented mathematically by the formula: (Component A Percentage + Component B Percentage)/2) * incoming order size.

The final weighting formula for index options and options on Exchange Traded Fund Shares (as defined in Rule 1000(b)(42) shall be established by the Special Committee. The final weighting formula for options on U.S. dollar-settled foreign currency options shall be established by a three- member special committee of the Board of Directors, chaired by the President of the Exchange, and two Governors. The final weighting formula may vary by product. Changes made to the percentage weightings of Components A and B shall be announced to the membership on the Exchange's website at least one day before implementation of the change.

The Exchange proposes to replace the formula described within Rule 1014(g)(vii)(B)(1)(b) with a more streamlined description of the manner in which interest is allocated, and the sequence of that allocation within the System. At this time, the Exchange proposes to eliminate the formula, the weighting process and the ability to determine values for the weighting and simply state that it will apply a Size Pro-Rata execution algorithm to electronic orders.[42] The Exchange notes that the method in which Phlx applies Size Pro-Rata allocation is not changing, only the manner in which this allocation is described in the rule text. Today, the Exchange utilizes a calculation to describe what the Exchange seeks to express today within proposed Rule 1089. Today, all resting orders and quotes in the order book are prioritized according to price. If there are two or more resting orders or quotes at the same price, the System allocates contracts from an incoming order or quote to resting orders and quotes proportionally according to size, based on the total number of contracts available and to be executed at that price. Proposed Rule 1089 describes the how interest is allocated among market participants and the manner in which allocation occurs. The Exchange's current rule does not order the rule as a timeline to explain the order in which allocation is occurring. Also, specificity is lacking in the current rule, which the Exchange is proposing to add within proposed Rule 1089.

Today, as noted above, Directed Orders are first allocated to Public Customers, then to the Directed Specialist as specified in Rule 1014(g)(viii)(A) and (B).[43] The Exchange today applies a Size Pro-Rata execution algorithm to electronic orders, as described herein, other than Public Customers, including for Directed Orders. Currently, Rule 1014(g)(viii)(B)(1) and (2) describes the allocation algorithm utilizing a formula to explain the manner in which SQTs and RSQTs quoting at the disseminated price, and non-SQT ROTs that have placed limit orders on the limit order book via electronic interface at the Exchange's disseminated price shall be allocated contracts:

Equal percentage based on the Number of SQTs, RSQTs and Non-SQT ROTs quoting or with limit orders at BBO (Component A)+ Pro rata percentage based on size of SQT, RSQT and Non-SQT quotes and limit orders (Component B) × Remaining Order Size

Current Rule 1014(g)(viii)(B)(1) and (2) describes the weighting. The Exchange proposes to eliminate this formula and process for setting the final weighting and instead utilize the allocation rule text described herein, which the Exchange believes provides more clarity and consistency to the manner in which the allocation method is described for Directed Orders.

ROT Priority

Current Rule 1014(g)(vii)(A) provides that ''if the specialist, an SQT, RSQT or a non-SQT ROT that has placed a limit order on the limit order book (''Phlx XL Participant'') is quoting alone at the disseminated price and their quote is not matched by another Phlx XL participant prior to execution, such Phlx XL Participant shall be entitled to receive a number of contracts up to the size associated with his/her quotation.''

The Exchange notes that it is not amending the manner in which ROTs are allocated. Proposed Rule 1089(a)(1)(E) describes ROT Priority. After all Public Customer orders have been fully executed at a given price, provided the Public Customer order is an executable order, and Specialist Participation Entitlement or DROT Priority are applied, if applicable, remaining ROT interest shall have priority over all other orders at the same price. If there are two or more ROT quotes or orders for the same options series at the same price, those shall be executed based on the Size Pro-Rata execution algorithm. As noted herein, the Exchange would not include DROT volume if the DROT Priority applied.

Odd Lot Allocation

The Exchange proposes to indicate the manner in which remaining contracts are allocated among market participants within proposed Rule

[42] Phlx offers both an electronic and floor model for the execution of options transactions. Floor transactions are subject to Phlx Rule 1014(g)(v).

[43] Phlx Rule 1014(g)(viii)(B) currently states that after Public Customer limit orders resting on the book are allocated, the contracts remaining in the Directed Order, if any, shall be allocated automatically as follows: (1) The Directed Specialist (where applicable), shall be allocated a number of contracts that is the greater of: (a) The proportion of the aggregate size at the NBBO associated with such Directed Specialist's quote, SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book at the disseminated price represented by the size of the Directed Specialist's quote; (b) the Enhanced Specialist Participation as described in Rule 1014(g)(ii); or (c) 40% of the remaining contracts.

1080(a)(1)(F). The Odd Lot Allocation is not codified in the current rule. The Exchange proposes to describe the handling of odd lots by stating that remaining contracts shall be allocated among equally priced ROTs, by random assignment of ROTs, each trading day in accordance with the trading day's order assignment, provided the ROT is at the price at which the order is being traded. Specifically, the Exchange proposes to state, if there are contracts remaining after ROT Priority is applied, such contracts shall be allocated by randomly assigning all ROTs (including the Specialist or DROT) an order of allocation each trading day, and allocating orders, quotes and sweeps in accordance with the trading day's order assignment, provided the ROT, DROT or Specialist is at the best price at which the order, quote or sweep is being traded.[44]

Specifically, with respect to the proposed new text regarding Odd Lot Allocation, the Exchange utilizes a round robin approach to the allocation. This allocation methodology for ROTs exists today on Phlx. Rule text similar to that proposed herein is codified within the Price Improvement XL[45] or ''PIXL'' rule to describe this approach.[46] If remaining shares result from the allocation of simple interest among equally priced ROTs, remaining shares are allocated by daily random assignments of ROTs. Each ROT is assigned an order of allocation, each trading day. Trading interest is allocated in accordance with the trading day's order assignment, provided the ROT is at the best price at which the order, quote or sweep is being traded. The assignment continues throughout the trading day for each allocation, picking up where it dropped off from the last allocation, provided the ROT is entitled to an allocation. There is no new priority being introduced, rather the Exchange is allocating remaining contracts to ROTs after ROT Priority is applied pursuant to proposed Rule 1089(a)(1)(E) before considering other remaining interest of lower priority pursuant to proposed Rule 1089(a)(1)(G).

The Exchange believes that this method results in a fair and equitable allocation of contracts to these market participants because each trading day the Exchange creates a new order of assignment to allocate ROTs and that order provides an independent method to assign evenly among ROTs. Also, each trading day that assignment changes so that no one ROT would have the ability to receive a greater allocation than another ROT. The Exchange believes that the allocation of odd lots among ROTs is consistent with the Act because it provides for the equitable allocation of contracts among the Exchange's market participants. Specifically, with respect to the allocation method for odd lots for ROTs, this random assignment is basically a round robin approach to the allocation. The Exchange believes that this method results in a fair and equitable allocation of contracts to these market participants because each trading day the Exchange creates a new order of assignment to allocate ROTs and that order provides an independent method to assign evenly among ROTs. Also, each trading day that assignment changes so that no one ROT would have the ability to receive a greater allocation than another ROT. The Exchange believes that its assignment method is not subject to gaming since it is random and therefore complies with the Act because it is aimed at the protection of investors. Also, this rule change will provide market participants with transparency as to the number of contracts that they are entitled to receive as the result of the allocation of odd lots.

All Other Remaining Interest

Current Rule 1014(g)(vii)(B)(1)(d) provides, with respect to Broker-Dealer Orders:[47]

If any contracts remain to be allocated after the Phlx XL Participants have received their respective allocations, off-floor broker-dealers (as defined in Rule 1080(b)(i)(C)) that have placed limit orders on the limit order book which represent the Exchange's disseminated price shall be entitled to receive a number of contracts that is the proportion of the aggregate size associated with off-floor broker-dealer limit orders on the limit order book at the disseminated price represented by the size of the limit order they have placed on the limit order book. Such off-floor broker-dealers shall not be entitled to receive a number of contracts that is greater than the size that is associated with each such limit order.

Proposed Rule 1089(a)(1)(G) provides, with respect to all other remaining interest, if there are contracts remaining after all ROT interest has been fully executed, such contracts shall be executed based on the Size Pro-Rata execution algorithm. In the event that there are remaining contracts to be allocated for interest after rounding, which includes orders of all remaining market participants, such remaining contracts will be allocated in time priority provided the interest is at the best price at which the order is being traded. This provision would apply to any remaining market participant that has not been previously allocated pursuant to proposed Rule 1089(a)(1)(A)–(F). This practice of allocation is not being amended; rather the rule text is being amended to make the current practice clear.

The Exchange believes that this proposed new text that addresses allocation of remaining contracts, which is being applied uniformly to all remaining market participants, is consistent with the Act because it provides for the equitable allocation of contracts among the Exchange's market participants of similar priority. This method is consistent with the Act because it relies simply on time priority, an accepted method of allocation utilized by many options exchange to prioritize orders.

Below are examples representing consecutive executions and allocations within the Order Book that demonstrate rounding and the Odd Lot Allocation of remaining shares.

Example Number 1

Presume an order of 200 contracts is being allocated in the Exchange's Order Book. Allocation will first occur with Public Customer orders at the best price filled in time priority, since Public Customers always have priority on the Exchange. Presume there are 63 contracts remaining after Public Customer orders are filled. ROTs would be allocated next in Size Pro-Rata fashion. Presume 5 ROTs are at the best price and the allocation of the remaining 63 contracts, after Public Customer orders have been satisfied, is as follows:

[44] Phlx has a random approach for allocating remainders to ROTs.

[45] PIXL℠ is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. *See* Phlx Rule 1087.

[46] PIXL rules provides, ''. . .Where the allocation of contracts results in remaining amounts, the number of contracts to be allocated shall be rounded down to the nearest integer. If rounding would result in an allocation of less than one contract, then one contract will be allocated to the Initiating Member only if the Initiating Member did not otherwise receive an allocation. If there are contracts remaining, such contracts shall be allocated for simple interest after rounding by randomly assigning all ROTs an order of allocation each trading day, and allocating orders, quotes and sweeps in accordance with the trading day's order assignment, provided the ROT is at the best price at which the order, quote or sweep is being traded, except with respect to Complex Orders, which allocation is described in Phlx Rule 1098. In the event that there are remaining contracts to be allocated for interest after rounding, such remaining contacts will be allocated in time priority, provided the off-floor broker-dealers are at the best price at which the order is being traded. Remaining shares will be allocated in time priority for Complex Orders . . .'' *See* Phlx Rule 1087(b)(5)(B)(vi).

[47] As this rule applies to electronic allocations, the Exchange proposes to change references to ''Off Floor Broker Dealers'' to simply ''Broker Dealers.''

ROT A 1.10(30) × 1.20 (30)—25.2 rounded down to 25 contracts
ROT B 1.10(15) × 1.20 (15)—12.6 rounded down to 12 contracts
ROT C 1.10(10) × 1.20 (10)—8.4 rounded down to 8 contracts
ROT D 1.10 (10) × 1.20 (10)—8.4 rounded down to 8 contracts
ROT E 1.10 (10) × 1.20 (10)—8.4 rounded down to 8 contracts

After this Size Pro-Rata allocation, 2 contracts remain to be allocated. Presume for this trading day these ROTs are assigned the following order of assignment: First is ROT A, second is ROT B, third is ROT C, fourth is ROT D and fifth is ROT E. The 2 remaining contracts would be allocated as follows:

ROT A 1.10(30) × 1.20 (30)—1 contract
ROT B 1.10(15) × 1.20 (15)—1 contract
ROT C 1.10(10) × 1.20 (10)—zero
ROT D 1.10 (10) × 1.20 (10)—zero
ROT E 1.10 (10) × 1.20 (10)—zero

The next order which results in contracts remaining after the Size Pro-Rata allocation to ROTs will have such remaining contracts allocated one at a time beginning with ROT C since he was next in line based on that trading day's order of assignment, provided ROT C is at the best price with remaining interest.

Example Number 2

Presume an order of 200 contracts is being allocated in the Exchange's Order Book. Presume all Public Customer orders and ROT interest that was at the best price have been filled and there are 9 contracts remaining to be executed.

Remaining interest would be allocated next in a Size Pro-Rata fashion. Presume 3 broker-dealers are at the best price and their interest had arrived in the following order. The allocation of the remaining 9 contracts is as follows:

Broker-dealer C 1.10 (5) × 1.20 (5)—4.09 contracts rounded down to 4
Broker-dealer B 1.10 (3) × 1.20 (3)—2.45 contracts rounded down to 2
Broker-dealer A 1.10 (3) × 1.20 (3)—2.45 contracts rounded down to 2

After this Size Pro-Rata allocation, there remains one contract to be allocated. This residual contract will be allocated in time priority as follows:

Broker-dealer C 1.10 (5) × 1.20 (5)—1 contract
Broker-dealer B 1.10 (3) × 1.20 (3)—zero
Broker-dealer A 1.10 (3) × 1.20 (3)—zero

Finally, the Exchange proposes to note at proposed Rule 1089(a)(2), ''A market maker is entitled only to an Enhanced Specialist Allocation pursuant to Rule 1089(a)(1)(B) or the Entitlement for Orders of 5 contracts or fewer pursuant to Rule 1089(a)(1)(D) on a quote or the DROT Priority pursuant to Rule 1089(a)(1)(C) on a quote or market maker order.'' The Exchange notes that Specialists submit quotes at the NBBO to be allocated the Enhanced Specialist Allocation pursuant to proposed Rule 1089(a)(1)(B) or the Entitlement for Orders of 5 contracts or fewer pursuant to Rule 1089(a)(1)(D), while a DROT may submit either a quote or market maker order at the NBBO to be entitled to DROT Priority pursuant to proposed Rule 1089(a)(1)(C).[48] The Exchange believes the proposed rule will make clear what type of interest may receive an enhanced allocation.

Other Sections Being Eliminated

Rule 1014(g)(vii)(B)(1)(e) provides, ''No Phlx XL Participant shall be entitled to receive a number of contracts that is greater than the size that is associated with their quotation or limit order.'' This concept is expressed within proposed Rule 1089 throughout the proposed rule text rather than in a lone standing rule. The Exchange believes that this additional language is no longer necessary because this concept is embedded in the new proposed language.

Rule 1014(g)(vii)(B)(2) entitled ''*No Split-Price Executions,*'' provides, ''If the size associated with a market order or an electronic quotation to be executed is received for a greater number of contracts than the Exchange's disseminated size, the portion of such an order or quotation executed automatically at the Exchange's disseminated size shall be allocated automatically in accordance with Rule 1014(g)(vii). Contracts remaining in such an order shall be represented by the specialist and handled in accordance with Exchange Rules.'' The Exchange notes that this language is obsolete and not in effect today. The Exchange does not permit any manual handling of orders; rather the orders will be allocated the same as all other trading interest. The Exchange believes that it is consistent with the Act and the protection of investors and the public interest to eliminate this obsolete language to provide clarity to members as to the manner in which the System allocates trades.

Current Rule 1014(g)(vii)(B)(3) provides, ''Notwithstanding the first sentence of Rule 1014(g)(i), neither Rule 119(a)–(d) and (f), nor Rule 120 (insofar as it incorporates those provisions by reference) shall apply to the allocation of automatically executed trades.'' The Exchange notes that Rules 119 and 120 will be disconnected from the electronic allocation model. The Exchange is proposing to create a new Rule 1089 for electronic allocation, as compared to floor allocation. Proposed Phlx Rule 1089 will not rely on concepts of controlled accounts or parity and therefore the application to Rules 119 and 120 is unnecessary. The proposed Rule 1089 is structured to indicate the manner in which market participants will be allocated in reference to each other in a more streamlined manner. The Exchange believes that deleting this rule text is consistent with the Act, specifically the protection of investors and the public interest because this rule text does not serve to describe in a clear manner the method in which the Exchange would allocate electronic transactions.

Cross-References

The Exchange is proposing to amend the references to Rule 1014 in Rule 1082, Commentary .02 and .03 to update the references to the new proposed rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[49] in general, and furthers the objectives of Section 6(b)(5) of the Act[50] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by providing more specificity within proposed Rule 1089 regarding the manner in which the Exchange allocates. The Exchange's proposal seeks to protect investors and the public interest by providing greater transparency as to the sequence in which allocation occurs as it relates to various market participants. The Exchange is memorializing its current practice within proposed new Rule 1089 with one amendment proposed herein.

Entitlement for Orders of 5 Contracts or Fewer

The Exchange's proposed amendment to permit the Specialist, who is also the DROT, to be allocated the entire Order of 5 contracts or fewer, provided the Specialist has a quote at the better of the internal PBBO, excluding all-or-none orders that cannot be satisfied, or the NBBO, with no other Public Customer or DROT interest with a higher priority,

[48] This includes orders of market makers in options series in which the market maker is assigned on Phlx.

[49] 15 U.S.C. 78f(b).

[50] 15 U.S.C. 78f(b)(5).

is consistent with the Act. As is the case today, the Specialist, who is also the DROT must continue to have (1) a Directed Order directed to him/herself; (2) a quote or order at the better of the internal PBBO (excluding all-or-none orders which cannot be satisfied) or NBBO at the time the Directed Order was received; and (3) no other interest, including Public Customer and DROT interest, present with a higher priority. The proposed amendment continues to provide Public Customers with the highest priority in that the Specialist would not be entitled to the allocation of Orders of 5 contracts or fewer in the event that other interest was present with a higher priority. If, for example, a Public Customer order is resting at the NBBO at the time of execution, a Specialist is not entitled to priority with respect to Orders of 5 contracts or fewer. The Exchange believes that this proposed change is consistent with the Act because the Specialist will not be entitled to priority with respect to Orders of 5 lot allocation if there is interest of higher priority resting at the Exchange's disseminated best price or if the Specialist is not quoting at the NBBO. In these situations, the Specialist would be entitled to be allocated pursuant to ROT Priority on par with other ROTs, pursuant to proposed Rule 1089(a)(1)(E).

The Exchange notes that Specialists, unlike other market participants, have obligations in the marketplace. Specialists are required to submit Valid Width Quotes during the Opening Process pursuant to Phlx Rule 1017. Further, Specialists have heightened quoting obligations pursuant to Phlx Rule 1081. In contrast to Specialists, DROTs have no quoting obligations during the Opening Process and must quote with a heightened Directed SQT/RSQT quoting obligation only during the period in which they receive a Directed Order in any option in which they are assigned and shall be considered a Directed SQT or Directed RSQT until such time as they are no longer directed pursuant to Rule 1081(c)(ii)(C).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed change will cause any unnecessary burden on intra-market competition because all Exchange members may apply to be either Specialists or ROTs and, presuming all requirements are met, would be entitled to receive participation entitlements provided they receive direct orders and those orders are executed by those DROTs.

With respect to rounding, all rounding is down to the nearest integer, unless otherwise specified. The Exchange does not believe that the proposal to round all remaining contracts down to the nearest integer imposes an undue burden on competition because the Exchange will uniformly round in this matter.

With respect to allocating remaining contracts, the Exchange does not believe that the proposal to allocate remaining contracts for ROTs by random assignment creates an undue burden on competition because the method results in a fair and equitable allocation of shares to these market participants. The Exchange does not believe that allocating remaining contracts to off-floor broker-dealers in time priority creates an undue burden on competition because the method will be applied uniformly among these participants.

Permitting Specialists to receive an allocation over ROTs when the Specialist is the DROT does not create an undue burden on competition because today Phlx permits the Specialist to be ahead of ROTs generally within its allocation method. Specialists have higher quoting obligations as compared to ROTs (90% versus 60% of the series in which assigned).[51]

The Exchange's proposed amendment to permit the Specialist, who is also the DROT, to be allocated the entire Order of 5 contracts or fewer provided the Specialist's quote is at the better of the internal PBBO (excluding all-or-none orders which cannot be satisfied) or NBBO does not create an undue burden on inter-market competition because the ability to become a Directed ROT is available to all market maker participants including Specialists. Further, the Exchange does not believe the proposal will negatively impact quote competition on Phlx and create an unfair burden on competition. Directed Orders are allocated based on the competitive bidding of market participants. A DROT must have a quote or market maker order at the NBBO at the time the order is received to capitalize on the DROT entitlement. Also, other options markets permit this type of allocation today.[52] This proposal does not create an undue burden on intra-market competition because all members may compete for order flow by contributing to price and size discovery for the entire market. Further, Specialists must enter orders that assume the risk of trading with all participants at NBBO without knowing the details of the particular order. Specialists are incentivized to aggressively quote at the NBBO with this proposal to the benefit of all market participants, while maintaining their quoting obligations.[53] The Exchange believes the proposal will encourage greater order flow to be sent to the Exchange through Directed Orders and that this increased order flow will benefit all market participants on Phlx. The Exchange is not limiting the class of market participants that receive a Directed Order, any ROT may apply to receive Directed Orders.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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.* Please include File Number SR–Phlx–2019–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2019–20. This file

[51] *See* Phlx Rule 1081.

[52] *See* BX Chapter VI, Section 10.

[53] *See* Phlx Rule 1081.

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2019–20 and should be submitted on or before June 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–10643 Filed 5–21–19; 8:45 am]

BILLING CODE 8011–01–P

[54] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85881; File No. SR–CboeBZX–2019–042]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule To Amend the Fees Applicable to Securities Listed on the Exchange, Set Forth in BZX Rule 14.13, Company Listing Fees

May 16, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2019, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "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 a rule change to amend the fees applicable to securities listed on the Exchange, which are set forth in BZX Rule 14.13, Company Listing Fees. Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, 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

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,[3] which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products ("ETPs")[4] on the Exchange.[5] On July 3, 2017, the Exchange made certain changes to Rule 14.13 such that there were no entry fees or annual fees for ETPs listed on the Exchange.[6] Effective January 1, 2019, the Exchange made certain changes to Rule 14.13 in order to charge an entry fee for ETPs that are not Generically-Listed ETPs[7] and to add annual listing fees for ETPs listed on the Exchange.[8] The Exchange submits this proposal in order to amend Rule 14.13 in order to include Linked Securities[9] in the definition of Generically-Listed ETPs, to create pricing specific to Transfer Listings, as defined below, and to add Linked Securities to the standard annual fee schedule applicable other (sic) ETPs. In conjunction with this last change, the Exchange is proposing to eliminate Rule 14.13(b)(2)(C)(v), which currently applies only to certain Linked Securities.

Generically-Listed ETPs—Linked Securities

Currently, Generically-Listed ETPs listed on the Exchange are not subject to an entry fee on the Exchange, as provided in Rule 14.13(b)(1)(C)(ii). The reason that Generically-Listed ETPs are not subject to an entry fee on the Exchange is that they generally do not require the same additional resources as ETPs that require a proposed rule change pursuant to Section 19(b), specifically the significant additional time and extensive legal and business resources required by Exchange staff to prepare and review such filings and to communicate with issuers and the Commission regarding such filings.

The Exchange is proposing to add Linked Securities to the definition of Generically-Listed ETPs, meaning that any series of Linked Securities that is listed on the Exchange pursuant to Rule 19b–4(e) under the Act and for which a proposed rule change pursuant to Section 19(b) of the Act is not required to be filed with the Commission would not pay any entry fee for listing on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] As defined in Rule 11.8(e)(1)(A), the term "ETP" means any security listed pursuant to Exchange Rule 14.11.

[5] *See* Securities Exchange Act Release No. 66422 (February 17, 2012), 77 FR 11179 (February 24, 2012) (SR–BATS–2012–010).

[6] *See* Securities Exchange Act Release No. 81152 (July 14, 2017), 82 FR 33525 (July 20, 2017) (SR&BatsBZX–2017–45).

[7] As currently defined, the term "Generically-Listed ETPs" means Index Fund Shares, Portfolio Depositary Receipts, Managed Fund Shares, Linked Securities, (sic) and Currency Trust Shares that are listed on the Exchange pursuant to Rule 19b–4(e) under the Exchange Act and for which a proposed rule change pursuant to Section 19(b) of the Exchange Act is not required to be filed with the Commission.

[8] *See* Securities Exchange Act Release No. 83597 (July 5, 2018), 83 FR 32164 (July 11, 2018) (SR–CboeBZX–2018–46).

[9] As defined in Rule 14.11(d), the term "Linked Securities" includes any product listed pursuant to Rule 14.11(d), but specifically includes Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities.