the ODD. These respondents file approximately 3 amendments per year. The staff calculates that the preparation and filing of amendments should take no more than eight hours per options market. Thus, the total compliance burden for options markets per year is 216 hours (9 options markets × 8 hours per amendment × 3 amendments). The estimated cost for an in-house attorney is $354 per hour,[1] resulting in a total cost of compliance for these respondents of $76,464 per year (216 hours at $354 per hour).

In addition, approximately 1,500 broker-dealers must comply with Rule 9b–1. Each of these respondents will process an average of 3 new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual compliance burden for each of these respondents of 78 minutes or 1.3 hours. Thus, the total compliance burden per year is 1,950 hours (1,500 broker-dealers × 1.3 hours). The estimated cost for a general clerk of a broker-dealer is $50 per hour,[2] resulting in a total cost of compliance for these respondents of $97,500 per year (1,950 hours at $50 per hour).

The total compliance burden for all respondents under this rule (both options markets and broker-dealers) is 2,166 hours per year (216 + 1,950), and the total compliance cost is $173,964 ($76,464 + $97,500).

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

Background documentation for this information collection may be viewed at the following Web site: *http://www.reginfo.gov*. Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated: January 20, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1585 Filed 1–25–12; 8:45 am]

BILLING CODE 8011–01–P

[1] The $354 per hour figure for an Attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2010,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[2] The $50 per hour figure for a General Clerk is from SIFMA's *Office Salaries in the Securities Industry 2010,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff believes that the ODD would be mailed or electronically delivered to customers by a general clerk of the broker-dealer or some other equivalent position.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66203; File No. SR–FINRA–2011–057]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Partial Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Adopt FINRA Rule 5123 (Private Placements of Securities) in the Consolidated FINRA Rulebook

January 20, 2012.

I. Introduction

On October 5, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt FINRA Rule 5123. The proposed rule change was published for comment in the **Federal Register** on October 24, 2011.[3] The Commission received 16 comment letters in response to the proposed rule change.[4] On November 17, 2011, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to January 20, 2012. On January 19, 2012, FINRA filed Partial Amendment No. 1 to the proposed rule change and a letter responding to comments.[5] The Commission is publishing this notice and order to solicit comments on Partial Amendment No. 1 to the proposed rule change from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether to approve or disapprove the proposed rule change, as modified by Partial Amendment No. 1.

Institution of these proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately approve or disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input from interested parties on the issues presented by the proposed rule change, as modified by Partial Amendment No. 1, and on FINRA's Response Letter.

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 65585 (Oct. 18, 2011), 76 FR 65758 (Oct. 24, 2011) (Notice of Filing of Proposed Rule Change to Adopt New FINRA Rule 5123 (Private Placements of Securities), SR–FINRA–2011–057) (''Notice of Filing''). The comment period closed on November 18, 2011.

[4] *See* Letters from Ryan Adams, Christine Lazaro, Esq., and Lisa Catalano, Esq., St. John's School of Law Securities Arbitration Clinic, dated November 10, 2011 (''St. John's''); Ryan K. Bakhtiari, President, Public Investors Arbitration Bar Association, dated November 14, 2011 (''PIABA''); David T. Bellaire, Esq., Financial Services Institute, Inc., dated November 14, 2011 (''FSI''); Robert E. Buckholz, Chair, Committee on Securities Regulation, New York City Bar Association, dated November 9, 2011 (''NYC Bar''); Richard B. Chess, President, Real Estate Investment Securities Association, dated November 14, 2011 (''REISA''); Alicia M. Cooney, Managing Director, Monument Group (''Monument Group''), dated January 12, 2012 (Monument Group); Martel Day, Chairman, Investment Program Association, dated November 14, 2011 (''IPA''); Jack E. Herstein, President, North American Securities Administrators Association, Inc., dated November 17, 2011 (''NASAA''); Joan Hinchman, Executive Director, National Society of Compliance Professionals, dated November 14, 2011 (''NSCP''); William A. Jacobson, Associate Clinical Professor, and Carolyn L. Nguyen, Cornell Law School, dated November 14, 2011 (''Cornell''); Stuart J. Kaswell, Executive Vice President, Managed Funds Association, dated November 14, 2011 (''MFA''); William H. Navin, Senior Vice President, The Options Clearing Corporation, dated November 9, 2011 (''OCC''); Jeffrey W. Rubin, Chair, Federal Regulation of Securities Committee, American Bar Association, dated November 14, 2011 (''ABA''); Sullivan & Cromwell LLP, dated November 10, 2011 (''S&C''); Osamu Watanabe, Deputy General Counsel, Moelis & Co., dated November 28, 2011 (''Moelis''); and Donald S. Weiss, K&L Gates LLP, dated November 14, 2011 (''K&L Gates'') . Comment letters are available at www.sec.gov.

[5] *See* Letter from Stan Macel, FINRA, to Elizabeth Murphy, Secretary, SEC, dated January 19, 2012 (''Response Letter''). The text of proposed Partial Amendment No. 1 and FINRA's Response Letter are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. FINRA's Response Letter is also available on the Commission's Web site at *www.sec.gov.*

II. Description of the Proposed Rule Change and Summary of Comments

FINRA is proposing to adopt FINRA Rule 5123, which, prior to Partial Amendment No. 1, would have required that members and associated persons that offer or sell any applicable private placement (as described in the proposed rule change), or participate in the preparation of a private placement memorandum (''PPM''), term sheet or other disclosure documents in connection with any such private placement, provide relevant disclosures to each investor prior to sale describing the anticipated use of offering proceeds, and the amount and type of offering expenses and offering compensation. If any issuer's disclosure documents did not contain the requisite information about the offering expenses and use of proceeds, the proposed rule change would have required the member to create and provide to any potential investor a separate disclosure document containing this information. FINRA Rule 5123 also would have required that each participating member file the PPM, term sheet or other disclosure document, and any exhibits thereto, with FINRA no later than 15 calendar days after the date of the first sale, and any material amendments to such document, or any amendments to any disclosures mandated by the proposed rule change, also were required to be filed no later than 15 calendar days after the date such document was provided to any investor or prospective investor, as discussed further below.

While some commenters expressed support for the goals of the proposed rule change,[6] the remaining commenters expressed a broad range of concerns, such as: its scope, as derived from the definition of private placement; the broker-dealer disclosure requirements; the filing requirements; the exemptions; and whether the proposed rule change is consistent with FINRA's regulatory oversight and authority. In particular:

- Several commenters argued that definition of private placement[7] in the proposed rule change is overbroad and could be interpreted to apply to any offer or sale of securities for which an exemption from registration is claimed under the Securities Act of 1933 (''Securities Act''), including public offerings and secondary market trading.[8] For example, commenters stated that, due to the fact that it is not expressly limited to ''non-public'' offerings, the proposed definition is broader than the definition of ''private placement'' in FINRA Rule 5122 (Private Placements of Securities Issued by Members), which applies to member private offerings.[9] The ABA, NYC Bar, and S&C suggested narrowing the scope of FINRA Rule 5123 to specific types of ''non-public'' offerings, or referring back to the definition of ''private placement'' in FINRA Rule 5122.
- Several commenters suggested that the requirement that each member provide applicable disclosure documentation to each investor in a private placement prior to a sale could be interpreted to require a FINRA member to have primary responsibility for preparing disclosure documents in the event that an issuer does not prepare them.[10] Two commenters suggested that in some cases members may not have access to all necessary information from issuers[11] and one of these two also stated that it may be impractical and inefficient for members to be charged with gathering and providing the required information.[12] One commenter suggested that the production of a disclosure document by a FINRA member would increase the liability of the FINRA member in the offering.[13] Another commenter suggested, as an alternative, that the proposed rule change prohibit a member from participating in a private placement if the issuer does not provide the mandated disclosures.[14]
- Two commenters argued that by requiring members to provide disclosures regarding private placements, the proposed rule change would be contrary to the intent of Congress and/or the federal securities laws, which do not otherwise prescribe these disclosures for many types of private placements.[15]
- Three commenters stated that the proposed rule change could significantly affect the ability of many issuers to raise capital.[16] The ABA and MFA also stated that they believe that the proposed rule change is inconsistent with the Exchange Act.
- Commenters expressed concerns regarding exemptions, in most cases advocating to broaden proposed exemptions or to add new exemptions. Two commenters urged FINRA to adopt an explicit exemption for merger and acquisition transactions.[17] The ABA suggested that FINRA exempt employees ''of the issuer or its affiliates'' and define affiliates to have the same meaning as in FINRA Rule 5121(f)(1). Cornell urged more clarity regarding the term ''affiliate,'' noting that different definitions of the term exist in the federal securities laws.[18] A few commenters urged FINRA to adopt additional exemptions for ''knowledgeable employees'' of a private fund, as defined in Rule 3c–5 of the Investment Company Act of 1940.[19] MFA asked that other ''sophisticated investors'' that are purchasers of private funds be exempt from the requirements of the proposed rule change. In addition, Moelis suggested an exemption for ''employees of the broker dealer or its affiliates, who are accredited investors.'' Monument Group asked for an exemption either for ''all offers of private funds by registered independent placement agents,'' or alternatively for all ''offers to accredited investors.''[20] Monument Group also stated that, as proposed, the inclusion of a single purchaser who proved to be a ''mere accredited investor'' of an offering would cause the loss of the exemption for private placement offerings offered solely to ''institutional accounts, as defined in NASD Rule 3110(c)(4),'' as well as to ''qualified purchasers, as defined in Section 2(a)(51)(A)'' of the Investment Company Act of 1940.
- Several commenters stated that a single filing for each offering, rather than by each member, would be sufficient for the regulatory purposes of the proposed rule change and that the firm making the filing could be tasked with disclosing the other members of the selling group in offerings in which more than one firm participated.[21]

FINRA responded to the comments in its Response Letter and filed Partial Amendment 1.[22]

III. Description of Partial Amendment No. 1

FINRA's proposed changes in response to comments, as set forth in Partial Amendment No. 1, are summarized below.

First, FINRA is proposing to amend proposed FINRA Rule 5123 to clarify that the term ''private placement'' in the proposed rule change would mean a non-public offering of securities conducted in reliance on an available exemption from registration under the Securities Act. Accordingly, the proposed rule's private placement definition would be consistent with

[6] Cornell; FSI; NASAA; PIABA; St. John's. Two of these commenters suggested FINRA members provide additional disclosure: NASAA recommended that the rule require members to provide additional risk disclosures to investors; Cornell urged FINRA to adopt a provision in the Proposed Rule to require a member to disclose any affiliation between the issuer and the member.

[7] *See* proposed FINRA Rule 5123(a).

[8] ABA; NYC Bar; S&C. *See also* NASAA (seeking clarification as to the application of the Proposed Rule to secondary transactions of private placements). The ABA stated that the concept of a ''non-public offering'' is well understood to mean a primary offering of securities that is exempt from registration under the Securities Act by reason of Section 4(2) thereof and the rules of the Commission thereunder (including Rule 506 of Regulation D). The NYC Bar stated that exemptions pursuant to Sections 3(b), 4(2) and 4(5) of the Securities Act are traditionally viewed as being ''private placement exemptions.''

[9] FINRA Rule 5122(a)(4) defines ''private placement'' as a ''*non-public* offering of securities conducted in reliance on an available exemption from registration under the Securities Act'' (emphasis added).

[10] ABA; NSCP; NYC Bar; REISA.

[11] ABA; NYC Bar.

[12] ABA.

[13] REISA.

[14] NYC Bar.

[15] ABA; MFA.

[16] ABA; MFA; REISA.

[17] ABA; NYC Bar.

[18] *See* Cornell (noting the differing definitions of ''affiliate'' in Securities Act Rule 144 and Exchange Act Rule 12b–2).

[19] ABA; K&L Gates; *see also* MFA.

[20] Monument Group.

[21] ABA; FSI; IPA; NYC Bar; REISA; S&C.

[22] *See supra,* note 5.

FINRA Rule 5122 and would not apply to securities offered pursuant to the following provisions:

- Securities Act Sections 4(1), 4(3) and 4(4) (which generally exempt secondary transactions);
- Securities Act Sections 3(a)(2) (offerings by banks), 3(a)(9) (exchange transactions with an existing holder, where no one is paid to solicit the exchange), 3(a)(10) (securities subject to a fairness hearing), or 3(a)(12) (securities issued by a bank or bank holding company pursuant to reorganization or similar transactions); or
- Section 1145 of the Bankruptcy Code (securities issued in a court-approved reorganization plan that are not otherwise entitled to the exemption from registration afforded by Securities Act Section 3(a)(10)).[23]

Second, FINRA is proposing to amend the filing and disclosure requirements of the proposed rule change for those private placements for which a disclosure document includes a description of the anticipated use of offering proceeds, the amount and type of offering expenses, and the amount and type of compensation provided or to be provided to sponsors, finders, consultants, and members and their associated persons in connection with the offering. Members would be required to provide, prior to any sale, the disclosure document to each investor other than those investors in a private placement that would be subject to an exemption, as provided by the proposed rule change, as amended. Each member participating in the offering or a member designated to make the filing on behalf of all members identified in the filing would also be required to file such document with FINRA no later than 15 calendar days after the date of first sale.

Third, FINRA is proposing to amend the filing and disclosure requirements of the proposed rule change for those private placements for which there is no disclosure document. If no disclosure document is used, the participating member (or a designated member acting on behalf of the member) would, however, be required to make a notice filing, identifying the private placement and the participating members and stating that no disclosure document was used, with FINRA no later than 15 calendar days after the date of first sale. The proposed rule change as amended would not prohibit a member from participating in such private placements. The proposed rule change would not require the member to make any additional disclosure to investors in such offerings.

Fourth, FINRA is proposing to add supplementary material to the proposed rule change that would clarify that the rule would not require delivery of multiple copies of a disclosure document to a single customer. Specifically, the proposed rule change would require an affected member to deliver disclosure documents only to persons to whom it sells shares in the private placement.

IV. Proceedings To Determine Whether To Approve or Disapprove SR–FINRA–2011–057 and Grounds for Disapproval Under Consideration

In view of the issues raised by the proposed rule change, the Commission has determined to institute proceedings pursuant to Section 19(b)(2) of the Exchange Act to determine whether to approve or disapprove FINRA's proposed rule change.[24] Institution of such proceedings appears appropriate at this time in view of the legal and policy issues raised by the proposed rule change. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change and provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the proposed rule change.

The Commission is asking that commenters address the changes that FINRA proposes in Partial Amendment No. 1, the comments received on the Notice of Filing, and FINRA's Response Letter, in addition to any other comments they may wish to submit about the proposed rule change. The Commission requests comment, in particular, on the following aspects of the proposed rule change, as modified by Partial Amendment No. 1:

(1) the categories of offerings that would be subject to the proposed rule change under the proposed definition of ''private placement;''

(2) the potential impact on investors purchasing private placement securities through a broker-dealer subject to the proposed rule change;

(3) the potential impact on members of having to comply with the proposed rule change, including any burdens associated with implementing the obligations of the proposed rule change; and

(4) the potential impact on competition and capital formation, including: (a) Whether members would continue to participate in private placements subject to the proposed rule change; (b) whether the proposed rule change would encourage issuers to utilize unregistered firms to effect their covered offerings; and (c) whether the proposed rule change would affect access to capital, the costs of capital raising or the cost of capital for issuers.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[25] the Commission is providing notice of the grounds for disapproval under consideration. In particular, Section 15A(b)(6) of the Exchange Act [26] requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes FINRA's proposed rule change, as amended, raises questions as to whether it is consistent with the requirements of Section 15A(b)(6) of the Exchange Act, including whether FINRA's proposed rule change, as amended, would prevent fraudulent and manipulative acts, promote just and equitable principles of trade, and protect investors and the public interest and also whether the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, to fix minimum profits, to impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged by its members, or to regulate any matters not related to the purposes of the Exchange Act or the administration of FINRA.

The Commission also believes FINRA's proposed rule change, as amended, raises questions as to whether it is consistent with the findings that the Commission must make as set forth in Section 3(f) of the Exchange Act, including whether FINRA's proposed rule change, as amended, would promote efficiency, competition, and capital formation.

V. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues

[23] *See* NYC Bar; S&C (advocating that the proposed rule not apply to these categories of securities).

[24] 15 U.S.C. 78s(b)(2). Section 19(b)(2)(B) of the Exchange Act provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or if the self-regulatory organization consents to the extension.

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 15 U.S.C. 78*o*–3(b)(6).

identified above, as well as any others they may have identified with the proposed rule change, as amended. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Partial Amendment No. 1, is inconsistent with Section 15A(b)(6) or any other provision of the Exchange Act, or the rules and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[27]

Interested persons are invited to submit written data, views, and arguments by [insert date 30 days from publication in the **Federal Register**] concerning Partial Amendment No. 1 and regarding whether the proposed rule change, as modified by Partial Amendment No. 1, should be approved or disapproved. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by March 12, 2012. 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–FINRA–2011–057 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2011–057. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available.

All submissions should refer to File Number SR–FINRA–2011–057 and should be submitted on or before February 27, 2012. Rebuttal comments should be submitted by March 12, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Kevin M. O'Neil,

Deputy Secretary.

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BILLING CODE 8011–01–P

[27] Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66209; File No. SR–Phlx–2012–02]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Reformatting the Fee Schedule

January 20, 2012.

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 January 9, 2012, NASDAQ OMX 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.

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

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to relocate various fees within the Fee Schedule and provide more detail in the Table of Contents in order to group fees with other similar types of fees.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to relocate various fees within the Fee Schedule and add more detail to the Table of Contents to group fees so that those fees may be easily located within the Fee Schedule. The Exchange is not proposing any substantive amendments, but rather proposes to merely rearrange text within the Fee Schedule and add detail to the Table of Contents.

Specifically, the Exchange is proposing revisions to the Table of Contents, Section IV, entitled ''PIXL Pricing'', Section VI, entitled ''Access Service, Cancellation, Membership, Regulatory and other Fees'', and Section VIII, entitled, ''Other Member Fees,'' as specified below.

Table of Contents

The Exchange proposes to amend the title of Section IV ''PIXL Pricing'' to ''Other Transaction Fees'' and also add three subsections: (1) A. PIXL Pricing; (2) B. Cancellation Fee; and (3) C. Options Regulatory Fee. The Exchange