Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

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

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

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

The Exchange has filed the proposed rule change pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act [6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and would allow replacement of Penny Pilot classes that have been delisted. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[12]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2014–17 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–BOX–2014–17. 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 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BOX–2014–17 and should be submitted on or before July 7, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary .

[FR Doc. 2014–13820 Filed 6–12–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72351; File No. SR–Phlx–2014–39]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rule 1080.08

June 9, 2014.

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 June 3, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''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.

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[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

[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 amend Rule 1080.08 as follows: (1) To exclude the existence of any contingencies from the broadcast message; (2) to address the priority of orders/COLA Sweeps executing after a COLA; and (3) to add reference to specific order types and contingencies applicable to Complex Orders.

The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Rule 1080. Phlx XL and Phlx XL II

(a)–(p) No change.

••• Commentary: ———————

.01–.07 No change.

.08 Complex Orders on Phlx XL.

(a) No change.

(b) Complex orders may be entered in increments of $0.01 *with certain ''time in force'' designations and as certain order types with certain contingencies* as follows:

(i)–(iv) No change.

(v) Complex Orders may be submitted as:

All-or-none orders—to be executed in its entirety or not at all. These orders can only be submitted for non-broker-dealer customers.

Cancel-replacement orders—require the immediate cancellation of a previously received order prior to the replacement of a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety the replacement order is automatically canceled or reduced by such number.

Limit orders—to be executed at a specified price or better.

Market orders—to be executed at the best price available at the time of execution.

(c)–(d) No change.

(e) Process for Complex Order Live Auction (''COLA''). Complex Orders on the Complex Order Book (''CBOOK,'' as defined below) may be subject to an automated auction process.

(i) No change.

(ii) Initiation of a COLA. Upon the identification of the COLA-eligible order by the Phlx XL system, the Exchange will send a broadcast message to Phlx XL participants indicating that a COLA has been initiated. The broadcast message will identify the Complex Order Strategy, and the size, side and price of the COLA-eligible order [and any contingencies, if applicable (such as, without limitation, All-Or-None)].

(iii) COLA Timer. The COLA will begin with a timing mechanism (a ''COLA Timer''), which is a counting period not to exceed five (5) seconds during which Phlx XL participants may submit bids or offers that improve the cPBBO. The COLA Timer will be set for the same number of seconds for all options trading on the Exchange as determined by the Exchange and communicated to membership on the Exchange's Web site. Complex Orders may be cancelled at any time prior to the commencement of a COLA.

(iv) Bidding and Offering in Response to a COLA. Phlx XL participants may bid and/or offer on either or both side(s) of the market during the COLA Timer by submitting one or more bids or offers that improve the cPBBO, known as a ''COLA Sweep.''

(A)–(D) No change.

(v) No change.

(vi) Allocation and Priority. As stated above, COLA-eligible orders, COLA Sweeps, and responsive Complex Orders will trade first based on the best price or prices available at the end of the COLA Timer.

(A) (1)–(3) No change.

(B) If multiple customer Complex Orders, COLA Sweeps, Phlx XL participant Complex Orders and/or non-customer off-floor broker-dealer Complex Orders are eligible for execution against the COLA-eligible order at the same price, the trade will be allocated among participants submitting electronic Complex Orders and COLA Sweeps as set forth below. Executions in the COLA will comply with the requirements of Exchange Rule 1080.08(c)(iii) above. For allocation purposes, the size of a COLA Sweep or responsive Complex Order received during the COLA Timer shall be limited to the size of the COLA-eligible order.

(1) First, to customer marketable Complex Orders on the CBOOK (as defined below) in the order in which they were received;

(2) Second, to COLA Sweeps [on a size pro-rata basis;

(3) Third, to] *and* SQTs, RSQTs, and non-SQT ROTs who have submitted Complex Orders that are marketable against the COLA-eligible order, on a size pro-rata basis; *and*

[(4) Fourth]*(3) Third,* to non-market maker off-floor broker-dealers on a size pro-rata basis.

(C)–(D) No change.

(vii)–(ix) No change.

(f)–(i) No change.

* * * * *

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 purpose of the proposal is to correct the rule text to provide clarity to Phlx Participants regarding the trading of Complex Orders on the Exchange. The Exchange's Complex Order System, which is governed by Rule 1080.08, includes the Complex Order Live Auction (''COLA''), an automated auction for seeking additional liquidity and price improvement for Complex Orders. When the Exchange receives a COLA-eligible order that triggers a COLA, the system broadcasts information about the COLA-eligible order—the ''COLA Message.'' The duration of the COLA is fixed and measured by a COLA Timer. During the COLA Timer, the rule provides that Phlx XL participants [3] may submit ''COLA Sweeps,'' which are bids and/or offers on either or both side(s) of the market by submitting one or more bids or offers that improve the cPBBO.[4] Also during the COLA Timer, Phlx members may enter other Complex Orders at any price. While COLA Sweeps are submitted in direct response to a COLA-eligible order, Complex Orders may or may not be submitted in direct response to a COLA-eligible order.

COLA Message

Currently, upon the identification of the COLA-eligible order by the Phlx XL system, the Exchange will broadcast a COLA Message to Phlx XL participants indicating that a COLA has been initiated. The COLA Message identifies the Complex Order Strategy, the size, side and price of the COLA-eligible order.[5] The COLA Message is sent over TOPO Plus Orders,[6] the Exchange's market data feed for subscribers interested in the detailed information it offers, including messages relating to Complex Orders. The Specialized Quote Feed (''SQF'') also contains COLA Messages.[7] Like auction messages on multiple exchanges, the COLA Message

[3] COLA Sweeps can only be entered by Phlx XL Participants who quote electronically as market makers for their own account (Streaming Quote Traders (''SQTs''), Remote Streaming Quote Traders (''RSQTs'') and specialists). Because non-SQT ROTs do not quote electronically, they cannot enter COLA Sweeps, which are electronic. *See* Rule 1014(b)(ii)(C) and Rule 1080.08(e)(ix).

[4] The cPBBO is the best net debit or credit price for a Complex Order based on the PBBO for the individual options components of such Complex Order, and, where the underlying security is a component of the Complex Order, the National Best Bid and/or Offer for the underlying security. *See* Rule 1080.08(a)(iv).

[5] The Exchange recently added the price and side of the market to the COLA Message. *See* Securities Exchange Act Release No. 70271 (August 27, 2013), 78 FR 54340 (September 3, 2013) (SR–Phlx–2013–88).

[6] Securities Exchange Act Release No. 60877 (October 26, 2009), 74 FR 56255 (October 30, 2009) (SR–Phlx–2009–92).

[7] Securities Exchange Act Release No. 63034 (October 2, 2010), 75 FR 62441 (October 8, 2010) (SR–Phlx–2010–124).

is designed to attract responsive interest.

The Exchange now proposes to delete reference in the rule text to the contingencies that an order might have. Testing has recently revealed that the rule text is inaccurate; contingencies are not included in the COLA Message.[8] Two contingencies apply to Complex Orders: all-or-none and cancel-replace. An all-or-none order is a contingency order that is a market or limit order which is to be executed in its entirety or not at all.[9] An all-or-none order can execute against multiple orders, as long as it is executed in full. All-or-none Complex Orders can only be submitted for non-broker-dealer customers, the same as for non-Complex Orders.[10] A cancel-replacement order is a contingency order that require the immediate cancellation of a previously received order prior to the replacement of a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety the replacement order is automatically canceled or reduced by such number.

The Exchange believes that it is appropriate to broadcast a COLA Message without revealing a Complex Order's contingencies, because such contingencies are not a material term of the order. The Exchange does not believe that including or excluding that an order is an all-or-none order or a cancel-replacement order significantly affects whether a participant will respond to a particular COLA, which is the purpose of the COLA Message. Of course, the fact than an order is an all-or-none order will affect what order it can execute against, depending upon the size of each order. Nevertheless, the Exchange believes that participants would not decide whether to respond to a COLA based on the all-or-none contingency on the order initiating the COLA. If a participant could see that a particular order is an all-or-none order for a large size and such participant intended to submit a smaller order, the participant might assume that an execution would be unlikely; however, another participant could enter an order that caused there to be enough size to execute the all-or-none order. Thus, the information that an order is an all-or-none order is not enough information for a participant submitting an order for a size smaller than the all-or-none order to definitively predict whether it will execute, because of other orders[11] and market factors. Although a participant might choose to response with an order for a size equal to or greater than the all-or-none order, the Exchange believes that participants enter orders for a size that reflects their true interest, strategy and risk profile and are not influenced by the existence of an all-or-none contingency on an order.

The Exchange notes that all-or-none orders are rare. Specifically, in August 2013, only 0.04% of COLAs were initiated by all-or-none orders. Furthermore, from February 2013 through July 2013, less than .05% of COLAs were initiated by all-or-none orders. In addition, only 0.12% of all Complex Orders from February 2013 through July 2013 were entered as all-or-none orders. Accordingly, excluding from the COLA message that an order is an all-or-none should not have a significant impact on participants or on COLAs.

With respect to cancel-replacement orders, the cancellation aspect of the order has no impact on the contra-side. The way the contingency operates is that the first order is entered as a normal Complex Order without a contingency, and it is later followed by a second order with has a cancel-replace contingency. The first order is then cancelled, fulfilling the contingency on the second order.[12] Therefore, if the first order starts a COLA, even if the Exchange displayed contingencies in a COLA Message, such order would not have one. If the second order starts a COLA, it no longer has a contingency and therefore display of the contingency would not be relevant. Accordingly, the Exchange does not believe there would be any impact on responses whether or not the cancellation contingency is shown in the COLA message.

Although the Exchange stated in its rule that contingency information would be included in the COLA message, the Exchange did not build a field to include that information and did not therefore include reference to this information in its specification document to participants seeking to receive its data feeds. The Exchange is not aware that any participant asked for such contingency information, even though it appears in the rule text.

Other types of contingencies are listed in Rule 1066,[13] but these do not apply to Complex Orders, because they are inconsistent with having multiple components. For example, stop and stop-limit orders,[14] Opening-Only-Market Orders and Limit on Opening orders are all particular to one option series. The Exchange has not received requests for these order types to be made available. The Exchange proposes to make clear what order designations are available respecting Complex Orders by adopting Rule 1080.08(b)(v), which will provide that Complex Orders may be submitted as: All-or-none orders;[15]

[8] However, contingencies are included in the *order message* sent over TOPO Plus Orders. Complex Order messages merely show that a Complex Order was received, including the details of those orders, and are sent when such order is received; COLA Messages indicate that a COLA is beginning and are therefore sent when a COLA begins. Both Complex Order messages and COLA messages are available to all who subscribe to the PHLX Orders feed (which is a subset of the TOPO Plus Orders feed); the feed is available to all participants seeking to subscribe. *See http://nasdaqtrader.com/Trader.aspx?id=DPSpecs#options_x* for a description of Exchange feeds.

[9] *See* Rule 1066(c)(4).

[10] *See* Phlx Rule 1080(b)(i), which covers non-Complex Orders and provides that the following types of agency orders are eligible: day, GTC, Immediate or Cancel (''IOC''), Intermarket Sweep Order (''ISO''), market, limit, stop, stop-limit, *all or none,* or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, opening-only-market order, limit on opening order, and possible duplicate orders. The following types of off-floor broker-dealer limit orders may be entered: day, GTC, IOC, ISO, stop, stop-limit, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, limit on opening order. SQTs and RSQTs can enter limit on opening, IOC, ISO, and DAY limit order for their proprietary account(s). Non-SQT ROTs and specialists can enter orders for their proprietary account(s) as GTC, DAY limit, IOC, ISO, limit on opening and simple cancel as well as orders for less than 10 contracts marked as IOC.

[11] Participants cannot see others' responses so they are effectively ''blind'' to other responsive interest when making their own responsive decisions.

[12] The replacement order does not retain the priority of the order it replaces. While the replacement order is eligible to trade at the end of the COLA, it is no longer treated as the COLA-eligible order and thus does not have the priority associated with a COLA-eligible order.

[13] Rule 1066(c) has been amended to delete the order types in (2), (3) and (6). *See* Securities Exchange Act Release No. 70629 (October 8, 2013), 78 FR 62852 (October 22, 2013) (SR–Phlx–2013–100). Although Rule 1066(c)(8) lists immediate-or-cancel (''IOC'') orders as a type of contingency order, the Exchange believes that IOC is better described as a time-in-force and it is therefore included with other time-in-force conditions like DAY and GTC in the Complex Order Rule. *See* Rule 1080.08(b). The Exchange does not indicate in the COLA Message the time-in-force of an order.

[14] With respect to stop and stop-limit orders, although such Complex Orders could conceivably be tied to a net debit/credit price, developing a transparent way to effect the stop price would be difficult, because Complex Order net prices are not disseminated to OPRA, nor are the Complex Order prices disseminated as a quote to OPRA. Thus, the Exchange does not believe it would be practicable to accept stop or stop limit orders as Complex Orders.

[15] All-or-none orders are to be executed in its entirety or not at all. This is the same definition as currently found in Rule 1066(c)(4). These orders are only available to non-broker-dealer customers.

cancel-replacement orders;[16] limit orders;[17] and market orders.[18]

Priority Change

In addition, the Exchange proposes to amend Rule 1080.08(e)(vi)(B) to provide that market maker[19] COLA Sweeps and market maker Complex Orders are treated the same in the COLA, meaning one does not have execution priority over the other. The Rule incorrectly states that COLA Sweeps have priority over market maker Complex Orders. The Exchange believes that it is appropriate for market maker COLA Sweeps and market maker Complex Orders to be treated the same way for priority purposes, because they are both coming from market makers.[20]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[21] in general, and with Section 6(b)(5) of the Act,[22] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade. Specifically, the Exchange is proposing that the COLA Message will not include a COLA-eligible order's contingencies. Nevertheless, the Exchange believes that, even without contingencies, the COLA message should promote just and equitable principles of trade, because market participants will continue to receive information that is material to responding to a COLA-eligible order. The Exchange believes that contingency information is rather extraneous and notes that market participants have not asked why it is not currently made available, despite the current reference to it in the rule text. Even if the Exchange included contingency information in the COLA message, the Exchange does not believe that participants would use it or rely on it to make trading decisions. Accordingly, the Exchange believes it is consistent with just and equitable principles of trade to not include contingency information. In addition, the Exchange notes that contingency information respecting each Complex Order is available on its order feed, TOPO Plus Orders, which contains Complex Order information.[23] Because the same information is available on that feed, the Exchange does not believe that participants are adversely impacted and all participants have access to the same message, such that it is consistent with just and equitable principles of trade to not include this information in the COLA Message.

The Exchange also notes that all-or-none Complex Orders are not common. It is consistent with just and equitable principles of trade, because it would not have any impact on participants whether or not this information is provided. Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to not include the cancel-replace contingency in a COLA Message. Because the first order, as explained above, does not have a contingency nor does the second order (the cancel-replacement order) once it is live, the Exchange does not believe it is relevant to display the cancel-replace contingency, because there would be no impact on responses.

The Exchange is also proposing to provide that COLA Sweeps do not have priority over market maker Complex Orders. This is a correction to the rule text. The Exchange believes that it is appropriate for market maker COLA Sweeps and Complex Orders to be treated the same way for priority purposes, because they are coming from the same type of market participant, a market maker.[24] The Exchange believes that this should promote just and equitable principles of trade, because market participants could reasonably expect that their interest should be treated the same way whether entered as an order or as a COLA Sweep.[25]

Furthermore, this priority treatment is similar to the Exchange's priority rule respecting orders other than Complex Orders, as well as the comparable rules of other options exchanges, because a market maker's interest at a particular price is combined regardless of the method of entry (quote, COLA Sweep or order).[26] Specifically, Rule 1014(g)(vii), in calculating a market maker's participation, takes into account both quotes and orders, as indicated by the following language in the formula of the rule: based on the number of Phlx XL Participants *quoting or with limit orders* at BBO. Accordingly, the Exchange believes that the correction to the priority provision does not significantly affect the protection of investors or the public interest, and does not impose a significant burden on competition.

In addition, this priority change is not unfairly discriminatory with respect to non-SQT ROTs (who cannot submit COLA Sweeps); in fact, it is fairer to them, because it will no longer give COLA Sweeps priority over other market maker Complex Orders.

The Exchange is also proposing to make the Complex Order rule, Rule 1080.08, more complete by listing in subparagraph (b)(v) the types of orders and contingencies that can be accepted as Complex Orders. The four types to be listed (all-or-none, cancel-replacement, limit and market) are all existing orders types and contingencies on Phlx. The Exchange believes that this should promote just and equitable principles of trade as well as protect investors and the public interest by making more clear how specifically Complex Orders can be designated. The Exchange notes that although all-or-none Complex Orders are only available to non-broker-dealer customers, this is not unfairly discriminatory, because it is common for certain types of orders to be available to certain participant types. For example, all-or-none orders that are not Complex Orders can only be entered for non-broker-dealer customers in the Exchange's Phlx XL system.[27] Similarly, with respect to complex order programs on other options exchanges, at the discretion of the exchange, some participants may not be able to initiate[28] or respond[29] to a complex order auction.

[16] Cancel-replacement orders require the immediate cancellation of a previously received order prior to the replacement of a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety the replacement order is automatically canceled or reduced by such number. This is the same definition as Rule 1066(c)(7).

[17] Limit orders are to be executed at a specified price or better. This is the same definition as Rule 1066(b).

[18] Market orders are to be executed at the best price available at the time of execution. This is the same definition as Rule 1066(a).

[19] Market maker COLA Sweeps include those entered by SQTs and RSQTs. Non-SQT ROTs cannot enter COLA Sweeps. *See supra* note 3. Specialists' COLA Sweeps are addressed in Rule 1080.08(e)(vi)(C).

[20] *See supra* note 3.

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

[23] Securities Exchange Act Release Nos. 60877 (October 26, 2009), 74 FR 56255 (October 30, 2009) (SR–Phlx–2009–92); and 66693 (May 15, 2012), 77 FR 30043 (May 21, 2012) (SR–Phlx–2012–63).

[24] Although non-SQT ROTs cannot submit COLA Sweeps, their Complex Orders are treated the same way as the Complex Orders of other market makers, including that their orders can interact with a COLA-eligible order.

[25] Complex Orders could be responsive to a particular COLA or could be an unrelated order. Because Complex Orders are not specifically marked as ''COLA responses,'' the Phlx XL System cannot identify which Complex Orders are truly intended to respond to the auction and which are merely coincidental.

[26] *See* Phlx Rule 1014(g)(vii)(B)(1)(b). Like COLA Sweeps, Sweeps are treated the same way as other market maker quotes in the Phlx XL System. *See also* BX Options Rules, Chapter VI, Section 10(1)(A) and (B).

[27] *See* Phlx Rule 1080(b)(i)(A).

[28] *See* CBOE Rule 6.53C(d)(i)(2), NYSE Arca Rule 6.91(c)(1) and NYSE MKT Rule 980NY(e)(1).

[29] *See* CBOE Rule 6.53C(d)(iii), NYSE Arca Rule 6.91(c)(4) and NYSE MKT Rule 980NY(e)(4).

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not impose an intra-market burden on competition, because the same COLA Message with the same information will be available to all Phlx participants who receive Complex Order Messages and such messages are available to those who choose to subscribe, for a fee. Nor will the proposal impose a burden on competition among the options exchanges, because of the vigorous competition for order flow among the options exchanges. Market participants who find contingency information respecting complex orders important will continue to be able to receive that information when participating on competing exchanges.

With respect to the aspect of the proposal that addresses the priority of market maker Complex Orders and COLA Sweeps executing after a COLA, the Exchange believes that this change does not impose a burden on competition, because it treats all interest received from a market maker the same way and does not change the way other intra-market interest is handled. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct complex order flow to competing venues.

With respect to the aspect of the proposal that adopts specific order types and contingencies applicable to Complex Orders, the Exchange does not believe that the proposal imposes a burden on inter-market competition. Most of these order types and contingencies are available to all participants. Although all-or-none Complex Orders can only be entered by non-broker-dealer customers, the Exchange does not believe that this imposes a burden on competition, because: (i) As stated above, all-or-none Complex Orders are rare, both in terms of how many start a COLA and how many are received; and (ii) it is common both on the Exchange (respecting non-Complex Orders) and on other options exchanges to offer only certain functionality to certain participants.[30] The Exchange notes that this particular functionality is only available for non-Complex Orders on Phlx to non-broker-dealer customers.[31] Nor does the proposal impose a burden on intra-market competition, because most of these order types are available to all participants.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [32] and subparagraph (f)(6) of Rule 19b–4 thereunder.[33]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–39 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–2014–39. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–39 and should be submitted on or before July 7, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Kevin M. O'Neill,

Deputy Secretary.

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[30] *See supra* notes 27–29.

[31] *See supra* note 27.

[32] 15 U.S.C. 78s(b)(3)(a)(ii).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[34] 17 CFR 200.30–3(a)(12).