February 25, 2015

Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: File No. SR-PHLX-2014-66

Dear Mr. Fields:

The International Securities Exchange, LLC ("ISE") appreciates the opportunity to comment on the above-referenced proposed rule filing in which NASDAQ OMX PHLX LLC ("Phlx") proposes to establish an electronic solicitation mechanism through which a member may execute all-or-none orders of 500 or more contracts that it represents as agent against contra orders that it has solicited from other market participants. ISE also operates a solicitation mechanism,[1] and, unlike our mechanism, we believe that the Phlx proposal does not contain appropriate safeguards to ensure that customer orders on the book are protected, and that agency orders are adequately exposed to all potential price improvement.

Of primary concern to ISE is the proposed handling of customer orders on the book at the stop price of the solicited order. Phlx would cancel a solicitation auction if there is customer interest on the book at the stop price that, combined with other available price improving interest, would be of sufficient size to trade with the agency order. Other options exchanges, including ours, would execute the agency order against the customer order and other price improving interest, thus securing an execution for the customer on the book as well an improved price for the agency order. While Phlx notes this difference in its filing, it does not go on to provide any policy justification for this change from established customer protections. Indeed, as Phlx must be aware, these weakened protections would enable regulatory arbitrage, where broker dealers are encouraged to send solicited crosses to the exchange with the weakest protections – i.e., Phlx – in order to reduce the likelihood that their crosses will be broken up. ISE and other competing exchanges meanwhile would be forced match these changes in order to maintain competitive standing. The Commission should avoid this degradation of customer protections by holding Phlx to the same standards guaranteed by other options exchanges. In doing so, the Commission would be upholding

[1] The ISE solicited order mechanism was approved by the Commission in June 2004. See Securities Exchange Act Release Nos. 49141 (January 28, 2004). 69 FR 5625 (February 5, 2004) (Notice); 49943 (June 30, 2004), 69 FR 41317 (July 8, 2004) (Approval) (SR-ISE-2001-22). See also ISE Rule 706(e).

principles of customer protection that were central to the approval of solicitation mechanisms operated by ISE and other markets.

ISE also has concerns about Phlx's proposed handling of all-or-none orders on the book. For instance, Phlx would allow a solicited order to cross with the agency order when there is a resting customer all-or-none order at the stop price of the solicited order. This is the case even if the customer order is eligible to trade with the agency order based on its size contingency. Other exchanges that offer solicitation mechanisms protect customer orders on the book, including all-or-none orders. Nevertheless, Phlx has determined that it is not necessary to protect all-or-none customer orders without providing any policy rationale for doing so. As explained above, customer protection was a central principle in the approval of solicitation mechanisms of other markets. ISE does not believe that Phlx should be allowed to eliminate traditional customer protections without providing policy rationale for that decision.

Similarly, Phlx argues that the Commission should allow all-or-none orders in the complex order book to be ignored when determining whether there is sufficient interest to execute the agency order at a better price. In doing so, Phlx does not cite any relevant policy considerations, but simply reasons that it should be exempted from providing this functionality due to "systems limitations" that make it more difficult to aggregate ordinary complex orders with all-or-none orders. Of course, what Phlx does not mention is that other options exchanges have spent the necessary time and resources to overcome these obstacles in the interest of maintaining a fair and orderly market where agency orders are adequately exposed to potential price improvement. ISE does not believe that Phlx should be singled out for favorable treatment simply because it is unwilling to invest in appropriate safeguards offered by its competitors.

In conclusion, ISE believes Phlx's proposed solicitation mechanism does not serve the public interest and the protection of investors as it fails to provide important protections guaranteed by competing markets. We thus respectfully ask that the Commission disapprove the proposed rule change.

* * *

We thank the Commission for the opportunity to comment on this proposed rule filing. If you have any additional questions, or if we can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely,

Michael J. Simon,
Secretary and General Counsel