

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88519; File No. SR-Phlx-2020-09)

March 31, 2020

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Relocate the Phlx Series 8000 and 9000 Rules and Incorporate by Reference the Disciplinary Rules of The Nasdaq Stock Market LLC

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 March 20, 2020, 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 and II 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 relocate the Phlx Series 8000 and 9000 Rules from its current rulebook (“Rulebook”) into its new Rulebook shell. The Exchange is also proposing to simultaneously replace the text of the current Phlx Series 8000 and 9000 Rules with introductory paragraphs to each that incorporate by reference The Nasdaq Stock Market LLC’s (“Nasdaq”) Series 8000 and 9000 Rules located in Nasdaq General 5 Discipline.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

Rule Relocation

The Exchange proposes to relocate the current Phlx Rule 8000 and 9000 Series Rules into the new Rulebook shell. The relocation and harmonization of these rules is part of the Exchange’s continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges.³ The Exchange believes that the placement of these Phlx Rules into their new location in the shell will facilitate the use of the Rulebook by members, member organizations, persons associated with member organizations, or other persons subject to its jurisdiction. Specifically, the Exchange proposes to relocate the following rules into General 5 Discipline:

³ The term “Affiliated Exchanges” refers to Nasdaq; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC.

Proposed New Rule Number	Current Rule Number
Section 1	Rule 9110(d) Disciplinary Jurisdiction
Section 2	8000. Investigations and Sanctions
Section 3	9000. Code of Procedure

Incorporation by Reference

The Exchange also proposes to simultaneously replace the current Phlx Series 8000 and 9000 Rules with introductory paragraphs to each that incorporate by reference the Nasdaq Series 8000 and 9000 Rules (located in General 5 Discipline), respectively, and state that such Nasdaq Rules shall be applicable to Exchange Members, Member Organizations, persons associated with Member Organizations, and other persons subject to the Exchange’s jurisdiction.⁴

Except as noted below, the Nasdaq Series 8000 and 9000 Rules are substantially similar to the current Phlx Series 8000 and 9000 Rules, respectively. To account for any differences that do exist, the proposed introductory paragraphs list instances in which cross references in the Nasdaq Series 8000 and 9000 Rules to other Nasdaq rules shall be read to refer instead to the Exchange Rules, and references to Nasdaq terms (whether or not defined) shall be read to refer to the Exchange-related meanings of those terms. For example, references in both the Nasdaq Series 8000 and 9000 Rules to the following terms shall be read to refer to the Exchange-specific meanings of those terms: the terms “Exchange” or “Nasdaq” shall be read to refer to the Phlx Exchange; the terms “Rule” or “Rules of Nasdaq” shall be read to refer to the Phlx Rules; the

⁴ The Exchange notes that the proposed changes will not become operative unless and until the Commission approves the Exchange’s request, which it has filed pursuant to Section 36 of the Exchange Act and SEC Rule 0-12 thereunder, for an exemption from the rule filing requirements of Section 19(b) of the Exchange Act as to changes to Phlx Series 8000 (New General 5, Section 2) and 9000 (New General 5, Section 3) Rules that are effected solely by virtue of a change to the Nasdaq Series 8000 or 9000 Rules.

terms “Board” or “Nasdaq Board” shall be read to refer to the Phlx Board of Directors; the terms “member” or “member firm” shall be read to refer to a Phlx member organization, except that with respect to Rules 9268(e)(2), 9269(d)(2), 9312(a)(3), 9351(a), 9524(a)(10), 9524(b)(3), and 9559(q)(1), the term “member” shall be read also to apply to a Phlx member; the term “Associated Person” shall be read to refer to a Phlx Member or person associated with a Phlx member organization; the term “person associated with a member” shall be read to refer to a Phlx member or a person associated with a Phlx member organization⁵; the terms “Nasdaq Regulation” or “Nasdaq Regulation Department” shall be read to refer to the Phlx Regulation Department; and the term “Chief Regulatory Officer” shall be read to refer to the Chief Regulatory Officer of Phlx.

Additionally, the proposed introduction to the Phlx Series 8000 Rules (New General 5, Section 2) states that references in the Nasdaq Series 8000 Rules to “Rule 0120⁶” shall be read to refer to Phlx Rule General 1, Section 1 and references in the Nasdaq Series 8000 Rules to “Rule 1015” shall be read to refer to Phlx Rule General 3, Section 16(a).

The proposed introduction to the Phlx Series 8000 Rules (New General 5, Section 2) also indicates how certain of the Nasdaq Series 8000 Rules should be read to apply to Exchange members, member organizations, persons associated with member organizations, or other

⁵ The Exchange notes that the term “member” under Nasdaq’s rules is synonymous with the Exchange’s definition of “member organization,” whereas the definition of a “member” of the Exchange relates to the permit holder. Nasdaq does not have such a concept. Under the Phlx rules, a “member” is a natural person, whereas a “member organization” is an entity and not a person.

⁶ The definitions in Nasdaq Rule 0120 are now located under the General 1 title (“General Provisions”) in the Nasdaq rulebook. See Securities Exchange Act Release No. 34-87778 (December 17, 2019), 84 FR 70590 (December 23, 2019) (SR-NASDAQ-2019-098). The Exchange plans to submit a subsequent filing for the Nasdaq rulebook to address references to rules in the Nasdaq Rulebook that have since been changed.

persons subject to its jurisdiction. Specifically, when applied to a Phlx member, Nasdaq Rule 8310(a)(3) shall also permit the suspension of the permit of a Phlx member and 8310(a)(4) shall also permit the revocation or cancellation of the permit of a Phlx member, or expulsion of a Phlx member. In addition, IM-8310-3(c)(1) shall also permit the Phlx Regulation Department to release to the public information with respect to any disciplinary decision issued pursuant to the Phlx Series 9000 Rules (New General 5, Section 3) imposing a suspension, cancellation or expulsion of a Phlx member, or suspension or revocation of a Phlx member's permit or any decision issued pursuant to the Rule 9550 Series imposing a suspension or cancellation of the Phlx member, or a suspension or bar of the association of a Phlx member with a Phlx member organization. Moreover, IM-8310-3(g) and (h) also shall be read to apply to a Phlx member with respect to decisions of the Exchange that impose upon him or her a monetary sanction of \$10,000 or more or a penalty of expulsion, revocation, suspension, or bar; and IM-8310(i) also shall be read to apply to a Phlx member with respect to any order issued by the Commission of suspension, expulsion, bar, or the imposition of monetary sanctions of \$10,000 or more. The inclusion of these provisions in the introductory paragraph ensures that there is no change in the way current Phlx Rules 8310 and IM-8310-3 are applied to Phlx Members who are sanctioned for violation of the Phlx Rules.

The proposed introduction to the Phlx Series 8000 Rules (New General 5, Section 2) clarifies that, while Rules 8320(a)(2), (b), and (c) in the Nasdaq Series 8000 Rules shall also apply to Phlx members, subsection (a)(1) shall have no application to the Exchange or its members, member organizations, persons associated with member organizations, and other persons subject to the Exchange's jurisdiction. The inclusion of this in the introductory paragraph is needed because that subsection relates specifically to Nasdaq Options Market

members, and there is no analogous rule in the Phlx Series 8000 Rules (New General 5, Section 2).

Finally, the introductory paragraph to the Phlx Series 8000 Rules (New General 5, Section 2) explains that Nasdaq Rule IM-8310-1 shall have no application to the Phlx Exchange or its members, member organizations, persons associated with member organizations, or other persons subject to its jurisdiction. Instead, current Phlx Rule IM-8310-1 shall continue to apply. While the language of Nasdaq Rule IM-8310-1 and current Phlx Rule IM-8310-1 is substantially similar, certain differences exist given the existence of member organizations on the Exchange such that maintaining the current Phlx Rule language is necessary.

With respect to the Phlx Series 9000 Rules (New General 5, Section 3), the proposed introduction states that cross-references in the Nasdaq Series 9000 Rules to the following rules shall be read to refer to the following Exchange Rules:

Nasdaq Rule⁷	Corresponding Exchange Rule
0120	General 1, Section 1
1013	General 3, Section 5 or General 3, Section 2
1015	General 3, Section 16(a)
1160	General 3, Section 7(d)
2010A	Options 9, Section 1
2160	General 2, Section 4
2170	General 9, Section 53
4110A	Options 6D, Section 1
4120A	Options 6D, Section 1
Options 9, Section 4	General 9, Section 53

In addition, when applied to a Phlx member organization, Rule 9558(a)(2) and any other applicable rules in the Nasdaq Rule 9000 series shall also allow the summary suspension of the associated permit(s) of a Phlx member organization. This language is necessary to make it clear that if the Chief Regulatory Officer provides written authorization to the Financial Industry Regulatory Authority (“FINRA”) staff to issue on a case-by-case basis a written notice that summarily suspends a Phlx member organization, the Phlx member organization’s associated permit(s) may also be suspended.

Moreover, as with the current Phlx Series 8000 Rules, the proposed introduction to the Phlx Series 9000 Rules (New General 5, Section 3) indicates how certain of the Nasdaq Series

⁷ The Exchange plans to submit a subsequent filing for the Nasdaq Series 8000 and 9000 Rules to replace references to the following rules with the new rule cites: Rules 0120 (now General 1), 1160 (now General 2, Section 11), 2010A (now General 9, Section 1), 2160 (now General 2, Section 14), 4110A (now General 9, Section 40), and 4120A (now General 9, Section 41).

9000 Rules should be read to apply to Exchange members, member organizations, persons associated with member organizations, or other persons subject to its jurisdiction⁸ and indicates

⁸ Rule 9270(c)(5) in the current Phlx Rule 9000 Series refers to the “Exchange Enforcement Sanctions User’s Guide,” whereas Rule 9270(c)(5) in the Nasdaq Rule 9000 Series refers to “sanction guidelines.” The Exchange is not preserving the reference to the Exchange Enforcement Sanctions User’s Guide (the “Sanctions User Guide”) because the Exchange, like Nasdaq, consults FINRA’s sanction guidelines when determining appropriate remedial sanctions. The Exchange notes that, pursuant to a September 11, 2000, settlement with the Commission (the “Settlement”), see Release No. 43268, September 11, 2000, the Exchange was required to “adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with such exchange’s options order handling rules, including, the duty of best execution with respect to the handling of orders after the broker-dealer routes the order to such respondent exchange, limit order display, priority, firm quote, and trade reporting rules.” The Exchange thereafter sought Commission approval to adopt new sanctioning guidelines to assist the Exchange in enforcing compliance with its options order handling rules. See Securities Exchange Act Release No. 45415 (February 7, 2002), 67 FR 6781 (February 13, 2002). The Exchange received Commission approval on March 15, 2002. See Securities Exchange Act Release No. 45569 (March 15, 2002), 67 FR 13397 (March 22, 2002). In approving the Sanctions User Guide, the Commission noted that “the Commission expects the Exchange to continue to evaluate the adequacy of the proposed sanctioning guidelines to determine whether they do, in fact, effectively enforce compliance with the options order handling rules.” See Securities Exchange Act Release No. 45569 (March 15, 2002), 67 FR 13397, 13398 (March 22, 2002).

After Nasdaq acquired Phlx in 2008, Phlx contracted with FINRA in 2010 through a regulatory services agreement to perform certain of the investigation and enforcement functions on its behalf that the Exchange’s enforcement department had previously performed. Over time, with the support of the Exchange, FINRA began consulting FINRA’s sanction guidelines when determining appropriate remedial sanctions for Members, Member Organizations, persons associated with Member Organizations, and other persons subject to the Exchange’s jurisdiction. The National Adjudicatory Council (“NAC”) (formerly the National Business Conduct Committee) developed the sanctions guidelines. The NAC is an independent committee of FINRA comprised of professionals who also review initial decisions rendered in FINRA disciplinary and membership proceedings. FINRA’s guidelines include guidance on sanctioning a member for failing to comply with best execution obligations, limit order display rules, and trade reporting rules. For those rules not specifically covered by FINRA’s sanctions guidelines, such as priority and firm quote rules, FINRA and/or the Exchange, as applicable, consults the guidelines for analogous violations when determining the appropriate sanction. For each rule covered, the guidelines set forth factors that may be taken into account when determining the appropriate sanction, and the recommended sanction or sanction range (which are higher than the Sanctions User Guide recommends). The guidelines do not

that certain of the language in particular rules of the Current Phlx Series 8000 and 9000 Rules will be maintained. Specifically:

1. Rule 9110(d) (“Jurisdiction”) in the Nasdaq Series 9000 Rules shall not apply to the Exchange or its members, member organizations, persons associated with member organizations, or other persons subject to its jurisdiction. Instead, current Phlx Rule 9110(d) shall apply. While the language of Nasdaq Rule 9110(d) and current Phlx Rule 9110(d) is substantially similar, certain differences exist given the existence of member organizations and members on the Phlx Exchange such that maintaining the current Phlx Rule language is necessary.⁹ Moreover, as noted above, current Phlx Rule 9110(d) will be relocated to New General 5, Section 1.
2. The Waiver of Ex Parte Prohibition set forth in Nasdaq Rule 9143(e)(3) and Separation of Functions set forth in Nasdaq Rule 9144(c)(3) shall also apply to violation letters executed pursuant to Phlx Rule 9216(b)(2). The inclusion of this in the introductory paragraph is necessary because the Nasdaq rules do not

prescribe specific sanctions for particular violations. Instead, the objective is to provide recommended sanctions based on a number of factors that may be considered pertinent in determining what sanction should be levied. FINRA’s guidelines also provide direction on when to consider a suspension, bar or other sanctions. The Exchange believes the higher sanction ranges and guidance on when to suspend or bar a member lead to better deterrence of misconduct. In addition, FINRA’s sanctions guidelines are available publicly (see https://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf). The Exchange believes that public access to guidelines that the Exchange considers when assessing remedial sanctions improves regulation and leads to better conduct.

The Exchange notes that all other Affiliated Exchanges currently refer to FINRA’s sanctions guidelines when determining appropriate remedial sanctions for each of its members, including Nasdaq’s other options markets, the Nasdaq Options Market, the BX Options Market, Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq MRX, LLC.

⁹ See supra, n.5.

provide for the issuance of violation letters, whereas the Phlx rules do. This provision therefore ensures that there is no change in the application of the Waiver of Ex Parte Prohibition and Separation of Functions rules to Phlx member organizations or persons associated with member organizations who submit executed violation letters.

3. The following text should be read to follow the existing paragraph in Nasdaq Rule 9211(a)(1), which is identical to the existing text in current Phlx Rule 9211(a)(1):
“When the number of violations under Exchange Rules is determined based upon an exception-based surveillance program, the Phlx Regulation Department or the Department of Enforcement may aggregate, or “batch,” individual violations of Exchange order handling Rules and consider such “batched” violations as a single offense only in accordance with the guidelines set forth in the Exchange’s Numerical Criteria for Bringing Cases for Violations of Exchange Order Handling Rules. In addition, the Phlx Regulation Department or the Department of Enforcement may batch individual violations of Options 2, Section 5(c) pertaining to quote spread parameters (and corresponding Options Floor Procedure Advice Options 11, Section 7). In the alternative, the Phlx Regulation Department or the Department of Enforcement may request authorization from the FINRA Office of Disciplinary Affairs to issue a complaint when (i) the Phlx Regulation Department or the Department of Enforcement determines that there exists a pattern or practice of violative conduct without exceptional circumstances, or (ii) any single instance of violative conduct without exceptional circumstances is deemed to be egregious.” The inclusion of this in the introductory paragraph is

necessary because the Nasdaq Rules do not provide for the “batching” of individual violations, whereas the Phlx Rules do. Maintaining this provision therefore ensures that the current process of “batching” on the Exchange for certain violations remains unchanged.

4. Rules 9216 and IM-9216 in the Nasdaq Rules shall not apply to Exchange members, member organizations, persons associated with member organizations, or other persons subject to its jurisdiction. Instead, current Phlx Rules 9216 and IM-9216 shall apply. Phlx Rules 9216 and IM-9216 include provisions unique to that Exchange because, unlike Nasdaq, it has a trading floor. In addition, Phlx Rule 9216 provides for the imposition of fines in excess of \$2,500 but not to exceed \$10,000. Maintaining the existing language therefore ensures that the procedures applicable to acceptance, waiver, and consent letters, minor rule violation letters, and violation letters set forth in the existing Phlx rules remain unchanged. The Exchange also proposes to update certain terms and rule references that exist in Current Phlx Rule IM-9216 to align them with current terms and rule references. Recently, the Exchange updated the terms “Registered Options Trader” to “Floor Market Maker” and “Specialist” to “Lead Market Maker.”¹⁰ Those new terms will be reflected in New Phlx Rule IM-9216. In addition, due to the recent relocation in the Phlx Rulebook of rules that are subject to the minor rule violation plan and the floor option procedure advices, the Exchange is updating the rule references as follows:

¹⁰ See Securities Exchange Act Release No. 85740 (April 29, 2019), 84 FR 19136(May 3, 2019); Securities Exchange Act Release No. 88213 (February 14, 2020), 85 FR 9859 (February 20, 2020).

Old Cite	New Cite
B-12	B-11
E-1	D-1
F-2	E-2
F-4	E-3
F-5	E-4
F-6	E-5
F-8	E-6
F-9	E-7
F-11	E-8
F-12	E-9
F-13	Options 11, Section 6
F-15	Options 11, Section 7
F-19	Options 11, Section 8
F-23	E-13
F-25	E-14
F-27	Options 11, Section 9
F-30	E-15
F-31	E-16
F-33	Options 11, Section 10
F-34	Options 11, Section 11
F-35	Options 11, Section 12
G-1	Options 11, Section 13
Section H Of the Options Floor Procedure Advices	Options 8, Section 39, F

5. Rule 9231(b)(1)(C) in the Nasdaq Rules shall be read to allow the Chief Hearing Officer to select as a Panelist a person who previously served as a Governor of the Exchange prior to its acquisition by Nasdaq, Inc., but does not serve currently in that position; and 9231(b)(1)(D) shall be read to allow a person who is a member of FINRA's Market Regulation Committee to be among the FINRA Panelists approved by the Exchange Board at least annually whom the Chief Hearing Officer may also select as a Panelist. This language is necessary to preserve the pool of individuals from whom the Chief Hearing Officer may select to serve as a Panelist for Phlx disciplinary matters.
6. When applied to a Phlx member organization, Rule 9558(a)(2) in the Nasdaq Rule 9000 Series shall also allow the summary suspension of the associated permit(s) of a Phlx member organization. This language is necessary to make it clear that if the Chief Regulatory Officer provides written authorization to FINRA staff to issue on a case-by-case basis a written notice that summarily suspends a Phlx member organization, the Phlx member organization's associated permit(s) may also be suspended.
7. Rules 9552(f), 9553(g), 9554(g), 9555(g), 9556(g), and 9558(g) in the Nasdaq 9000 Series shall be read to continue to allow the filing of a request for termination of a suspension (or a request for termination of the limitation, prohibition or suspension with respect to Rules 9555(g) and 9558(g)), to be made with either the head of the Exchange or the FINRA department or office that issued the notice or that is handling the matter on behalf of the issuing department

or office. The inclusion of this language is necessary so that it is clear that such filings may continue to be made with the Exchange.

8. Rule 9610(b) in the Nasdaq Series 9000 Rules shall not apply to the Exchange or its members, member organizations, persons associated with member organizations, or other persons subject to its jurisdiction. Instead, current Phlx Rule 9610(b) shall apply. While the language of Nasdaq Rule 9610(b) and current Phlx Rule 9610(b) is substantially similar, certain differences exist given the existence of member organizations and members on the Phlx Exchange such that maintaining the current Phlx Rule language is necessary.
9. Finally, the Exchange notes that FINRA amended its rules to reflect an internal reorganization of FINRA's Enforcement Operations.¹¹ In July 2017, FINRA announced its plan to consolidate its existing enforcement functions into a unified Department of Enforcement. According to FINRA, its rule change makes technical and other non-substantive changes to FINRA Rules 9000 Series Code of Procedure (the "Code") to reflect the single Department of Enforcement.¹² The rule change removed references to the Market Regulation department, its head and employees from the Code where those references reflect the previously separate Market Regulation enforcement function. In light of FINRA's reorganization, Nasdaq likewise removed references to the Market Regulation department, its head and employees from the Code, and re-lettered the remainder of those sections where such re-lettering was necessary (i.e., Rule 9120). Because

¹¹ See Securities Exchange Act Release No. 83781 (August 6, 2018), 83 FR 39802 (August 10, 2018) (FINRA No. SR-FINRA-2018-027).

¹² Id.

FINRA's Market Regulation department no longer exists, the Exchange does not need to preserve references to that entity with this rule change.

2. Statutory Basis

Rule Relocation

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by bringing greater transparency to its rules by relocating its Rules into the new Rulebook shell together with other rules which have already been relocated. The Exchange's proposal is consistent with the Act and will protect investors and the public interest by harmonizing its rules, where applicable, across Nasdaq markets so that members of the Affiliated Exchange can readily locate rules which cover similar topics. The relocation and harmonization of these Phlx Rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges. The Exchange believes that the placement of these Phlx Rules into their new location will facilitate the use of the Rulebook by members, member organizations, persons associated with member organizations, or other persons subject to the Exchange's jurisdiction. Specifically, the Exchange believes that market participants that are members of more than one Nasdaq market will benefit from the ability to compare Rulebooks.

The Exchange is not substantively amending rule text unless noted otherwise within this rule change. The Exchange has already completed relocating corresponding rules into the same

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

location in most of its Affiliated Exchange's Rulebooks for ease of reference.¹⁵ The Exchange believes its proposal will benefit investors and the general public by increasing the transparency of its Rulebook and promoting easy comparisons among the various Nasdaq Rulebooks.

Incorporation by Reference

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ 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 consolidating its rules into a single rule set. The Exchange intends to file a similar proposed rule change for the Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq MRX, LLC markets, so that the Nasdaq 8000 Series and 9000 Series Rules which govern the investigative and disciplinary processes are similarly incorporated by reference into those rulebooks.

Replacing the current Phlx Series 8000 and 9000 Rules with introductory paragraphs to each that incorporate by reference Nasdaq Series 8000 and 9000 Rules, respectively, will provide an easy reference for members, associated persons, and other persons subject to the Exchange's jurisdiction seeking to understand and follow the investigative and disciplinary processes across all of Nasdaq's Exchanges. As noted, the Exchange intends to file similar rule changes for other

¹⁵ See Securities Exchange Act Release No. 86138 (June 18, 2019), 84 FR 29567 (June 24, 2019); Securities Exchange Act Release No. 86346 (July 10, 2019), 84 FR 33999 (July 16, 2019); Securities Exchange Act Release No. 86424 (July 22, 2019), 84 FR 36134 (July 26, 2019); and Securities Exchange Act Release No. 87778 (December 17, 2019), 84 FR 70590 (December 23, 2019). The Exchange plans to submit a similar rule filing for Nasdaq BX, Inc. in short order.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

affiliated markets so that the Nasdaq Series 8000 and 9000 Rules are the source document for all of the Affiliated Exchanges' investigative and disciplinary processes. The Exchange notes that the substance of the current rules is not changing. The Exchange desires to conform its rules to give its members and the members of its Affiliated Exchanges the ability to quickly locate rules in one central location.

The Exchange also believes that the proposal is consistent with Section 6(b)(6) of the Act,¹⁸ which requires that the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder, or the rules of the Exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted above, the Exchange proposes to include introductory paragraphs to each of the Phlx Series 8000 and 9000 Rules (new General 5, Sections 2 and 3, respectively) that list instances in which cross references in the Nasdaq Series 8000 and 9000 Rules to other Nasdaq rules should be read to refer instead to the Exchange Rules and references to Nasdaq terms (whether or not defined) shall be read to refer to the Exchange-related meanings of those terms. This is consistent with the Act because it minimizes confusion and ensures the proper application of the Nasdaq Rules to Phlx. Also as noted above, the introductory paragraphs (1) indicate that certain of the Current Phlx Series 8000 and 9000 Rules, or portions thereof, will continue to apply to the Exchange, Phlx members, member organizations, persons associated with member organizations, and other persons subject to the Exchange's jurisdiction, rather than the analogous Nasdaq Series 8000 and 9000 Rules¹⁹; (2) describe how certain of the Nasdaq

¹⁸ 15 U.S.C. 78f(b)(6).

¹⁹ Rules IM-8310-1, 9110(d), 9211(a)(1), 9216, IM-9216, and 9610(b).

Series 8000 and 9000 Rules should be read to apply to Exchange members, member organizations, persons associated with member organizations, or other persons subject to the Exchange’s jurisdiction²⁰; and (3) indicate that certain of the language in particular rules of the current Phlx Series 8000 and 9000 Rules will be maintained.²¹ With respect to (1), the Exchange is also updating certain terms and rule references in Current Phlx Rule IM-9216 to align them with current terms and rule references contained elsewhere in the Exchange’s Rulebook. The inclusion of these clarifying provisions is consistent with the Act because it preserves the way that certain Phlx Rules that differ from or do not exist in the Nasdaq Rules are applied. Moreover, updating certain terms and rule references in Current Phlx Rule IM-9216 is consistent with the Act because it conforms the text in that rule to changes already made elsewhere in the Rulebook, thus ensuring accurate terms and rule references throughout. Adding this text therefore ensures the consistent application of Phlx Rules to its members, member organizations, persons associated with member organizations, or other persons subject to the Exchange’s jurisdiction.

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 believes that this rule change does not impose an undue burden on competition because the Exchange is merely incorporating Nasdaq’s Series 8000 and 9000 Rules, which are substantially similar to the current Phlx Series 8000 and 9000 Rules. Those rules will now apply to Phlx members, member organizations, persons associated with member organizations, or other

²⁰ Rule 8310, IM-8310-3, 8320 and 9558(a)(2).

²¹ Rules 9143(e)(3), 9144(c)(3), 9231(b)(1)(C), 9231(b)(1)(D), 9552(f), 9553(g), 9554(g), 9555(g), 9556(g), and 9558(g).

persons subject to the Exchange's jurisdiction. To the extent that there are differences between the two rule sets, the Exchange notes those differences in introductory paragraphs to each of the Phlx Series 8000 and 9000 Rules (new General 5, Sections 2 and 3, respectively). As noted above, the proposed introductory paragraphs list instances in which cross references in Nasdaq Series 8000 and 9000 Rules to other Nasdaq rules shall be read to refer instead to the Exchange Rules, and references to Nasdaq terms (whether or not defined) shall be read to refer to the Exchange-related meanings of those terms. The introductory paragraphs also (1) indicate that certain of the current Phlx Series 8000 and 9000 Rules, or portions thereof, will continue to apply to the Exchange, Phlx members, member organizations, persons associated with member organizations, or other persons subject to the Exchange's jurisdiction, rather than the analogous Nasdaq Series 8000 and 9000 Rules; (2) describe how certain rule text of the Nasdaq Series 8000 and 9000 Rules should be read to apply to the Exchange, Phlx members, member organizations, persons associated with member organizations, or other persons subject to the Exchange's jurisdiction; and (3) indicate that certain of the language in particular rules of the current Phlx Series 8000 and 9000 Rules will be maintained. Because Nasdaq's current Series 8000 and 9000 Rules are substantially similar to the current Phlx Series 8000 and 9000 Rules, and because the introductory paragraphs ensure that any differences are preserved, the proposed changes do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Finally, updating certain terms and rule references in Current Phlx Rule IM-9216 does not do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it conforms the text in that rule to changes already made elsewhere in the Rulebook, thus ensuring accurate terms and rule references throughout.

Finally, the Exchange believes that the proposed amendments do not impose an undue burden on competition because the amendments to relocate the Rules are non-substantive. This rule change is intended to bring greater clarity to the Exchange's Rules.

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) of the Act²² and Rule 19b-4(f)(6) thereunder.²³

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 change should be approved or disapproved.

²² 15 U.S.C. 78s(b)(3)(A).

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

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 e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2020-09 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-2020-09. This file number should be included on the subject line if e-mail 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-2020-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

J. Matthew DeLesDernier
Assistant Secretary

²⁴ 17 CFR 200.30-3(a)(12).