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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- 88583; File No. SR-Phlx-2020-15]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Rules 3301A and 3301B

April 7, 2020.

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 26, 2020, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“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 amend Exchange Rules 3301A and 3301B to modify the behavior of Order Types and Order Attributes in certain situations.

The Exchange intends to implement its proposed rule change on or before the end of the Second Quarter of 2020. The Exchange will announce the new implementation date by an Equity Trader Alert, which shall be issued prior to the implementation date.

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

Pursuant to Rule 3307, the Exchange maintains discretion to execute Orders in accordance with one of two execution algorithms: "Price/Time" and "Pro Rata." Prior to November 1, 2019, the Exchange executed Orders in accordance with the Pro Rata Execution Algorithm, which executes trading interest in the following order of priority: (1) price; (2) Displayed interest with a size of one round lot or more; (3) Displayed odd-lot Orders; (4) Non-Displayed interest with a size of one round lot or more; (5) Minimum Quantity Orders; and (6) Non-Displayed odd-lot Orders.³ However, as of November 1, 2019,⁴ the Exchange migrated to the Price/Time Execution Algorithm, which executes trading interest in order of: (1) price; (2) Displayed interest; and (3) Non-Displayed interest.⁵

In accordance with the Exchange's shift to the Price/Time Execution Algorithm, the Exchange proposes to adopt functionality that was unavailable for use under the Pro Rata

³ See Rule 3307(b).

⁴ See Equity Trader Alert 2019-77 (Sept. 27, 2019), at <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2019-77>.

⁵ See Rule 3307(a).

Execution Algorithm, but which is common among Price/Time exchanges, including the Exchange's affiliates, the Nasdaq Stock Market, LLC ("Nasdaq") and Nasdaq BX, Inc. ("BX").⁶

The Exchange also proposes to make several non-substantive changes to correct and conform the Exchange's Rules to corresponding rules of Nasdaq and/or BX.⁷

Post-Only Orders

The Exchange proposes to amend Rule 3301A to provide for additional functionalities for Post-Only Orders.⁸

One set of changes would provide Participants with the option of cancelling a Post-Only Order in circumstances where currently, the Exchange would adjust the price of such an Order. The proposed functionality will apply when: (1) an incoming Post-Only Order locks or crosses a Protected Quotation⁹; (2) an adjusted Post-Only Order locks or crosses a Displayed Order at its displayed price on the Exchange Book; or (3) a Post-Only Order would not lock or cross a

⁶ All of the proposed functionalities will apply only to the extent that the Exchange continues to operate on a Price/Time basis. They would not be available if the Exchange was to revert to a Pro Rata Execution Algorithm.

⁷ For example, at various points in the rule text of Rule 3301A, the Exchange proposes to add the word "Displayed" before the word "Order" to conform that rule text to corresponding Nasdaq and BX rule text (Nasdaq and BX Rule 4702). Also to conform to corresponding Nasdaq and BX rule text, the Exchange proposes, in Rule 3301A(b)(4)(C), to add, to the paragraph describing the treatment of a Post-Only Order designated as an ISO that locks or crosses an Order on the PSX Book, language stating that such an Order would either execute at time of entry, "post at its limit price," or would have its price adjusted prior to posting.

⁸ A "Post-Only Order" is an is an Order Type designed to have its price adjusted as needed to post to the PSX Book in compliance with Rule 610(d) under Regulation NMS by avoiding the display of quotations that lock or cross any Protected Quotation in a System Security during Market Hours, or to execute against locking or crossing quotations in circumstances where economically beneficial to the Participant entering the Post-Only Order. See Rule 3301A(b)(4)(A).

⁹ The term "Protected Quotation" has the meaning assigned to it under Rule 600 of Regulation National Market System. See Rule 3301(j). Unless otherwise stated, it refers to a quotation of a market center other than PSX. Id.

Protected Quotation but would lock or cross a Displayed Order at its displayed price on the Exchange Book. This functionality will be offered as a port setting and may be applied to all Orders entered under the same MPID for Orders entered through RASH and FIX, or, in the case of Participants using the OUCH or FLITE order entry protocols, it may be applied to all Orders entered through a specific order entry port and under the same MPID.¹⁰

The first of these changes relates to incoming Post-Only Orders that lock or cross a Protected Quotation. Currently, Rule 3301A(b)(4)(A) states that, if a Post-Only Order would lock or cross a Protected Quotation, the price of the Order will first be adjusted. If the Order is Attributable,¹¹ its adjusted price will be one minimum price increment lower than the current Best Offer (for bids) or higher than the current Best Bid (for offers). If the Order is not Attributable, its adjusted price will be equal to the current Best Offer (for bids) or the current Best Bid (for offers). However, the Order will not post or execute until the Order, as adjusted, is evaluated with respect to Orders on the Exchange Book. The Exchange proposes to amend the behavior for both incoming Non-Attributable and Attributable Post-Only Orders that lock or cross a Protected Quotation on an away market center. In both cases, the Post-Only Order may be either adjusted or cancelled back to the Participant, depending on the Participant's choice. However, the Post-Only Order will execute if (i) it is priced below \$1.00 and the value of price

¹⁰ RASH and FIX are order entry protocols to enter orders into RASH, and RASH is a system separate from the matching system. Because of that, the granular detail around the specific ports going into the RASH system is not available to the matching system, and thus the setting can only be available at the MPID level for these protocols. By contrast, OUCH and FLITE are order entry protocols for the matching system itself, and so that level of detail is available.

¹¹ As set forth in Rule 3301B(i), an Order with "Attribution" is referred to as an "Attributable Order" and an Order without attribution is referred to as a "Non-Attributable Order." Rule 3301B(i) defines Attribution as an Order Attribute that permits a Participant to designate that the price and size of the Order will be displayed next to the Participant's MPID in market data disseminated by the Exchange.

improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share. As with the current rule text, the price of the Order will first be adjusted if the Participant elects to have the Post-Only Order adjusted (instead of being cancelled). Similarly, if the Order is Attributable, its adjusted price will be one minimum price increment lower than the current Best Offer (for bids) or higher than the current Best Bid (for offers). If the Order is not Attributable, its adjusted price will be equal to the current Best Offer (for bids) or the current Best Bid (for offers). However, the Order will not post or execute until the Order, as adjusted, is evaluated with respect to Orders on the Exchange Book.

In addition to offering the new cancel functionality where an incoming Post-Only Order locks or crosses a Protected Quotation on an away market center, the Exchange proposes to amend Rule 3301A(b)(4)(A) to state when that Order would execute, as described above. The Exchange proposes this change because it believes that the instances pursuant to which a locking or crossing Post-Only order will execute in other scenarios (such as a Post-Only Order that locks or crosses a Displayed Order at its displayed price on the Exchange Book) also apply here, e.g., the execution of the Post-Only Order would be economically beneficial to the Participant that entered the Order while contributing to the price discovery process.

The second change relates to the adjusted price of the Post-Only Order if that price would lock or cross an Order on the Exchange Book. Currently, Rule 3301A(b)(4)(A) states that, if the

adjusted price of the Post-Only Order would lock or cross an Order on the Exchange Book, then the Post Only Order will be repriced, ranked, and displayed at one minimum price increment below the current best price to sell on the Exchange Book (for bids) or above the current best price to buy on the Exchange Book (for offers). However, the Post-Only Order will execute if: (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share.

The Exchange proposes to amend this provision to apply to a scenario in which the adjusted price of the Post-Only Order would lock or cross a Displayed Order at its displayed price on the Exchange Book. The proposal would also allow the Post-Only Order to either be adjusted or be cancelled back to the Participant in this scenario, depending on the Participant's choice. As with the current language of this section, however, the Post-Only Order will execute if: (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share. If the Participant elects to have the Post-Only

Order adjusted, the Order will continue to be treated as specified today in the Rule, so that the Post- Only Order will be repriced, ranked, and displayed at one minimum price increment below the current best displayed price to sell on the Exchange Book (for bids) or above the current best displayed price to buy on the Exchange Book (for offers).

The third change relates to a Post-Only Order that would not lock or cross a Protected Quotation but would lock or cross an Order on the Exchange Book. Currently, Rule 3301A(b)(4)(A) states that such an Order will be repriced, ranked, and displayed at one minimum price increment below the current best-priced Order to sell on the Exchange Book (for bids) or above the current best-priced Order to buy on the Exchange Book (for offers). However, the Post-Only Order will execute if: (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Exchange Book equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book equals or exceeds \$0.01 per share.

The Exchange proposes to amend this provision so that it applies where a Post-Only Order would not lock or cross a Protected Quotation but would lock or cross a Displayed Order at its displayed price on the Exchange Book. The Exchange proposes that, in this scenario, the Order may either be adjusted or be cancelled back to the Participant, depending on the Participant's choice. However, the Post-Only Order will execute if: (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order

posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share. If the Participant elects to have the Post Only-Order adjusted, the Post-Only Order will be repriced, ranked, and displayed at one minimum price increment below the current best-priced Displayed Order to sell on the Exchange Book (for bids) or above the current best-priced Displayed Order to buy on the Exchange Book (for offers).¹²

The Exchange believes that the foregoing proposals will benefit liquidity providers and the market in general by, among other things, providing Participants with greater flexibility when managing their order flow, and thereby promoting the more efficient execution of Orders. In some circumstances, a market maker may have its order price adjusted due to locking or crossing an away market price (i.e., the displayed NBBO without the Exchange) or it may have its order price adjusted due to locking or crossing a Displayed Order on the Exchange Book. In many cases, these liquidity providers do not want to have their price adjusted and would rather have their order cancelled so that they can reevaluate the market conditions at the time. The Exchange believes that providing market makers with flexibility to cancel in this circumstance will increase

¹² The Exchange proposes to make a corresponding change to Rule 3301A(b)(4)(A). The Exchange proposes to amend a provision of the Rule relating to the treatment of Post-Only Orders during the Pre-Market and Post-Market Hours. Currently, that provision states that, during Pre-Market and Post-Market Hours, a Post-Only Order will be processed in a manner identical to Market Hours with respect to locking or crossing Orders on the Exchange Book, but will not have its price adjusted with respect to locking or crossing the quotations of other market centers. The Exchange proposes to amend this language to provide that a Post-Only Order that locks or crosses the quotation of another market center during the Pre-Market and Post-Market Hours will not be cancelled or have its price adjusted. The purpose of the proposed functionality is to allow a Participant to cancel its Post-Only Order in various circumstances rather than have that Order adjusted. To the extent that a Post-Only Order will not have its price adjusted if it locks or crosses the quotation of another market center during the Pre-Market or Post-Market Hours, there is not a need to offer the corresponding cancel functionality.

efficiency and reduce message traffic both internal to the Exchange and for external data feed consumers.

The Exchange also proposes to add a provision to Rule 3301A(b)(4) that addresses the treatment of Post-Only Orders that would not lock or cross a Protected Quotation but would lock or cross a Non-Displayed Order on the Exchange Book. In that circumstance, the Exchange proposes that the Post-Only Order will be posted, ranked, and displayed at its limit price. Once again, however, the Post-Only Order will execute in this instance if: (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share.

By allowing a Post-Only Order that is entered with a price equal to a resting Non-Display Order to be posted at its limit price rather than being re-priced, the Exchange will allow the Post Only Order to lock the resting Non-Display Order.¹³ Both the Displayed Post-Only Order and the resting Non-Display Order will remain available for execution at the locking price. In this way, neither Order will be disadvantaged and the Exchange's bid/offer spread will be tightened. In this scenario, efficacy will be maintained or enhanced for both the Participant entering the Post-Only Order and the Participant entering the Non-Displayed Order.

¹³ The Exchange believes that this condition is consistent with the Regulation NMS prohibition on locked and crossed markets because the Exchange will not be displaying a locked market.

In addition to the above, the Exchange proposes to add a provision to Rule 3301A(b)(4) to address the scenario in which the adjusted price of a Post-Only Order would lock or cross a Non-Displayed¹⁴ price on the Exchange Book. The proposal would specify that in that circumstance, the Post-Only Order will be posted in the same manner as a Price to Comply Order.¹⁵ However, the Post-Only Order will execute in this instance if: (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Exchange Book and subsequently provided liquidity, or (ii) it is priced at

¹⁴ A “Non-Displayed Order” is an Order Type that is not displayed to other Participants, but nevertheless remains available for potential execution against incoming Orders until executed in full or cancelled. In addition to the Non-Displayed Order Type, there are other Order Types that are not displayed on the PSX Book. Thus, “Non-Display” is both a specific Order Type and an Order Attribute of certain other Order Types. See Rule 3301A(b)(3)(A).

¹⁵ Pursuant to Rule 3301A(b)(1), a “Price to Comply Order” is an Order Type designed to comply with Rule 610(d) under Regulation NMS by avoiding the display of quotations that lock or cross any Protected Quotation in a System Security during Market Hours. The Price to Comply Order is also designed to provide potential price improvement. When a Price to Comply Order is entered, the Price to Comply Order will be executed against previously posted Orders on the Exchange Book that are priced equal to or better than the price of the Price to Comply Order, up to the full amount of such previously posted Orders, unless such executions would trade through a Protected Quotation. Any portion of the Order that cannot be executed in this manner will be posted on the Exchange Book (and/or routed if it has been designated as routable). During Market Hours, the price at which a Price to Comply Order is posted is determined in the following manner. If the entered limit price of the Price to Comply Order would lock or cross a Protected Quotation and the Price to Comply Order could not execute against an Order on the Exchange Book at a price equal to or better than the price of the Protected Quotation, the Price to Comply Order will be displayed on the PSX Book at a price one minimum price increment lower than the current Best Offer (for a Price to Comply Order to buy) or higher than the current Best Bid (for a Price to Comply Order to sell) but will also be ranked on the Exchange Book with a Non-Displayed price equal to the current Best Offer (for a Price to Comply Order to buy) or to the current Best Bid (for a Price to Comply Order to sell). During Pre-Market Hours and Post-Market Hours, a Price to Comply Order will be ranked and displayed at its entered limit price without adjustment.

\$1.00 or more and the value of price improvement associated with executing against an Order on the Exchange Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share. This provision, which exists on Nasdaq and BX,¹⁶ will help to reduce the information leakage that would otherwise occur when a Post-Only Order re-prices to avoid locking or crossing the price of a Non-Displayed Order resting on the Exchange's book.

The Exchange notes that the foregoing proposals add functionalities to the Post-Only Order that are currently offered by other exchanges, including the Exchange's affiliates, Nasdaq and BX. Indeed, the proposed changes to Rule 3301A(b)(4) mirror language that currently exists in both Nasdaq and BX Rules 4702(b)(4) and the rationales that the Exchange puts forth for those changes mirror those proffered by Nasdaq and BX.¹⁷

Minimum Quantity

As set forth in Rule 3301B(e), "Minimum Quantity" is an Order Attribute that allows a Participant to provide that an Order will not execute unless a specified minimum quantity of shares can be obtained. Thus, the functionality serves to allow a Participant that may wish to buy or sell a large amount of a security to avoid signaling its trading interest unless it can purchase a certain minimum amount. An Order with a "Minimum Quantity" Order Attribute may be referred to as a "Minimum Quantity Order."

The Exchange proposes to amend Rule 3301B(e) to provide a Participant with two choices as to how the Exchange will process a Minimum Quantity Order at the time of entry. First, the Exchange proposes that the Participant may specify that the Minimum Quantity

¹⁶ See Nasdaq Rule 4702(b)(4)(A), BX Rule 4702(b)(4)(A).

¹⁷ See Securities Exchange Act Release No. 34-79290 (Nov. 10, 2016), 81 FR 81184 (Nov. 17, 2016) (SR-NASDAQ-2016-111); Securities Exchange Act Release No. 34-80630 (May 9, 2017), 82 FR 22364 (May 15, 2017) (SR-NASDAQ-2017-043); Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-BX-2016-046).

condition may be satisfied by execution against multiple Orders. In that case, upon entry, the Exchange's System would determine whether there were one or more posted Orders executable against the incoming Order with an aggregate size of at least the minimum quantity. If there were not, the Order would post on the Exchange Book in accordance with the characteristics of its underlying Order Type.

Second, the Exchange proposes that Participant may specify that the Minimum Quantity condition must be satisfied by execution against one or more Orders, each of which must have a size that satisfies the Minimum Quantity condition. If there are such Orders but there are also other Orders that do not satisfy the Minimum Quantity condition, the Minimum Quantity Order will execute against Orders on the PSX Book in accordance with Rule 3307(a) (pertaining to execution priority) until it reaches an Order that does not satisfy the minimum quantity condition, and then the remainder of the Order will be cancelled. For example, if a Participant entered an Order to buy at \$11 with a size of 1,500 shares and a minimum quantity condition of 500 shares, and there were three Orders to sell at \$11 on the PSX Book, two with a size of 500 shares each and one with a size of 200 shares, with the 200 share Order ranked in time priority between the 500 share Orders, the 500 share Order with the first time priority would execute and the remainder of the Minimum Quantity Order would be cancelled. Alternatively, if the Order would lock or cross Orders on the PSX Book but none of the resting Orders would satisfy the minimum quantity condition, an Order with a minimum quantity condition to buy (sell) will be repriced to one minimum price increment lower than (higher than) the lowest price (highest price) of such Orders. For example, if there was an Order to buy at \$11 with a minimum quantity condition of 500 shares, and there were resting Orders on the PSX Book to sell 200 shares at \$10.99 and 300 shares at \$11, the Order would be repriced to \$10.98 and ranked at that price.

Again, the foregoing proposed changes to Rule 3301B(e) mirror language that exists for the same Order Attribute in the Nasdaq and BX rulebooks.¹⁸

Trade Now

The Exchange proposes to amend Rules 3301A and 3301B to add a “Trade Now” instruction to certain order types. The Exchange will offer this functionality – which is presently available on Nasdaq and BX¹⁹ – through its OUCH, RASH, FLITE, and FIX protocols. This instruction will provide resting Orders with a greater ability to receive an execution when that resting Order is locked by a Displayed Order. The Trade Now instruction will allow participants to enter an instruction to have a locked or crossed resting buy (sell) Order execute against the locking or crossing sell (buy) order as a liquidity taker. Depending on the protocol used by the participant to access the Exchange’s system, the participant may either specify that the Order execute against locking interest automatically, or the participant may be required to send a Trade Now instruction to the Exchange once the Order has become locked. The Exchange is offering the Trade Now instruction for all Orders that may be sent to and may be locked or crossed by a Displayed Order on the continuous Exchange book, and will not offer the instruction for Orders that do not execute and will not be locked by a Displayed Order on the continuous book.²⁰

¹⁸ See Securities Exchange Act Release No. 34-75252 (June 22, 2015), 80 FR 36865 (June 26, 2015) (SR-NASDAQ-2015-024); Securities Exchange Act Release No. 34-84012 (August 31, 2018), 83 FR 45476 (September 7, 2018) (SR-BX-2018-040).

¹⁹ See Nasdaq Rules 4702(b) and 4703(m) and BX Rules 4702(b) and 4703(l).

²⁰ The Exchange proposes to amend Rule 3301A(b) to specify that Trade Now functionality is available for Price to Comply Orders, Non-Displayed Orders, Post-Only Orders, and Midpoint Peg Post-Only Orders. The Exchange notes that it does not intend to make Trade Now Available for Price to Display Orders or Market Maker Peg Orders, as it is presently on Nasdaq and BX, because Trade Now functionality is intended to apply to non-displayed Orders only, and would not be invoked for Price to Display and Market Maker Peg Orders, which are displayed order types. Nasdaq and BX plan to separately propose to amend their respective rules to remove Trade Now functionality from their Price to Display and Market Maker Peg order types.

When a Trade Now instruction is applied to a resting buy (sell) Order, the Order will execute against the available size of the locking or crossing sell (buy) Order as the liquidity taker. The following example illustrates this scenario:

- Participant A enters a Non-Display buy order for 200 shares at \$10, and specifies the Trade Now instruction;
- Participant B enters a Post Only sell Order for 100 shares at \$10;
- The Post Only Order is posted at \$10 and locks the Non-Display Order;
- The buy Order will execute for 100 shares at \$10 as the remover of liquidity.

If a buy (sell) Order with the Trade Now instruction is only partially executed, the unexecuted portion of that Order remains on the Exchange book and maintains its priority.

Depending on the interface being used by the participant, the Trade Now attribute may either allow the order to execute against locking or crossing interest automatically (“Reactive Trade Now”), or the participant may be required to send a Trade Now instruction to the Exchange once the Order has become locked (“Non-Reactive Trade Now”). All Orders that are entered through the RASH and FIX protocols with a Trade Now Order Attribute will be Reactive Trade Now, and those Orders shall execute against locking interest automatically.

The Reactive Trade Now instruction will be available on an Order-by-Order basis, and will also be available as an optional port level setting. If the Reactive Trade Now setting is enabled on a specific port, all Orders entered via the specific port will, by default, be designated with the Reactive Trade Now instruction. If the Reactive Trade Now setting is enabled on a specific port, participants will have the ability to designate on an Order-by-Order basis that a particular Order entered via the specific port will not be designated with the Reactive Trade Now instruction, thereby overriding the port level setting for the Order. If the Reactive Trade Now

instruction is specified for an Order for which the Trade Now instruction does not apply, the system will not invoke the Trade Now instruction for that Order.

In contrast, Orders entered through the OUCH and FLITE protocols will use the Non-Reactive Trade Now functionality, and participants must send the Trade Now instruction after the order becomes locked. If a participant enters a Non-Reactive Trade Now instruction when there is no locking or crossing interest, the instruction will be ignored by the System and the order will remain on the Exchange Book with the same priority.

The Non-Reactive Trade Now instruction will be available to participants on an Order-by-Order basis. If the Non-Reactive Trade Now instruction is entered for an Order for which the Trade Now instruction does not apply, the System will not invoke the Trade Now instruction for that Order.

The Exchange is offering two different variations of the Trade Now instruction to reflect the differences in behavior among participants who use the different Exchange protocols. For example, the Exchange typically assumes a more active role in managing the order flow submitted by users of the RASH and FIX protocols. Allowing these participants to use the Reactive Trade Now instruction at the time of Order entry will allow for the automatic execution of Orders, and reflects the order flow management practices of these participants. In contrast, users of the OUCH and FLITE protocols generally assume a more active role in managing their Order flow. Offering the Non-Reactive Trade Now instruction for these protocols, and its requirement that the instruction must be sent after the Order becomes locked or crossed, reflects the order flow management practices of these participants.

Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging

The Exchange proposes to amend Rule 3301A and Rule 3301B to discontinue executing Orders with Midpoint Pegging when the NBBO is crossed, as well as to specify the behavior of Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging when the market is crossed or when there is no best bid and/or offer. The Exchange also proposes to change certain references to cancelling or rejecting orders in Rule 3301A and Rule 3301B.

Today, the Exchange executes Orders with Midpoint Pegging when the NBBO is locked by executing at the locking price and when the NBBO is crossed by executing at the midpoint of the crossed price.²¹ Based on feedback from members and the practice of other exchanges,²² the Exchange has determined that its current practice of executing Orders with Midpoint Pegging during such crossed markets produces sub-optimal execution prices for members and investors. The midpoint of a crossed market is not a clear and accurate indication of a valid price, nor is it indicative of a fair and orderly market. The better practice is to simply not execute Midpoint Orders during crossed markets. To accomplish this, the Exchange proposes to add language to Rule 3301A(b)(6)(B) for Midpoint Peg Post-Only Orders entered through RASH or FIX, whereby, if the Order is on the System Book and subsequently the NBBO is crossed, or if there is subsequently no NBBO, the Order will be removed from the System Book and will be reentered at the new Midpoint once there is a valid NBBO that is not crossed.²³ At present, Midpoint Peg Post-Only Orders entered through RASH or FIX are repriced to the Midpoint of the NBBO if the NBBO subsequently becomes crossed or are cancelled if there is subsequently

²¹ See Rule 3301B(d).

²² See, e.g., Cboe BZX Rule 11.9(c)(9) (no midpoint execution during crossed market); NYSE Arca Rule 7.31-E(d)(3) (no midpoint execution when the market is locked or crossed); Nasdaq Rule 4703(d).

²³ The Exchange proposes to amend Rule 3301A(b)(6)(A) to specify that it will not accept new Midpoint Peg Post-Only Orders while the NBBO is crossed or there is no NBBO.

no NBBO. The Exchange is proposing to re-enter such Orders at the new Midpoint once there is a NBBO that is not crossed because the new NBBO is indicative of a valid price.

Similarly, the Exchange proposes to add language to Rule 3301B(d)²⁴ for Orders entered through RASH or FIX with Midpoint Pegging, whereby, if the Order is on the System Book and the Inside Bid and Inside Offer are subsequently crossed, or if there is subsequently no Inside Bid and/or Inside Offer, the Order will be removed from the System Book and will be reentered at the new Midpoint once there is a valid Inside Bid and Inside Offer that is not crossed. At present, Midpoint Pegged Orders entered through RASH or FIX are repriced to the Midpoint of the Inside Bid and Inside Offer if the Inside Bid and Inside Offer subsequently becomes crossed or are cancelled if there is subsequently no Inside Bid and/or Inside Offer. As with the change to Midpoint Peg Post-Only Orders, the Exchange is proposing to re-enter such Orders at the new Midpoint once there is an Inside Bid and Inside Offer that is not crossed because the new Midpoint of the Inside Bid and Inside Offer is indicative of a valid price.

The Exchange is proposing to re-enter Orders submitted through RASH or FIX because the Exchange typically assumes a more active role in managing the order flow submitted by users of these protocols, and this functionality reflects the order flow management practices of these participants.

²⁴ Also in Rule 3301B(d), the Exchange proposes to clarify that, even if the Inside Bid and Inside Offer are locked, an Order with Midpoint Pegging that locked an Order on the PSX Book would execute “(provided, however, that a Midpoint Peg Post-Only Order would execute or post as described in Rule 3301A(b)(6)(A)).” This clarification avoids confusion as to circumstances in which an Order with Midpoint Pegging would execute. The proposal also would conform the Exchange’s Rule with the corresponding Nasdaq Rule 4703(d).

The Exchange furthermore proposes to amend Rule 3301B(d) to specify that it will not accept new Midpoint Peg Post-Only Orders while the NBBO is crossed or there is no NBBO.

While the Exchange is only proposing to adopt this re-entry functionality for Orders that are entered through RASH or FIX, the Exchange believes that it is appropriate to also modify the treatment of Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging entered through OUCH or FLITE where the NBBO subsequently becomes crossed, or there is subsequently no NBBO or Inside Bid and/or Offer.

Accordingly, the Exchange proposes to amend Rule 3301A(b)(6)(B) to state that if, after a Midpoint Peg Post-Only Order entered through OUCH or FLITE is posted to the System Book, the Midpoint Peg Post-Only Order will be cancelled back to the Participant if any of the following conditions are met:

- There is no National Best Bid and/or National Best Offer;
- The Order to buy (sell) is entered with a limit price above (below) the Midpoint of the NBBO and is ranked at the Midpoint of the NBBO; thereafter, the NBBO changes so that the Midpoint changes and the Order is no longer at the NBBO Midpoint;
- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint of the NBBO and is ranked at its limit price and thereafter, the NBBO changes so that the Midpoint of the NBBO is lower (higher) than the limit price of the Order;
- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint of the NBBO and is ranked at its limit price, thereafter the NBBO becomes crossed, such that the Midpoint of the crossed NBBO remains equal to or higher (lower) than the limit price of the Order, and then a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Midpoint Peg Post-Only Order; or

- The Order to buy (sell) is entered at a limit price that is greater than (less than) the Midpoint of the NBBO and is therefore ranked at the Midpoint of the NBBO, thereafter the NBBO becomes crossed but the Midpoint does not change, and then a new sell (buy) Order is received at a price that locks or crosses the Midpoint of the NBBO.

The Exchange believes that the proposed language captures the new System behavior and further clarifies the current behavior as described in Rule 3301A(b)(6)(B) by the language:

If, after being posted to the System book, the NBBO changes so that midpoint between the NBBO is lower than (higher than) the price of a Midpoint Peg Post-Only Order to buy (sell), the Midpoint Peg Post-Only Order will be cancelled back to the Participant.

The proposed language is more precise than the existing language because it draws specific attention to a Midpoint Peg Post-Only Order that posts to the System Book at its limit price verses a Midpoint Peg Post-Only Order with a limit price that is adjusted to post to the System Book at the Midpoint of the NBBO. Where the NBBO shifts after an Order to buy (sell) posts at its limit such that the Midpoint of the NBBO remains or becomes higher (lower) than the limit price of that Order, cancellation of the Order is unnecessary because the Order can simply remain on the Exchange Book at its limit price, while an Order that has posted at a price lower (higher) than its limit price will be cancelled following any change to the Midpoint of the NBBO.

Likewise, the new proposed language specifies the context under which a Midpoint Peg Post-Only Order will be cancelled when the NBBO subsequently becomes crossed. Specifically, when a Midpoint Peg Post-Only Order to buy (sell) posts at its limit price, then the NBBO subsequently becomes crossed but the Midpoint of the crossed NBBO remains equal to or higher (lower) than the limit price of the Order to buy (sell), the Order will only be cancelled if a new

sell (buy) Order is received at a price that locks or crosses the limit price of the resting Order. Furthermore, the proposed language specifies that when the limit price of a Midpoint Peg Post-Only Order to buy (sell) is greater than (less than) the Midpoint of the NBBO and therefore posts at the Midpoint of the NBBO, then the NBBO subsequently becomes crossed but the Midpoint of the crossed NBBO does not change, the Exchange will only cancel the Order if the Exchange receives a new sell (buy) Order at a price that locks or crosses the Midpoint of the NBBO. Other than in these two circumstances, cancellation of an Order simply because the NBBO crosses is unnecessary. When an Order to buy (sell) is ranked at its limit price, and the NBBO becomes crossed while the Midpoint remains above (below) the limit price, the crossed market does not impact the Order, which can still rest on the Exchange Book at its limit price because the NBBO could uncross prior to the Order executing. Likewise, when an Order to buy (sell) is ranked at the Midpoint of the NBBO, then the NBBO becomes crossed but the Midpoint does not change, the crossed market also does not impact the Order, which can continue to rest on the Exchange Book at the Midpoint because the NBBO could uncross (with the Midpoint still remaining unchanged) prior to the Order executing.

Similarly, the Exchange proposes to amend Rule 3301B(d) to state that, after an Order with Midpoint Pegging entered through OUCH or FLITE is posted to the System Book, the Order with Midpoint Pegging will be cancelled back to the participant if any of the following conditions are met:

- There is no Inside Bid and/or Inside Offer;
- The Order to buy (sell) is entered with a limit price above (below) the Midpoint and is ranked at the Midpoint; thereafter the Inside Bid and/or Inside Offer change so that the Midpoint changes and the Order is no longer at the Midpoint;

- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint and is ranked at its limit price; thereafter, the Inside Bid and/or Inside Offer change so that the Midpoint is lower (higher) than the limit price of the Order;
- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint and is ranked at its limit price, then the Inside Bid and Inside Offer become crossed, such that the Midpoint of the crossed Quotation remains equal to or higher (lower) than the limit price of the Order, and then a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Order marked for Midpoint Pegging;
- The Order to buy (sell) is entered at a limit price that is greater than (less than) the Midpoint and is therefore ranked at the Midpoint, then the Inside Bid and Inside Offer become crossed but the Midpoint does not change, and then a new sell (buy) Order is received at a price that locks or crosses the Midpoint of the Inside Bid and Inside Offer.

Again, the Exchange believes that the proposed language captures the new System behavior and further clarifies the current behavior as described in Rule 3301B(d) by the language:

Thereafter, if the NBBO changes so that the Midpoint is lower than (higher than) the price of an Order to buy (sell), the Pegged Order will be cancelled back to the Participant.²⁵

The Exchange intends for the proposed amendment to ensure consistency in the rationale and language between Rule 3301B(d) and the amended Rule 3301A(b)(6)(B) described above.²⁶

²⁵ To enhance the consistency of the Rule, the Exchange proposes to change references from the term “NBBO” to “Inside Bid and Inside Offer.”

²⁶ Additionally, to avoid confusion, the Exchange proposes to amend Rule 3301A(b)(6)(A) to clarify that a Midpoint Peg Post-Only Order in the Rule’s example is an Order to buy.

The Exchange also proposes to delete the following language from Rule 3301A(b)(3)(B), which describes the Non-Display Order Type:

If a Non-Displayed Order entered through OUCH or FLITE is assigned a Midpoint Pegging Order Attribute, and if, after being posted to the PSX Book, the NBBO changes so that the Non-Displayed Order is no longer at the Midpoint between the NBBO, the Non-Displayed Order will be cancelled back to the Participant. In addition, if a Non-Displayed Order entered through OUCH or FLITE is assigned a Midpoint Pegging Attribute and also has a limit price that is lower than the midpoint between the NBBO for an Order to buy (higher than the midpoint between the NBBO for an Order to sell), the Order will nevertheless be accepted at its limit price and will be cancelled if the midpoint between the NBBO moves lower than (higher than) the price of an Order to buy (sell).

This language describes the behavior of a Non-Displayed Order with a Midpoint Pegging Attribute enabled, which is duplicative of the general description of the behavior of a Midpoint Pegging Attribute in Rule 3301B(d). The Exchange believes that the concept described in these two Rules is best stated only once to avoid unintended discrepancies. In this instance, the Exchange believes that the language is most appropriate for inclusion in Rule 3301B(d).

Examples

Below are examples of the operation of the proposed amendments to Rules 3301B(d) and 3301A(b)(6)(B) with respect to the cancellation of Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging entered through OUCH or FLITE.

1. There is no National Best Bid and/or National Best Offer

The National Best Bid (“NBB”) is \$11.00 and the National Best Offer (“NBO”) is \$11.06. A Midpoint Peg Post-Only Order to buy is posted at the Midpoint between the NBBO, at

\$11.03. At this point, all displayed liquidity on the sell side is reported to be removed by all Market Centers, such that an NBO no longer exists. In this circumstance, the Midpoint Peg Post-Only Order will be cancelled back to the Participant.

- 1. The Order to buy (sell) is entered with a limit price above (below) the Midpoint of the NBBO and is ranked at the Midpoint of the NBBO; thereafter, the NBBO changes so that the Order is no longer at the NBBO Midpoint**

The NBB is \$11.00 and the NBO is \$11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of \$11.04 and it posts at the Midpoint between the NBBO, at \$11.03. If the NBO later shifts to \$11.08, such that the Midpoint between the NBBO becomes \$11.04, then the Midpoint Peg Post-Only Order will be cancelled back to the Participant.

- 2. The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint of the NBBO and is ranked at its limit price; thereafter, the NBBO changes so that the Midpoint of the NBBO is lower (higher) than the limit price of the Order**

The NBB is \$11.00 and the NBO is \$11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of \$11.03 and it posts at the Midpoint between the NBBO, at \$11.03. If the NBO shifts thereafter to \$11.08, such that the Midpoint between the NBBO becomes \$11.04, then the Midpoint Peg Post-Only Order will remain on the Exchange Book unchanged. If, however, the NBO later shifts to \$11.04, such that the Midpoint between the NBBO becomes \$11.02, then the Midpoint Peg Post-Only Order will be cancelled back to the Participant.

- 3. The Order to buy (sell) is ranked at its limit price and the NBBO becomes crossed, such that the Midpoint of the crossed NBBO remains equal to or higher (lower) than the limit price of the Order, and a new sell (buy) Order is received**

at a price that locks or crosses the limit price of the resting Midpoint Peg Post-Only Order.

The NBB is \$11.00 and the NBO is \$11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of \$11.03 and it posts at the Midpoint between the NBBO, at \$11.03. Subsequently, if the NBB shifts to \$11.04, such that the Midpoint between the NBBO becomes \$11.05, then the Midpoint Peg Post-Only Order will remain on the Exchange Book at its limit price of \$11.03. If the NBO later shifts to cross the market at \$11.02, then the Midpoint between the crossed NBBO will become \$11.03 and the Midpoint Peg Post Only Order will remain on the Exchange Book unchanged. If, however, a new sell Order is received at \$11.03 while the market is still crossed, then the Midpoint Peg Post Only Order will be cancelled back to the participant without execution.

- 4. The Order to buy (sell) is ranked at the Midpoint of the NBBO because the limit price of the Order is greater (less than) the Midpoint and the NBBO becomes crossed but the Midpoint does not change, then a new sell (buy) Order is received at a price that locks or crosses the Midpoint of the NBBO.**

The NBB is \$11.00 and the NBO is \$11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of \$11.04 and it posts at the Midpoint between the NBBO, at \$11.03. Subsequently, if the NBB shifts to \$11.04 and the NBO simultaneously shifts to \$11.02, thus instantaneously crossing the market, then the Midpoint between the crossed NBBO will remain at \$11.03 and the Midpoint Peg Post Only Order will remain on the Exchange Book unchanged. If, however, a new sell Order is received at \$11.03 while the market is still crossed, then the Midpoint Peg Post Only Order will be cancelled back to the Participant without execution.

Finally, the Exchange is proposing to change certain instances in Rule 3301A and Rule 3301B that describe the cancellation or rejection of an Order. For example, Rule 3301A(b)(6)(A) currently states that, if the NBBO is locked when a Midpoint Peg Post-Only Order is entered, the Midpoint Peg Post-Only Order will be priced at the locking price, if the NBBO is crossed, it will nevertheless be priced at the midpoint between the NBBO, and if there is no NBBO, the Order will be rejected. Rule 3301A(b)(6)(A) also provides that a Midpoint Peg Post-Only Order that would be assigned a price of \$1 or less per share will be rejected or cancelled, as applicable. Similarly, Rule 3301B(d) states that, in the case of an Order with Midpoint Pegging, if the Inside Bid and Inside Offer are locked, the Order will be priced at the locking price, if the Inside Bid and Inside Offer are crossed, the Order will nevertheless be priced at the midpoint between the Inside Bid and Inside Offer, and if there is no Inside Bid and/or Inside Offer, the Order will be rejected.

The Exchange proposes to change references to cancelling or rejecting an Order to “not accepting” an Order. Depending on the context, the reference to rejecting an Order may have one of two meanings.²⁷ The Exchange believes that changing references from rejecting or cancelling an Order to not accepting an Order is appropriate because the proposed language resolves the ambiguity that may arise when referring to an Order rejection, and is sufficiently broad to encompass the contexts in which the concept of Order rejection or cancellation may be used.

²⁷ Specifically, an Order may be referred to as “rejected” if it is not initially accepted by the customer-facing Exchange interface. Alternatively, after an Order has been initially accepted by the customer-facing interface and is being transmitted from one Exchange interface to another, it may be “rejected” if the Order is not accepted by another part of the Exchange System for various reasons.

The foregoing proposed changes to Rule 3301A and 3301B mirror language that exists for the same Order Types and Order Attribute in the Nasdaq rulebook.²⁸

* * * *

The Exchange intends to implement its proposed rule change on or before the end of the Second Quarter of 2020. The Exchange will announce the new implementation date by an Equity Trader Alert, which shall be issued prior to the implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁰ 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.

Post-Only Orders

The Exchange is proposing to add a new functionality (cancelling a Post-Only Order instead of adjusting its price) that is not currently available on the Exchange, and that is consistent with functionalities that are currently offered by other exchanges. The Exchange believes that this new functionality is consistent with the Act because, as discussed above, it will provide Participants with greater flexibility when managing their order flow, which will promote the more efficient execution of Orders. The proposal is also consistent with the stated intent of

²⁸ See Securities Exchange Act Release No. 34-78908 (Sep 22, 2016), 81 FR 66702 (Sept 28, 2016) (SR-NASDAQ-2016-111); Securities Exchange Act Release No. 34-80593 (May 4, 2017), 82 FR 21860 (May 10, 2017) (SR-NASDAQ-2017-042); Securities Exchange Act Release No. 34-86774 (Aug 27, 2019), 84 FR 46075 (Sept 3, 2019) (SR-NASDAQ-2019-065).

²⁹ 15 U.S.C. 78f(b).

³⁰ 15 U.S.C. 78f(b)(5).

the Post-Only Order, which is to avoid the display of quotations that would lock or cross a Protected Quotation. The Exchange believes that amending Rule 3301A(b)(4) to specify when an incoming Post-Only Order that locks or crosses a Protected Quotation on an away market center would execute is consistent with the Act because, as with other the instances pursuant to which a locking or crossing Post-Only Order will execute, the execution of the Post-Only Order would be economically beneficial to the Participant that entered the Order while contributing to the price discovery process.

Additionally, the proposal to allow Post-Only Orders to lock Non-Display Orders under certain circumstances will benefit investors and Participants by tightening bid/offer spreads, thereby enhancing execution quality on the Exchange. Second, Participants entering Post-Only Orders will be able to execute liquidity providing strategies more efficiently as the Order will, in most cases, only be subjected to price-sliding due to to a Protected Quotation on an away market center or Displayed Orders on the Exchange Book, and not due to Non-Displayed Orders, and not due to Non-Displayed Orders. Third, the proposed changes – including the provision stating that the adjusted price of Post-Only Orders that would lock or cross a Non-Displayed price will post in the same manner as a Price to Comply Order – will improve the interaction of Post-Only and Non-Display Orders as both Orders will be eligible for execution and the information leakage created due to the current interaction will be reduced. The Exchange believes the proposed changes will have no detrimental impact on any Participant or class of Participants, or on users of the Post-Only or Non-Display Order types or on users of other order types offered by the Exchange.

Minimum Quantity

The proposal will provide Participants, including institutional firms that ultimately represent individual retail investors in many cases, with better control over their Orders, thereby providing them with greater potential to improve the quality of their Order executions. Currently, Rule 3301B(e) allows a Participant to designate a minimum quantity on an Order that, upon entry, may aggregate multiple executions to meet the minimum quantity requirement. Once posted to the Exchange book, however, the minimum quantity requirement is equivalent to a minimum execution size requirement. The Exchange now proposes to provide a Participant with control over the execution of their Order with Minimum Quantity by giving them an option to designate the minimum individual execution size upon entry. The control offered by the proposed change is consistent with the various types of control currently provided by exchange order types. For example, the Exchange, Nasdaq, BX and other exchanges offer limit orders, which allow a Participant to control the price it will pay or receive for a stock. Similarly, exchanges offer order types that allow market participants to structure their trading activity in a manner that is more likely avoid certain transaction cost-related economic outcomes. Moreover, as noted above, other trading venues provide the very same functionality that the Exchange is proposing.

Additionally, the Exchange notes that this functionality is one that Participants – and in particular large institutional firms – have requested to avoid transacting with smaller Orders that they believe ultimately increase the cost of their transaction. The Exchange notes that proposed new optional functionality may improve the Exchange market by attracting more Order flow, which is currently trading on less transparent venues that contribute less to price discovery and price competition than executions and quotes that occur on lit exchanges. Such new Order flow will further enhance the depth and liquidity on the Exchange, which supports just and equitable

principles of trade. Furthermore, the proposed modification to the Minimum Quantity Order Attribute is consistent with providing market participants greater control over the nature of their executions so that they may achieve their trading goals and improve the quality of their executions.

Trade Now

The Exchange's proposal to offer Trade Now functionality is consistent with the Act because Trade Now is an additional functionality that will facilitate the execution of locked or crossed Orders, thereby increasing the efficient functioning of the Exchange's market. The Trade Now functionality is an optional feature, and is designed to reflect both the objectives of the Exchange's market, and the order flow management practices of various market participants. For these reasons, the Trade Now functionality will only be made available for Orders that are entered in and may be locked or crossed by a Displayed Order on the continuous book, and, depending on the protocol, will be offered as either the Reactive Trade Now or Non-Reactive Trade Now functionality.

Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging

The Exchange believes that the midpoint of a crossed market, or where there is no NBBO (or Inside Bid and/or Inside Offer), is not a clear and accurate indication of a valid price and may produce sub-optimal execution prices for members and investors. As such, preventing the execution of Midpoint-Pegged Orders when the NBBO is crossed or where there is no NBBO (or Inside Bid and/or Inside Offer) will result in higher overall execution quality for members. The proposal adopts new functionality for Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging, after initial entry and posting to the System Book and where the NBBO (or Inside Bid and Inside Offer) subsequently becomes crossed or where there is subsequently no NBBO (or

Inside Bid and/or Inside Offer). Furthermore, the amendments reflect the order flow management practices of participants who have selected from the available order submission protocols, e.g., cancelling and re-submitting such Orders that are entered through RASH or FIX; cancelling Orders that are submitted through OUCH or FLITE in the case of no NBBO (or Inside Bid and/or Inside Offer); or canceling Orders that are submitted through OUCH or FLITE when the NBBO (or Inside Bid and Inside Offer) becomes crossed and a new Order is received that locks or crosses the price at which the Midpoint Pegged Order is resting.

Furthermore, the proposal protects investors by clearly describing the circumstances in which the Exchange will not cancel Midpoint-Pegged Orders entered using OUCH or FLITE. That is, the Exchange believes that the concept of a limit price fairly implies that the Exchange has no need to cancel a Midpoint-Pegged Order to buy (sell) when such an Order is posted at its limit price and the NBBO (or Inside Bid and Inside Offer) shifts thereafter but the Midpoint remains above (below) the limit price. The proposal explains that the Exchange will cancel a Midpoint-Pegged Order posted at its limit price if the NBBO (or Inside Bid and Inside Offer) shifts after entry such that the Midpoint becomes lower (higher) than the limit price. In this circumstance, cancellation is warranted because the Order would need to be re-priced, and a Midpoint-Pegged Order entered using OUCH or FLITE cannot be re-priced.

Similarly, the Exchange believes it is helpful to investors to clarify the circumstances in which the Exchange does and does not cancel Midpoint-Pegged Orders, entered using OUCH or FLITE, when the market becomes crossed. Although cancellation is warranted to prevent Orders from actually executing in a crossed market, the Exchange does not believe cancellation is warranted simply because the markets cross so long as a possibility remains for the markets to become uncrossed again prior to an execution occurring. Thus, the Exchange proposes that it will

not cancel a Midpoint-Pegged Order to buy (sell) when the Order is ranked at its limit price and the NBBO (or Inside Bid and Inside Offer) becomes crossed thereafter while the Midpoint remains equal to or more aggressive than its limit price, so long as a new sell (buy) Order is not received that locks or crosses the limit price of the resting Midpoint-Pegged Order. Likewise, as was also discussed above, the Exchange proposes that it will not cancel a Midpoint-Pegged Order that is ranked at the Midpoint of the NBBO (or Inside Bid and Inside Offer) when the market becomes crossed, provided that while the market is crossed, the Midpoint of the crossed NBBO (or Inside Bid and Inside Offer) does not change³¹ and the Exchange does not receive a new Order that would lock or cross the Midpoint. Cancellation is unnecessary in these scenarios because the Midpoint-Pegged Order can continue to rest at its limit price or the Midpoint, respectively, while the market is crossed and because the market may become uncross again without triggering a cancellation condition.

The Exchange believes that the proposed clarifying changes and revised rule text under Rule 3301A(b)(6)(A) are consistent with the Act because they will help avoid investor confusion that may be caused by not clarifying that a Midpoint Peg Post-Only Order in the Rule's example is an Order to buy.

Finally, the proposal to remove duplicative language from Rule 3301A(b)(3)(B), pertaining to Non-Displayed Orders with Midpoint Pegging, is consistent with the Act because the affected language is also stated in Rule 3301B(d) and it will reduce the possibility of future inconsistencies. Also, replacing certain references to rejecting or cancelling an Order to "not accepting" an Order is consistent with the Act because the proposed language encompasses the

³¹ If at any point after the Midpoint-Pegged Order posts to the Exchange Book at the Midpoint, the NBBO (Inside Bid and Inside Offer) changes so that the price of the Order is no longer at the Midpoint, then the order must be cancelled because orders entered through OUCH or FLITE cannot be re-priced.

contexts in which the concept of order rejection or cancellation may be used and resolves any ambiguity that may arise when referring to an Order rejection.

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.

Post-Only

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 Post-Only Order is an optional Order Type that is available for entry through multiple Exchange Order entry protocols. No Participant is required to use any specific Order Type or Attribute or even to use any Exchange Order Type or Attribute or any Exchange functionality at all. If an Exchange Participant believes for any reason that the proposed rule change will be detrimental, that perceived detriment can be avoided by choosing not to enter or interact with the Order Types modified by this proposed rule change. The proposed changes are pro-competitive, moreover, because they will provide Participants with a functionality that is not currently available on the Exchange, and that is consistent with functionalities that are currently offered by other exchanges. The proposed changes will apply equally to all Orders that meet the proposed criteria. This functionality will facilitate the more efficient execution of order flow, which could increase the Exchange's market quality and thereby promote competition by attracting additional liquidity to the Exchange.

Minimum Quantity

The proposed change to the Minimum Quantity Order Attribute will allow Participants to condition the processing of their Orders based on a minimum execution size. The changes to the Minimum Quantity Order Attribute will enhance the functionality offered by the Exchange to

Participants, thereby promoting its competitiveness with other exchanges and non-exchange trading venues that already offer the same or similar functionality. As a consequence, the proposed change will promote competition among exchanges and their peers, which, in turn, will decrease the burden on competition rather than place an unnecessary burden thereon.

Trade Now

The Exchange does not believe that its proposal to adopt Trade Now functionality will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This is an optional functionality, and which may be used equally by similarly-situated participants. Although the functionality of the Trade Now instruction will differ depending upon the protocol that is used to access the Exchange, the Exchange believes that the difference in functionality reflects the different ways in which participants enter and manage their order flow.

Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging

For similar reasons, the Exchange does not believe that its proposals to amend its rules regarding Midpoint Peg Post-Only Orders and Orders with Midpoint Pegging will impose an undue burden on competition. To the contrary, by clarifying the circumstances in which such Orders will execute, cancel, or be removed and re-entered on the Exchange Book when the NBBO (or Inside Bid and Inside Offer) becomes crossed or when there is no NBBO (or Inside Bid and/or Inside Offer), the Exchange will bolster its competitiveness vis-à-vis other exchanges. Indeed, the proposed clarifications will help protect Exchange participants from executing orders at sub-optimal prices while also improving the efficiency of their order flow management processes. Moreover, the proposals will render the Exchange's functionality for these Orders similar to that of other exchanges, including Nasdaq.

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 Act³² and Rule 19b-4(f)(6) 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 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.

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:

³² 15 U.S.C. 78s(b)(3)(A).

³³ 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.

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-2020-15 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-2020-15. 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-2020-15, 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.³⁴

J. Matthew DeLesDernier,

Assistant Secretary.

³⁴ 17 CFR 200.30-3(a)(12).

