Proposed Rule Change by Philadelphia Stock Exchange

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial Amendment Withdrawal Section 19(b)(2) Section 19(b)(3)(A) Section 19(b)(3)(B)

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Pilot Extension of Time Period for Commission Action Date Expires

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Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)

☐ 19b-4(f)(2) ☐ 19b-4(f)(5)

☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Richard Last Name Rudolph

Title Vice President and Counsel

E-mail Richard.Rudolph@phlx.com

Telephone (215) 496-5074 Fax (215) 496-6729

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 02/16/2006

By Richard S. Rudolph

Vice President and Counsel

Note: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Richard Rudolph,
The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3).

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.
1. **Text of the Proposed Rule Change**

   The Philadelphia Stock Exchange, Inc. ("Phlx" or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to amend: (1) Exchange By-Law Article X, Section 10-9, Audit Committee; (2) Exchange Rule 124, Disputes; Exchange Rule 1092, Obvious Errors; (3) Option Floor Procedure Advice ("OFPA") F-27, Floor Official Rulings – Options; OFPA G-2, Trading Rotations, Halts or Reopenings; and (6) Equity Floor Procedure Advice ("EFPA") F-27, Floor Official Rulings – Equity. The proposal would establish a neutral “Referee,” an Exchange employee or independent contractor who would have authority to review and rule on appeals from Floor Official rulings concerning the nullification and adjustment of trades, and authorize the Referee to make other initial rulings currently made only by Floor Officials.

   A notice of the proposed rule change for publication in the **Federal Register** is attached hereto as Exhibit 1. The amended text of the proposed rule change indicating any additions to or deletions from the immediately preceding filing is attached hereto as Exhibit 4. The text of the proposed rule change is attached hereto as Exhibit 5.

2. **Procedures of the Self-Regulatory Organization**

   The Exchange’s Executive Committee, pursuant to delegated authority, approved the proposed rules for filing with the Securities and Exchange Commission ("SEC" or “Commission”) on February 10, 2006. The Exchange’s Board of Governors approved the proposed By-Law change on December 14, 2005.

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Questions and comments on the proposed rule change may be directed to Richard S.
Rudolph, Vice President and Counsel, at (215) 496-5074, or Edith Hallahan, Senior Vice
President and Deputy General Counsel, at (215) 496-5179.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis
   for, the Proposed Rule Change

   a. Purpose

   The purpose of the proposed rule change is to improve the process of resolving
   trading disputes and Floor Official rulings by creating a new regulatory position on the
   Exchange, who would be either an Exchange employee or an independent contractor
   known as a neutral “Referee,” who would have the authority to (1) review and rule on
   appeals from Floor Official rulings concerning the nullification and/or adjustment of
   trades; and (2) to act in the capacity of a Floor Official respecting initial rulings
   concerning requests for relief from the requirements of certain Exchange rules and
   Option Floor Procedure Advices.3 The purpose of this Amendment No. 2 is to make
   clarifying amendments to previously submitted proposed rule changes in response to
   certain comments received from Commission staff. This Amendment No. 2 replaces all
   previous filings in their entirety.

   Current Floor Official Program

   Pursuant to Exchange By-Law Article VIII, Floor Officials, as designees4 of the
   Chairmen of the Options Committee,5 Floor Procedure Committee,6 and Foreign

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3 Floor Officials would retain their authority to make such initial rulings. The Referee would simply have
   the same authority as a Floor Official concerning such initial rulings.

4 The designees of the respective floor Committee chairmen are generally members of the respective
   committees and subcommittees thereof.

5 The Options Committee has general supervision of the dealings of members on the options trading floor.
Currency Options Committee,\textsuperscript{7} respectively, are authorized to administer the provisions of Exchange By-Laws and Rules of the Exchange pertaining to the respective trading floors and the immediately adjacent premises of the Exchange. They may impose penalties as applicable, for breaches of their rules or regulations relating to order, decorum, health, safety and welfare on the respective trading floors. Additionally, they may rule to nullify, or adjust the terms of, executed trades under specific and limited conditions contained in Exchange rules, and may grant relief from certain requirements of on-floor members and member organizations if authorized to do so by rule.

Currently, Floor Official rulings and appeals for review from such rulings are governed by Exchange Rule 124, Disputes. Rule 124(d) provides that Floor Official rulings may be appealed to a Review Panel consisting of three members of the Options Subcommittee on Rules and Rulings (the “Subcommittee”),\textsuperscript{8} or the Chairperson of the standing committee (or his designee) if three Subcommittee members cannot be promptly convened. Decisions of the Review Panel are considered final decisions of the standing committee and may be appealed to an Advisory Committee on Appeals of the Board of Governors.

\textsuperscript{6} The Floor Procedure Committee has general supervision of the dealings of members on the equity trading floor. \textit{See} Exchange By-Law Article X, Section 10-16.

\textsuperscript{7} The Foreign Currency Options Committee has general supervision of the dealings of members on the foreign currency options trading floor. \textit{See} Exchange By-Law Article X, Section 10-17.

\textsuperscript{8} Each Standing and Special Committee may appoint such subcommittees as it may deem necessary for the efficient discharge of its duties. \textit{See} Exchange By-Law Article X, Section 10-3(b). The Options Committee has appointed the Subcommittee to review and recommend the adoption of new rules or the amendment of current rules to the full Options Committee, and to discuss rulings made on the floor of the Exchange by Floor Officials.
Floor Officials are also authorized to rule on requests for relief from the requirements of certain rules, including, without limitation, quote spread parameters,\(^9\) and disengagement of Exchange automatic execution systems under extraordinary circumstances.\(^{10}\)

**The Referee**

The Referee would be either an Exchange employee or an independent contractor who is not an employee of the Exchange who has entered into an employment contract with the Exchange for a fixed period of time. The Referee would be appointed by the Exchange’s Board of Governors pursuant to the recommendation of the Audit Committee. Candidates for the Referee position would be recruited in the same fashion as candidates for other Exchange positions through the Exchange’s Human Resources Department. After conducting an interview process with the various candidates, the Audit Committee would recommend its selection to the Board of Governors, who would then vote on the Audit Committee’s recommendation. Upon the Commission’s approval of this proposal, the Referee would be appointed to the new position.

The proposal would provide that decisions of the Referee concerning both the review of Floor Official rulings and initial requests for relief, would be final and may not be appealed to the Exchange’s Board of Governors. The Referee would be authorized not only to sustain, overturn, or modify rulings made by Floor Officials; the Referee would also be authorized to make initial rulings in certain instances (as described below).

\(^9\) Relief from the established bid/ask differentials may be granted upon the receipt of an approval of two Floor Officials. *See* OFPA F-6.

\(^{10}\) *See* Exchange Rule 1080(e).
Because the Referee would be authorized to review Floor Official decisions to nullify or adjust trades on both the Exchange’s equity and options floors, the proposed rule change includes conforming amendments to OFPA F-27 and to EFPA F-27 concerning such reviews of Floor Official rulings, as discussed more fully below.

As stated above, Floor Officials are authorized to rule on requests for relief from the requirements of certain rules, including, without limitation, quote spread parameters and disengagement of Exchange automatic execution systems under extraordinary circumstances. The proposed rule change would authorize the Referee to make such rulings in the same manner as Floor Officials.

In order to ensure the neutrality of the Referee, the Referee would report to the Exchange’s Audit Committee, which would have supervision over the Referee. The Exchange’s General Counsel or his/her designee would be responsible for purely administrative matters such as, without limitation, personnel issues and vacation. Additionally, based on the advice of the Exchange’s General Counsel and Human Resources management, the Audit Committee may recommend the level of compensation of the Referee to the Board of Governors, and may establish other conditions of employment of the Referee. The Audit Committee or its designee would conduct annual performance evaluations, and would consider any written complaints from members and member organizations concerning the Referee. The Audit Committee would not, however, have the authority to overrule or modify any ruling made by the Referee. The Audit Committee would have the authority to terminate the employment of the Referee.

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for good cause shown, and to otherwise discipline the Referee as appropriate for good cause shown.

The Referee would have jurisdiction over all Exchange trading floors and systems, except with regard to issues of order and decorum pursuant to Exchange Rule 60. The Options Committee would continue to have jurisdiction over order and decorum issues on the options floor; the Floor Procedure Committee would continue to have jurisdiction over order and decorum issues on the equity floor; and the Foreign Currency Options Committee would continue to have jurisdiction over order and decorum issues on the foreign currency options floor.

The proposed rule change would provide that the Audit Committee would recommend for appointment by the Board of Governors other Exchange employee(s) or independent contractor(s) to function as the Referee in the event that the Referee is unavailable (“Backup Referees”). The Exchange’s rules and procedures, including qualifications, applicable to the Referee would also apply to Backup Referees, and any reference to the Referee in the proposed rules would be deemed to include Backup Referees. This is to ensure that a Backup Referee would be available if the Referee is not available due to, for example, a ruling on another matter that is in progress, vacation, illness, etc.

The proposal would also provide that the Market Surveillance staff would assign available Floor Officials to rule on disputes. The Exchange believes that this provision

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13 See Exchange By-Law Article X, Section 10-16.
14 See Exchange By-Law Article X, Section 10-17.
should ensure the neutrality of Floor Officials by assigning the next available Floor Official to rule on a particular matter.

Qualifications of the Referee

Under the proposal, the Referee would be required to have sufficient expertise in the area of trading to act in the capacity of a Floor Official concerning requests for relief and to conduct reviews of Floor Official rulings concerning the nullification and adjustment of trades. The Referee must possess sufficient knowledge of Exchange rules and the relevant sections of the Act (and the rules thereunder) to administer the Referee’s responsibilities and authority.

In order to ensure neutrality, the proposal would provide that the Referee may not be a member of the Exchange, may not be directly or indirectly affiliated with any Exchange member or member organization, and may not be an immediate family member of any Exchange member. The Referee may not be a debtor or creditor of any Exchange member or member organization.

Duties of the Referee

The primary responsibility of the Referee would be to rule on appeals from Floor Official decisions concerning the nullification and adjustment of trades, and to have the same authority as Floor Officials concerning rulings on member requests for relief from the requirements of certain rules. The Referee would replace the current three-member Review Panel, which is currently comprised of Floor Officials, and would be authorized to review Floor Official rulings concerning the adjustment of the terms of a trade, or the nullification or “bust” of trades on appeal, and either uphold, overturn, or modify appealed Floor Official rulings pursuant to proposed amended Rule 124. If the Referee is
unavailable or unable to make a ruling for any reason (including, without limitation, absence from the Exchange trading floor, vacation, illness, or in the process of making another Referee ruling), Market Surveillance staff will immediately notify the Exchange’s General Counsel, or his designee, who would designate a Backup Referee to make such a ruling.

The proposed rule change would provide that the Exchange’s General Counsel or his or her designee may assign additional duties and responsibilities to the Referee not related to Referee rulings. In order to ensure the Referee’s neutrality respecting any matter on which he or she is to rule, and to avoid the possibility that the Referee could be biased as a result of his or her knowledge of any pending investigation or disciplinary action concerning a person that is a party to a dispute or that requests relief from the requirements of an Exchange rule, the proposal would prohibit the Referee from: (i) participating in any Exchange enforcement action, investigation, market surveillance activity, hearing (other than as a witness) or other activity related to disciplinary matters; (ii) issuing citations for violations of Exchange rules; (iii) ruling on any matter concerning order and decorum pursuant to Exchange Rule 60 and the regulations thereunder; and (iv) preparing, researching, drafting, reviewing, or filing of a proposed rule change with the Securities and Exchange Commission pursuant to the Act and the rules thereunder concerning the Exchange’s disciplinary rules.

The proposed rules would require the Referee to make fair and impartial decisions in accordance with Exchange rules and By-Laws.

Procedures for Review of Floor Official Rulings
Proposed amended Rule 124(d), OFPA F-27, and EFPA F-27 would require that Market Surveillance staff be advised within 15 minutes of a Floor Official ruling concerning the nullification or adjustment of a trade that a party to such ruling has determined to seek the Referee’s review of such ruling. The purpose of the notification requirement is to provide reasonably prompt notice to Market Surveillance and to participants in a trade subject to the rule that such ruling is subject to appeal and that the process set forth in the proposed rule has begun, and ultimately a decision to sustain, overturn, or modify the initial Floor Official decision concerning the trade will be made.\(^{15}\)

As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designees, would be required to refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

In order to minimize the likelihood of frivolous appeals from Floor Official rulings, a member or member organization seeking the Referee’s review of a Floor Official ruling concerning the nullification or adjustment of a trade would be assessed a fee of $250.00 for each Floor Official ruling they seek to have reviewed if the Referee upholds the Floor Official decision. No fee would be assessed to the member or member organization seeking a review if the Floor Official decision is overturned or modified.

\(^{15}\) This is consistent with Exchange Rule 1092, Obvious Errors, which establishes a similar notice period. Under the proposal, Floor Official rulings made pursuant to Rule 1092 would be reviewed by the Referee, provided that the party seeking the review so requests within the time permitted. See proposed Rule 1092(f).
This fee is currently imposed on appeals that are found by the Review Panel to be frivolous. The Exchange believes that the proposed rule concerning the $250.00 fee provides an objective standard for imposition of the fee (i.e., the fee would be imposed in situations where the Referee sustains a Floor Official ruling on the nullification or adjustment of a trade). Thus, the Referee would not have the discretion to impose the fee that Floor Officials currently have, and Exchange members and member organizations would have actual notice of the circumstances giving rise to the imposition of the fee.

Rulings on Requests for Relief

Proposed Rule 124, Commentary .02(a) would authorize the Referee to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief from the requirements of Exchange Rules relating to: (i) bid/ask differentials pursuant to Rule 1014(c) and OFPA F-6; (ii) disengagement of Exchange automatic execution systems pursuant to Rule 1080(e) and OFPA A-13; (iii) the determination that quotes in options on the Exchange or another market or markets are subject to relief from the firm quote requirement pursuant to Exchange Rule 1080(c)(i); and (iv) trading halts, openings and re-openings pursuant to Rules 1017, 1047 and 1047A and OFPAs A-12, A-14 and G-2.

Rule 1014(c) and OFPA F-6 set forth the maximum allowable bid/ask differentials, or quote widths, that may be disseminated by specialists and ROTs on the Exchange, depending on the price of the series to be quoted. The Exchange believes that these requirements can have the unintended consequence of requiring those making markets to quote at prices that are unnecessarily narrow, thereby exposing them to great
risk if markets move quickly.\textsuperscript{16} Therefore, as stated in OFPA F-6, two Floor Officials may grant relief from these differentials during times of peak market activity where options markets and/or the market for securities underlying the option move quickly. Under the proposal, the Referee would have the same authority as a Floor Official to make such a ruling.

Rule 1080(e) and OFPA A-13 provide that, in the event extraordinary circumstances with respect to a particular class of options exist, two Floor Officials may determine to disengage AUTO-X with respect to that option, in accordance with Exchange procedures. The rule and OFPA go on to describe the procedures to be followed to bring about such disengagement. Under the proposal, the Referee would have the same authority as a Floor Official to make such a determination.

Rule 1080(c)(i) provides that the Chairman of the Exchange’s Options Committee or his designee (or if neither is available, two Floor Officials) may determine that quotes in options on the Exchange or another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule,\textsuperscript{17} thereby excluding such quotes from the Exchange’s calculation of the National Best Bid/Offer (“NBBO”) and that quotes in options on the Exchange or another market or markets previously subject to such relief are no longer subject to such relief. The Referee would have the same authority as a Floor Official in making determinations concerning the above enumerated rules that require Floor Official rulings.


\textsuperscript{17} 17 CFR 242.602.
Rules 1017, 1047 and 1047A and OFPAs A-12 and G-2 govern trading halts, openings and re-openings on the Exchange. Throughout Rules 1047, 1047A, and OFPA G-2,\textsuperscript{18} two Floor Officials, with the concurrence of a Market Surveillance officer, are authorized to delay the opening, to halt and reopen after a halt, to open where the underlying stock or Exchange-Traded Fund Share has not opened or current quotations are unavailable for any foreign currency, and to conduct a closing rotation on the trading day prior to expiration where the underlying stock or Exchange-Traded Fund Share did not open or was halted, whenever such action is deemed necessary in the interests of maintaining a fair and orderly market in such class or series of options and to protect investors. Under the proposal, the Referee would have the same authority as a Floor Official to make rulings in the capacity of a Floor Official concerning rules that require Floor Official approval, as enumerated above.

Referee’s Decision Final

As stated above, currently decisions of the Review Panel are considered final decisions of the standing committee and may be appealed to an Advisory Committee on Appeals of the Board of Governors. Initial rulings to grant or deny relief from the requirements of certain rules are not currently considered final decisions of a standing committee and are thus not currently appealable to the Exchange’s Board of Governors.

The proposed rule change would provide that decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief, shall be final and may not be appealed to the Exchange’s Board of Governors. The Exchange does not believe that these are the types of decisions that are appropriate for such appeals particularly because the need for

\textsuperscript{18} For consistency, the Exchange is proposing a conforming amendment to OFPA G-2, as described below.
speedy resolution and certainty are important, whereas other standing committee
decisions are often prospectively applied.

This provision would not operate to preclude any aggrieved member or member
organization from proceeding with any other legal remedy to which such member or
member organization might be entitled (e.g., arbitration or appeal to the Commission if
allowable by law).

Obvious Errors

The Exchange also proposes to amend Exchange Rule 1092, Obvious Errors.
Currently, Rule 1092(f), Request for Review, provides that a Review Panel of Floor
Officials will review decisions made under the Rule in accordance with Exchange Rule
124(d). For consistency, the Exchange proposes to amend Rule 1092(f) to provide that
the Referee will review such decisions.

Conforming Amendment to OFPA G-2

As a housekeeping matter, the Exchange proposes to amend OFPA G-2(c), to
reflect that trading on the Exchange in any option may be halted with the approval of two
Floor Officials, with the concurrence of a Market Surveillance officer. Current Rule
1047A (c) includes this provision, and the Exchange proposes to amend OFPA G-2 for
consistency.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the
Act\textsuperscript{19} in general, and furthers the objectives of Section 6(b)(5) of the Act\textsuperscript{20} in particular,

\textsuperscript{19} 15 U.S.C. 78f(b).

\textsuperscript{20} 15 U.S.C. 78f(b)(5).
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 establishing a neutral Referee to rule on appeals from Floor Official decisions and to rule initially on requests for relief from certain requirements under Exchange rules. The Exchange further believes that the proposal is consistent with 6(b)(1) of the Act,21 in that the proposal is designed to enable the Exchange to continue to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange by improving the Exchange’s Floor Official process and improving the review process of Floor Official rulings.

4. **Self-Regulatory Organization’s Statement on Burden on Competition**

   The Phlx 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.

5. **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.

6. **Extension of Time Period for Commission Action**

   The Exchange does not consent to an extension of the time period for Commission action.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

   Not applicable.

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8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

4. The amended text of the proposed rule change indicating any additions to or deletions from the immediately preceding filing.

5. The text of the proposed rule change.
SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2005-42)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Establishment of a Neutral “Referee” to Rule on Appeals From Floor Official Rulings

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that on ______________________ 2006, the Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. 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 Phlx, pursuant to Section 19(b)(1) of the Act³ and Rule 19b-4 thereunder,⁴ proposes to amend: (1) Exchange By-Law Article X, Section 10-9, Audit Committee; (2) Exchange Rule 124, Disputes; Exchange Rule 1092, Obvious Errors; (3) Option Floor Procedure Advice (“OFPA”) F-27, Floor Official Rulings – Options; OFPA G-2, Trading Rotations, Halts or Reopenings; and (6) Equity Floor Procedure Advice (“EFPA”) F-27, Floor Official Rulings – Equity. The proposal would establish a neutral “Referee,” an Exchange employee or independent contractor who would have authority

to review and rule on appeals from Floor Official rulings concerning the nullification and adjustment of trades, and authorize the Referee to make other initial rulings currently made only by Floor Officials.

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 Phlx 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 Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to improve the process of resolving trading disputes and Floor Official rulings by creating a new regulatory position on the Exchange, who would be either an Exchange employee or an independent contractor known as a neutral “Referee,” who would have the authority to (1) review and rule on appeals from Floor Official rulings concerning the nullification and/or adjustment of trades; and (2) to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief from the requirements of certain Exchange rules and Option Floor Procedure Advices. The purpose of this Amendment No. 2 is to make clarifying amendments to previously submitted proposed rule changes in response to

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5 Floor Officials would retain their authority to make such initial rulings. The Referee would simply have the same authority as a Floor Official concerning such initial rulings.
certain comments received from Commission staff. This Amendment No. 2 replaces all previous filings in their entirety.

Current Floor Official Program

Pursuant to Exchange By-Law Article VIII, Floor Officials, as designees\(^6\) of the Chairmen of the Options Committee,\(^7\) Floor Procedure Committee,\(^8\) and Foreign Currency Options Committee,\(^9\) respectively, are authorized to administer the provisions of Exchange By-Laws and Rules of the Exchange pertaining to the respective trading floors and the immediately adjacent premises of the Exchange. They may impose penalties as applicable, for breaches of their rules or regulations relating to order, decorum, health, safety and welfare on the respective trading floors. Additionally, they may rule to nullify, or adjust the terms of, executed trades under specific and limited conditions contained in Exchange rules, and may grant relief from certain requirements of on-floor members and member organizations if authorized to do so by rule.

Currently, Floor Official rulings and appeals for review from such rulings are governed by Exchange Rule 124, Disputes. Rule 124(d) provides that Floor Official rulings may be appealed to a Review Panel consisting of three members of the Options Subcommittee on Rules and Rulings (the “Subcommittee”),\(^10\) or the Chairperson of the

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\(^6\) The designees of the respective floor Committee chairmen are generally members of the respective committees and subcommittees thereof.

\(^7\) The Options Committee has general supervision of the dealings of members on the options trading floor. See Exchange By-Law Article X, Section 10-20.

\(^8\) The Floor Procedure Committee has general supervision of the dealings of members on the equity trading floor. See Exchange By-Law Article X, Section 10-16.

\(^9\) The Foreign Currency Options Committee has general supervision of the dealings of members on the foreign currency options trading floor. See Exchange By-Law Article X, Section 10-17.

\(^10\) Each Standing and Special Committee may appoint such subcommittees as it may deem necessary for the efficient discharge of its duties. See Exchange By-Law Article X, Section 10-3(b). The Options
standing committee (or his designee) if three Subcommittee members cannot be promptly convened. Decisions of the Review Panel are considered final decisions of the standing committee and may be appealed to an Advisory Committee on Appeals of the Board of Governors.

Floor Officials are also authorized to rule on requests for relief from the requirements of certain rules, including, without limitation, quote spread parameters,¹¹ and disengagement of Exchange automatic execution systems under extraordinary circumstances.¹²

The Referee

The Referee would be either an Exchange employee or an independent contractor who is not an employee of the Exchange who has entered into an employment contract with the Exchange for a fixed period of time. The Referee would be appointed by the Exchange’s Board of Governors pursuant to the recommendation of the Audit Committee. Candidates for the Referee position would be recruited in the same fashion as candidates for other Exchange positions through the Exchange’s Human Resources Department. After conducting an interview process with the various candidates, the Audit Committee would recommend its selection to the Board of Governors, who would then vote on the Audit Committee’s recommendation. Upon the Commission’s approval of this proposal, the Referee would be appointed to the new position.

¹¹ Relief from the established bid/ask differentials may be granted upon the receipt of an approval of two Floor Officials. See OFPA F-6.

¹² See Exchange Rule 1080(e).
The proposal would provide that decisions of the Referee concerning both the review of Floor Official rulings and initial requests for relief, would be final and may not be appealed to the Exchange’s Board of Governors. The Referee would be authorized not only to sustain, overturn, or modify rulings made by Floor Officials; the Referee would also be authorized to make initial rulings in certain instances (as described below).

Because the Referee would be authorized to review Floor Official decisions to nullify or adjust trades on both the Exchange’s equity and options floors, the proposed rule change includes conforming amendments to OFPA F-27 and to EFPA F-27 concerning such reviews of Floor Official rulings, as discussed more fully below.

As stated above, Floor Officials are authorized to rule on requests for relief from the requirements of certain rules, including, without limitation, quote spread parameters and disengagement of Exchange automatic execution systems under extraordinary circumstances. The proposed rule change would authorize the Referee to make such rulings in the same manner as Floor Officials.

In order to ensure the neutrality of the Referee, the Referee would report to the Exchange’s Audit Committee,¹³ which would have supervision over the Referee. The Exchange’s General Counsel or his/her designee would be responsible for purely administrative matters such as, without limitation, personnel issues and vacation. Additionally, based on the advice of the Exchange’s General Counsel and Human Resources management, the Audit Committee may recommend the level of compensation of the Referee to the Board of Governors, and may establish other conditions of employment of the Referee. The Audit Committee or its designee would conduct annual

¹³ See proposed Exchange By-Law Article X, Section 10-9.
performance evaluations, and would consider any written complaints from members and member organizations concerning the Referee. The Audit Committee would not, however, have the authority to overrule or modify any ruling made by the Referee. The Audit Committee would have the authority to terminate the employment of the Referee for good cause shown, and to otherwise discipline the Referee as appropriate for good cause shown.

The Referee would have jurisdiction over all Exchange trading floors and systems, except with regard to issues of order and decorum pursuant to Exchange Rule 60. The Options Committee would continue to have jurisdiction over order and decorum issues on the options floor;\textsuperscript{14} the Floor Procedure Committee would continue to have jurisdiction over order and decorum issues on the equity floor;\textsuperscript{15} and the Foreign Currency Options Committee would continue to have jurisdiction over order and decorum issues on the foreign currency options floor.\textsuperscript{16}

The proposed rule change would provide that the Audit Committee would recommend for appointment by the Board of Governors other Exchange employee(s) or independent contractor(s) to function as the Referee in the event that the Referee is unavailable ("Backup Referees"). The Exchange’s rules and procedures, including qualifications, applicable to the Referee would also apply to Backup Referees, and any reference to the Referee in the proposed rules would be deemed to include Backup Referees. This is to ensure that a Backup Referee would be available if the Referee is not

\textsuperscript{14}See Exchange By-Law Article X, Section 10-20.

\textsuperscript{15}See Exchange By-Law Article X, Section 10-16.

\textsuperscript{16}See Exchange By-Law Article X, Section 10-17.
available due to, for example, a ruling on another matter that is in progress, vacation, illness, etc.

The proposal would also provide that the Market Surveillance staff would assign available Floor Officials to rule on disputes. The Exchange believes that this provision should ensure the neutrality of Floor Officials by assigning the next available Floor Official to rule on a particular matter.

**Qualifications of the Referee**

Under the proposal, the Referee would be required to have sufficient expertise in the area of trading to act in the capacity of a Floor Official concerning requests for relief and to conduct reviews of Floor Official rulings concerning the nullification and adjustment of trades. The Referee must possess sufficient knowledge of Exchange rules and the relevant sections of the Act (and the rules thereunder) to administer the Referee’s responsibilities and authority.

In order to ensure neutrality, the proposal would provide that the Referee may not be a member of the Exchange, may not be directly or indirectly affiliated with any Exchange member or member organization, and may not be an immediate family member of any Exchange member. The Referee may not be a debtor or creditor of any Exchange member or member organization.

**Duties of the Referee**

The primary responsibility of the Referee would be to rule on appeals from Floor Official decisions concerning the nullification and adjustment of trades, and to have the same authority as Floor Officials concerning rulings on member requests for relief from the requirements of certain rules. The Referee would replace the current three-member
Review Panel, which is currently comprised of Floor Officials, and would be authorized to review Floor Official rulings concerning the adjustment of the terms of a trade, or the nullification or “bust” of trades on appeal, and either uphold, overturn, or modify appealed Floor Official rulings pursuant to proposed amended Rule 124. If the Referee is unavailable or unable to make a ruling for any reason (including, without limitation, absence from the Exchange trading floor, vacation, illness, or in the process of making another Referee ruling), Market Surveillance staff will immediately notify the Exchange’s General Counsel, or his designee, who would designate a Backup Referee to make such a ruling.

The proposed rule change would provide that the Exchange’s General Counsel or his or her designee may assign additional duties and responsibilities to the Referee not related to Referee rulings. In order to ensure the Referee’s neutrality respecting any matter on which he or she is to rule, and to avoid the possibility that the Referee could be biased as a result of his or her knowledge of any pending investigation or disciplinary action concerning a person that is a party to a dispute or that requests relief from the requirements of an Exchange rule, the proposal would prohibit the Referee from: (i) participating in any Exchange enforcement action, investigation, market surveillance activity, hearing (other than as a witness) or other activity related to disciplinary matters; (ii) issuing citations for violations of Exchange rules; (iii) ruling on any matter concerning order and decorum pursuant to Exchange Rule 60 and the regulations thereunder; and (iv) preparing, researching, drafting, reviewing, or filing of a proposed rule change with the Securities and Exchange Commission pursuant to the Act and the rules thereunder concerning the Exchange’s disciplinary rules.
The proposed rules would require the Referee to make fair and impartial decisions in accordance with Exchange rules and By-Laws.

**Procedures for Review of Floor Official Rulings**

Proposed amended Rule 124(d), OFPA F-27, and EFPA F-27 would require that Market Surveillance staff be advised within 15 minutes of a Floor Official ruling concerning the nullification or adjustment of a trade that a party to such ruling has determined to seek the Referee’s review of such ruling. The purpose of the notification requirement is to provide reasonably prompt notice to Market Surveillance and to participants in a trade subject to the rule that such ruling is subject to appeal and that the process set forth in the proposed rule has begun, and ultimately a decision to sustain, overturn, or modify the initial Floor Official decision concerning the trade will be made.\(^{17}\)

As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designees, would be required to refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

In order to minimize the likelihood of frivolous appeals from Floor Official rulings, a member or member organization seeking the Referee’s review of a Floor Official ruling concerning the nullification or adjustment of a trade would be assessed a

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\(^{17}\) This is consistent with Exchange Rule 1092, Obvious Errors, which establishes a similar notice period. Under the proposal, Floor Official rulings made pursuant to Rule 1092 would be reviewed by the Referee, provided that the party seeking the review so requests within the time permitted. See proposed Rule 1092(f).
fee of $250.00 for each Floor Official ruling they seek to have reviewed if the Referee upholds the Floor Official decision. No fee would be assessed to the member or member organization seeking a review if the Floor Official decision is overturned or modified. This fee is currently imposed on appeals that are found by the Review Panel to be frivolous. The Exchange believes that the proposed rule concerning the $250.00 fee provides an objective standard for imposition of the fee (i.e., the fee would be imposed in situations where the Referee sustains a Floor Official ruling on the nullification or adjustment of a trade). Thus, the Referee would not have the discretion to impose the fee that Floor Officials currently have, and Exchange members and member organizations would have actual notice of the circumstances giving rise to the imposition of the fee.

**Rulings on Requests for Relief**

Proposed Rule 124, Commentary .02(a) would authorize the Referee to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief from the requirements of Exchange Rules relating to: (i) bid/ask differentials pursuant to Rule 1014(c) and OFPA F-6; (ii) disengagement of Exchange automatic execution systems pursuant to Rule 1080(e) and OFPA A-13; (iii) the determination that quotes in options on the Exchange or another market or markets are subject to relief from the firm quote requirement pursuant to Exchange Rule 1080(c)(i); and (iv) trading halts, openings and re-openings pursuant to Rules 1017, 1047 and 1047A and OFPAs A-12, A-14 and G-2.

Rule 1014(c) and OFPA F-6 set forth the maximum allowable bid/ask differentials, or quote widths, that may be disseminated by specialists and ROTs on the Exchange, depending on the price of the series to be quoted. The Exchange believes that these requirements can have the unintended consequence of requiring those making
markets to quote at prices that are unnecessarily narrow, thereby exposing them to great risk if markets move quickly.\textsuperscript{18} Therefore, as stated in OFPA F-6, two Floor Officials may grant relief from these differentials during times of peak market activity where options markets and/or the market for securities underlying the option move quickly. Under the proposal, the Referee would have the same authority as a Floor Official to make such a ruling.

Rule 1080(e) and OFPA A-13 provide that, in the event extraordinary circumstances with respect to a particular class of options exist, two Floor Officials may determine to disengage AUTO-X with respect to that option, in accordance with Exchange procedures. The rule and OFPA go on to describe the procedures to be followed to bring about such disengagement. Under the proposal, the Referee would have the same authority as a Floor Official to make such a determination.

Rule 1080(c)(i) provides that the Chairman of the Exchange’s Options Committee or his designee (or if neither is available, two Floor Officials) may determine that quotes in options on the Exchange or another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule,\textsuperscript{19} (thereby excluding such quotes from the Exchange’s calculation of the National Best Bid/Offer (“NBBO”)) and that quotes in options on the Exchange or another market or markets previously subject to such relief are no longer subject to such relief. The Referee would have the same

\begin{footnotesize}

\textsuperscript{19} 17 CFR 242.602.
\end{footnotesize}
authority as a Floor Official in making determinations concerning the above enumerated
rules that require Floor Official rulings.

Rules 1017, 1047 and 1047A and OFPAs A-12 and G-2 govern trading halts,
openings and re-openings on the Exchange. Throughout Rules 1047, 1047A, and OFPA
G-2, two Floor Officials, with the concurrence of a Market Surveillance officer, are
authorized to delay the opening, to halt and reopen after a halt, to open where the
underlying stock or Exchange-Traded Fund Share has not opened or current quotations
are unavailable for any foreign currency, and to conduct a closing rotation on the trading
day prior to expiration where the underlying stock or Exchange-Traded Fund Share did
not open or was halted, whenever such action is deemed necessary in the interests of
maintaining a fair and orderly market in such class or series of options and to protect
investors. Under the proposal, the Referee would have the same authority as a Floor
Official to make rulings in the capacity of a Floor Official concerning rules that require
Floor Official approval, as enumerated above.

Referee’s Decision Final

As stated above, currently decisions of the Review Panel are considered final
decisions of the standing committee and may be appealed to an Advisory Committee on
Appeals of the Board of Governors. Initial rulings to grant or deny relief from the
requirements of certain rules are not currently considered final decisions of a standing
committee and are thus not currently appealable to the Exchange’s Board of Governors.

The proposed rule change would provide that decisions of the Referee concerning
(A) the review of Floor Official rulings relating to the nullification or adjustment of
transactions, and (B) initial requests for relief, shall be final and may not be appealed to

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20 For consistency, the Exchange is proposing a conforming amendment to OFPA G-2, as described below.
the Exchange’s Board of Governors. The Exchange does not believe that these are the
types of decisions that are appropriate for such appeals particularly because the need for
speedy resolution and certainty are important, whereas other standing committee
decisions are often prospectively applied.

This provision would not operate to preclude any aggrieved member or member
organization from proceeding with any other legal remedy to which such member or
member organization might be entitled (e.g., arbitration or appeal to the Commission if
allowable by law).

Obvious Errors

The Exchange also proposes to amend Exchange Rule 1092, Obvious Errors.  
Currently, Rule 1092(f), Request for Review, provides that a Review Panel of Floor
Officials will review decisions made under the Rule in accordance with Exchange Rule
124(d). For consistency, the Exchange proposes to amend Rule 1092(f) to provide that
the Referee will review such decisions.

Conforming Amendment to OFPA G-2

As a housekeeping matter, the Exchange proposes to amend OFPA G-2(c),
to reflect that trading on the Exchange in any option may be halted with the approval of
two Floor Officials, with the concurrence of a Market Surveillance officer. Current Rule
1047A (c) includes this provision, and the Exchange proposes to amend OFPA G-2 for
consistency.

2. Statutory Basis
The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^21\) in general, and furthers the objectives of Section 6(b)(5) of the Act\(^22\) 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 establishing a neutral Referee to rule on appeals from Floor Official decisions and to rule initially on requests for relief from certain requirements under Exchange rules. The Exchange further believes that the proposal is consistent with 6(b)(1) of the Act\(^23\) in that the proposal is designed to enable the Exchange to continue to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange by improving the Exchange’s Floor Official process and improving the review process of Floor Official rulings.

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.

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**


Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Phlx consents, the Commission shall: (a) by order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission’s Internet comment form (http://www.sec.gov/rules/sro.shtml); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2005-42 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2005-42. 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 Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent
amendments, all written statements with respect to the proposed rule change that are filed
with the Commission, and all written communications relating to the proposed rule
change between the Commission and any person, other than those that may be withheld
from the public in accordance with the provisions of 5 U.S.C. 552, will be available for
inspection and copying in the Commission’s Public Reference Room. Copies of the
filing also will be available for inspection and copying at the principal office of the Phlx.
All comments received will be posted without change; the Commission does not edit
personal identifying information from submissions. You should submit only information
that you wish to make available publicly. All submissions should refer to File Number
SR-Phlx-2005-42 and should be submitted on or before [insert date 21 days from
publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated
authority.24

Margaret H. McFarland
Deputy Secretary

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PHILADELPHIA STOCK EXCHANGE, INC. BY-LAWS

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Article X  
Standing Committees

Sec. 10-1. – 10-8. No change.

Audit Committee

Sec. 10-9. (a) – (c) No change.

[(a) The Audit Committee shall consist of three (3) members, who shall all be public Governors. Audit Committee members shall not serve in a management capacity with the Exchange or any affiliate thereof and must be free of any other relationships that, by decision of the Board of Governors, would interfere with the exercise of independent judgment.

(b) The Committee shall have responsibility for dealings with the Exchange's independent public accountants including: (i) making recommendations to the Board of Governors as to retention and dismissal of such public accountants; (ii) reviewing the scope of their services and fees; (iii) reviewing the audit plan; (iv) reviewing internal controls; (v) reviewing the “management letter” and reply thereto; and (vi) having the ability to meet with the public accountants without Exchange officers or employees.

The Committee shall have responsibility for the Exchange Internal Audit Department, which shall report to the Committee. Such responsibility will include review of policies and procedures for and significant reports produced by the Internal Audit Department.

The Committee shall review any legal matters that may materially impact the Exchange's financial statements and all examination, inspection or other reports made by any regulatory agency with regulatory oversight for the Exchange and the Exchange's responses thereto.

The Committee shall review, at least annually, compliance with the Exchange's Code of Conduct with the assistance of the General Counsel's office.]
The Committee shall have the authority to conduct special reviews of any alleged improper conduct with respect to Exchange related activity, operations, finance or regulation. The Committee may select and engage its own counsel, consultants, accountants or other experts to assist in such reviews.

The Committee shall have the authority to compel to appear and/or provide documents or other information, by members, member organizations, associated persons of member organizations, members of the Board of Governors, committee members, Exchange officers or Exchange employees.

(c) The Committee shall meet at least once every calendar quarter.

(d) The Audit Committee shall recommend for appointment by the Board of Governors a qualified Exchange employee or independent contractor, the Referee, to review Floor Official rulings concerning the nullification and/or adjustment of transactions, and to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief from the requirements of certain Exchange rules, Equity Floor Procedure Advises and Option Floor Procedure Advises, and to consider and rule upon member and member organization requests for relief from the requirements of Exchange rules. The Referee shall have jurisdiction over all Exchange trading floors and systems, except with regard to issues of order and decorum as described in Rule 60. The Audit Committee shall determine that the Referee has sufficient expertise in the area of securities trading to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief and to conduct reviews of Floor Official rulings, and possesses sufficient knowledge of Exchange rules and the relevant sections of the Securities Exchange Act of 1934, as amended, and the rules thereunder.

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PHILADELPHIA STOCK EXCHANGE, INC.
RULES OF THE BOARD OF GOVERNORS

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Disputes

Rule 124. (a) Disputes occurring on and relating to the trading floor, if not settled by agreement between the members interested, shall be settled, if practicable, by vote of the members knowing of the transaction in question; if not so settled, they shall be settled by a Floor Official [summoned to the trading crowd] designated by Market Surveillance to rule on the dispute.

In issuing decisions for the resolution of trading disputes, Floor Officials [may] shall institute the course of action deemed to be most fair to all parties under the circumstances
at the time. A Floor Official may direct the execution of an order on the floor, or adjust the transaction terms or participants to an executed order on the floor. However, two Option Floor Officials may nullify a transaction if they determine the transaction to have been in violation of Rules 1014 (Obligations and Restrictions Applicable to Specialist and ROTs), 1015 (Quotation Guarantees), 1017 (Priority and Parity at Openings in Options), 1033 (Bids and Offers) or 1080 (AUTOM). Two Equity Floor Officials may nullify a transaction if they determine the transaction to have been in violation of Rules 110 (Bids and Offers --Precedence), 111 (Bids and Offers --Binding), 118 (Bids and Offers Outside Best Bid and Offer), 119 (Precedence of Highest Bid), 120 (Precedence of Offers at Same Price), 126 (Crossing), 203 (Agreement of Specialists), 218 (Customer Order Receives Priority), 229 (PACE System), 232 (Handling Orders When the Primary Market is Not Open for Free Trading), or 455 (Short Sales).  

This Rule 124(a) shall not apply to options transactions that are the result of an Obvious Error (as defined in Rule 1092). Options transactions that are the result of an Obvious Error shall be subject to the provisions and procedures set forth in Rule 1092.

(b) All rulings rendered by Floor Officials or the Referee (as defined in Commentary .01 to this Rule) are effective immediately and must be complied with promptly. Failure to promptly comply with an initial Floor Official ruling or a Referee ruling decision upon review of a Floor Official ruling, concerning a trading dispute may result in referral to the Business Conduct Committee. Failure to promptly comply with other Floor Official [or Referee] rulings issued pursuant to Order and Decorum Regulations (Rule 60) or Floor Procedure Advices (Rule 970) and not concerning a trading dispute may result in an additional violation.

(c) Review – Floor Official Rulings issued pursuant to Order and Decorum Regulations are reviewable pursuant to Rule 60. Floor Official rulings issued pursuant to Floor Procedure Advices are reviewable pursuant to Rule 970. All other Floor Official rulings are reviewable pursuant to paragraph (d) of this Rule.

(d) Review of Floor Official Rulings (Trading Disputes) – [Options] All Floor Official rulings are reviewable by [a] the Referee [minimum of three members of the Sub-Committee on Rules and Rulings, a sub-committee of the standing committee, which shall be empowered to review such rulings, or the Chairperson of the standing committee (or his designee) if three Sub-Committee members cannot be promptly convened. Equity Floor Official Rulings are reviewable by a minimum of three members of the Floor Procedure Committee, or the Chairperson of the Floor Procedure Committee (or his designee) if three members cannot be promptly convened. This constitutes a Review Panel for Floor Official rulings. Any person who appeals an Options Floor Official ruling concerning a trading dispute and loses will be subject to a $250.00 fee upon a finding by the Review Panel, that such appeal is frivolous].

(i) Market Surveillance staff must be advised within 15 minutes of a Floor Official’s ruling that a party to such ruling has determined to appeal from such ruling to the Referee. [The Referee may sustain, overturn, or modify a Floor Official ruling. ] The Exchange may establish the procedures for the submission
of a request for a review of a Floor Official ruling. [ ] Floor Official rulings concerning the nullification or adjustment of transactions may be sustained, overturned or modified by the Referee [a majority vote of the Review Panel members present]. [ ] In making a determination, the [Review Panel] Referee may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge and related trading activity). [Decisions of the Review Panel will be considered final decisions of a standing floor committee and may be appealed to the Exchange's Board of Governors pursuant to Exchange By-Law Article XI.]

(ii) All decisions made by the Referee in connection with initial rulings on requests for relief and with the review of a Floor Official ruling pursuant to paragraph (d) below shall be documented in writing and maintained by the Exchange in accordance with the record keeping requirements set forth in the Securities Exchange Act of 1934, as amended, and the rules thereunder.

(iii) A member or member organization seeking the Referee’s review of a Floor Official ruling shall be assessed a fee of $250.00 for each Floor Official ruling to be reviewed that is sustained and not overturned or modified by the Referee.

(iv) Decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief shall be final and may not be appealed to the Exchange’s Board of Governors.

(v) As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designees, shall refer a Referee or Floor Official that fails to make any ruling in accordance with Exchange rules to the [Business Conduct] Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

(vi) Failure to promptly comply with a Floor Official or Referee decision under this Rule may result in referral to the Business Conduct Committee.

[[Any person who appeals an Options Floor Official ruling concerning a trading dispute and loses will be subject to a $250.00 fee upon a finding by the Review Panel, that such appeal is frivolous.]]

[Commentary .01. The Referee.]

Commentary:

.01. No change.
.02. The Referee.

(a) An Exchange employee or independent contractor, the Referee, shall be appointed by the Board of Governors on the recommendation of the Audit Committee to review Floor Official rulings concerning [disputes] the nullification and adjustment of transactions in accordance with Rule 124 [], and to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief from the requirements of Exchange Rules relating to: [The Referee shall have jurisdiction over all Exchange trading floors and systems. The Referee may sustain, overturn, or modify a Floor Official ruling.]

(i) bid/ask differentials pursuant to Rule 1014(c) and Options Floor Procedure Advice (“Advice”) F-6;

(ii) disengagement of Exchange automatic execution systems pursuant to Rule 1080(c) and Advice A-13;

(iii) the determination pursuant to Rule 1080(c)(i) that quotes in options on the Exchange or another market or markets are subject to relief from the firm quote requirement set forth in the SEC Quote Rule, as defined in Exchange Rule 1082(a)(iii) (the “Quote Rule”), and that quotes in options on the Exchange or another market or markets previously subject to such relief are no longer subject to such relief; and

(iv) trading halts, openings and re-openings pursuant to Rules 1017, 1047 and 1047A and OFPAs A-12, A-14 and G-2. [The Referee shall have jurisdiction over all Exchange trading floors and systems].

(b) The Audit Committee shall recommend for appointment by the Board of Governors [a qualified Referee] any other Exchange employee(s) or independent contractor(s) to function as the Referee in the event that the Referee is unavailable (“Backup Referees”) as set forth in Commentary .02(f) below. The Exchange’s rules and procedures applicable to the Referee shall also apply to Backup Referees, and any reference to the Referee in these rules shall be deemed to include Backup Referees. [The Committee shall determine that the Referee has sufficient expertise in the area of securities trading to conduct reviews of Floor Official Rulings, and possesses sufficient knowledge of Exchange rules and the relevant sections of the Securities Exchange Act of 1934, as amended, and the rules thereunder.]

(c) The Referee shall be an employee of the Exchange or an independent contractor designated by the Audit Committee. The Referee shall not be a member of the Exchange nor affiliated with any Exchange member or member organization and shall not be an immediate family member of any Exchange member. The Referee shall not be a debtor or creditor of any Exchange member or member organization.
(d) The Audit Committee shall have supervision over the Referee, and, based on the advice of the Exchange’s General Counsel and Human Resources [Department] management, may recommend the level of compensation of the Referee to the [Compensation Committee] Board of Governors, and may establish other conditions of employment of the Referee. The Audit Committee or its designee shall conduct [regular reviews of the activities of the Referee including] annual performance evaluations, and shall consider any written complaints from members and member organizations concerning the Referee. The Audit Committee shall not have the authority to overrule or modify any ruling made by the Referee. [The Audit Committee may appoint additional Referees as deemed necessary in the Committee’s discretion.] The Audit Committee may terminate the employment of the Referee for good cause shown, and may otherwise discipline the Referee as appropriate for good cause shown.

(e) The Exchange’s General Counsel or his or her designee may assign additional duties and responsibilities to the Referee not related to Referee rulings. [If the Referee is unavailable or unable to make a ruling for any reason (including, without limitation, absence from the Exchange trading floor, vacation, illness, or in the process of making another Referee ruling), Market Surveillance staff will immediately notify the Exchange’s General Counsel, or his designee, who would designate a person not affiliated with a member or member organization to make such a ruling.] Notwithstanding the foregoing, the Referee shall not:

(i) participate in any Exchange enforcement action, investigation, market surveillance activity, hearing (other than as a witness) or other activity related to disciplinary matters;

(ii) issue citations for violations of Exchange rules;

(iii) rule on any matter concerning order and decorum pursuant to Exchange Rule 60 and the regulations thereunder; and

(iv) prepare, research, draft, review, or file a proposed rule change with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 and the rules thereunder concerning the Exchange’s disciplinary rules.

(f) If the Referee is unavailable or unable to make a ruling for any reason (including, without limitation, absence from the Exchange trading floor, vacation, illness, or in the process of making another Referee ruling), Market Surveillance staff will immediately notify the Exchange’s General Counsel, or his/her designee, who would designate a Backup Referee to make such a ruling.

(ffc) The Referee shall make fair and impartial rulings in accordance with Exchange rules and By-Laws.
Obvious Errors

Rule 1092. The Exchange shall either nullify a transaction or adjust the execution price of a transaction that results in an Obvious Error as provided in this Rule.

(a) - (e) No change.

(f) Request for Review. If a party affected by a determination made under this Rule so requests within the time permitted, [a Review Panel of Floor Officials] the Referee will review decisions made under this Rule in accordance with Exchange Rule 124(d). A request for review under this paragraph must be made within thirty minutes after a party receives verbal notification of a final determination by the Floor Official(s) under this Rule, except that if such notification is made after 3:30 p.m. Eastern Time, either party has until 9:30 a.m. Eastern Time on the next trading day to request a review. Such a request for review must be in writing or otherwise documented. The [Review Panel] Referee shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made after 3:30 p.m. on the day of the transaction or where the request is properly made the next trade day.

F-27 Floor Official Rulings-Options

Floor Officials are empowered to render rulings on the trading floor to resolve trading disputes occurring on and respecting activities on the trading floor. All rulings rendered by Floor Officials are effective immediately and must be complied with promptly. Failure to promptly comply with a ruling concerning a trading dispute may result in referral to the Business Conduct Committee. Failure to promptly comply with other rulings issued pursuant to Order and Decorum Regulations or Floor Procedure Advices and not concerning a trading dispute may result in an additional violation. Floor Officials need not render decisions in any instance where the request for a ruling was not made within a reasonable period of time. A Floor Official should not render a decision or authorize a citation where
such Floor Official was involved in or affected by the dispute, as well as in any situation where the Floor Official is not able to objectively and fairly render a decision.

Floor Officials shall endeavor to be prompt in rendering decisions. However, in any instance where a Floor Official has determined that the benefits of further discovery as to the facts and circumstances of any matter under review outweigh the monetary risks of a delayed ruling, the Floor Official may determine to delay rendering the ruling until such time as that further discovery is completed. In issuing decisions for the resolution of trading disputes, Floor Officials shall institute the course of action deemed by the ruling Floor Official to be more fair to all parties under the circumstances at the time. A Floor Official may direct the execution of an order on the floor, or adjust the transaction terms or participants to an executed order on the floor. However, two Floor Officials may nullify a transaction if they determine the transaction to have been in violation of Rules 1014 (Obligations and Restrictions Applicable to specialist and ROTs), 1015 (Quotation Guarantees), 1017 (Priority and Parity at Openings in Options), 1033 (Bids and Offers) or 1080 (AUTOM).

[A minimum of three members of the Sub-Committee on Rules and Rulings, a sub-committee of the standing committee, or the Chairperson of the standing committee (or his designee) if three Sub-Committee members cannot be promptly convened, shall be empowered by the standing committee to review Floor Official rulings ("Review Panel"). Requests for a review must be submitted to the Director of the Market Surveillance Department of the Exchange (or his designee) within 15 minutes from the time the contested ruling was rendered. Any person who appeals a Floor Official ruling concerning a trading dispute and loses will be subject to a $250.00 fee upon a finding by the Review Panel that such appeal is frivolous. The Review Panel shall endeavor to meet on the matter as soon as practicable after notice of a request for a review of a Floor Official ruling. Floor Official rulings may be sustained, overturned or modified by a majority vote of the Review Panel members present. In making a determination, the Review Panel may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge, and related trading activity). Decisions of the Review Panel will be considered final decisions of the standing committee and may be appealed to the Exchange's Board of Governors pursuant to Exchange By-Law Article XI. Neither Floor Official rulings nor Review Panel decisions reviewing Floor Official rulings preclude a person from also availing upon the Exchange's Arbitration facilities.]

Exchange staff may determine that a Floor Official is ineligible to participate in a particular ruling where it appears that such Floor Official has a conflict of interest. For purposes of this Rule, and without limitation, a conflict of interest exists where a Floor Official: (a) is directly or indirectly affiliated with a party seeking a Floor Official ruling; (b) is a participant or is directly or indirectly affiliated with a participant in a transaction that is the subject of a Floor Official ruling; (c) is a debtor or creditor of a party seeking a Floor Official ruling; or (d) is an immediate family member of a party seeking a Floor
Official ruling. Exchange staff may consider other circumstances, on a case-by-case basis, in determining the eligibility or ineligibility of a particular Floor Official to participate in a particular ruling due to a conflict of interest.

All Floor Official rulings concerning the adjustment and nullification of transactions are reviewable by the Referee (as defined in Rule 124).

(i) Market Surveillance staff must be advised within 15 minutes of a Floor Official's ruling that a party to such ruling has determined to appeal from such ruling to the Referee. The Exchange may establish the procedures for the submission of a request for a review of a Floor Official ruling. Floor Official rulings may be sustained, overturned or modified by the Referee. In making a determination, the Referee may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge and related trading activity).

(ii) All decisions made by the Referee in connection with initial rulings on requests for relief and with the review of a Floor Official ruling pursuant to Rule 124(d) shall be documented in writing and maintained by the Exchange in accordance with the record keeping requirements set forth in the Securities Exchange Act of 1934, as amended, and the rules thereunder.

(iii) A member or member organization seeking the Referee’s review of a Floor Official ruling shall be assessed a fee of $250.00 for each Floor Official ruling to be reviewed that is sustained and not overturned or modified by the Referee.

(iv) Decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief shall be final and may not be appealed to the Exchange’s Board of Governors.

(v) As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designee, shall refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

(vi) Failure to promptly comply with a Floor Official or Referee decision under this Rule may result in referral to the Business Conduct Committee.
FINE SCHEDULE  [No change.]

$250.00

* * * * *

G-2 Trading Rotations, Halts or Reopenings

(a) – (b) No change.

(c) Halts: Trading on the Exchange in any option may be halted with the approval of [one] two Floor Officials, with the concurrence of a Market Surveillance officer, whenever trading on the primary market in underlying securities representing more than 10% of the current index value is halted or suspended. Trading shall be halted whenever [the Exchange] two Floor Officials, with the concurrence of a Market Surveillance Officer, deem[s] such action appropriate in the interests of a fair and orderly market and to protect investors. Among the factors that may be considered are the following:

(i) – (iii) No change.

(d) – (f) No change.

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PHILADELPHIA STOCK EXCHANGE, INC.
EQUITY FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS

* * * * *

F-27 Floor Official Rulings - Equity

Floor Officials are empowered to render rulings on the trading floor to resolve disputes occurring on and respecting activities on the trading floor. All rulings rendered by Floor Officials are effective immediately and must be compiled with promptly. Failure to promptly comply with a ruling concerning a trading dispute may result in referral to the Business Conduct Committee. Failure to promptly comply with other rulings issued pursuant to Order and Decorum Regulations of Floor Procedures Advices and no[r]t concerning a trading dispute may result in an additional violation. Floor Officials need not render decisions in any instance where the request for a ruling was not made within a reasonable period of time. A Floor Official should not render a decision or authorize a citation where such Floor Official was involved in or affected by the dispute, as well as in any situation where the Floor Official is not able to objectively and fairly render a decision.
Floor Officials shall endeavor to be prompt in rendering decisions. However, in any instance where a Floor Official has determined that the benefits of further discovery as to the facts and circumstances of any matter under review outweigh the monetary risks of a delayed ruling, the Floor Official may determine to delay rendering the ruling until such time as that further discovery is completed. In issuing decisions for the resolution of trading disputes, Floor Officials shall institute the course of action deemed by the ruling Floor Official to be most fair to all parties under the circumstances at the time. A Floor Official may direct the execution of an order on the floor, or adjust the transaction terms or participants to an executed order on the floor. However, two Floor Officials may nullify a transaction if they determine the transaction to have been in violation of Rules 110 (Bids and Offers - Precedence), 111 (Precedence of Highest Bid), 120 (Precedence of Offers at Same Price), 126 (Crossing), 203 (Agreement of Specialists), 218 (Customer's Order Receives Priority), 229 (PACE System), 232 (Handling Orders When the Primary Market is Not Open for Free Trading), or 455 (Short Sales).

[Equity Floor Official Rulings are reviewable by a minimum of three members of the Floor Procedure Committee, or the Chairperson of the Floor Procedure Committee (or his designee) if three members cannot be promptly convened ("Review Panel"). Requests for a review must be submitted to the Director of the Market Surveillance Department of the Exchange (or his designee) within 15 minutes from the time the contested ruling was rendered. The Review Panel shall endeavor to meet on the matter as soon as practicable after notice of a request for a review of a Floor Official ruling. Floor Official rulings may be sustained, overturned or modified by a majority vote of the Review Panel members present. In making a determination, the Review Panel may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge, and related trading activity). Decisions of the Review Panel will be considered final decisions of a standing floor committee and may be appealed to the Exchange's Board of Governors pursuant to Exchange By-Law Article XI. Neither Floor Official rulings nor Review Panel decisions reviewing Floor Official rulings preclude a person from also availing upon the Exchange's Arbitration facilities.]

All Floor Official rulings concerning the adjustment and nullification of transactions are reviewable by the Referee (as defined in Rule 124).

(i) Market Surveillance staff must be advised within 15 minutes of a Floor Official's ruling that a party to such ruling has determined to appeal from such ruling to the Referee. The Exchange may establish the procedures for the submission of a request for a review of a Floor Official ruling. Floor Official rulings concerning the nullification or adjustment of transactions may be sustained, overturned or modified by the Referee. In making a determination, the Referee may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in
reliance on the Floor Official's ruling (e.g., cover, hedge and related trading activity).

(ii) All decisions made by the Referee in connection with initial rulings on requests for relief and with the review of a Floor Official ruling pursuant to Rule 124(d) shall be documented in writing and maintained by the Exchange in accordance with the record keeping requirements set forth in the Securities Exchange Act of 1934, as amended, and the rules thereunder.

(iii) A member or member organization seeking the Referee’s review of a Floor Official ruling shall be assessed a fee of $250.00 for each Floor Official ruling to be reviewed that is sustained and not overturned or modified by the Referee.

(iv) Decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief shall be final and may not be appealed to the Exchange’s Board of Governors.

(v) As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designee, shall refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

(vi) Failure to promptly comply with a Floor Official or Referee decision under this Rule may result in referral to the Business Conduct Committee.

NO FINE SCHEDULE APPLICABLE.
Exhibit 5

Brackets indicate deletions; underlining indicates new text.

PHILADELPHIA STOCK EXCHANGE, INC. BY-LAWS

* * * * *

Article X
Standing Committees

Sec. 10-1. – 10-8. No change

Audit Committee

Sec. 10-9. (a) – (c) No change.

(d) The Audit Committee shall recommend for appointment by the Board of Governors a qualified Exchange employee or independent contractor, the Referee, to review Floor Official rulings concerning the nullification and/or adjustment of transactions, and to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief from the requirements of certain Exchange rules, Equity Floor Procedure Advices and Option Floor Procedure Advices. The Audit Committee shall determine that the Referee has sufficient expertise in the area of securities trading to act in the capacity of a Floor Official respecting initial rulings concerning requests for relief and to conduct reviews of Floor Official rulings, and possesses sufficient knowledge of Exchange rules and the relevant sections of the Securities Exchange Act of 1934, as amended, and the rules thereunder.

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PHILADELPHIA STOCK EXCHANGE, INC.
RULES OF THE BOARD OF GOVERNORS

* * * * *

Disputes

Rule 124. (a) Disputes occurring on and relating to the trading floor, if not settled by agreement between the members interested, shall be settled, if practicable, by vote of the members knowing of the transaction in question; if not so settled, they shall be settled by a Floor Official [summoned to the trading crowd] designated by Market Surveillance to rule on the dispute.

In issuing decisions for the resolution of trading disputes, Floor Officials [may] shall institute the course of action deemed to be most fair to all parties under the circumstances
at the time. A Floor Official may direct the execution of an order on the floor, or adjust
the transaction terms or participants to an executed order on the floor. However, two
Option Floor Officials may nullify a transaction if they determine the transaction to have
been in violation of Rules 1014 (Obligations and Restrictions Applicable to Specialist
and ROTs), 1015 (Quotation Guarantees), 1017 (Priority and Parity at Openings in
Options), 1033 (Bids and Offers) or 1080 (AUTOM). Two Equity Floor Officials may
nullify a transaction if they determine the transaction to have been in violation of Rules
110 (Bids and Offers --Precedence), 111 (Bids and Offers --Binding), 118 (Bids and
Offers Outside Best Bid and Offer), 119 (Precedence of Highest Bid), 120 (Precedence
of Offers at Same Price), 126 (Crossing), 203 (Agreement of Specialists), 218 (Customer
Order Receives Priority), 229 (PACE System), 232 (Handling Orders When the Primary
Market is Not Open for Free Trading), or 455 (Short Sales). This Rule 124(a) shall not
apply to options transactions that are the result of an Obvious Error (as defined in Rule
1092). Options transactions that are the result of an Obvious Error shall be subject to the
provisions and procedures set forth in Rule 1092.

(b) All rulings rendered by Floor Officials or the Referee (as defined in Commentary .02
to this Rule) are effective immediately and must be complied with promptly. Failure to
promptly comply with an initial Floor Official ruling or a Referee [ruling] decision upon
review of a Floor Official ruling concerning a trading dispute may result in referral to the
Business Conduct Committee. Failure to promptly comply with other Floor Official
rulings issued pursuant to Order and Decorum Regulations (Rule 60) or Floor Procedure
Advices (Rule 970) and not concerning a trading dispute may result in an additional
violation.

(c) Review – Floor Official [R] rulings issued pursuant to Order and Decorum
Regulations are reviewable pursuant to Rule 60. Floor Official rulings issued pursuant to
Floor Procedure Advices are reviewable pursuant to Rule 970. All other Floor Official
rulings are reviewable pursuant to paragraph (d) of this Rule.

(d) Review of Floor Official Rulings (Trading Disputes) – [Options] All Floor Official
rulings are reviewable by [a] the Referee [minimum of three members of the Sub-
Committee on Rules and Rulings, a sub-committee of the standing committee, which
shall be empowered to review such rulings, or the Chairperson of the standing committee
(or his designee) if three Sub-Committee members cannot be promptly convened. Equity
Floor Official Rulings are reviewable by a minimum of three members of the Floor
Procedure Committee, or the Chairperson of the Floor Procedure Committee (or his
designee) if three members cannot be promptly convened. This constitutes a Review
Panel for Floor Official rulings. Any person who appeals an Options Floor Official ruling
concerning a trading dispute and loses will be subject to a $250.00 fee upon a finding by
the Review Panel, that such appeal is frivolous].

(i) Market Surveillance staff must be advised within 15 minutes of a Floor
Official’s ruling that a party to such ruling has determined to appeal from such
ruling to the Referee. The Exchange may establish the procedures for the
submission of a request for a review of a Floor Official ruling. Floor Official
rulings concerning the nullification or adjustment of transactions may be sustained, overturned or modified by the Referee [a majority vote of the Review Panel members present]. In making a determination, the [Review Panel] Referee may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge and related trading activity). [Decisions of the Review Panel will be considered final decisions of a standing floor committee and may be appealed to the Exchange's Board of Governors pursuant to Exchange By-Law Article XI.]

(ii) All decisions made by the Referee in connection with initial rulings on requests for relief and with the review of a Floor Official ruling pursuant to this paragraph (d) shall be documented in writing and maintained by the Exchange in accordance with the record keeping requirements set forth in the Securities Exchange Act of 1934, as amended, and the rules thereunder.

(iii) A member or member organization seeking the Referee’s review of a Floor Official ruling shall be assessed a fee of $250.00 for each Floor Official ruling to be reviewed that is sustained and not overturned or modified by the Referee.

(iv) Decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief shall be final and may not be appealed to the Exchange’s Board of Governors.

(v) As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designees, shall refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

(vi) Failure to promptly comply with a Floor Official or Referee decision under this Rule may result in referral to the Business Conduct Committee.

Commentary:

.01. No change.

.02. The Referee.

(a) An Exchange employee or independent contractor, the Referee, shall be appointed by the Board of Governors on the recommendation of the Audit Committee to review Floor Official rulings concerning the nullification and adjustment of transactions in accordance with Rule 124(d), and to act in the capacity of a Floor Official respecting
initial rulings concerning requests for relief from the requirements of Exchange Rules relating to:

(i) bid/ask differentials pursuant to Rule 1014(c) and Options Floor
Procedure Advice ("OFPA") F-6;

(ii) disengagement of Exchange automatic execution systems pursuant to
Rule 1080(e) and OFPA A-13;

(iii) the determination pursuant to Rule 1080(c)(i) that quotes in options
on the Exchange or another market or markets are subject to relief from the firm
quote requirement set forth in the SEC Quote Rule, as defined in Exchange Rule
1082(a)(iii) (the “Quote Rule”), and that quotes in options on the Exchange or
another market or markets previously subject to such relief are no longer subject
to such relief; and

(iv) trading halts, openings and re-openings pursuant to Rules 1017, 1047
and 1047A and OFPAs A-12, A-14 and G-2.

(b) The Audit Committee shall recommend for appointment by the Board of
Governors any other Exchange employee(s) or independent contractor(s) to function as
the Referee in the event that the Referee is unavailable ("Backup Referees") as set forth
in Commentary .02(f) below. The Exchange’s rules and procedures applicable to the
Referee shall also apply to Backup Referees, and any reference to the Referee in these
rules shall be deemed to include Backup Referees.

(c) The Referee shall be an employee of the Exchange or an independent
contractor designated by the Audit Committee. The Referee shall not be a member of the
Exchange nor affiliated with any Exchange member or member organization and shall
not be an immediate family member of any Exchange member. The Referee shall not be
a debtor or creditor of any Exchange member or member organization.

(d) The Audit Committee shall have supervision over the Referee, and, based on
the advice of the Exchange’s General Counsel and Human Resources management, may
recommend the level of compensation of the Referee to the Board of Governors, and may
establish other conditions of employment of the Referee. The Audit Committee or its
designee shall conduct annual performance evaluations, and shall consider any written
complaints from members and member organizations concerning the Referee. The Audit
Committee shall not have the authority to overrule or modify any ruling made by the
Referee. The Audit Committee may terminate the employment of the Referee for good
cause shown, and may otherwise discipline the Referee as appropriate for good cause
shown.

(e) The Exchange’s General Counsel or his or her designee may assign additional
duties and responsibilities to the Referee not related to Referee rulings. Notwithstanding
the foregoing, the Referee shall not:
(i) participate in any Exchange enforcement action, investigation, market surveillance activity, hearing (other than as a witness) or other activity related to disciplinary matters;

(ii) issue citations for violations of Exchange rules;

(iii) rule on any matter concerning order and decorum pursuant to Exchange Rule 60 and the regulations thereunder; and

(iv) prepare, research, draft, review, or file a proposed rule change with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 and the rules thereunder concerning the Exchange’s disciplinary rules.

(f) If the Referee is unavailable or unable to make a ruling for any reason (including, without limitation, absence from the Exchange trading floor, vacation, illness, or in the process of making another Referee ruling), Market Surveillance staff will immediately notify the Exchange’s General Counsel, or his/her designee, who would designate a Backup Referee to make such a ruling.

(g) The Referee shall make fair and impartial rulings in accordance with Exchange rules and By-Laws.

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PHILADELPHIA STOCK EXCHANGE, INC. OPTIONS RULES

* * * *

Obvious Errors

Rule 1092. The Exchange shall either nullify a transaction or adjust the execution price of a transaction that results in an Obvious Error as provided in this Rule.

(a) - (e) No change.

(f) Request for Review. If a party affected by a determination made under this Rule so requests within the time permitted, [a Review Panel of Floor Officials] the Referee will review decisions made under this Rule in accordance with Exchange Rule 124(d). A request for review under this paragraph must be made within thirty minutes after a party receives verbal notification of a final determination by the Floor Official(s) under this Rule, except that if such notification is made after 3:30 p.m. Eastern Time, either party has until 9:30 a.m. Eastern Time on the next trading day to request a review. Such a request for review must be in writing or otherwise documented. The [Review Panel] Referee shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made after 3:30 p.m. on the day of the transaction or where the request is properly made the next trade day.
F-27 Floor Official Rulings-Options

Floor Officials are empowered to render rulings on the trading floor to resolve trading disputes occurring on and respecting activities on the trading floor. All rulings rendered by Floor Officials are effective immediately and must be complied with promptly. Failure to promptly comply with a ruling concerning a trading dispute may result in referral to the Business Conduct Committee. Failure to promptly comply with other rulings issued pursuant to Order and Decorum Regulations or Floor Procedure Advices and not concerning a trading dispute may result in an additional violation. Floor Officials need not render decisions in any instance where the request for a ruling was not made within a reasonable period of time. A Floor Official should not render a decision or authorize a citation where such Floor Official was involved in or affected by the dispute, as well as in any situation where the Floor Official is not able to objectively and fairly render a decision.

Floor Officials shall endeavor to be prompt in rendering decisions. However, in any instance where a Floor Official has determined that the benefits of further discovery as to the facts and circumstances of any matter under review outweigh the monetary risks of a delayed rulings, the Floor Official may determine to delay rendering the ruling until such time as that further discovery is completed. In issuing decisions for the resolution of trading disputes, Floor Officials shall institute the course of action deemed by the ruling Floor Official to be more fair to all parties under the circumstances at the time. A Floor Official may direct the execution of an order on the floor, or adjust the transaction terms or participants to an executed order on the floor. However, two Floor Officials may nullify a transaction if they determine the transaction to have been in violation of Rules 1014 (Obligations and Restrictions Applicable to specialist and ROTs), 1015 (Quotation Guarantees), 1017 (Priority and Parity at Openings in Options), 1033 (Bids and Offers) or 1080 (AUTOM).

[A minimum of three members of the Sub-Committee on Rules and Rulings, a sub-committee of the standing committee, or the Chairperson of the standing committee (or his designee) if three Sub-Committee members cannot be promptly convened, shall be empowered by the standing committee to review Floor Official rulings ("Review Panel"). Requests for a review must be submitted to the Director of the Market Surveillance Department of the Exchange (or his designee) within 15 minutes from the time the contested ruling was rendered. Any person who appeals a Floor Official ruling]
concerning a trading dispute and loses will be subject to a $250.00 fee upon a finding by
the Review Panel that such appeal is frivolous. The Review Panel shall endeavor to meet
on the matter as soon as practicable after notice of a request for a review of a Floor
Official ruling. Floor Official rulings may be sustained, overturned or modified by a
majority vote of the Review Panel members present. In making a determination, the
Review Panel may consider facts and circumstances not available to the ruling Floor
Official as well as action taken by the parties in reliance on the Floor Official's ruling
(e.g., cover, hedge, and related trading activity). Decisions of the Review Panel will be
considered final decisions of the standing committee and may be appealed to the
Exchange's Board of Governors pursuant to Exchange By-Law Article XI. Neither Floor
Official rulings nor Review Panel decisions reviewing Floor Official rulings preclude a
person from also availing upon the Exchange's Arbitration facilities.]

Exchange staff may determine that a Floor Official is ineligible to participate in a
particular ruling where it appears that such Floor Official has a conflict of interest. For
purposes of this Rule, and without limitation, a conflict of interest exists where a Floor
Official: (a) is directly or indirectly affiliated with a party seeking a Floor Official ruling;
(b) is a participant or is directly or indirectly affiliated with a participant in a transaction
that is the subject of a Floor Official ruling; (c) is a debtor or creditor of a party seeking a
Floor Official ruling; or (d) is an immediate family member of a party seeking a Floor
Official ruling. Exchange staff may consider other circumstances, on a case-by-case
basis, in determining the eligibility or ineligibility of a particular Floor Official to
participate in a particular ruling due to a conflict of interest.

All Floor Official rulings concerning the adjustment and nullification of transactions are
reviewable by the Referee (as defined in Rule 124).

(i) Market Surveillance staff must be advised within 15 minutes of a Floor
Official’s ruling that a party to such ruling has determined to appeal from such
ruling to the Referee. The Exchange may establish the procedures for the
submission of a request for a review of a Floor Official ruling. Floor Official
rulings concerning the nullification or adjustment of transactions may be
sustained, overturned or modified by the Referee. In making a determination, the
Referee may consider facts and circumstances not available to the ruling Floor
Official as well as action taken by the parties in reliance on the Floor Official's
ruling (e.g., cover, hedge and related trading activity).

(ii) All decisions made by the Referee in connection with initial rulings
on requests for relief and with the review of a Floor Official ruling pursuant to
Rule 124(d) shall be documented in writing and maintained by the Exchange in
accordance with the record keeping requirements set forth in the Securities

(iii) A member or member organization seeking the Referee’s review of a
Floor Official ruling shall be assessed a fee of $250.00 for each Floor Official
ruling to be reviewed that is sustained and not overturned or modified by the Referee.

(iv) Decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief shall be final and may not be appealed to the Exchange’s Board of Governors.

(v) As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designees, shall refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

(vi) Failure to promptly comply with a Floor Official or Referee decision under this Rule may result in referral to the Business Conduct Committee.

FINE SCHEDULE

$250.00

* * * * *

G-2 Trading Rotations, Halts or Reopenings

(a) – (b) No change.

(c) Halts: Trading on the Exchange in any option may be halted with the approval of [one] two Floor Officials, with the concurrence of a Market Surveillance officer, whenever trading on the primary market in underlying securities representing more than 10% of the current index value is halted or suspended. Trading shall be halted whenever [the Exchange] two Floor Officials, with the concurrence of a Market Surveillance officer, deem[s] such action appropriate in the interests of a fair and orderly market and to protect investors. Among the factors that may be considered are the following:

   (i) – (iii) No change.

(d) – (f) No change.

* * * * *

PHILADELPHIA STOCK EXCHANGE, INC.
EQUITY FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS
* * * * *

**F-27 Floor Official Rulings - Equity**

Floor Officials are empowered to render rulings on the trading floor to resolve disputes occurring on and respecting activities on the trading floor. All rulings rendered by Floor Officials are effective immediately and must be complied with promptly. Failure to promptly comply with a ruling concerning a trading dispute may result in referral to the Business Conduct Committee. Failure to promptly comply with other rulings issued pursuant to Order and Decorum Regulations of Floor Procedures Advises and no[r]t concerning a trading dispute may result in an additional violation. Floor Officials need not render decisions in any instance where the request for a ruling was not made within a reasonable period of time. A Floor Official should not render a decision or authorize a citation where such Floor Official was involved in or affected by the dispute, as well as in any situation where the Floor Official is not able to objectively and fairly render a decision.

Floor Officials shall endeavor to be prompt in rendering decisions. However, in any instance where a Floor Official has determined that the benefits of further discovery as to the facts and circumstances of any matter under review outweigh the monetary risks of a delayed ruling, the Floor Official may determine to delay rendering the ruling until such time as that further discovery is completed. In issuing decisions for the resolution of trading disputes, Floor Officials shall institute the course of action deemed by the ruling Floor Official to be most fair to all parties under the circumstances at the time. A Floor Official may direct the execution of an order on the floor, or adjust the transaction terms or participants to an executed order on the floor. However, two Floor Officials may nullify a transaction if they determine the transaction to have been in violation of Rules 110 (Bids and Offers - Precedence), 111 (Precedence of Highest Bid), 120 (Precedence of Offers at Same Price), 126 (Crossing), 203 (Agreement of Specialists), 218 (Customer's Order Receives Priority), 229 (PACE System), 232 (Handling Orders When the Primary Market is Not Open for Free Trading), or 455 (Short Sales).

[Equity Floor Official Rulings are reviewable by a minimum of three members of the Floor Procedure Committee, or the Chairperson of the Floor Procedure Committee (or his designee) if three members cannot be promptly convened ("Review Panel"). Requests for a review must be submitted to the Director of the Market Surveillance Department of the Exchange (or his designee) within 15 minutes from the time the contested ruling was rendered. The Review Panel shall endeavor to meet on the matter as soon as practicable after notice of a request for a review of a Floor Official ruling. Floor Official rulings may be sustained, overturned or modified by a majority vote of the Review Panel members present. In making a determination, the Review Panel may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge, and related trading activity). Decisions of the Review Panel will be considered final decisions of a standing floor committee and may be appealed to the Exchange's Board of Governors pursuant to Exchange By-Law Article XI. Neither Floor Official rulings nor Review Panel decisions
reviewing Floor Official rulings preclude a person from also availing upon the Exchange's Arbitration facilities.]

All Floor Official rulings concerning the adjustment and nullification of transactions are reviewable by the Referee (as defined in Rule 124).

(i) Market Surveillance staff must be advised within 15 minutes of a Floor Official’s ruling that a party to such ruling has determined to appeal from such ruling to the Referee. The Exchange may establish the procedures for the submission of a request for a review of a Floor Official ruling. Floor Official rulings concerning the nullification or adjustment of transactions may be sustained, overturned or modified by the Referee. In making a determination, the Referee may consider facts and circumstances not available to the ruling Floor Official as well as action taken by the parties in reliance on the Floor Official's ruling (e.g., cover, hedge and related trading activity).

(ii) All decisions made by the Referee in connection with initial rulings on requests for relief and with the review of a Floor Official ruling pursuant to Rule 124(d) shall be documented in writing and maintained by the Exchange in accordance with the record keeping requirements set forth in the Securities Exchange Act of 1934, as amended, and the rules thereunder.

(iii) A member or member organization seeking the Referee’s review of a Floor Official ruling shall be assessed a fee of $250.00 for each Floor Official ruling to be reviewed that is sustained and not overturned or modified by the Referee.

(iv) Decisions of the Referee concerning (A) the review of Floor Official rulings relating to the nullification or adjustment of transactions, and (B) initial requests for relief shall be final and may not be appealed to the Exchange's Board of Governors.

(v) As appropriate, the Chairman of the Options Committee or of the Floor Procedure Committee, or their respective designees, shall refer a Referee that fails to make any ruling in accordance with Exchange rules to the Audit Committee for possible disciplinary action, including removal. A Floor Official that fails to make any ruling in accordance with Exchange rules may be subject to possible disciplinary action by the Exchange.

(vi) Failure to promptly comply with a Floor Official or Referee decision under this Rule may result in referral to the Business Conduct Committee.

NO FINE SCHEDULE APPLICABLE.