March 14, 2013

By Electronic Mail (rule-comments@sec.gov)
Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: PHLX Request for Comment on SEC File No. SR-PHLX-2013-05

Dear Ms. Murphy:

The Securities Industry and Financial Markets Association ("**SIFMA**")[1] appreciates the opportunity to comment on the above-referenced filing, which is a proposed rule change filed by NASDAQ OMX PHLX ("PHLX") with the Securities and Exchange Commission ("Commission").[2] PHLX has filed a proposed rule change to amend Rule 1092, Obvious and Catastrophic Errors. Specifically, PHLX proposes to amend Rule 1092(f)(ii) to permit the nullification of trades involving catastrophic errors in certain situations. For the reasons outlined below, SIFMA strongly agrees with PHLX's request for the nullification of trades in certain situations when the resulting price of a non-broker-dealer customer order would violate the customer's limit price. As a result, SIFMA believes it is appropriate that the Commission approve PHLX's amendment to Rule 1092(f)(ii).

Under PHLX's proposed rule, in the event of a catastrophic error, if both parties to the trade are not a non-broker-dealer customer (''customer''), then the trade would be adjusted under the current rule.[3] However, if one of the parties to the trade is a non-broker-dealer customer, the adjusted price of the trade would be compared to the limit price of the order.[4] If the adjusted price would violate the limit price, then the non

[1] The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit www.sifma.org.

[2] *See* Securities Exchange Act Release No. 34-68907 (February 12, 2013), 78 FR 11705 (February 19, 2013).

[3] *Id.* at 11706.

[4] *Id.*

broker-dealer customer would have 20 minutes from notification of the proposed adjusted price to accept it or else the trade will be nullified.[5]

SIFMA agrees with PHLX that the proposed rule changes would ensure that a customer is not forced into a situation where the original limit price is violated.[6] Nullifying a trade will result in the customer avoiding the expenditure of additional dollars for a trade he had no interest in (and thereby averting a loss) and minimizing the risk of that the cost of the trade will exceed the capital in his account. Further, SIFMA agrees with PHLX that by applying a notification time of 20 minutes, it lessens the likelihood that the customer will try to let the direction of the market for that option dictate his decision for a long period of time, thus exposing the contra side to more risk. For a market maker or broker-dealer, the (monetary) penalty assessed to the customer that is part of the price adjustment process is typically enough that they can trade out of the position with little risk and a potential profit. For a customer who is not immersed in the day-to-day trading of the markets, this risk may be unacceptable.

There is a precedent in the options markets for treating customers in a special way, since they are typically not active market participants watching a particular option throughout the day, and they often have limited funds in their account. For example, many options exchanges priority rules treat customer orders differently and some options exchanges only accept certain types of orders from customers. Most options exchanges charge different fees for customers. By differentiating the rules by participant type, a non-professional customer will have the ability to protect themselves against the consequences of catastrophic errors by choosing to have their trade nullified or adjusted. SIFMA agrees that the proposal protects investors because it eliminates a more serious uncertainty in the rule's operation today, which is price uncertainty.

This proposal introduces a new process of determining how to deal with a catastrophic error that would result in a customer's limit price being violated. While the obvious and catastrophic error rules of each options exchange are similar, particularly with respect to only adjusting trades that result in a catastrophic error, SIFMA believes investor protection is paramount and such rules should be consistent across trading venues. SIFMA therefore encourages the other options exchanges to adopt similar amendments to their Obvious and Catastrophic Errors Rules, thereby eliminating price uncertainty for retail investors and minimizing excess capital expenditures on trades, given the limited amount of funds most retail investors hold in their accounts.

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[5] *Id.*

[6] *Id.*

For the reasons set forth above, SIFMA strongly agrees with the PHLX's request to modify Rule 1092(f)(ii) to allow for the nullification of customer orders which are deemed by the exchange to be catastrophic. As a result, SIFMA believes it is appropriate that the Commission approve SR-PHLX 2013-05.

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SIFMA greatly appreciates the SEC's consideration of SIFMA's comments in reference to the above. If you have any questions, please do not hesitate to contact me at (212) 313-1287 or egreene@sifma.org.

Respectfully Submitted,

Ellen Greene
Vice President
Financial Services Operations

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