

after receipt of such request, the person or persons making such request may do so.

Sec. 3-11: No change.

Sec. 3-12: No change

Quorum

Sec. 3-13. At all meetings of the Exchange for the transaction of business other than dealings in securities, each member may vote in person or by proxy[; provided that no action shall become effective unless the number of members participating therein exceeds one-half of the number of voting memberships outstanding and any proposed action is approved]. *At any such meeting of the Exchange, the members holding legal title to a majority of the regular memberships entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law, and all matters shall be determined by a majority of the votes cast.* The members present at a duly organized meeting can continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum. If a meeting cannot be organized because of the absence of a quorum, those present may, except as otherwise provided by law, adjourn the meeting to such time and place as they may determine. In the case of any meeting for the election of Governors, those members who attend the second of such adjourned meetings, although less than a quorum as fixed in this Section, shall nevertheless constitute a quorum for the purpose of electing Governors.

Article XII—Membership-Eligibility-Election-Initiation-Fee Membership

Membership

Sec. 12-1.

(a): No Change.

(b) A regular membership confers upon and subjects the holder to all the privileges and obligations of active membership. Only regular members shall be entitled to vote and to conduct business on the exchange facility conducted by the Exchange. *Except as otherwise provided in Article Thirteenth of the Certificate of Incorporation of the Exchange, on each matter submitted to a vote of the membership, [E]each regular member shall be entitled to one vote [on] for each [matter submitted to a vote of the membership] regular membership the legal title of which is registered in the name of such regular member.*

Sec. 12-1 (c)-(f): No change.

Sec. 12-2-12-11: No change.

Article XXII—Amending The By-Laws Amendments to By-Laws

Sec. 22-1. Whenever [seventy-five] members *holding legal title to seventy-five regular memberships* [of the Exchange] shall offer, in writing, any amendment to the By-Laws, it shall be submitted to the Secretary of the Exchange, who shall submit it to the membership for vote thereon by ballot. The vote shall be conducted within four weeks of the date of such submission. The record date for determining members entitle to vote on such amendment shall be set as the date of the submission. Each member of the Exchange in good standing may vote in person or by proxy. If [the number of] members *holding legal title to a majority of the regular memberships entitled to vote thereon* participate[ing] in the balloting [exceeds one-half of the number of memberships then outstanding] and the proposed amendment is approved by the affirmative vote of a majority of the votes cast, it shall thereupon become a part of the By-Laws.

How Proposed

Sec. 22-2. Any amendment to the By-Laws originating in the Board of Governors shall be proposed at a regular or special meeting of the Board. If approved by twelve of the Governors, it shall be announced to the members of the Exchange forthwith by sending copies thereof to each member of the Exchange.

Special meeting

If, within a period of ten days, a written request of *members holding legal title* to not less than seventeen *regular memberships* of the Exchange is filed with the Secretary for a special meeting of the Exchange to consider the amendment, the Chairman of the Board shall call such meeting, at which meeting each member of the Exchange in good standing may vote in person or by proxy. If [the number of] members *holding legal title to a majority of the regular memberships entitled to vote thereon* participate[ing] in the balloting [exceeds one-half of the number of memberships then outstanding,] and the proposed amendment is approved by the affirmative vote of a majority of the votes cast, it shall thereupon become a part of the By-Laws.

Method of adoption

In the absence of such request for a special meeting of the Exchange, the Board of Governors, after the expiration of such period of ten days, may consider

the proposed amendment at any regular or special meeting of the Board, and, if the proposed amendment is adopted by a vote of fifteen members of the Board, it shall thereupon become a part of the By-Laws.

All changes in the By-Laws shall be printed and posted for ten days, and copies thereof shall be sent to each member of the Exchange.

Sec. 22-3: No change.

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

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

1. Purpose

The purpose of the proposed rule change is to make the voting process more fair by entitling each member to cast one vote for each regular membership to which he or she holds legal title. The result of the proposed amendments would be that any one member would be entitled to cast multiple votes if he or she held legal title to more than one regular membership. Today, a regular member is permitted to cast only one vote, regardless of the number of memberships to which he or she holds legal title. This is due to the current language in the By-Laws and the Certificate of Incorporation, as well as the applicable provisions of the Delaware General Corporate Law.

The Exchange believes that the proposed amendment to Article Fifth of the Exchange's Certificate of Incorporation would better enfranchise all legal titleholders with respect to each regular membership to which they hold legal title, thereby allowing them the opportunity to participate fully in Exchange governance with respect to each such regular membership. The Exchange believes that this is a desirable result as the Exchange will allow all legal titleholders to cast ballots