

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ OMX PHLX LLC.
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Regarding a Specialist Allocation Fee

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 action.

First Name * Angela Last Name * Dunn
 Title * Associate General Counsel
 E-mail * angela.dunn@nasdaqomx.com
 Telephone * (215) 496-5692 Fax

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.
(Title *)
Executive Vice President and General Counsel

Date 10/10/2013
By Edward S. Knight
(Name *)

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.

Edward S Knight,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

Add Remove View

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.

Exhibit 1 - Notice of Proposed Rule Change *

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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)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies

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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, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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.

Exhibit 4 - Marked Copies

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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.

Exhibit 5 - Proposed Rule Text

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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.

Partial Amendment

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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

(a) NASDAQ OMX PHLX LLC (“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 assess a Specialist Allocation Fee for certain options classes allocated to a specialist unit.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the applicable portion of the Exchange’s Pricing Schedule is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on July 17, 2013. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, at (215) 496-5692.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes to assess specialist units a “Specialist Allocation Fee” for certain options classes in which they are assigned to further incentivize specialist units to retain awarded allocations via enhanced performance.

Today, the Exchange assesses similar fees to Remote Specialists,³ Streaming Quote Traders⁴ and Remote Streaming Quote Trader Organizations⁵ with respect to assignment in options classes.⁶ The Exchange proposes to similarly assess specialist units a Specialist Allocation Fee in connection with certain options classes. The Exchange proposes to assess specialist units a Specialist Allocation Fee in connection with the allocation of options on certain newly listed initial public offerings where the

³ Rule 1020(a), entitled “Registration and Functions of Options Specialists”, specifically at (a)(ii), defines a Remote Specialist as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501. See Section VI of the Pricing Schedule. The Exchange assesses a Remote Specialist Fee of \$200 per options allocation month, which is capped at \$4,500 per month. This fee is assessed to recoup costs incurred by the Exchange in maintaining a defined physical location or post on the Exchange's trading floor to facilitate interaction amongst market participants located on the Exchange's physical trading floor.

⁴ A Streaming Quote Trader (“SQT”) is defined in Exchange Rule 1014(b)(ii)(A) as an Registered Options Trader who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

⁵ An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a). Pursuant to rule 507(a), as many as three Remote Streaming Quote Traders (“RSQT”) may be affiliated with an RSQTO. An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as an Registered Options Trader that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

⁶ See Section VI, Sections B, C and proposed titled “Section D” of the Pricing Schedule.

demand in that offering has generated significant interest from investors.⁷ To determine the amount of the Specialist Allocation Fee that the Exchange will assess to a specialist unit, the Exchange will request that specialist units submit a bid to the Exchange along with their application for a particular options class.⁸ The qualifying specialist unit that is ultimately allocated the options class based on criteria specified in Exchange Rules would be assessed a Specialist Allocation Fee equal to the amount that specialist unit bid on its application form.

Pursuant to Rule 506, entitled “Allocation Application,” when an options class is to be allocated or reallocated by the Exchange, it will solicit applications from all eligible specialist units. Today, the Exchange issues a solicitation notice which includes any special qualifications that are sought by the Exchange.⁹ With respect to certain options classes, the Exchange intends to solicit interest from specialist units in connection with a particular options class, as is the case today, and also request that the specialist unit submit a bid to the Exchange which reflects the Specialist Allocation Fee the specialist unit is willing to pay in connection with being allocated the particular options class for a

⁷ The Specialist Allocation Fee would not apply to those options classes which are currently listed on the Exchange. The Specialist Allocation Fee will apply solely to options on newly listed initial public offerings identified by the Exchange as subject to the Specialist Allocation Fee. The solicitation notice will provide specialist units notification as to which options on newly listed initial public offerings are subject to the fee.

⁸ This would exclude the allocation of options in related securities. Supplementary Material at .02 in Exchange Rule 506 defines “Related Securities.”

⁹ Rule 506(a) provides that when an options class is to be allocated or reallocated by the Exchange, the Exchange will solicit applications from all eligible specialist units. If the Exchange determines that special qualifications should be sought in the successful applicant, it shall indicate such desired qualifications in the notice.

specified period (“Allocation Period”)¹⁰ if the specialist unit otherwise qualifies for the allocation pursuant to Exchange Rules.¹¹ Applicants will be required to respond to the solicitation notice in writing, as is the case today, and supply the requisite information which would include a bid in the case of options classes where the Exchange has determined to assess a Specialist Allocation Fee.¹²

The Exchange will determine if a specialist unit qualifies for assignment in a particular options class pursuant to Rule 511, which states that “[t]he Exchange is empowered to allocate options classes for a limited period of time or subject to such other terms and conditions as it deems appropriate.” Today, the Exchange utilizes various factors as noted in Rule 511 to allocate new options classes and determine which

¹⁰ Pursuant to Exchange Rule 505, entitled “Allocation, Reallocation and Transfer of Issues,” Exchange members who are also approved Specialists must act in such a capacity with respect to a particular options class for at least one year or such minimum period of time defined by the Exchange not to exceed one year (“Minimum Specialist Period”). The Exchange may re-allocate an options class after the minimum specialist period. A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a). Pursuant to Exchange Rule 501, the Exchange shall approve individuals to act as Specialists on the Exchange.

¹¹ Pursuant to Rule 511, entitled “Specialist Allocation and Performance Evaluation,” specifically (b), the Exchange shall allocate new options classes, approve transfers or reallocate existing options classes to applicants based on the results of such factors as the Exchange deems appropriate, including, but not limited to, Specialist Performance Evaluations or Special Circumstance Evaluations. Among the factors that the Exchange may consider in making such decisions are: the number and type of securities in which applicants are currently registered; the personnel, capital and other resources of the applicant; recent allocation decisions within the past eighteen months; the desirability of encouraging the entry of new specialists into the Exchange's market; order flow commitments; any prior transfers of specialist privileges by the applicant and the reasons therefore and such policies as the Board instructs the Exchange to follow in allocating or reallocating securities. The Exchange may also consider: trade correction data; exemptive relief data; quality of markets data; and observance of ethical standards and administrative responsibilities.

¹² An allocation application shall be submitted in writing to the Exchange's designated staff. See Rule 501.

specialist units are qualified to serve in this capacity. For those options classes which would be subject to a Specialist Allocation Fee, the Exchange would indicate in the solicitation notice that the specialist unit that is allocated the options class would be required to transact a certain volume of transactions in that options class as well as to maintain a certain percentage of total quotes that represent the PBBO¹³ per month in that options class. The Exchange will determine which specialist unit will be allocated the options class based on the same criteria that it utilizes today to allocate options classes. The Exchange does not intend to amend the manner in which it determines which specialist unit will be allocated an options class pursuant to its current Rules. The Exchange will not consider the bid as a factor in determining which specialist unit will be allocated an options class. Only after a determination has been made as to which specialist unit will be assigned an options class will the Exchange allocate the options class to a specialist unit and assess the Specialist Allocation Fee in an amount equal to the bid submitted by that specialist unit. The Exchange desires that specialist units consider the enhanced obligations and Allocation Period before determining the amount that they will bid for a particular options class. The Specialist Allocation Fee would be assessed at the beginning of the Allocation Period. The Specialist Allocation Fee and all submitted bids would remain confidential.

At the end of the Allocation Period, if a specialist unit did not voluntarily resign from the allocation at an earlier date and presuming the specialist unit continues to qualify for the allocation¹⁴ because the specialist unit has met all of the evaluation

¹³ The PBBO is the PHLX Best Bid and/or Offer.

¹⁴ Rule 511(c) provides that the Exchange will at least annually conduct an evaluation of specialist units on the Exchange to determine whether they have fulfilled performance

criteria, including the specific terms of the solicitation notice, with respect to that particular options class the Exchange would allocate that specialist unit that options class for an Allocation Period equal to the initial allocation (“Renewal Period”) at the same Specialist Allocation Fee. The Specialist Allocation Fee would be assessed at the beginning of each Renewal Period.

If the specialist unit resigned the allocation, did not meet the evaluation criteria or specific terms of the solicitation notice or did not desire to renew the allocation, then the Exchange would request a bid in connection with the solicitation for that options class if the Exchange determined to assess a Specialist Allocation Fee. The Exchange would not refund the Specialist Allocation Fee if the specialist unit resigned early or was terminated because the specialist unit did not meet the evaluation criteria or specific terms of the solicitation notice. The options class shall not be subject to transfer or assignment by the specialist unit. The Exchange would note the Allocation Period as well as the inability to transfer or assign the options class on the solicitation notice. The Exchange communicates its allocation decisions in writing to Exchange members,¹⁵ but would not disclose the amount of the Specialist Allocation Fee.

The Exchange proposes to amend Section VI, entitled “Membership” in the Pricing Schedule to add a new Part E, entitled “Specialist Allocation Fee.” The

standards that may include, but are not limited to trade correction data, exemptive relief data, quality of markets data, proper execution of duties as a specialist unit, competition among market makers and in representing the Exchange as a specialist unit, observance of ethical standards, and administrative factors. Rule 511(d) notes that as part of the Specialist Performance Evaluations, the Exchange will conduct Minimum Performance Reviews on at least an annual basis and may conduct such evaluations as often as on a monthly basis regarding whether specialist units meet Minimum Performance Standards.

¹⁵ Pursuant to Rule 506(c), allocation decisions and automatic allocations shall be communicated in writing to Exchange members.

Exchange also proposes to label the Remote Specialist Fee that is currently in Section VI of the Pricing Schedule as Part “D.” The Exchange proposes to add a Part D, entitled “Remote Specialist Fee” and a Part E, entitled “Specialist Allocation Fee” to the Table of Contents at the beginning of the Pricing Schedule under Section VI, for ease of reference.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁶ in general, and with Section 6(b)(4) and 6(b)(5) of the Act,¹⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposal to assess a Specialist Allocation Fee to specialist units that are allocated an options class that is subject to a Specialist Allocation Fee is reasonable because the Exchange desires to incentivize specialist units to compete for allocations and commit to maintaining tighter markets in those options class. Only one specialist unit is assigned to each options class. Specialist units consist of well capitalized member organizations that are subject to various obligations in connection with their activities as the Specialist for a particular options class.¹⁸ These specialist units

¹⁶ 15 U.S.C. 78f.

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

¹⁸ Upon allocation or transfer of an options class, the options class must be registered in either the name of the unit, the individual acting as specialist, or jointly in the name of the unit and the specialist. Specialists must be exchange members and approved as Specialists by the Exchange. Specialists are also subject to capital requirements as specified Rule 15c3-1 under the Act.

are subject to evaluations¹⁹ to determine whether they have fulfilled performance standards that may include, but are not limited to trade correction data, exemptive relief data, quality of markets data, proper execution of duties as a specialist unit, competition among market makers and in representing the Exchange as a specialist unit, observance of ethical standards, and administrative factors. Because the specialist unit will be requested to submit a bid, which if allocated the options class would be assessed by the Exchange as a Specialist Allocation Fee, the Exchange believes that the specialist unit will be further incentivized to transact additional volume in that options class and maintain a tighter market in order to meet the extraordinary obligations for that particular options class.²⁰ Specialist units will be required to achieve the higher performance criteria to retain the options class. As a result of the enhanced criteria, other market participants will benefit from tighter markets and order interaction. The Exchange believes that specialist units will submit competitive bids which take into account the specialist unit's cost structure. Because the bids will remain confidential, the specialist unit will be unaware of other bids or other fees assessed to specialist units in other options allocations that are subject to the Specialist Allocation Fee. The Exchange believes that other market participants will receive a benefit because the process incentivizes specialist units to perform at the higher level to meet the requisite criteria. The Exchange desires to allocate options classes to specialist units that will succeed in maintaining a fair and orderly market.

The Exchange believes that its proposal to assess a Specialist Allocation Fee to specialist units that are allocated an options class that is subject to a Specialist Allocation

¹⁹ See supra note 14.

²⁰ The additional criteria will be specified in the solicitation notice for that options class.

Fee is equitable and not unfairly discriminatory because the Exchange today assesses similar fees to Remote Specialists, SQTs and RSQTOs (collectively “Registered Options Traders”)²¹ with respect to assignment in options classes. The Exchange now proposes to assess a fee related to option class allocations to specialists units that are assigned an options class similar to these other types of ROTs. It is important to note that unlike ROTs, Specialists are entitled to certain enhanced allocations when transacting orders on Phlx.²² In the case of the Specialist Allocation Fee, the Exchange would only assess the fee for certain options on initial public offerings which are highly sought after offerings. Further, once the specialist unit is allocated the options class, the Exchange will assess the Specialist Allocation Fee that the qualified specialist unit bid for that options class. The specialist unit will be required to satisfy the higher performance criteria to maintain the options class. The Exchange believes that all specialist units registered with the Exchange have the ability to compete for options allocation because in order to act as a specialist unit, a member must be well capitalized and have the technological capacity to fulfill the quoting and other obligations attendant to that role. Also, as mentioned, other market participants are assessed fees in connection with allocations today. Additionally, each specialist unit would be assessed the Specialist Allocation Fee which that specialist unit was willing to pay for the allocation. The Exchange’s process of assessing the Specialist Allocation Fee is uniform in that each specialist unit awarded an options class,

²¹ A Registered Options Trader (“ROT”) includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii).

²² See Rule 1014(g). In certain options classes during certain circumstances specified in Rule 1014, a Specialist is entitled to receive an enhanced participation of 30% of the Remainder of the Order (“Enhanced Specialist Participation”).

because they qualified for the allocation, would be subject to a fee equal to the bid they submitted in anticipation of being awarded the particular options class. The Exchange believes the process provides for transparency in that the specialist unit may consider all terms of the solicitation notice, including the Allocation Period and enhanced requirements and submit a bid that factors in their cost structure.

The Exchange's proposal to only assess a Specialist Allocation Fee in connection with certain options allocations is not novel. Today, the NYSE MKT LLC ("NYSE MKT") assesses specialists a fee of \$1,000 per month per premium product for a select list of options classes ("Premium Products Issue List").²³ The Exchange believes that assessing the Specialist Allocation Fee for certain options classes is reasonable because certain options classes are anticipated to attract higher volume and therefore it is more likely that multiple specialist units will seek to apply for an allocation in that options class because the specialist unit believes high potential profit opportunities exist in newly listed public offerings. Some initial public offerings are not as highly sought after and at this time the Exchange does not desire to assess a Specialist Allocation fee for those options classes. The Exchange believes that it is equitable and not unfairly discriminatory to assess the Specialist Allocation Fee on certain options classes because any specialist unit that desires to apply for a certain options class for which the Exchange will assess a Specialist Allocation Fee will be on notice that a fee will apply as indicated in the solicitation notice and be required to provide a bid. In addition, the specialist unit would be subject to enhanced performance requirements and must be willing to commit

²³ The Premium Products Issue List fee applies to SPY, AAPL, IWM, QQQ, BAC, EM, GLD, JPM, XLF and VXX. The fee is capped at \$7,000 per month. See NYSE MKT's Fee Schedule.

to the criteria. The Exchange would provide notice to the specialist units prior to receiving any application and each specialist unit would be subjected to the bidding process.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose an undue burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Today, ROTs and Remote Specialists are assessed fees related to allocations in options classes. The Exchange's proposal to assess specialist units a fee in connection with their allocations in certain options classes lessens the differential that exists today between ROTs and specialists units.

The Exchange will not consider the bid as a factor in determining the specialist unit that will be allocated a particular options class. The Exchange desires that the bid represent the specialist units' willingness to commit their resources to maintaining an orderly market in a particular options class in the event that they are awarded the options class. The bidding process which the Exchange proposes along with the volume and enhanced performance criteria would apply uniformly to all specialist units that are interested in bidding for certain options classes where the Exchange would assess the Specialist Allocation Fee. The specialist unit would only be assessed the fee that it bid for that options class, if the specialist unit were allocated the options class, and would have the opportunity to maintain the allocation in that particular options class provided it was able to consistently maintain the required performance level specified in Exchange Rules and the solicitation notice. Requiring a higher standard for options on certain highly sought after initial public offerings provides a benefit to other market participants

who interact with orders and experience tighter markets and increased order interaction in those options classes.

The Exchange believes the type of competition that this fee seeks to promote does not impose an undue burden on competition; rather it promotes healthy competition among market participants which in turn benefits the market and its participants. Specialist units consist of well capitalized member firms that are subject to various obligations in connection with their activities as the specialist unit for a particular options class. The Exchange proposes to assess the fee in connection with the allocation of options on highly sought after initial public offerings which attract order flow to the market. The Exchange believes that requiring specialist units desiring these types of allocations to commit to volume and performance standards will promote competition. Specialist units desiring assignment in the particular options class would need to consider the additional obligations which will be required of them in acting as the specialist unit for that options class prior to responding to the solicitation notice. Furthermore, the specialist unit will need to consider the bid it desires to submit to obtain the allocation and the cost it will incur during the Allocation Period. The Exchange believes that the Specialist Allocation Fee will cause specialist units to consider their ability to perform the enhanced criteria and ability to maintain the options allocation prior to investing in the options class. The Exchange anticipates receiving competitive bids from qualified specialist units that are committed to maintaining the requisite performance requirements and investing their technology and capital into facilitating the trading of the particular options class and subsequently benefiting the market. The process should attract qualified specialist units willing to invest their efforts into facilitating trading in these

particular options classes.

The Exchange operates in a highly competitive market, comprised of twelve options exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, the fees that are assessed by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁴ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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.

²⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

5. Applicable portion of the Pricing Schedule.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2013-103)

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding a Specialist Allocation Fee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 10, 2013, NASDAQ OMX PHLX LLC (“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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to assess a Specialist Allocation Fee for certain options classes allocated to a specialist unit.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqomxphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange proposes to assess specialist units a “Specialist Allocation Fee” for certain options classes in which they are assigned to further incentivize specialist units to retain awarded allocations via enhanced performance.

Today, the Exchange assesses similar fees to Remote Specialists,³ Streaming Quote Traders⁴ and Remote Streaming Quote Trader Organizations⁵ with respect to assignment in options classes.⁶ The Exchange proposes to similarly assess specialist

³ Rule 1020(a), entitled “Registration and Functions of Options Specialists”, specifically at (a)(ii), defines a Remote Specialist as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501. See Section VI of the Pricing Schedule. The Exchange assesses a Remote Specialist Fee of \$200 per options allocation month, which is capped at \$4,500 per month. This fee is assessed to recoup costs incurred by the Exchange in maintaining a defined physical location or post on the Exchange's trading floor to facilitate interaction amongst market participants located on the Exchange's physical trading floor.

⁴ A Streaming Quote Trader (“SQT”) is defined in Exchange Rule 1014(b)(ii)(A) as an Registered Options Trader who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

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⁶ See Section VI, Sections B, C and proposed titled “Section D” of the Pricing Schedule.

units a Specialist Allocation Fee in connection with certain options classes. The Exchange proposes to assess specialist units a Specialist Allocation Fee in connection with the allocation of options on certain newly listed initial public offerings where the demand in that offering has generated significant interest from investors.⁷ To determine the amount of the Specialist Allocation Fee that the Exchange will assess to a specialist unit, the Exchange will request that specialist units submit a bid to the Exchange along with their application for a particular options class.⁸ The qualifying specialist unit that is ultimately allocated the options class based on criteria specified in Exchange Rules would be assessed a Specialist Allocation Fee equal to the amount that specialist unit bid on its application form.

Pursuant to Rule 506, entitled “Allocation Application,” when an options class is to be allocated or reallocated by the Exchange, it will solicit applications from all eligible specialist units. Today, the Exchange issues a solicitation notice which includes any special qualifications that are sought by the Exchange.⁹ With respect to certain options classes, the Exchange intends to solicit interest from specialist units in connection with a particular options class, as is the case today, and also request that the specialist unit

⁷ The Specialist Allocation Fee would not apply to those options classes which are currently listed on the Exchange. The Specialist Allocation Fee will apply solely to options on newly listed initial public offerings identified by the Exchange as subject to the Specialist Allocation Fee. The solicitation notice will provide specialist units notification as to which options on newly listed initial public offerings are subject to the fee.

⁸ This would exclude the allocation of options in related securities. Supplementary Material at .02 in Exchange Rule 506 defines “Related Securities.”

⁹ Rule 506(a) provides that when an options class is to be allocated or reallocated by the Exchange, the Exchange will solicit applications from all eligible specialist units. If the Exchange determines that special qualifications should be sought in the successful applicant, it shall indicate such desired qualifications in the notice.

submit a bid to the Exchange which reflects the Specialist Allocation Fee the specialist unit is willing to pay in connection with being allocated the particular options class for a specified period (“Allocation Period”)¹⁰ if the specialist unit otherwise qualifies for the allocation pursuant to Exchange Rules.¹¹ Applicants will be required to respond to the solicitation notice in writing, as is the case today, and supply the requisite information which would include a bid in the case of options classes where the Exchange has determined to assess a Specialist Allocation Fee.¹²

The Exchange will determine if a specialist unit qualifies for assignment in a particular options class pursuant to Rule 511, which states that “[t]he Exchange is empowered to allocate options classes for a limited period of time or subject to such other

¹⁰ Pursuant to Exchange Rule 505, entitled “Allocation, Reallocation and Transfer of Issues,” Exchange members who are also approved Specialists must act in such a capacity with respect to a particular options class for at least one year or such minimum period of time defined by the Exchange not to exceed one year (“Minimum Specialist Period”). The Exchange may re-allocate an options class after the minimum specialist period. A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a). Pursuant to Exchange Rule 501, the Exchange shall approve individuals to act as Specialists on the Exchange.

¹¹ Pursuant to Rule 511, entitled “Specialist Allocation and Performance Evaluation,” specifically (b), the Exchange shall allocate new options classes, approve transfers or reallocate existing options classes to applicants based on the results of such factors as the Exchange deems appropriate, including, but not limited to, Specialist Performance Evaluations or Special Circumstance Evaluations. Among the factors that the Exchange may consider in making such decisions are: the number and type of securities in which applicants are currently registered; the personnel, capital and other resources of the applicant; recent allocation decisions within the past eighteen months; the desirability of encouraging the entry of new specialists into the Exchange's market; order flow commitments; any prior transfers of specialist privileges by the applicant and the reasons therefore and such policies as the Board instructs the Exchange to follow in allocating or reallocating securities. The Exchange may also consider: trade correction data; exemptive relief data; quality of markets data; and observance of ethical standards and administrative responsibilities.

¹² An allocation application shall be submitted in writing to the Exchange's designated staff. See Rule 501.

terms and conditions as it deems appropriate.” Today, the Exchange utilizes various factors as noted in Rule 511 to allocate new options classes and determine which specialist units are qualified to serve in this capacity. For those options classes which would be subject to a Specialist Allocation Fee, the Exchange would indicate in the solicitation notice that the specialist unit that is allocated the options class would be required to transact a certain volume of transactions in that options class as well as to maintain a certain percentage of total quotes that represent the PBBO¹³ per month in that options class. The Exchange will determine which specialist unit will be allocated the options class based on the same criteria that it utilizes today to allocate options classes. The Exchange does not intend to amend the manner in which it determines which specialist unit will be allocated an options class pursuant to its current Rules. The Exchange will not consider the bid as a factor in determining which specialist unit will be allocated an options class. Only after a determination has been made as to which specialist unit will be assigned an options class will the Exchange allocate the options class to a specialist unit and assess the Specialist Allocation Fee in an amount equal to the bid submitted by that specialist unit. The Exchange desires that specialist units consider the enhanced obligations and Allocation Period before determining the amount that they will bid for a particular options class. The Specialist Allocation Fee would be assessed at the beginning of the Allocation Period. The Specialist Allocation Fee and all submitted bids would remain confidential.

At the end of the Allocation Period, if a specialist unit did not voluntarily resign from the allocation at an earlier date and presuming the specialist unit continues to

¹³ The PBBO is the PHLX Best Bid and/or Offer.

qualify for the allocation¹⁴ because the specialist unit has met all of the evaluation criteria, including the specific terms of the solicitation notice, with respect to that particular options class the Exchange would allocate that specialist unit that options class for an Allocation Period equal to the initial allocation (“Renewal Period”) at the same Specialist Allocation Fee. The Specialist Allocation Fee would be assessed at the beginning of each Renewal Period.

If the specialist unit resigned the allocation, did not meet the evaluation criteria or specific terms of the solicitation notice or did not desire to renew the allocation, then the Exchange would request a bid in connection with the solicitation for that options class if the Exchange determined to assess a Specialist Allocation Fee. The Exchange would not refund the Specialist Allocation Fee if the specialist unit resigned early or was terminated because the specialist unit did not meet the evaluation criteria or specific terms of the solicitation notice. The options class shall not be subject to transfer or assignment by the specialist unit. The Exchange would note the Allocation Period as well as the inability to transfer or assign the options class on the solicitation notice. The Exchange

¹⁴ Rule 511(c) provides that the Exchange will at least annually conduct an evaluation of specialist units on the Exchange to determine whether they have fulfilled performance standards that may include, but are not limited to trade correction data, exemptive relief data, quality of markets data, proper execution of duties as a specialist unit, competition among market makers and in representing the Exchange as a specialist unit, observance of ethical standards, and administrative factors. Rule 511(d) notes that as part of the Specialist Performance Evaluations, the Exchange will conduct Minimum Performance Reviews on at least an annual basis and may conduct such evaluations as often as on a monthly basis regarding whether specialist units meet Minimum Performance Standards.

communicates its allocation decisions in writing to Exchange members,¹⁵ but would not disclose the amount of the Specialist Allocation Fee.

The Exchange proposes to amend Section VI, entitled “Membership” in the Pricing Schedule to add a new Part E, entitled “Specialist Allocation Fee.” The Exchange also proposes to label the Remote Specialist Fee that is currently in Section VI of the Pricing Schedule as Part “D.” The Exchange proposes to add a Part D, entitled “Remote Specialist Fee” and a Part E, entitled “Specialist Allocation Fee” to the Table of Contents at the beginning of the Pricing Schedule under Section VI, for ease of reference.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁶ in general, and with Section 6(b)(4) and 6(b)(5) of the Act,¹⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposal to assess a Specialist Allocation Fee to specialist units that are allocated an options class that is subject to a Specialist Allocation Fee is reasonable because the Exchange desires to incentivize specialist units to compete for allocations and commit to maintaining tighter markets in those options class. Only one specialist unit is assigned to each options class. Specialist units consist of well

¹⁵ Pursuant to Rule 506(c), allocation decisions and automatic allocations shall be communicated in writing to Exchange members.

¹⁶ 15 U.S.C. 78f.

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

capitalized member organizations that are subject to various obligations in connection with their activities as the Specialist for a particular options class.¹⁸ These specialist units are subject to evaluations¹⁹ to determine whether they have fulfilled performance standards that may include, but are not limited to trade correction data, exemptive relief data, quality of markets data, proper execution of duties as a specialist unit, competition among market makers and in representing the Exchange as a specialist unit, observance of ethical standards, and administrative factors. Because the specialist unit will be requested to submit a bid, which if allocated the options class would be assessed by the Exchange as a Specialist Allocation Fee, the Exchange believes that the specialist unit will be further incentivized to transact additional volume in that options class and maintain a tighter market in order to meet the extraordinary obligations for that particular options class.²⁰ Specialist units will be required to achieve the higher performance criteria to retain the options class. As a result of the enhanced criteria, other market participants will benefit from tighter markets and order interaction. The Exchange believes that specialist units will submit competitive bids which take into account the specialist unit's cost structure. Because the bids will remain confidential, the specialist unit will be unaware of other bids or other fees assessed to specialist units in other options allocations that are subject to the Specialist Allocation Fee. The Exchange believes that other market participants will receive a benefit because the process

¹⁸ Upon allocation or transfer of an options class, the options class must be registered in either the name of the unit, the individual acting as specialist, or jointly in the name of the unit and the specialist. Specialists must be exchange members and approved as Specialists by the Exchange. Specialists are also subject to capital requirements as specified Rule 15c3-1 under the Act.

¹⁹ See supra note 14.

²⁰ The additional criteria will be specified in the solicitation notice for that options class.

incentivizes specialist units to perform at the higher level to meet the requisite criteria. The Exchange desires to allocate options classes to specialist units that will succeed in maintaining a fair and orderly market.

The Exchange believes that its proposal to assess a Specialist Allocation Fee to specialist units that are allocated an options class that is subject to a Specialist Allocation Fee is equitable and not unfairly discriminatory because the Exchange today assesses similar fees to Remote Specialists, SQTs and RSQTOs (collectively “Registered Options Traders”)²¹ with respect to assignment in options classes. The Exchange now proposes to assess a fee related to option class allocations to specialists units that are assigned an options class similar to these other types of ROTs. It is important to note that unlike ROTs, Specialists are entitled to certain enhanced allocations when transacting orders on Phlx.²² In the case of the Specialist Allocation Fee, the Exchange would only assess the fee for certain options on initial public offerings which are highly sought after offerings. Further, once the specialist unit is allocated the options class, the Exchange will assess the Specialist Allocation Fee that the qualified specialist unit bid for that options class. The specialist unit will be required to satisfy the higher performance criteria to maintain the options class. The Exchange believes that all specialist units registered with the Exchange have the ability to compete for options allocation because in order to act as a specialist unit, a member must be well capitalized and have the technological capacity to

²¹ A Registered Options Trader (“ROT”) includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii).

²² See Rule 1014(g). In certain options classes during certain circumstances specified in Rule 1014, a Specialist is entitled to receive an enhanced participation of 30% of the Remainder of the Order (“Enhanced Specialist Participation”).

fulfill the quoting and other obligations attendant to that role. Also, as mentioned, other market participants are assessed fees in connection with allocations today. Additionally, each specialist unit would be assessed the Specialist Allocation Fee which that specialist unit was willing to pay for the allocation. The Exchange's process of assessing the Specialist Allocation Fee is uniform in that each specialist unit awarded an options class, because they qualified for the allocation, would be subject to a fee equal to the bid they submitted in anticipation of being awarded the particular options class. The Exchange believes the process provides for transparency in that the specialist unit may consider all terms of the solicitation notice, including the Allocation Period and enhanced requirements and submit a bid that factors in their cost structure.

The Exchange's proposal to only assess a Specialist Allocation Fee in connection with certain options allocations is not novel. Today, the NYSE MKT LLC ("NYSE MKT") assesses specialists a fee of \$1,000 per month per premium product for a select list of options classes ("Premium Products Issue List").²³ The Exchange believes that assessing the Specialist Allocation Fee for certain options classes is reasonable because certain options classes are anticipated to attract higher volume and therefore it is more likely that multiple specialist units will seek to apply for an allocation in that options class because the specialist unit believes high potential profit opportunities exist in newly listed public offerings. Some initial public offerings are not as highly sought after and at this time the Exchange does not desire to assess a Specialist Allocation fee for those options classes. The Exchange believes that it is equitable and not unfairly

²³ The Premium Products Issue List fee applies to SPY, AAPL, IWM, QQQ, BAC, EM, GLD, JPM, XLF and VXX. The fee is capped at \$7,000 per month. See NYSE MKT's Fee Schedule.

discriminatory to assess the Specialist Allocation Fee on certain options classes because any specialist unit that desires to apply for a certain options class for which the Exchange will assess a Specialist Allocation Fee will be on notice that a fee will apply as indicated in the solicitation notice and be required to provide a bid. In addition, the specialist unit would be subject to enhanced performance requirements and must be willing to commit to the criteria. The Exchange would provide notice to the specialist units prior to receiving any application and each specialist unit would be subjected to the bidding process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose an undue burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Today, ROTs and Remote Specialists are assessed fees related to allocations in options classes. The Exchange's proposal to assess specialist units a fee in connection with their allocations in certain options classes lessens the differential that exists today between ROTs and specialists units.

The Exchange will not consider the bid as a factor in determining the specialist unit that will be allocated a particular options class. The Exchange desires that the bid represent the specialist units' willingness to commit their resources to maintaining an orderly market in a particular options class in the event that they are awarded the options class. The bidding process which the Exchange proposes along with the volume and enhanced performance criteria would apply uniformly to all specialist units that are interested in bidding for certain options classes where the Exchange would assess the Specialist Allocation Fee. The specialist unit would only be assessed the fee that it bid

for that options class, if the specialist unit were allocated the options class, and would have the opportunity to maintain the allocation in that particular options class provided it was able to consistently maintain the required performance level specified in Exchange Rules and the solicitation notice. Requiring a higher standard for options on certain highly sought after initial public offerings provides a benefit to other market participants who interact with orders and experience tighter markets and increased order interaction in those options classes.

The Exchange believes the type of competition that this fee seeks to promote does not impose an undue burden on competition; rather it promotes healthy competition among market participants which in turn benefits the market and its participants. Specialist units consist of well capitalized member firms that are subject to various obligations in connection with their activities as the specialist unit for a particular options class. The Exchange proposes to assess the fee in connection with the allocation of options on highly sought after initial public offerings which attract order flow to the market. The Exchange believes that requiring specialist units desiring these types of allocations to commit to volume and performance standards will promote competition. Specialist units desiring assignment in the particular options class would need to consider the additional obligations which will be required of them in acting as the specialist unit for that options class prior to responding to the solicitation notice. Furthermore, the specialist unit will need to consider the bid it desires to submit to obtain the allocation and the cost it will incur during the Allocation Period. The Exchange believes that the Specialist Allocation Fee will cause specialist units to consider their ability to perform the enhanced criteria and ability to maintain the options allocation prior to investing in

the options class. The Exchange anticipates receiving competitive bids from qualified specialist units that are committed to maintaining the requisite performance requirements and investing their technology and capital into facilitating the trading of the particular options class and subsequently benefiting the market. The process should attract qualified specialist units willing to invest their efforts into facilitating trading in these particular options classes.

The Exchange operates in a highly competitive market, comprised of twelve options exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, the fees that are assessed by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁴ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public

²⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

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-2013-103 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2013-103. 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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-2013-103 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Kevin M. O'Neill
Deputy Secretary

²⁵ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

* * * * *

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* * * * *

VI. MEMBERSHIP FEES

* * * * *

D. Remote Specialist Fee²⁴

\$200 per option allocation per
month

²⁴The Remote Specialist Fee will be capped at
\$4,500 per month.

E. Specialist Allocation Fee

The Exchange shall assess specialist units allocated certain options on newly listed initial public offerings a Specialist Allocation Fee in an amount equal to the bid the specialist unit submitted in connection with the particular options class.

* * * * *