

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 *).
 Amending Sections I and II of the Pricing Schedule

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 *)
 Date 03/15/2013 Executive Vice President and General Counsel
 By Edward S. Knight 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.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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 amend the Exchange’s Pricing Schedule at Section I entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols,”³ and Section II entitled “Multiply Listed Options Fees.”⁴

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on April 1, 2013.

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 10, 2012. Exchange staff will advise the Board of Directors of any action taken pursuant to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The rebates and fees in Section I apply to certain Select Symbols which are listed in Section I of the Pricing Schedule. The Select Symbols are listed in Section I of the Pricing Schedule.

⁴ The pricing in Section II includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

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.

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 increase certain Simple Order Fees for Removing Liquidity and Firm Options Transaction Charges in Penny and Non-Penny Pilot Options. Despite the increase to these fees, the Exchange believes that the fees remain competitive with fees assessed by other options exchanges. The Exchange is also proposing to waive the Firm Options Transaction Charge for the buy side of a transaction if the same member is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account in order to incentivize Firms to add and remove liquidity in the market.

Section I Amendments

The Exchange proposes to amend the Simple Order fees in Section I, Part A of the Pricing Schedule which apply to Select Symbols. Currently, the Exchange pays the following Simple Order Fees for Removing Liquidity: Customer \$0.00 per contract and a Specialist,⁵ Market Maker,⁶ Firm, Broker-Dealer and Professional⁷ \$0.44 per contract.

⁵ A "Specialist" is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

⁶ A "Market Maker" includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (see Rule 1014(b)(ii)(A)) and Remote

The Exchange proposes to amend the Simple Order Fees for Adding Liquidity by increasing Specialist, Market Maker, Firm, Broker-Dealer and Professional fees from \$0.44 to \$0.45 per contract. The Exchange proposes to continue to assess Customers no Fee for Removing Liquidity in Simple Orders.

Section II Amendments

The Exchange proposes to increase the Firm electronic Options Transaction Charge in Penny Pilot Options from \$0.44 to \$0.45 per contract. The Exchange also proposes to amend the Firm electronic Options Transaction Charge in Non-Penny Pilot Options from \$0.45 to \$0.50 per contract.

The Exchange proposes to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the Firm represents both sides of a Firm transaction when such members or its affiliates under Common Ownership⁸ are trading in their own proprietary account.⁹ The Firm Floor Options Transaction Charges in Penny Pilot and Non-Penny Options are \$0.25 per contract. The Exchange also proposes to relocate another Firm Options Transaction Charges waiver for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges) to a new

Streaming Quote Traders (see Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

⁷ The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

⁸ Common Ownership is defined as members or member organizations under 75% common ownership or control. See Preface to the Exchange’s Pricing Schedule.

⁹ This waiver does not apply to electronic transactions.

bullet on the Pricing Schedule and amend that text to clarify that the waiver applies to Floor Options Transaction Charges, which the Exchange proposes to capitalize for consistency. The Exchange also proposes to capitalize the terms “Floor” and “Options Transaction Charge” in Section II.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(4) of the Act¹¹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that increasing the Simple Order Fees For Removing Liquidity in Select Symbols from \$0.44 to \$0.45 per contract is reasonable because the fees will continue to remain competitive with fees assessed by other options exchanges.¹² The Exchange believes that increasing the Simple Order Fees For Removing Liquidity in Select Symbols from \$0.44 to \$0.45 per contract is equitable and not unfairly discriminatory because the Exchange would assess all market participants, except Customers, a \$0.45 per contract Simple Order Fee for Removing Liquidity in Select Symbols. The Exchange proposes to assess no Simple Order Fee for Removing Liquidity to Customers because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² NYSE Arca, Inc. assesses Customers, Firms, Broker-Dealers, Lead Market Maker and NYSE Arca Market Makers a \$ 045 take fee for electronic executions in Penny Pilot Issues. See NYSE Arca, Inc.'s Fee Schedule.

The Exchange believes that increasing the Firm Options Transaction Charge in Penny Pilot Options from \$0.44 to \$0.45 per contract reasonable because this fee is within the range of other fees in Section II of the Pricing Schedule. The Exchange currently assesses an electronic Broker-Dealer Firm Options Transaction Charge in Penny Pilot Options of \$0.45 per contract. The Exchange believes that increasing the Firm Options Transaction Charge in Non-Penny Pilot Options from \$0.45 to \$0.50 per contract is reasonable because this fee is within the range of other fees in Section II of the Pricing Schedule. The Exchange currently assesses an electronic Broker-Dealer Firm Options Transaction Charge in Penny Pilot Options of \$0.60 per contract. The Exchange generally assesses lower fees for Penny Pilot Options as compared to non-Penny Pilot Option because those securities are among the most actively traded and liquid options. This is the case today for Specialist, Market Maker and Broker-Dealer Fees.¹³

The Exchange believes that increasing the Firm Options Transaction Charge in Penny Pilot Options from \$0.44 to \$0.45 per contract and increasing the Firm Options Transaction Charge in Non-Penny Pilot Options from \$0.45 to \$0.50 per contract is equitable and not unfairly discriminatory for the reasons which follow. Firms will continue to be assessed a higher fee than a Customer who pays no fee to transact electronic Penny Pilot or Non-Penny Pilot Options. Customer order flow brings unique benefits to the market which benefits all market participants through increased liquidity. Firms will continue to be assessed higher fees than Specialists and Market Makers in

¹³ The Exchange assesses Specialists and Market Makers an electronic Options Transaction Charge in Penny Pilot Options of \$0.22 per contract and an electronic Options Transaction Charge in non-Penny Pilot Options of \$0.23 per contract. The Exchange assesses Broker-Dealers an electronic Options Transaction Charge in Penny Pilot Options of \$0.45 per contract and an electronic Options Transaction Charge in non-Penny Pilot Options of \$0.60 per contract.

electronic Penny Pilot Options¹⁴ and Non-Penny Pilot Options¹⁵ because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants. They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The proposed differentiation as between Customers, Specialists and Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants, as well as the differing mix of orders entered. Broker-Dealers and Firms today pay higher fees as compared to a Professional for electronic Penny Pilot Options¹⁶ and Non-Penny Pilot¹⁷ transactions and this would not change. Professionals have access to more information and technological advantages as compared to Customers and Professionals do not bear the obligations of Specialists or Market Makers. Also, Professionals engage in trading activity similar to that conducted by Specialists or Market Makers. For example, Professionals continue to join bids and offers on the Exchange and thus compete for incoming order flow. For these reasons, the Exchange believes that Professionals may be priced higher than a Customer and may be

¹⁴ Specialists and Market Makers are assessed Floor Penny Pilot Options Transaction Charges of \$0.22 per contract and Floor Non-Penny Pilot Options Transaction Charges of \$0.23 per contract.

¹⁵ Specialists and Market Makers are assessed electronic Non-Penny Pilot Options Transaction Charges of \$0.23 per contract.

¹⁶ Professionals are assessed electronic Penny Pilot Options Transaction Charges of \$0.30 per contract.

¹⁷ Professionals are assessed electronic Non-Penny Pilot Options Transaction Charges of \$0.30 per contract.

priced equal to or higher than a Specialist or Market Maker. Finally, the Firm will be assessed fees which are equal to or lower than a Broker-Dealer. The Exchange believes that increasing the Firm electronic Penny Pilot and Non-Penny Options Transaction Charges does not misalign the current rate differentials between a Broker-Dealer and a Firm because the Exchange is eliminating the differential in electronic Penny Pilot Options and narrowing the differential from \$0.15 to \$0.10 per contract in electronic Non-Penny Pilot Options.

The Exchange believes that assessing higher electronic Firm Options Transaction Charges in both Penny Pilot (\$0.45 per contract) and non-Penny Pilot Options (\$0.50 per contract) as compared to a Firm Floor Options Transaction Charge in both Penny Pilot and non-Penny Pilot Options of \$0.25 per contract is reasonable, equitable and not unfairly discriminatory because these fees recognize the distinction between the floor order entry model and the electronic model and the proposed fees respond to competition along the same lines.¹⁸ Floor participants incur costs associated with accessing the floor, i.e. need for a floor broker, and other costs which are not born by electronic members. Today, the Exchange assesses different fees for electronic as compared to floor transactions for Professionals, Specialists and Market Makers, Broker-Dealers and Firms in Section II of the Pricing Schedule.

The Exchange believes that its proposal to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the same member or its affiliates

¹⁸ A transaction resulting from an order that was electronically delivered utilizes Phlx XL. See Exchange Rules 1014 and 1080. Electronically delivered orders do not include orders transacted on the Exchange floor. A transaction resulting from an order that is non-electronically-delivered is represented on the trading floor by a floor broker. See Exchange Rule 1063. All orders will be either electronically or non-electronically delivered.

under Common Ownership is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account is reasonable because the Exchange is proposing to not assess fees to both sides of that transaction in the instance where a Firm is moving positions within the Firm and is both the buyer and the seller. For example, a Firm on the Exchange's trading floor may determine to move positions within the Firm and today the transaction results in an Options Transaction Charge to both sides of the trade. The Exchange believes as long as the Firm is the buyer and seller for a trade in the Firm's proprietary account, it is reasonable to apply only one Options Transaction Charge.

The Exchange believes its proposal to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the same member or its affiliate under Common Ownership is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account is equitable and not unfairly discriminatory because the Exchange intends to apply the waiver uniformly to all Firms that trade in this manner in their proprietary account, even if certain members and chose to operate under separate entities.

The Exchange believes that the amendment to relocate the sentence referencing the waiver of the Firm Options Transaction Charges for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges) to a new bullet on the Pricing Schedule, amending the rule text to clarify that the waiver applies to **Floor** Options Transaction Charges, and capitalizing the words "Options Transaction Charges" are reasonable, equitable and not unfairly discriminatory. The Exchange is not

proposing to amend the application of the waiver, but believes that grouping the Firm waivers separately in a new bullet on the Pricing Schedule, capitalizing terms for consistency in Section II and clarifying that the waiver is a floor waiver will prevent confusion among market participants.

4. 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. The Exchange operates in a highly competitive market, comprised of eleven 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 or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid 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.

The Exchange believes that increasing the Simple Order Fees for Removing Liquidity in Select Symbols and Firm Options Transaction Charges in Penny and Non-Penny Pilot Options does not impose a burden on competition. The fees proposed herein are consistent with fees on other options exchanges and other fees assessed by Phlx.¹⁹ In addition, the Exchange believes that the increase to the Simple Order Fees for Removing Liquidity will impose the same fees on all members, except Customers. Customer order flow brings liquidity to the market and benefits all market participants.

¹⁹ See NYSE Arca, Inc.'s Fee Schedule and Section II of the Phlx Pricing Schedule.

With respect to the increase to the Firm Fees, the Exchange believes that those fee increases do not misalign the current rate differentials as between market participants, but serve to narrow or eliminate in the case of Firm Penny Pilot Options the fee differential. In addition, the Exchange is offering Firms an opportunity to eliminate Options Transaction Charges by encouraging Firms to take liquidity. The Exchange believes that the proposed rule change will continue to promote competition on the Exchange.

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,²⁰ 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.

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

Not applicable.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

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 Exchange's Pricing Schedule.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2013-31)

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend Sections I and II of the Pricing Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 15, 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 amend the Exchange’s Pricing Schedule at Section I entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols,”³ and Section II entitled “Multiply Listed Options Fees.”⁴

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on April 1, 2013.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The rebates and fees in Section I apply to certain Select Symbols which are listed in Section I of the Pricing Schedule. The Select Symbols are listed in Section I of the Pricing Schedule.

⁴ The pricing in Section II includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

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 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 increase certain Simple Order Fees for Removing Liquidity and Firm Options Transaction Charges in Penny and Non-Penny Pilot Options. Despite the increase to these fees, the Exchange believes that the fees remain competitive with fees assessed by other options exchanges. The Exchange is also proposing to waive the Firm Options Transaction Charge for the buy side of a transaction if the same member is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account in order to incentivize Firms to add and remove liquidity in the market.

Section I Amendments

The Exchange proposes to amend the Simple Order fees in Section I, Part A of the Pricing Schedule which apply to Select Symbols. Currently, the Exchange pays the

following Simple Order Fees for Removing Liquidity: Customer \$0.00 per contract and a Specialist,⁵ Market Maker,⁶ Firm, Broker-Dealer and Professional⁷ \$0.44 per contract. The Exchange proposes to amend the Simple Order Fees for Adding Liquidity by increasing Specialist, Market Maker, Firm, Broker-Dealer and Professional fees from \$0.44 to \$0.45 per contract. The Exchange proposes to continue to assess Customers no Fee for Removing Liquidity in Simple Orders.

Section II Amendments

The Exchange proposes to increase the Firm electronic Options Transaction Charge in Penny Pilot Options from \$0.44 to \$0.45 per contract. The Exchange also proposes to amend the Firm electronic Options Transaction Charge in Non-Penny Pilot Options from \$0.45 to \$0.50 per contract.

The Exchange proposes to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the Firm represents both sides of a Firm transaction when such members or its affiliates under Common Ownership⁸ are trading in their own

⁵ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

⁶ A “Market Maker” includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (see Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (see Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

⁷ The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

⁸ Common Ownership is defined as members or member organizations under 75% common ownership or control. See Preface to the Exchange’s Pricing Schedule.

proprietary account.⁹ The Firm Floor Options Transaction Charges in Penny Pilot and Non-Penny Options are \$0.25 per contract. The Exchange also proposes to relocate another Firm Options Transaction Charges waiver for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges) to a new bullet on the Pricing Schedule and amend that text to clarify that the waiver applies to Floor Options Transaction Charges, which the Exchange proposes to capitalize for consistency. The Exchange also proposes to capitalize the terms “Floor” and “Options Transaction Charge” in Section II.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(4) of the Act¹¹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that increasing the Simple Order Fees For Removing Liquidity in Select Symbols from \$0.44 to \$0.45 per contract is reasonable because the fees will continue to remain competitive with fees assessed by other options exchanges.¹²

The Exchange believes that increasing the Simple Order Fees For Removing Liquidity in

⁹ This waiver does not apply to electronic transactions.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² NYSE Arca, Inc. assesses Customers, Firms, Broker-Dealers, Lead Market Maker and NYSE Arca Market Makers a \$0.45 take fee for electronic executions in Penny Pilot Issues. See NYSE Arca, Inc.'s Fee Schedule.

Select Symbols from \$0.44 to \$0.45 per contract is equitable and not unfairly discriminatory because the Exchange would assess all market participants, except Customers, a \$0.45 per contract Simple Order Fee for Removing Liquidity in Select Symbols. The Exchange proposes to assess no Simple Order Fee for Removing Liquidity to Customers because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants.

The Exchange believes that increasing the Firm Options Transaction Charge in Penny Pilot Options from \$0.44 to \$0.45 per contract reasonable because this fee is within the range of other fees in Section II of the Pricing Schedule. The Exchange currently assesses an electronic Broker-Dealer Firm Options Transaction Charge in Penny Pilot Options of \$0.45 per contract. The Exchange believes that increasing the Firm Options Transaction Charge in Non-Penny Pilot Options from \$0.45 to \$0.50 per contract is reasonable because this fee is within the range of other fees in Section II of the Pricing Schedule. The Exchange currently assesses an electronic Broker-Dealer Firm Options Transaction Charge in Penny Pilot Options of \$0.60 per contract. The Exchange generally assesses lower fees for Penny Pilot Options as compared to non-Penny Pilot Option because those securities are among the most actively traded and liquid options. This is the case today for Specialist, Market Maker and Broker-Dealer Fees.¹³

The Exchange believes that increasing the Firm Options Transaction Charge in Penny Pilot Options from \$0.44 to \$0.45 per contract and increasing the Firm Options

¹³ The Exchange assesses Specialists and Market Makers an electronic Options Transaction Charge in Penny Pilot Options of \$0.22 per contract and an electronic Options Transaction Charge in non-Penny Pilot Options of \$0.23 per contract. The Exchange assesses Broker-Dealers an electronic Options Transaction Charge in Penny Pilot Options of \$0.45 per contract and an electronic Options Transaction Charge in non-Penny Pilot Options of \$0.60 per contract.

Transaction Charge in Non-Penny Pilot Options from \$0.45 to \$0.50 per contract is equitable and not unfairly discriminatory for the reasons which follow. Firms will continue to be assessed a higher fee than a Customer who pays no fee to transact electronic Penny Pilot or Non-Penny Pilot Options. Customer order flow brings unique benefits to the market which benefits all market participants through increased liquidity. Firms will continue to be assessed higher fees than Specialists and Market Makers in electronic Penny Pilot Options¹⁴ and Non-Penny Pilot Options¹⁵ because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants. They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The proposed differentiation as between Customers, Specialists and Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants, as well as the differing mix of orders entered. Broker-Dealers and Firms today pay higher fees as compared to a Professional for electronic Penny Pilot Options¹⁶ and Non-Penny Pilot¹⁷ transactions and this would not

¹⁴ Specialists and Market Makers are assessed Floor Penny Pilot Options Transaction Charges of \$0.22 per contract and Floor Non-Penny Pilot Options Transaction Charges of \$0.23 per contract.

¹⁵ Specialists and Market Makers are assessed electronic Non-Penny Pilot Options Transaction Charges of \$0.23 per contract.

¹⁶ Professionals are assessed electronic Penny Pilot Options Transaction Charges of \$0.30 per contract.

change. Professionals have access to more information and technological advantages as compared to Customers and Professionals do not bear the obligations of Specialists or Market Makers. Also, Professionals engage in trading activity similar to that conducted by Specialists or Market Makers. For example, Professionals continue to join bids and offers on the Exchange and thus compete for incoming order flow. For these reasons, the Exchange believes that Professionals may be priced higher than a Customer and may be priced equal to or higher than a Specialist or Market Maker. Finally, the Firm will be assessed fees which are equal to or lower than a Broker-Dealer. The Exchange believes that increasing the Firm electronic Penny Pilot and Non-Penny Options Transaction Charges does not misalign the current rate differentials between a Broker-Dealer and a Firm because the Exchange is eliminating the differential in electronic Penny Pilot Options and narrowing the differential from \$0.15 to \$0.10 per contract in electronic Non-Penny Pilot Options.

The Exchange believes that assessing higher electronic Firm Options Transaction Charges in both Penny Pilot (\$0.45 per contract) and non-Penny Pilot Options (\$0.50 per contract) as compared to a Firm Floor Options Transaction Charge in both Penny Pilot and non-Penny Pilot Options of \$0.25 per contract is reasonable, equitable and not unfairly discriminatory because these fees recognize the distinction between the floor order entry model and the electronic model and the proposed fees respond to competition along the same lines.¹⁸ Floor participants incur costs associated with accessing the floor,

¹⁷ Professionals are assessed electronic Non-Penny Pilot Options Transaction Charges of \$0.30 per contract.

¹⁸ A transaction resulting from an order that was electronically delivered utilizes Phlx XL. See Exchange Rules 1014 and 1080. Electronically delivered orders do not include

i.e. need for a floor broker, and other costs which are not born by electronic members. Today, the Exchange assesses different fees for electronic as compared to floor transactions for Professionals, Specialists and Market Makers, Broker-Dealers and Firms in Section II of the Pricing Schedule.

The Exchange believes that its proposal to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the same member or its affiliates under Common Ownership is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account is reasonable because the Exchange is proposing to not assess fees to both sides of that transaction in the instance where a Firm is moving positions within the Firm and is both the buyer and the seller. For example, a Firm on the Exchange's trading floor may determine to move positions within the Firm and today the transaction results in an Options Transaction Charge to both sides of the trade. The Exchange believes as long as the Firm is the buyer and seller for a trade in the Firm's proprietary account, it is reasonable to apply only one Options Transaction Charge.

The Exchange believes its proposal to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the same member or its affiliate under Common Ownership is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account is equitable and not unfairly discriminatory because the Exchange intends to apply the waiver uniformly to all Firms that trade in this manner in their proprietary account, even if certain members and chose

orders transacted on the Exchange floor. A transaction resulting from an order that is non-electronically-delivered is represented on the trading floor by a floor broker. See Exchange Rule 1063. All orders will be either electronically or non-electronically delivered.

to operate under separate entities.

The Exchange believes that the amendment to relocate the sentence referencing the waiver of the Firm Options Transaction Charges for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges) to a new bullet on the Pricing Schedule, amending the rule text to clarify that the waiver applies to **Floor** Options Transaction Charges, and capitalizing the words “Options Transaction Charges” are reasonable, equitable and not unfairly discriminatory. The Exchange is not proposing to amend the application of the waiver, but believes that grouping the Firm waivers separately in a new bullet on the Pricing Schedule, capitalizing terms for consistency in Section II and clarifying that the waiver is a floor waiver will prevent confusion among market participants.

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. The Exchange operates in a highly competitive market, comprised of eleven 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 or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid 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.

The Exchange believes that increasing the Simple Order Fees for Removing Liquidity in Select Symbols and Firm Options Transaction Charges in Penny and Non-Penny Pilot Options does not impose a burden on competition. The fees proposed herein are consistent with fees on other options exchanges and other fees assessed by Phlx.¹⁹ In addition, the Exchange believes that the increase to the Simple Order Fees for Removing Liquidity will impose the same fees on all members, except Customers. Customer order flow brings liquidity to the market and benefits all market participants.

With respect to the increase to the Firm Fees, the Exchange believes that those fee increases do not misalign the current rate differentials as between market participants, but serves to narrow or eliminate in the case of Firm Penny Pilot Options the fee differential. In addition, the Exchange is offering Firms an opportunity to eliminate Options Transaction Charges by encouraging Firms to take liquidity. The Exchange believes that the proposed rule change will continue to promote competition on the Exchange.

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.²⁰ 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

¹⁹ See NYSE Arca, Inc.'s Fee Schedule and Section II of the Phlx Pricing Schedule.

²⁰ 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.

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-2013-31 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-2013-31. 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-2013-31 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.²¹

Kevin M. O'Neill
Deputy Secretary

²¹ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

* * * * *

I. Rebates and Fees for Adding and Removing Liquidity in Select Symbols

With respect to Section I of this Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity, except with respect to orders that trigger an order exposure alert. An order that triggered an order exposure alert shall be considered an order removing liquidity during the order exposure period and an order that executed against such order shall be considered an order adding liquidity during the order exposure period. For orders triggering an order exposure alert, the "order exposure period" shall be defined as a time period established by the Exchange not to exceed one second.

Select Symbols BAC, EEM, GLD, IWM, MSFT, QQQ, SPY, and XLF. The following fees in this Section I shall only apply to Select Symbols.

Part A. Simple Order

	Customer	Specialist	Market Maker	Firm	Broker- Dealer	Professional
Rebate for Adding Liquidity	N/A	\$0.20	\$0.20	N/A	N/A	N/A
Fee for Adding Liquidity	\$0.00	\$0.10	\$0.10	\$0.45	\$0.45	\$0.45
Fee for Removing Liquidity	\$0.00	\$0.4[4]5	\$0.4[4]5	\$0.4[4]5	\$0.4[4]5	\$0.4[4]5

¹ The Rebate for Adding Liquidity will be paid to a Specialist or Market Maker only when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional. If contra to a Customer order, the Specialist or Market Maker would be assessed the Simple Order Fee for Adding Liquidity.

* * * * *

II. Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed⁹)

	Customer	Professional	Specialist and Market Maker	Broker-Dealer	Firm				
	Electronic Floor	Electronic Floor	Electronic Floor	Electronic Floor	Electronic Floor				
Options Transaction Charge (Penny Pilot)	\$0.00	\$0.30	\$0.25	\$0.22	\$0.25	\$0.45	\$0.25	\$0.[44]45	\$0.25
Options Transaction Charge (non-Penny Pilot)	\$0.00	\$0.30	\$0.25	\$0.23	\$0.25	\$0.60	\$0.25	\$0.[45]50	\$0.25
Options Surcharge in RUT, MNX and NDX	N/A	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15
Options Surcharge in BKX	N/A	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10
FLEX Options	\$0.00	N/A	\$0.10	N/A	\$0.10	N/A	\$0.10	N/A	\$0.10
Cabinet Options	\$0.00	N/A	\$0.10	N/A	\$0.10	N/A	\$0.10	N/A	\$0.10

• These fees are per contract.

* * * * *

• Firms are subject to a maximum fee of \$75,000 ("Monthly Firm Fee Cap"). Firm [f]Floor [o]Option [t]Transaction [c]Charges and QCC Transaction Fees, as defined in this section above,

in the aggregate, for one billing month will not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in this Section II) will be excluded from the Monthly Firm Fee Cap. Reversal and conversion strategy executions (as defined in this Section II) will be included in the Monthly Firm Fee Cap. [The Firm options transaction charges will be waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet options transaction charges).] QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. Member organizations must notify the Exchange in writing of all accounts in which the member is not trading in its own proprietary account. The Exchange will not make adjustments to billing invoices where transactions are commingled in accounts which are not subject to the Monthly Firm Fee Cap. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of \$0.01 per side will apply once a Firm has reached the Monthly Firm Fee Cap, except for reversal and conversion strategies executed via QCC. This \$0.01 Service Fee will apply to every contract side of the QCC Order and Floor QCC Order after a Firm has reached the Monthly Firm Fee Cap. The Service Fee will not be assessed to a Firm that does not reach the Monthly Firm Fee Cap in a particular calendar month.

• The Firm Floor Options Transaction Charges will be waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges). The Firm Floor Options Transaction Charges will be waived for the buy side of a transaction if the same member or its affiliates under Common Ownership represents both sides of a Firm transaction when such members are trading in their own proprietary account.

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