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Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2013 - * 45
Amendment No. (req. for Amendments *)

Filing by NASDAQ OMX PHLX LLC.

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

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☐ Section 19(b)(3)(A) * ☑ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☑ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) ☐ Section 806(e)(2) ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

A Proposed Rule Change Relating to Pricing for Mini Options.

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 * Jonathan Last Name * Cayne

Title * Associate General Counsel

E-mail * jonathan.cayne@nasdaqomx.com

Telephone * (301) 978-8493 Fax (301) 978-8472

Signature

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

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

Date 04/29/2013

By Edward S. Knight

(Name *)

(Title *)

Executive Vice President and General Counsel

Edward S Knight,

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.

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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 *

Add Remove View

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

Add Remove View

Exhibit Sent As Paper Document

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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

Add Remove View

Exhibit Sent As Paper Document

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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

Add Remove View

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

Add Remove View

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 Section A of the Exchange's Pricing Schedule entitled "Mini Options Fees".

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated that they become operative on May 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 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 Jonathan F. Cayne, Associate General Counsel, at (301) 978-8493 (telephone) or (301) 978-8472 (fax).

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[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 purpose of the proposed rule change is to amend Section A of the Pricing Schedule by updating various existing transaction fees for Non-Customers for both adding and removing liquidity. Additionally, the proposed rule change will also establish fees and rebates applicable for order executions that are part of PIXL.[3]

Specifically, the Exchange is proposing to assess market participants on a per trade basis the following fees and rebates on Mini Options:

	Customer	**Professional**	**Specialist and Market Maker**	**Broker-Dealer**	**Firm**
Mini Options Transaction Fee – Electronic Adding Liquidity	$0.00	$0.03	$0.02	$0.03	$0.03
Mini Options Transaction Fee – Electronic Removing Liquidity	$0.00	$0.09	$0.04	$0.09	$0.09
Mini Options Transaction Fee – Floor and QCC	$0.00	$0.09	$0.09	$0.09	$0.09

Additionally, for executions that occur as part of PIXL, the following fees and rebates will apply: (i) Initiating Order: $0.015 per contract; (ii) PIXL Order (contra-

3 PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL[SM]). See Rule 1080(n) and Section IV of the Pricing Schedule.

party to the Initiating Order): Customer is $0.00 and all others will be assessed will be assessed a transaction fee of $0.03 per contract; and (iii) PIXL Order (contra-party to other than the Initiating Order): Customer will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract (the contra-party will be assessed a transaction fee of $0.03 per contract).

PFOF fees will be as follows: (i) Penny Pilot Options: $0.02; and (ii) all Other Options: $0.06. Also, Routing Fees set forth in Section V will now apply to Mini Options. Other options transaction fee caps, discounts or rebates, in addition to the Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II that already do not apply to transactions in Mini Options, also now will not apply to transactions in Mini Options. Finally, Mini Options volume will now be included in the calculations for the Customer Rebate Program eligibility, but will not be eligible to receive the rebates associated with the Customer Rebate Program.

Transaction Fees. Section A provides for a "Mini Options Transaction Fee – Electronic" and for a "Mini-Options Transaction Fee – Floor and QCC", both of which apply in the Customer, Professional, Specialist and Market Maker, Broker-Dealer and Firm fee categories. As noted in a previous filing, "the Exchange is currently setting these fees at $0.00 but may in the future file proposed rule changes to amend the transaction fee level in one or more categories."[4] The Exchange now seeks to amend the transaction fee level in several categories and, specifically, separate the "Mini Options Transaction Fee – Electronic" into two distinct fee categories, "Mini Options Transaction

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4 See Securities Exchange Act Release No. 69351 (April 9, 2013), 78 FR 22353 (April 15, 2013) at 22353 (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Pricing of Mini Options).

Fee – Electronic Adding Liquidity" and "Mini Options Transaction Fee – Electronic Removing Liquidity".

The "Mini Options Transaction Fee – Electronic Adding Liquidity" for Professionals, Broker-Dealers, and Firms will increase from $0.00 to $0.03 per contract. This same transaction fee for Specialists and Market Makers will increase from $0.00 to $0.02 per contract, while for Customers it will remain $0.00.

The "Mini Options Transaction Fee – Electronic Removing Liquidity" for Professionals, Broker-Dealers, and Firms will increase from $0.00 to $0.09 per contract. This same transaction fee for Specialists and Market Makers will increase from $0.00 to $0.04 per contract, while for Customers it will remain $0.00.

The "Mini Options Transaction Fee – Floor and QCC" for Professionals, Specialists and Market Makers, Broker-Dealers, and Firms will increase from $0.00 to $0.09 per contract. This same transaction fee for Customers will remain $0.00.

PIXL Executions. For order executions that are part of PIXL, certain new fees will apply. Initiating Orders will be $0.15 per contract. PIXL Orders (contra-party to the Initiating Order) will be $0.00 for Customers and all others will be assessed a transaction fee of $0.03 per contract. For PIXL Orders (contra-party to other than the Initiating Order) Customers will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Payment for Order Flow. PFOF will now apply to Mini Options and will be

$0.02 per contract for Penny Pilot Options and $0.06 for all other options.[5]

Routing Fees. Routing fees set forth in Section V will now apply to Mini Options.

Fee Caps. In addition to the Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II that do not apply to transactions in Mini Options, neither will other transaction fee caps, discounts or rebates.

Customer Rebate Program. Also, Mini Options volume will now be included in the calculations for the Customer Rebate Program eligibility, but will not be eligible to receive the rebates associated with the Customer Rebate Program. However, by including Mini Options volume in the calculations for the Customer Rebate Program eligibility, members have the ability to earn additional rebates because they can add this volume to other eligible volume for purposes of qualifying for a rebate tier in Section B of the Pricing Schedule.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section

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5 The Payment for Order Flow program started on July 1, 2005 as a pilot and after a series of orders extending the pilot became effective on April 29, 2012. See Securities Exchange Act Release No. 52114 (July 22, 2005), 70 FR 44138 (August 1, 2005) (SR-Phlx-2005-44); 57851 (May 22, 2008), 73 FR 31177 (May 20, 2008)(SR-Phlx-2008-38); 55891 (June 11, 2007), 72 FR 333271 (June 15, 2007)(SR-Phlx-2007-39); 53754 (May 3, 2006), 71 FR 27301 (May 10, 2006) (SR-Phlx-2006-25); 53078 (January 9, 2006), 71 FR 2289 (January 13, 2006) (SR-Phlx-2005-88); 52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR-Phlx-2005-58); and 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR-Phlx-2009-38).

6 15 U.S.C. 78f(b).

6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Transaction Fees. The Exchange believes that for Customers the proposed Mini Options Transaction Fee-Electronic Adding Liquidity, Mini Options Transaction Fee-Electronic Removing Liquidity, and Mini Options Transaction Fee – Floor and QCC, as well as the fees and rebates applicable for executions that occur as part of PIXL, are reasonable because those fees are set at zero in order to encourage Customers to transact Mini Options.

The Exchange also believes that the Mini Options Transaction Fee-Electronic Adding Liquidity, the Mini Options Transaction Fee-Electronic Removing Liquidity, and the Mini Options Transaction Fee - Floor and QCC are reasonable, equitable and not unfairly discriminatory because while all Customers will be able to take advantage of the zero fee level, all Professionals, Broker-Dealers, and Firms will all pay the identical per contract transaction fees ($0.03, $0.09 and $0.09, respectively) and will therefore be treated in a uniform manner. Specialists and Market Makers will also pay the identical Mini Options Transaction Fee - Floor and QCC of $0.09 per contract and will therefore also be treated in a uniform manner.

Specialists and Market Makers will pay a lower Mini Options Transaction Fee-Electronic Adding Liquidity and a lower Mini Options Transaction Fee-Electronic Removing Liquidity fees of $0.02 and $0.04 per contract, respectively. These lower fees are reasonable, equitable and not unfairly discriminatory because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do

7 15 U.S.C. 78f(b)(4).

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 Specialists and Market Makers, Customers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

The fees are also reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract, and, as such, levying fees that are approximately 10% of what a market participant pays today is reasonable and equitable. The Exchange's cost to process quotes, orders and trades in Mini Options is the same as for standard options, supporting the proposed floor and remove liquidity transaction fees for other than Customer. However, the Exchange believes it is necessary to keep fees to provide liquidity lower than the fees for removing liquidity to create appropriate economics to ensure there is ample liquidity for market participants to execute against.

<u>PIXL Executions</u>. The Exchange's proposal to charge the following new fees for order executions that are part of PIXL is reasonable. Specifically, Initiating Orders will be $0.015 per contract. PIXL Orders (contra-party to the Initiating Order) will be $0.00 for Customers and all others will be assessed a transaction fee of $0.03 per contract. For PIXL Orders (contra-party to other than the Initiating Order) Customers will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Generally, these fees range from slightly more than, to slightly less than, 10% of what the various market participants pay today. Charging all market participants the same fee for Initiating Orders is equitable and not unfairly discriminatory because it applies to all market participants equally. The transaction fee for PIXL Orders (contra-party to the Initiating Order) and for PIXL Orders (contra-party to other than the Initiating Order) are equitable and not unfairly discriminatory because they apply to all market participants, other than Customers, equally and uniformly.

It is equitable and not unfairly discriminatory to not charge Customers a transaction fee for PIXL Orders (contra-party to the Initiating Order) or for PIXL Orders (contra-party to other than the Initiating Order) because the Exchange believes it helps attract Customers, which is beneficial to all other market participants on the Exchange who generally seek to trade with Customer order flow.

Payment for Order Flow Fees. The Exchange believes that it is reasonable that the PFOF fees will now apply to Mini Options at a rate of $0.02 per contract for Penny Pilot Options and $0.06 for all other options. The Exchange also believes that this proposal is equitable and not unfairly discriminatory as it applies to all of market participants equally. Further, the proposed PFOF fees are similar to those already established at other market centers.[8]

The fees are also reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract, and, as such, levying fees that are approximately 10% of what a market participant pays

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8 See Chicago Board Options Exchange, MIAX Options Exchange and NYSE AMEX fee schedules.

today is reasonable and equitable. The Exchange's cost to process quotes, orders and trades in Mini Options is the same as for standard options.

Routing Fees. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that the routing fees set forth in Section V will now apply to Mini Options. These fees are reasonable because they will allow the Exchange to recoup and cover its costs of providing routing services for Customer orders in Mini Options just as it does for other standard equity options for which it incurs the same costs.

The Exchange believes that Routing Fees are equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all Customers and Non-Customers, and because market participants have the ability to directly route orders in Mini Options to an away market and avoid the Routing Fee. Market participants may submit orders to the Exchange as ineligible for routing or "DNR" to avoid Routing Fees.

Finally, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess different fees for Customers orders as compared to non-Customer orders because the Exchange has traditionally assessed lower fees to Customers as compared to non-Customers. Customers will continue to receive the lowest fees or no fees when routing orders, as is the case today. Other options exchanges also assess lower Routing Fees for customer orders as compared to non-customer orders in standard options.[9]

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9 BATS assesses lower customer routing fees as compared to non-customer routing fees per the away market. For example BATS assesses ISE customer routing fees of $0.30 per contract and an ISE non-customer routing fee of $0.57 per contract. See BATS BZX Exchange Fee Schedule.

Fee Caps. The Exchange has previously stated that it believes that it is reasonable, equitable and not unfairly discriminatory to not apply the Monthly Market Maker Cap or Monthly Firm Fee Cap to Mini Options transaction fees[10] and now seeks to clarify that other options transaction fee caps, discounts or rebates will also not apply to transactions in Mini Options and that this equitable and not unfairly discriminatory because this applies to all market participants equally and uniformly.

Customer Rebate Program. The Customer Rebate Program was established to incentivize market participants to increase the amount of Customer order flow they transact on the Exchange.[11] The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that Mini Options volume will be included in, but will not be eligible for the Customer Rebate Program defined in Section B of the Pricing Schedule. However, by including Mini Options volume in the calculations for the Customer Rebate Program eligibility, members have the ability to earn additional rebates from standard contracts because they can add this volume to other eligible volume for purposes of qualifying for a rebate tier in Section B of the Pricing Schedule. It is reasonable, equitable and not unfairly discriminatory since any market participant is eligible for a tier, which means that more eligible volume equals more ways for a market participant to earn a rebate.

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

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[10] Supra note 4.

[11] See Securities Exchange Act Release No. 68924 (February 13, 2013), 78 FR 11916 (February 20, 2013).

Act. The Exchange believes these pricing amendments do not impose a burden on competition but rather that the proposed rule change will continue to promote competition on the Exchange and position the Exchange as an attractive alternative when compared to other options exchanges.

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.

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,[12] 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.

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[12] 15 U.S.C. 78s(b)(3)(A)(ii).

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

Not applicable.

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 Exchange's Pricing Schedule.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2013-45)

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Pricing for Mini Options

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 April 29, 2013, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) a 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 Section A of the Exchange’s Pricing Schedule entitled “Mini Options Fees”. While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated that they become operative on May 1, 2013.

The text of the proposed rule change is provided in Exhibit 5. The text of the proposed rule change is also 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.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

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 amend Section A of the Pricing Schedule by updating various existing transaction fees for Non-Customers for both adding and removing liquidity. Additionally, the proposed rule change will also establish fees and rebates applicable for order executions that are part of PIXL.[3]

Specifically, the Exchange is proposing to assess market participants on a per trade basis the following fees and rebates on Mini Options:

	Customer	**Professional**	**Specialist and Market Maker**	**Broker-Dealer**	**Firm**
Mini Options Transaction Fee – Electronic Adding Liquidity	$0.00	$0.03	$0.02	$0.03	$0.03

[3] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL[SM]). See Rule 1080(n) and Section IV of the Pricing Schedule.

Mini Options Transaction Fee – Electronic Removing Liquidity	$0.00	$0.09	$0.04	$0.09	$0.09
Mini Options Transaction Fee – Floor and QCC	$0.00	$0.09	$0.09	$0.09	$0.09

Additionally, for executions that occur as part of PIXL, the following fees and rebates will apply: (i) Initiating Order: $0.015 per contract; (ii) PIXL Order (contra-party to the Initiating Order): Customer is $0.00 and all others will be assessed will be assessed a transaction fee of $0.03 per contract; and (iii) PIXL Order (contra-party to other than the Initiating Order): Customer will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract (the contra-party will be assessed a transaction fee of $0.03 per contract).

PFOF fees will be as follows: (i) Penny Pilot Options: $0.02; and (ii) all Other Options: $0.06. Also, Routing Fees set forth in Section V will now apply to Mini Options. Other options transaction fee caps, discounts or rebates, in addition to the Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II that already do not apply to transactions in Mini Options, also now will not apply to transactions in Mini Options. Finally, Mini Options volume will now be included in the calculations for the Customer Rebate Program eligibility, but will not be eligible to receive the rebates associated with the Customer Rebate Program.

<u>Transaction Fees</u>. Section A provides for a "Mini Options Transaction Fee – Electronic" and for a "Mini-Options Transaction Fee – Floor and QCC", both of which apply in the Customer, Professional, Specialist and Market Maker, Broker-Dealer and Firm fee categories. As noted in a previous filing, "the Exchange is currently setting

these fees at $0.00 but may in the future file proposed rule changes to amend the transaction fee level in one or more categories."[4] The Exchange now seeks to amend the transaction fee level in several categories and, specifically, separate the "Mini Options Transaction Fee – Electronic" into two distinct fee categories, "Mini Options Transaction Fee – Electronic Adding Liquidity" and "Mini Options Transaction Fee – Electronic Removing Liquidity".

The "Mini Options Transaction Fee – Electronic Adding Liquidity" for Professionals, Broker-Dealers, and Firms will increase from $0.00 to $0.03 per contract. This same transaction fee for Specialists and Market Makers will increase from $0.00 to $0.02 per contract, while for Customers it will remain $0.00.

The "Mini Options Transaction Fee – Electronic Removing Liquidity" for Professionals, Broker-Dealers, and Firms will increase from $0.00 to $0.09 per contract. This same transaction fee for Specialists and Market Makers will increase from $0.00 to $0.04 per contract, while for Customers it will remain $0.00.

The "Mini Options Transaction Fee – Floor and QCC" for Professionals, Specialists and Market Makers, Broker-Dealers, and Firms will increase from $0.00 to $0.09 per contract. This same transaction fee for Customers will remain $0.00.

PIXL Executions. For order executions that are part of PIXL, certain new fees will apply. Initiating Orders will be $0.15 per contract. PIXL Orders (contra-party to the Initiating Order) will be $0.00 for Customers and all others will be assessed a transaction fee of $0.03 per contract. For PIXL Orders (contra-party to other than the Initiating

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4 See Securities Exchange Act Release No. 69351 (April 9, 2013), 78 FR 22353 (April 15, 2013) at 22353 (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Pricing of Mini Options).

Order) Customers will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Payment for Order Flow. PFOF will now apply to Mini Options and will be $0.02 per contract for Penny Pilot Options and $0.06 for all other options.[5]

Routing Fees. Routing fees set forth in Section V will now apply to Mini Options.

Fee Caps. In addition to the Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II that do not apply to transactions in Mini Options, neither will other transaction fee caps, discounts or rebates.

Customer Rebate Program. Also, Mini Options volume will now be included in the calculations for the Customer Rebate Program eligibility, but will not be eligible to receive the rebates associated with the Customer Rebate Program. However, by including Mini Options volume in the calculations for the Customer Rebate Program eligibility, members have the ability to earn additional rebates because they can add this volume to other eligible volume for purposes of qualifying for a rebate tier in Section B of the Pricing Schedule.

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5 The Payment for Order Flow program started on July 1, 2005 as a pilot and after a series of orders extending the pilot became effective on April 29, 2012. See Securities Exchange Act Release No. 52114 (July 22, 2005), 70 FR 44138 (August 1, 2005) (SR-Phlx-2005-44); 57851 (May 22, 2008), 73 FR 31177 (May 20, 2008)(SR-Phlx-2008-38); 55891 (June 11, 2007), 72 FR 333271 (June 15, 2007)(SR-Phlx-2007-39); 53754 (May 3, 2006), 71 FR 27301 (May 10, 2006) (SR-Phlx-2006-25); 53078 (January 9, 2006), 71 FR 2289 (January 13, 2006) (SR-Phlx-2005-88); 52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR-Phlx-2005-58); and 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR-Phlx-2009-38).

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Transaction Fees. The Exchange believes that for Customers the proposed Mini Options Transaction Fee-Electronic Adding Liquidity, Mini Options Transaction Fee-Electronic Removing Liquidity, and Mini Options Transaction Fee – Floor and QCC, as well as the fees and rebates applicable for executions that occur as part of PIXL, are reasonable because those fees are set at zero in order to encourage Customers to transact Mini Options.

The Exchange also believes that the Mini Options Transaction Fee-Electronic Adding Liquidity, the Mini Options Transaction Fee-Electronic Removing Liquidity, and the Mini Options Transaction Fee - Floor and QCC are reasonable, equitable and not unfairly discriminatory because while all Customers will be able to take advantage of the zero fee level, all Professionals, Broker-Dealers, and Firms will all pay the identical per contract transaction fees ($0.03, $0.09 and $0.09, respectively) and will therefore be treated in a uniform manner. Specialists and Market Makers will also pay the identical Mini Options Transaction Fee - Floor and QCC of $0.09 per contract and will therefore also be treated in a uniform manner.

6 15 U.S.C. 78f(b).

7 15 U.S.C. 78f(b)(4).

Specialists and Market Makers will pay a lower Mini Options Transaction Fee-Electronic Adding Liquidity and a lower Mini Options Transaction Fee-Electronic Removing Liquidity fees of $0.02 and $0.04 per contract, respectively. These lower fees are reasonable, equitable and not unfairly discriminatory 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 Specialists and Market Makers, Customers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

The fees are also reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract, and, as such, levying fees that are approximately 10% of what a market participant pays today is reasonable and equitable. The Exchange's cost to process quotes, orders and trades in Mini Options is the same as for standard options, supporting the proposed floor and remove liquidity transaction fees for other than Customer. However, the Exchange believes it is necessary to keep fees to provide liquidity lower than the fees for removing liquidity to create appropriate economics to ensure there is ample liquidity for market participants to execute against.

<u>PIXL Executions</u>. The Exchange's proposal to charge the following new fees for order executions that are part of PIXL is reasonable. Specifically, Initiating Orders will

be $0.015 per contract. PIXL Orders (contra-party to the Initiating Order) will be $0.00 for Customers and all others will be assessed a transaction fee of $0.03 per contract. For PIXL Orders (contra-party to other than the Initiating Order) Customers will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Generally, these fees range from slightly more than, to slightly less than, 10% of what the various market participants pay today. Charging all market participants the same fee for Initiating Orders is equitable and not unfairly discriminatory because it applies to all market participants equally. The transaction fee for PIXL Orders (contra-party to the Initiating Order) and for PIXL Orders (contra-party to other than the Initiating Order) are equitable and not unfairly discriminatory because they apply to all market participants, other than Customers, equally and uniformly.

It is equitable and not unfairly discriminatory to not charge Customers a transaction fee for PIXL Orders (contra-party to the Initiating Order) or for PIXL Orders (contra-party to other than the Initiating Order) because the Exchange believes it helps attract Customers, which is beneficial to all other market participants on the Exchange who generally seek to trade with Customer order flow.

<u>Payment for Order Flow Fees</u>. The Exchange believes that it is reasonable that the PFOF fees will now apply to Mini Options at a rate of $0.02 per contract for Penny Pilot Options and $0.06 for all other options. The Exchange also believes that this proposal is equitable and not unfairly discriminatory as it applies to all of market participants equally. Further, the proposed PFOF fees are similar to those already established at other

market centers.[8]

The fees are also reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract, and, as such, levying fees that are approximately 10% of what a market participant pays today is reasonable and equitable. The Exchange's cost to process quotes, orders and trades in Mini Options is the same as for standard options.

Routing Fees. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that the routing fees set forth in Section V will now apply to Mini Options. These fees are reasonable because they will allow the Exchange to recoup and cover its costs of providing routing services for Customer orders in Mini Options just as it does for other standard equity options for which it incurs the same costs.

The Exchange believes that Routing Fees are equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all Customers and Non-Customers, and because market participants have the ability to directly route orders in Mini Options to an away market and avoid the Routing Fee. Market participants may submit orders to the Exchange as ineligible for routing or "DNR" to avoid Routing Fees.

Finally, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess different fees for Customers orders as compared to non-Customer orders because the Exchange has traditionally assessed lower fees to Customers as compared to non-Customers. Customers will continue to receive the lowest fees or no fees when routing orders, as is the case today. Other options exchanges also

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[8] See Chicago Board Options Exchange, MIAX Options Exchange and NYSE AMEX fee schedules.

assess lower Routing Fees for customer orders as compared to non-customer orders in standard options.[9]

Fee Caps. The Exchange has previously stated that it believes that it is reasonable, equitable and not unfairly discriminatory to not apply the Monthly Market Maker Cap or Monthly Firm Fee Cap to Mini Options transaction fees[10] and now seeks to clarify that other options transaction fee caps, discounts or rebates will also not apply to transactions in Mini Options and that this equitable and not unfairly discriminatory because this applies to all market participants equally and uniformly.

Customer Rebate Program. The Customer Rebate Program was established to incentivize market participants to increase the amount of Customer order flow they transact on the Exchange.[11] The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that Mini Options volume will be included in, but will not be eligible for the Customer Rebate Program defined in Section B of the Pricing Schedule. However, by including Mini Options volume in the calculations for the Customer Rebate Program eligibility, members have the ability to earn additional rebates from standard contracts because they can add this volume to other eligible volume for purposes of qualifying for a rebate tier in Section B of the Pricing Schedule. It is reasonable, equitable and not unfairly discriminatory since any market participant is eligible for a

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9 BATS assesses lower customer routing fees as compared to non-customer routing fees per the away market. For example BATS assesses ISE customer routing fees of $0.30 per contract and an ISE non-customer routing fee of $0.57 per contract. See BATS BZX Exchange Fee Schedule.

10 Supra note 4.

11 See Securities Exchange Act Release No. 68924 (February 13, 2013), 78 FR 11916 (February 20, 2013).

tier, which means that more eligible volume equals more ways for a market participant to earn a rebate.

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 Mini Options are a new product that will commence trading on the Exchange on March 28, 2013. The Exchange believes that incentivizing market participants to transact Mini Options by not assessing transaction fees and certain other fees encourages competition in these products. There is no intra-market competition as the Exchange will treat all market participants in a like manner with respect to the transaction fees. Also, the Exchange believes that because other markets will also list Mini Options there is no undue burden on intermarket competition because market participants will be able to select the venue where they will trade these products. In terms of Routing, the Exchange-believes that assessing Customers lower fees as compared to Non-Customers and assessing the same Routing Fees to all Non-Customers regardless of the venue does not create an undue burden on competition. The Exchange has traditionally assessed no or lower fees to Customers. Also, the Exchange believes that because Mini Options represent 1/10th of the size of a standard option contract, reduced Routing Fees will not misalign the cost to transact Mini Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor 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.[12] 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 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

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-45 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-2013-45. 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-2013-45 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.[13]

Kevin M O'Neill
Deputy Secretary

[13] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC[1] PRICING SCHEDULE

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A. Mini Options Fees

Mini Options symbols are AAPL7, AMZN7, GLD7, GOOG7, SPY7

	Customer	Professional	Specialist and Market Maker	Broker-Dealer	Firm
Mini Options Transaction Fee – Electronic Adding Liquidity	$0.00	$0.0[0]3	$0.0[0]2	$0.0[0]3	$0.0[0]3
Mini Options Transaction Fee – Electronic Removing Liquidity	$0.00	$0.09	$0.04	$0.09	$0.09
Mini Options Transaction Fee – Floor and QCC	$0.00	$0.0[0]9	$0.0[0]9	$0.0[0]9	$0.0[0]9

For executions that occur as part of PIXL, the following fees and rebates will apply: [Pricing does not apply to PIXL Order executions in Mini Options.]

- Initiating Order: $0.015 per contract

- PIXL Order (Contra-party to the Initiating Order): Customer is $0.00 and all others will be assessed will be assessed a transaction fee of $0.03 per contract.

- PIXL Order (Contra-party to other than the Initiating Order): Customer will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Payment for Order Flow fees will be as follows:

- Penny Pilot Options: $0.02
- All Other Options: $0.06

[and] QCC Transaction Fees and rebates defined in Section II do not apply to Mini Options.

Routing Fees set forth in Section V [do not] apply to Mini Options. [Instead, Routing Fees for Customers for Mini Options are $0.01 per contract in addition to the actual transaction fee assessed. If the away market pays a rebate to the Exchange, the Routing Fee for Customers will be $0.00. Routing Fees for Mini Options for all other participants will be $0.15 per contract.]

The Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II <u>as well as other options transaction fee caps, discounts or rebates</u> will not apply to transactions in Mini Options.

Mini Options volume will [not] be included in <u>the calculations for the Customer Rebate Program eligibility</u> [and] <u>but</u> will not be eligible <u>to receive the rebates associated with</u> [for] the Customer Rebate Program.

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