

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 28	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2013 - * 51 Amendment No. (req. for Amendments *)
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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"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires * <input type="text"/>			<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 *).

A proposed changes to the schedule of fees and rebates for execution of quotes and orders on NASDAQ OMX PSX.

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 * John Last Name * Yetter
 Title * Vice President and Deputy General Counsel
 E-mail * john.yetter@nasdaqomx.com
 Telephone * (301) 978-8497 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.

(Title *)
 Executive Vice President and General Counsel

Date 05/03/2013
 By Edward S .Knight
 (Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Edward S Knight,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) proposed changes to its schedule of fees and rebates for execution of quotes and orders on NASDAQ OMX PSX (“PSX”).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached 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 Phlx pursuant to authority delegated by the Board of Directors of Phlx on July 10, 2012. Phlx staff will advise the Board of Directors of Phlx of any action taken pursuant to delegated authority. No other action by Phlx is necessary for the filing of the rule change. Phlx proposes to implement the change on May 3, 2013.

Questions regarding this rule filing may be directed to John M. Yetter, Vice President and Deputy General Counsel, The NASDAQ OMX Group, (301) 978-8497.

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 Commission recently approved modifications to the rules governing the operation of Phlx's PSX trading platform in order to replace its price/size/pro rata allocation model with a price/time model, and to permit member organizations to register as market makers in securities traded on PSX.³ Phlx is now proposing to modify its schedule of fees and rebates for transactions occurring on PSX.

Currently, the Exchange charges the following fees for execution of orders that access liquidity on PSX: a volume-based discounted fee of \$0.0028 per share executed for an order entered through a market participant identifier ("MPID") through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume⁴ during the month; \$0.0028 per share executed for an order that is designated as eligible for routing, and \$0.0030 per share executed for other orders. The Exchange is proposing to reduce significantly the criterion for the volume-based discounted fee, from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares of liquidity provided. Moreover, for securities listed on the NASDAQ Stock Market ("NASDAQ") or the New York Stock Exchange ("NYSE"), Phlx proposes to lower the volume-based discounted fee to \$0.00275 per share executed. For securities listed on exchanges other than NASDAQ or NYSE, the Exchange proposes

³ Securities Exchange Act Release No. 69452 (April 25, 2013), 78 FR 25512 (May 1, 2013) (SR-Phlx-2013-24).

⁴ "Consolidated Volume" is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities.

to make the discounted fee applicable to routed orders and orders entered through an MPID qualifying for the volume-based discount \$0.0025 per share executed rather than \$0.0028 per share executed.

With respect to orders that provide liquidity, the Exchange currently provides a rebate of \$0.0010 per share executed for non-displayed orders. The Exchange proposes to modify this rebate such that \$0.0010 per share executed would be paid with respect to midpoint pegged or midpoint peg post-only orders (“midpoint orders”), while \$0.0005 per share executed would be paid with respect to other forms of non-displayed orders. For displayed orders that provide liquidity, the Exchange currently provides a rebate of \$0.0028 per share executed for orders entered through an MPID through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume; \$0.0028 per share executed for orders entered through a PSX MPID through which the member organization provides shares of liquidity that represent more than 0.05% of Consolidated Volume, provided that the member organization and any affiliated member organizations also have an average daily volume during the month of 1,000 or more electronically delivered and executed customer contracts that add liquidity on the Exchange’s Options Market; and \$0.0026 per share executed for other orders.

The Exchange proposes to lower the basic rebate for orders to which no other pricing applies from \$0.0026 to \$0.0020 per share executed. In addition, the Exchange proposes to reduce the requirement for an enhanced rebate based on volume of liquidity provision from 0.10% of Consolidated Volume to an average daily volume of 100,000 or more shares of liquidity provided, while also reducing the associated rebate from \$0.0028 per share executed to \$0.0026 per share executed. The Exchange is also proposing to

eliminate the rebate tier that requires participation in the Exchange's Options Market. Finally, the Exchange proposes a rebate tier of \$0.0028 per share executed for quotes/orders entered by a member organization that provides an average daily volume of 2 million or more shares of liquidity during the month.

In addition to the foregoing changes, Phlx is also replacing the term "order" with the term "quote/order" where appropriate in the PSX fee schedule to reflect the introduction of quoting on PSX. Phlx is also adding new headings to the fee schedule to delineate sections for fees applicable to quotes/orders in securities listed on NASDAQ, NYSE, and other exchanges, respectively, and for fees applicable to routing. Finally, Phlx is deleting a footnote describing conditions under which member organizations may be deemed affiliates, since it relates solely to the pricing tier relating to trading on the Phlx Options Market, which Phlx is eliminating.

b. Statutory Basis

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

The proposed new rebate tier of \$0.0028 per share executed for members that provide an average daily volume of liquidity of 2 million shares or more is reasonable

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4) and (5).

because it will reduce fees for member organizations that make significant contributions to PSX and its market quality by providing high volumes of liquidity. Moreover, the proposed rebate is consistent with an equitable allocation of fees because the rebate is provided to member organizations that benefit the market through high levels of liquidity provision. As such, the proposal is consistent with volume-based pricing tiers in effect at many other national securities exchanges. Finally, the proposal is not unreasonably discriminatory because the rebate is consistent with the benefits provided by market participants receiving it, and because the Exchange offers alternative means to receive a rebate that is only slightly lower and that has very modest liquidity requirements associated with it.

The proposed changes with respect to the existing volume-based tiers for accessing and providing liquidity are reasonable because the reduction in the liquidity-provision criterion for achieving the tier – from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares for the take fee discount, or 100,000 or more shares for the higher rebate⁷ – will make it easier for a broader range of market participants to achieve the tier, thereby resulting in price reductions for PSX participants who may not qualify for the tier at present. In addition, the applicable fee for accessing liquidity in securities listed on NASDAQ or NYSE will be reduced from \$0.0028 to \$0.00275 per share executed, and to \$0.0025 per share executed for other securities.⁸ The

⁷ By contrast, on a trading day with a Consolidated Volume of 6 billion shares, the current tier would require a member to provide 6 million shares of liquidity.

⁸ The rate reductions, as well as the rate reduction for routable orders in securities listed on exchanges other than NASDAQ and NYSE, are reasonable because they will reduce costs to market participants. The changes are consistent with an equitable allocation of fees and not unfairly discriminatory because they are assessed against members that either achieve specified volume tiers or that assist

cost of enhancing the tiers in this manner will be offset by reducing the rebate for liquidity provision from \$0.0028 to \$0.0026 per share executed, but the Exchange believes that this change is reasonable in light of the significant broadening of the tiers. The Exchange further believes that these changes reflect an equitable allocation of fees and are not unreasonably discriminatory, because they are consistent with pricing at many other national securities exchanges under which discounts are provided to members that achieve specified volumes of liquidity provision. In addition, the changes should make the applicable fees and rebates available to a wider range of market participants, and the Exchange offers other means by which a member organization may achieve comparable or better rates.

The proposed change with respect to the basic rebate to which no other pricing applies from \$0.0026 to \$0.0020 per share executed is reasonable because the rate is comparable to the base rebate payable on several other national securities exchanges, including NASDAQ (\$0.0020), NYSEArca (\$0.0021), and the EDGX Exchange (\$0.0021). The change is consistent with an equitable allocation of fees and not unreasonably discriminatory because it is consistent with providing a rebate to all liquidity providers, regardless of volume or other factors, while paying higher rebates to member organizations that do more to support the Exchange through higher volumes and/or contributions to market quality.

the development of PSX's routing services by making use of its router. To the extent that fees differ depending on the listing venue of the security, the change is not unfairly discriminatory because it is consistent with established practices on other national securities exchanges of using security-specific discounts as a means to promote the exchange as a venue for trading certain types of securities. See e.g., <http://usequities.nyx.com/markets/nyse-arca-equities/trading-fees>.

The elimination of the rebate tier that requires participation in both PSX and the Exchange's Options Market is reasonable, consistent with an equitable allocation of fees, and not unreasonably discriminatory because any PSX Participant that qualifies for the tier at present would be required to have a volume of liquidity provision of at least 0.05% of Consolidated Volume. Following the implementation of the proposed change, any such market participant would also likely qualify for the proposed new rebate tier requiring an average daily volume of liquidity provision of at least 2 million shares, and receive the same rebate of \$0.0028 per share executed. Accordingly, the change will not alter the rebate for which such participants qualify.

The changes with respect to rebates payable for non-displayed orders is reasonable because the rebate will remain unchanged for midpoint orders that provide liquidity, and therefore will be reduced only for other forms of non-displayed orders, which are expected to constitute only a small percentage of liquidity-providing orders. The fees reflect an equitable allocation of fees and are not unreasonably discriminatory because they reflect the Exchange's belief that all market participants benefit from pricing that encourages the use of displayed orders, which promote active price discovery. Accordingly, as is the case with other national securities exchanges, such as NASDAQ, the Exchange pays a lower rebate with respect to non-displayed orders than displayed orders. However, the change adopts a distinction between midpoint orders, which provide price improvement by executing at the midpoint between the national best bid and national best offer, and other forms of non-displayed orders, which do not provide such a benefit.

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

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.⁹ Phlx notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, Phlx must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, Phlx believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, Phlx is introducing new pricing to accompany changes to PSX's market structure. These changes were necessitated by the failure of PSX's former price/size execution algorithm to garner significant market share, and therefore reflect an effort to increase PSX's competitiveness. If the changes are unattractive to market participants, it is likely that PSX will fail to increase its share of executions. Conversely, to the extent that the proposed changes broaden the availability of favorable pricing, if they are successful in attracting additional order flow, they will reduce costs to market participants and possibly encouraging competitive responses from other trading venues. Accordingly, Phlx believes that the proposed changes will promote greater competition,

⁹ 15 U.S.C. 78f(b)(8).

but will not impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

5. 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.

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,¹⁰ Phlx has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization 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

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. Completed notice of proposed rule change for publication in the Federal Register.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2013-51)

May __, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change to its Schedule of Fees and Rebates for Execution of Quotes and Orders on NASDAQ OMX PSX

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 May 3, 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 changes to its schedule of fees and rebates for execution of quotes and orders on NASDAQ OMX PSX (“PSX”). Phlx proposes to implement the proposed rule change on May 3, 2013. The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqomxphlx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Commission recently approved modifications to the rules governing the operation of Phlx's PSX trading platform in order to replace its price/size/pro rata allocation model with a price/time model, and to permit member organizations to register as market makers in securities traded on PSX.³ Phlx is now proposing to modify its schedule of fees and rebates for transactions occurring on PSX.

Currently, the Exchange charges the following fees for execution of orders that access liquidity on PSX: a volume-based discounted fee of \$0.0028 per share executed for an order entered through a market participant identifier ("MPID") through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume⁴ during the month; \$0.0028 per share executed for an order that is designated as eligible for routing, and \$0.0030 per share executed for other orders. The Exchange is proposing to reduce significantly the criterion for the volume-based discounted fee, from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares of liquidity provided. Moreover, for securities listed on the

³ Securities Exchange Act Release No. 69452 (April 25, 2013), 78 FR 25512 (May 1, 2013) (SR-Phlx-2013-24).

⁴ "Consolidated Volume" is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities.

NASDAQ Stock Market (“NASDAQ”) or the New York Stock Exchange (“NYSE”), Phlx proposes to lower the volume-based discounted fee to \$0.00275 per share executed. For securities listed on exchanges other than NASDAQ or NYSE, the Exchange proposes to make the discounted fee applicable to routed orders and orders entered through an MPID qualifying for the volume-based discount \$0.0025 per share executed rather than \$0.0028 per share executed.

With respect to orders that provide liquidity, the Exchange currently provides a rebate of \$0.0010 per share executed for non-displayed orders. The Exchange proposes to modify this rebate such that \$0.0010 per share executed would be paid with respect to midpoint pegged or midpoint peg post-only orders (“midpoint orders”), while \$0.0005 per share executed would be paid with respect to other forms of non-displayed orders. For displayed orders that provide liquidity, the Exchange currently provides a rebate of \$0.0028 per share executed for orders entered through an MPID through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume; \$0.0028 per share executed for orders entered through a PSX MPID through which the member organization provides shares of liquidity that represent more than 0.05% of Consolidated Volume, provided that the member organization and any affiliated member organizations also have an average daily volume during the month of 1,000 or more electronically delivered and executed customer contracts that add liquidity on the Exchange’s Options Market; and \$0.0026 per share executed for other orders.

The Exchange proposes to lower the basic rebate for orders to which no other pricing applies from \$0.0026 to \$0.0020 per share executed. In addition, the Exchange proposes to reduce the requirement for an enhanced rebate based on volume of liquidity

provision from 0.10% of Consolidated Volume to an average daily volume of 100,000 or more shares of liquidity provided, while also reducing the associated rebate from \$0.0028 per share executed to \$0.0026 per share executed. The Exchange is also proposing to eliminate the rebate tier that requires participation in the Exchange's Options Market. Finally, the Exchange proposes a rebate tier of \$0.0028 per share executed for quotes/orders entered by a member organization that provides an average daily volume of 2 million or more shares of liquidity during the month.

In addition to the foregoing changes, Phlx is also replacing the term "order" with the term "quote/order" where appropriate in the PSX fee schedule to reflect the introduction of quoting on PSX. Phlx is also adding new headings to the fee schedule to delineate sections for fees applicable to quotes/orders in securities listed on NASDAQ, NYSE, and other exchanges, respectively, and for fees applicable to routing. Finally, Phlx is deleting a footnote describing conditions under which member organizations may be deemed affiliates, since it relates solely to the pricing tier relating to trading on the Phlx Options Market, which Phlx is eliminating.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4) and (5).

which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed new rebate tier of \$0.0028 per share executed for members that provide an average daily volume of liquidity of 2 million shares or more is reasonable because it will reduce fees for member organizations that make significant contributions to PSX and its market quality by providing high volumes of liquidity. Moreover, the proposed rebate is consistent with an equitable allocation of fees because the rebate is provided to member organizations that benefit the market through high levels of liquidity provision. As such, the proposal is consistent with volume-based pricing tiers in effect at many other national securities exchanges. Finally, the proposal is not unreasonably discriminatory because the rebate is consistent with the benefits provided by market participants receiving it, and because the Exchange offers alternative means to receive a rebate that is only slightly lower and that has very modest liquidity requirements associated with it.

The proposed changes with respect to the existing volume-based tiers for accessing and providing liquidity are reasonable because the reduction in the liquidity-provision criterion for achieving the tier – from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares for the take fee discount, or 100,000 or more shares for the higher rebate⁷ – will make it easier for a broader range of market participants to achieve the tier, thereby resulting in price reductions for PSX participants who may not qualify for the tier at present. In addition, the applicable fee for accessing liquidity in securities listed on NASDAQ or NYSE will be reduced from \$0.0028 to

⁷ By contrast, on a trading day with a Consolidated Volume of 6 billion shares, the current tier would require a member to provide 6 million shares of liquidity.

\$0.00275 per share executed, and to \$0.0025 per share executed for other securities.⁸ The cost of enhancing the tiers in this manner will be offset by reducing the rebate for liquidity provision from \$0.0028 to \$0.0026 per share executed, but the Exchange believes that this change is reasonable in light of the significant broadening of the tiers. The Exchange further believes that these changes reflect an equitable allocation of fees and are not unreasonably discriminatory, because they are consistent with pricing at many other national securities exchanges under which discounts are provided to members that achieve specified volumes of liquidity provision. In addition, the changes should make the applicable fees and rebates available to a wider range of market participants, and the Exchange offers other means by which a member organization may achieve comparable or better rates.

The proposed change with respect to the basic rebate to which no other pricing applies from \$0.0026 to \$0.0020 per share executed is reasonable because the rate is comparable to the base rebate payable on several other national securities exchanges, including NASDAQ (\$0.0020), NYSEArca (\$0.0021), and the EDGX Exchange (\$0.0021). The change is consistent with an equitable allocation of fees and not unreasonably discriminatory because it is consistent with providing a rebate to all

⁸ The rate reductions, as well as the rate reduction for routable orders in securities listed on exchanges other than NASDAQ and NYSE, are reasonable because they will reduce costs to market participants. The changes are consistent with an equitable allocation of fees and not unfairly discriminatory because they are assessed against members that either achieve specified volume tiers or that assist the development of PSX's routing services by making use of its router. To the extent that fees differ depending on the listing venue of the security, the change is not unfairly discriminatory because it is consistent with established practices on other national securities exchanges of using security-specific discounts as a means to promote the exchange as a venue for trading certain types of securities. See e.g., <http://usequities.nyx.com/markets/nyse-arca-equities/trading-fees>.

liquidity providers, regardless of volume or other factors, while paying higher rebates to member organizations that do more to support the Exchange through higher volumes and/or contributions to market quality.

The elimination of the rebate tier that requires participation in both PSX and the Exchange's Options Market is reasonable, consistent with an equitable allocation of fees, and not unreasonably discriminatory because any PSX Participant that qualifies for the tier at present would be required to have a volume of liquidity provision of at least 0.05% of Consolidated Volume. Following the implementation of the proposed change, any such market participant would also likely qualify for the proposed new rebate tier requiring an average daily volume of liquidity provision of at least 2 million shares, and receive the same rebate of \$0.0028 per share executed. Accordingly, the change will not alter the rebate for which such participants qualify.

The changes with respect to rebates payable for non-displayed orders is reasonable because the rebate will remain unchanged for midpoint orders that provide liquidity, and therefore will be reduced only for other forms of non-displayed orders, which are expected to constitute only a small percentage of liquidity-providing orders. The fees reflect an equitable allocation of fees and are not unreasonably discriminatory because they reflect the Exchange's belief that all market participants benefit from pricing that encourages the use of displayed orders, which promote active price discovery. Accordingly, as is the case with other national securities exchanges, such as NASDAQ, the Exchange pays a lower rebate with respect to non-displayed orders than displayed orders. However, the change adopts a distinction between midpoint orders, which provide price improvement by executing at the midpoint between the national best

bid and national best offer, and other forms of non-displayed orders, which do not provide such a benefit.

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

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.⁹ Phlx notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, Phlx must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, Phlx believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, Phlx is introducing new pricing to accompany changes to PSX's market structure. These changes were necessitated by the failure of PSX's former price/size execution algorithm to garner significant market share, and therefore reflect an effort to increase PSX's competitiveness. If the changes are unattractive to market participants, it is likely that PSX will fail to increase its share of executions. Conversely, to the extent that the proposed changes broaden the availability of favorable pricing, if they are successful in attracting additional order flow, they will reduce costs to market participants and possibly encouraging competitive responses from other trading venues.

⁹ 15 U.S.C. 78f(b)(8).

Accordingly, Phlx believes that the proposed changes will promote greater competition, but will not impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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) of the Act¹⁰ and paragraph (f) of Rule 19b-4 thereunder.¹¹ 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.

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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-51 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-2013-51. 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-2013-51 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.¹²

Kevin M O'Neill
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

The text of the proposed rule change is below. Proposed new language is underlined; deletions are bracketed.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

ALL BILLING DISPUTES MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ALL DISPUTES MUST BE SUBMITTED NO LATER THAN SIXTY (60) DAYS AFTER RECEIPT OF A BILLING INVOICE, EXCEPT FOR DISPUTES CONCERNING NASDAQ OMX PSX FEES, PROPRIETARY DATA FEED FEES AND CO-LOCATION SERVICES FEES. AS OF JANUARY 3, 2011, THE EXCHANGE WILL CALCULATE FEES ON A TRADE DATE BASIS.

¹ PHLX[®] is a registered trademark of The NASDAQ OMX Group, Inc.

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VIII. NASDAQ OMX PSX FEES

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Order Execution and Routing

(a) The following charges and credits shall apply to the use of the order execution and routing services of the NASDAQ OMX PSX System by member organizations for all securities that it trades priced at \$1 or more per share:

(1) Fees for Execution of Quotes/Orders in Nasdaq-Listed Securities

Charge to member organization entering order that executes in NASDAQ OMX PSX:	[\$0.0028] <u>\$0.00275</u> per share executed for orders entered through a NASDAQ OMX PSX market participant identifier[s] ("MPID") through which the member organization provides <u>an average daily volume of 10,000 or more shares of liquidity during the month</u> [that represent more than 0.10% of the total consolidated volume reported to all consolidated transactions reporting plans by all exchanges and trade reporting facilities ("Consolidated Volume") during the month] \$0.0028 per share executed for an order that is designated as eligible for routing
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	\$0.0030 per share executed for other orders
Credit to member organization providing liquidity through the NASDAQ OMX PSX System:	
Displayed <u>Quote/O[order]</u> :	<p>[\$0.0028 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume during the month]</p> <p>[\$0.0028 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides shares of liquidity that represent more than 0.05% of Consolidated Volume during the month; provided that the member organization and any affiliated member organizations* also have an average daily volume during the month of 1,000 or more electronically-delivered and executed customer contracts that add liquidity on Phlx's Options Market]</p> <p><u>\$0.0028 per share executed for Quotes/Orders entered by a member organization that provides an average daily volume of 2 million or more shares of liquidity during the month</u></p> <p><u>\$0.0026 per share executed for Quotes/Orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 100,000 or more shares of liquidity during the month</u></p> <p>[\$0.0026] <u>\$0.0020 per share executed for other Quotes/O[orders]</u></p>
Non-Displayed Order:	<p><u>\$0.0010 per share executed for a midpoint pegged order or a midpoint peg post-only order (a "midpoint order")</u></p> <p>[\$0.0010]<u>\$0.0005 per share executed for other non-displayed orders</u></p>

(2) Fees for Execution of Quotes/Orders in Securities Listed on the New York Stock Exchange (“NYSE”)

<u>Charge to member organization entering order that executes in NASDAQ OMX PSX:</u>	<u>\$0.00275 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 10,000 or more shares of liquidity during the month</u> <u>\$0.0028 per share executed for an order that is designated as eligible for routing</u> <u>\$0.0030 per share executed for other orders</u>
<u>Credit to member organization providing liquidity through the NASDAQ OMX PSX System:</u>	
<u>Displayed Quote/Order:</u>	<u>\$0.0028 per share executed for Quotes/Orders entered by a member organization that provides an average daily volume of 2 million or more shares of liquidity during the month</u> <u>\$0.0026 per share executed for Quotes/Orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 100,000 or more shares of liquidity during the month</u> <u>\$0.0020 per share executed for other Quotes/Orders</u>
<u>Non-Displayed Order:</u>	<u>\$0.0010 per share executed for midpoint orders</u> <u>\$0.0005 per share executed for other non-displayed orders</u>

(3) Fees for Execution of Orders in Securities Listed on Exchanges other than Nasdaq and NYSE

<u>Charge to member organization entering order that executes in NASDAQ OMX PSX:</u>	<u>\$0.0025 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 10,000</u>
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	<u>or more shares of liquidity during the month</u> <u>\$0.0025 per share executed for an order that is designated as eligible for routing</u> <u>\$0.0030 per share executed for other orders</u>
<u>Credit to member organization providing liquidity through the NASDAQ OMX PSX System:</u>	
<u>Displayed Quote/Order:</u>	<u>\$0.0028 per share executed for Quotes/Orders entered by a member organization that provides an average daily volume of 2 million or more shares of liquidity during the month</u> <u>\$0.0026 per share executed for Quotes/Orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 100,000 or more shares of liquidity during the month</u> <u>\$0.0020 per share executed for other Quotes/Orders</u>
<u>Non-Displayed Order:</u>	<u>\$0.0010 per share executed for midpoint orders</u> <u>\$0.0005 per share executed for other non-displayed orders</u>

(4) Fees for Routing of Orders in All Securities

Charge to member organization entering PSTG or PSCN order that executes in a venue other than the NASDAQ OMX PSX System:	\$0.0025 per share executed at NYSE Credit of \$0.0014 per share executed at NASDAQ OMX BX \$0.0028 per share executed in other venues
Charge to member organization entering PMOP order that executes in a venue other than the NASDAQ OMX PSX System:	\$0.0027 per share executed at NYSE \$0.0031 per share executed at venues other than NYSE
Charge to member organization	\$0.0024 per share executed at NYSE

entering PTFY order that executes in a venue other than the NASDAQ OMX PSX System:	\$0.0005 per share executed at venues other than NYSE, NASDAQ or NASDAQ OMX BX \$0.0028 per share executed at NASDAQ Credit of \$0.0014 per share executed at NASDAQ OMX BX
Charge to member organization entering PCRT order that executes in a venue other than the NASDAQ OMX PSX System:	\$0.0028 per share executed at NASDAQ Credit of \$0.0014 per share executed at NASDAQ OMX BX
Charge or credit to member organization entering XDRK order:	None
Charge or credit to member organization entering XCST order:	Credit of \$0.0014 per share executed at NASDAQ OMX BX For shares executed at a venue other than NASDAQ OMX BX, none

For purposes of determining average daily volume hereunder, any day that the market is not open for the entire trading day will be excluded from such calculation.

[* For purposes of this provision, member organizations shall be deemed affiliates if there is at least 75% common ownership of the member organizations.]

(b) – (c) No change.

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