

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="48"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2020"/> - * <input type="text" value="02"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by Nasdaq 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"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

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

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \*  Last Name \*

Title \*

E-mail \*

Telephone \*  Fax

**Signature**

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

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

(Title \*)

Date  By

(Name \*)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

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

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

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

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Exhibit Sent As Paper Document

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

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq Phlx, LLC (“Phlx” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Phlx’s Pricing Schedule. Specifically, the Exchange proposes to amend Options 7, Section 4, titled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).”

The Exchange originally filed the proposed pricing changes on January 2, 2020 (SR-Phlx-2020-01). On January 14, 2020, the Exchange withdrew that filing and submitted this filing.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. 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 the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on September 25, 2019. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Angela Saccomandi Dunn  
Principal Associate General Counsel  
Nasdaq, Inc.  
(215) 496-5692

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

a. Purpose

Phlx proposes to amend its Pricing Schedule at Options 7, Section 4, titled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).” The Exchange proposes to amend pricing for certain strategy caps. The Exchange believes the proposed amendments will incentivize market participants to transact various options strategies on Phlx to take advantage of the opportunity to cap floor option transaction charges and lower their costs.

Today, to qualify for a strategy cap, the buy and sell side of a transaction must originate from the Exchange floor.<sup>3</sup> Today, the Exchange offers the following strategy caps:

<b>Floor Options Transactions - Multiply Listed Options</b>	<b>Strategy</b>	<b>Qualification</b>	<b>Cap</b>
Specialist, Market Maker, Professional, Firm and Broker-Dealer	dividend, merger and short stock interest strategies	executed on the same trading day in the same options class when such members are trading in their own proprietary accounts.	\$1,500
Specialist, Market Maker, Professional, Firm and Broker-Dealer	reversal and conversion strategies	executed on the same trading day in the same options class	\$700
Specialist, Market Maker, Professional, Firm and Broker-	jelly rolls	executed on the same trading day in the same options class	\$700

<sup>3</sup> See Phlx’s Pricing Schedule at Options 7, Section 4.

## Dealer

Specialist, Market Maker, Professional, Firm and Broker-Dealer	box spreads	executed on the same trading day in the same options class	\$700
Per member organization	dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategies ("Monthly Strategy Cap")	combined executions in a month when trading in own proprietary accounts	\$65,000

NDX and NDXP Options Transactions are excluded from Strategy Cap pricing.<sup>4</sup>

The Exchange proposes to amend the strategy caps applicable to Specialists,<sup>5</sup> Market Makers,<sup>6</sup> Professionals,<sup>7</sup> Firms<sup>8</sup> and Broker-Dealers<sup>9</sup> with respect to dividend,<sup>10</sup> merger<sup>11</sup>

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- <sup>4</sup> Today, reversal and conversion, jelly roll and box spread strategy executions are not included in the Monthly Strategy Cap for a Firm. Also, all dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions are excluded from the Monthly Market Maker Cap. Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$500,000 which is explained in greater detail within Options 7, Section 4.
- <sup>5</sup> The term "Specialist" applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)). A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a). An options Specialist includes a Remote Specialist which is defined as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.
- <sup>6</sup> The term "Market Maker" will be utilized to describe fees and rebates applicable to Registered Options Traders, Streaming Quote Traders ("SQTs") and Remote Streaming Quote Traders ("RSQTs"). RSQTs may also be referred to as Remote Market Markers ("RMMs"). The term "Registered Option Trader" or "ROT" is defined in Exchange Rule 1000(b)(57). A ROT includes SQTs and RSQTs as well as on and off-floor ROTS. The term "Streaming Quote Trader" is defined in Exchange Rule 1000(b)(59). The term "Remote Streaming Quote Trader" is defined in Exchange Rule in 1000(b)(60). A Remote Streaming Quote Trader Organization or "RSQTO," which may also be referred to as a Remote Market Making Organization ("RMO"), is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).
- <sup>7</sup> The term "Professional" applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) means any person or entity that (i) is not

and short stock interest<sup>12</sup> strategies.

*Dividend Strategy*

Today, to qualify for a dividend cap, a Specialist, Market Maker, Professional, Firm or Broker-Dealer must execute on the same trading day in the same options class when such members are trading in their own proprietary accounts. If the qualification is met, Specialists, Market Makers, Professionals, Firms and Broker-Dealers floor option transaction charges are capped at \$1,500. The Exchange proposes to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers dividend strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for dividend strategies. The proposed qualification would be expanded to

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a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

- <sup>8</sup> The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. See Options 7, Section 1.
- <sup>9</sup> The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1.
- <sup>10</sup> A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. See Options 7, Section 4.
- <sup>11</sup> A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. See Options 7, Section 4.
- <sup>12</sup> A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. See Options 7, Section 4.

allow Specialists, Market Makers, Professionals, Firms and Broker-Dealers to qualify for the cap by executing on the same trading in the same options class when (1) such members are trading in their own proprietary account, as is the case today, or (2) when transacted on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account. For example, if Firm A transacted \$600 of qualifying dividend strategies for customer A, \$1,500 qualifying dividend strategies for customer B and \$2,000 qualifying dividend strategies for customer C, then customer A would not qualify for a dividend strategy cap and customers B and C would each separately cap at \$1,100 for qualifying dividend strategies pursuant to this proposal. The Exchange believes that its proposal will incentivize members to transact a greater number of dividend strategies because the cap is being lowered from \$1,500 to \$1,100 and the Exchange is permitting members to qualify for the cap by transacting dividend strategies either in their proprietary account or on an agency basis.

#### *Merger and Short Stock Interest Strategies*

The Exchange proposes to amend the current merger and short stock interest strategy cap which require the strategies to be executed on the same trading day in the same options class when such members are trading in their own proprietary accounts, to qualify for a \$1,500 cap. The Exchange proposes to instead require Specialists, Market Makers, Professionals, Firms and Broker-Dealers that transact merger and short stock interest strategies, along with reversal, conversion, jelly roll and box spread strategies, to execute these strategies on the same trading day for all options classes in the aggregate when such members are trading (1) in their own proprietary accounts, as is the case today, or (2) on an agency basis. If transacted on an agency basis, the daily cap will

apply per beneficial account. The Exchange would offer a cap of \$1,100 to Specialists, Market Makers, Professionals, Firms and Broker-Dealers who qualify for the merger, short stock interest, reversal, conversion, jelly roll and box spread strategies, collectively. The Exchange believes that its proposal will incentivize members to transact a greater number of merger and short stock interest strategies because the cap for merger and short stock interest strategies is being lowered from \$1,500 to \$1,100 and the Exchange is permitting members to aggregate all options classes to qualify for the cap and also permitting members to transact merger, short stock interest, reversal, conversion, jelly roll and box spread strategies either in their proprietary account or on an agency basis.

*Reversal and Conversion, Jelly Roll and Box Spread Strategies*

The Exchange proposes to eliminate the current reversal and conversion,<sup>13</sup> jelly roll<sup>14</sup> and box spread<sup>15</sup> strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers which require the strategies to be executed on the same trading day in the same options class for a cap of \$700, respectively, for each strategy and adopt

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<sup>13</sup> Reversal and conversion strategies are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration. See Options 7, Section 4.

<sup>14</sup> A jelly roll strategy is defined as transactions created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position. See Options 7, Section 4.

<sup>15</sup> A box spread strategy is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively. See Options 7, Section 4.

strategy caps similar to those proposed for the merger and short stock interest strategies. Specifically, Phlx proposes to adopt a new strategy cap for Specialists, Market Makers, Professionals, Firms and Broker-Dealers for merger, short stock interest, reversal and conversion, jelly roll and box spread strategies, collectively, which requires that these strategies be executed on the same trading day for all options classes in the aggregate. Today, members are not limited as to the manner in which they may transact reversal and conversion, jelly roll or box spread strategies. For clarity, the Exchange proposes to state within the rule text that members may transact these strategies in their own proprietary accounts or on an agency basis to qualify for the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap. The Exchange proposes to limit members who transact merger, short stock interest, reversal and conversion, jelly roll or box spread strategies on an agency basis by applying the cap per beneficial account similar to the dividend strategy cap. The Exchange would offer a cap of \$1,100 for qualifying merger, short stock interest, reversal and conversion, jelly roll or box spread strategies. The Exchange believes that its proposal will incentivize members to transact a greater number of reversal and conversion, jelly roll and box spread strategies despite the increase in the cap from \$700 to \$1,100 because members may aggregate all options classes and collectively aggregate merger, short stock interest, reversal and conversion, jelly roll or box spread strategies to qualify for the cap.

For purposes of the Exhibit 5 rule text, the dividend strategy cap will have its own qualification and cap and the remainder of the strategies, merger, short stock interest, reversal and conversion, jelly roll and box spread, will be grouped into a second category

with a collective qualification and cap applicable to those strategies. The Exchange proposes the below rule text:

<b>Floor Options Transactions - Multiply Listed Options</b>	<b>Strategy</b>	<b>Qualification</b>	<b>Cap</b>
Specialist, Market Maker, Professional, Firm and Broker-Dealer	dividend	executed on the same trading day in the same options class when such members are trading: (1) in their own proprietary accounts; or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account.	\$1,100
Specialist, Market Maker, Professional, Firm and Broker-Dealer	reversal and conversion, merger, short stock interest, jelly roll, and box spread strategies	executed on the same trading day for all options classes in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account.	\$1,100
Per member organization	dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategies ("Monthly Strategy Cap")	combined executions in a month when trading in its own proprietary accounts	\$65,000

The Exchange is not proposing to amend the \$65,000 cap per member organization which is currently offered.<sup>16</sup> The Exchange is proposing a technical

<sup>16</sup> Member organization that qualify for a Monthly Strategy Cap for a dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread

amendment to add the word “its” for the qualifying language for a member organization. The amended phrase would state “combined executions in a month when trading in **its** own proprietary account.”

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>17</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>18</sup> 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>19</sup>

Likewise, in NetCoalition v. Securities and Exchange Commission<sup>20</sup>

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strategy by combining executions in a month when trading in their own proprietary accounts are capped at \$65,000 for the month.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>19</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>20</sup> NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

(“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.<sup>21</sup> As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”<sup>22</sup>

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”<sup>23</sup> Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

#### *Dividend Strategy*

The Exchange’s proposal to amend the Specialist, Market Maker, Professional, Firm and Broker-Dealer qualification and cap for dividend strategies cap is reasonable. The Exchange is lowering the cap from \$1,500 to \$1,100. Also, the proposed qualification would be expanded to allow Specialists, Market Makers, Professionals, Firms and Broker-Dealers to qualify for the cap by executing on the same trading in the

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<sup>21</sup> See NetCoalition, at 534 - 535.

<sup>22</sup> Id. at 537.

<sup>23</sup> Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

same options class when such members are trading: (1) in their own proprietary account, as is the case today; or (2) on an agency basis.<sup>24</sup> This expanded qualification would allow additional options transactions to qualify for the dividend strategy cap. The combination of the expansion of the qualification and lowering of the dividend cap should encourage members to transact additional dividend strategies on Phlx. Finally, the proposal to permit the dividend strategy cap to apply to each beneficial account is reasonable. As explained herein, members would be permitted to transact dividend strategies in their own proprietary account or on an agency basis. To the extent that a member is transacting a dividend strategy on an agency basis, the benefit of the dividend cap would apply separately to each beneficial account on whose behalf the member is executing the dividend strategy. The Exchange believes that it is reasonable to apply the cap to each beneficial account when the dividend strategy was transacted on an agency basis, as compared to the member that transacts a dividend strategy for his own proprietary account and therefore may capture the benefit of the dividend strategy for all qualifying transactions in their proprietary account. When the member transacts the dividend strategy on an agency basis, it is for the benefit of a customer. The Exchange believes that applying the dividend cap to each of those customer accounts separately is reasonable as the dividend cap is intended to encourage each member to execute a greater amount of dividend strategies. The Exchange believes applying the dividend cap per beneficial account when transacted on an agency basis would allow the Exchange to incentivize dividend strategies in accordance with the order flow that each member executes on the Exchange.

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<sup>24</sup> If transacted on an agency basis, the daily cap will apply per beneficial account.

The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers dividend strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for dividend strategies is equitable and not unfairly discriminatory because all members may qualify for the dividend strategy cap provided they transact the requisite amount of dividend strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it is equitable and not unfairly discriminatory to permit a dividend strategy cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a dividend strategy on an agency basis, the Exchange would uniformly apply the benefit of the dividend cap separately to each beneficial account on whose behalf the member is executing the dividend strategy because the transaction is for the benefit of a customer and not the member.

*Merger and Short Stock Strategies*

The Exchange's proposal to amend the current merger and short stock interest strategy cap, which requires that the strategies be executed on the same trading day in the same options class when such members are trading in their own proprietary accounts, to qualify for a \$1,500 cap is reasonable. The Exchange proposes to expand the current requirement to permit Specialists, Market Makers, Professionals, Firms and Broker-Dealers that transact merger and short stock interest strategies, along with reversal, conversion, jelly roll and box spread strategies, to execute these strategies on the same trading day for all options classes in the aggregate when such members are trading in their own proprietary accounts or on an agency basis to qualify. Today, members may transact merger and short stock interest strategies in their own proprietary account.

Adding the ability to transact merger and short stock interest on an agency basis to qualify for the cap is proposed herein. To the extent that a member is transacting merger or short stock interest strategies on an agency basis, or a reversal, conversion, jelly roll and box spread strategy, the benefit of the cap would apply separately to each beneficial account on whose behalf the member is executing the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy. The Exchange believes that it is reasonable to apply the cap to each beneficial account when the merger or short stock interest strategy, along with the reversal, conversion, jelly roll and box spread strategy, was transacted on an agency basis, as compared to the member that transacts a merger or short stock interest strategy, or reversal, conversion, jelly roll and box spread strategy, for his own proprietary account and therefore may capture the benefit of the merger or short stock interest strategy, or reversal, conversion, jelly roll and box spread strategy, for all qualifying transactions in their proprietary account. When the member transacts the merger or short stock interest strategy on an agency basis, or reversal, conversion, jelly roll and box spread strategy, it is for the benefit of a customer. The Exchange believes that applying the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap to each of those customer accounts separately is reasonable as the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap is intended to encourage each member to execute a greater amount of these strategies. The Exchange believes applying the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap per beneficial account when transacted on an agency basis would allow the Exchange to incentivize merger and short stock interest strategies in accordance with the order flow that each member executes on the Exchange.

The Exchange would also lower the current merger and short stock interest cap from \$1,500 to \$1,100. The Exchange believes that the combination of expanding the qualifications to permit members to aggregate all options classes and transact on an agency basis, in addition to also continuing to trade in their own proprietary account, as well as lowering the cap will encourage members to transact a greater number of merger and short stock interest strategies.

The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers merger and short stock interest strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for these strategies is equitable and not unfairly discriminatory because all members may qualify for the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap provided they transact the requisite amount of merger, short stock interest, reversal, conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it is equitable and not unfairly discriminatory to permit a merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a merger, short stock interest, reversal, conversion, jelly roll and box spread strategy on an agency basis, the benefit of the merger or short stock interest cap would apply separately to each beneficial account on whose behalf the member is executing the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy because the transaction is for the benefit of a customer and not the member.

*Reversal and Conversion, Jelly Roll and Box Spread Strategies*

The Exchange's proposal to eliminate the current reversal and conversion, jelly roll and box spread strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers and adopt a new strategy cap for these strategies, along with the merger and short stock interest strategies, which requires that these strategies be executed on the same trading day for all options classes in the aggregate when such members are trading in their own proprietary accounts or transacted on an agency basis to qualify is reasonable. Unlike the current qualification for reversal and conversion, jelly roll and box spread strategies which requires that these strategies be executed on the same trading day in the same options class, the proposed qualification would permit the strategies to be executed on the same trading day for all options classes in the aggregate, along with the merger and short stock interest strategies. Further, the Exchange will continue to not limit the manner in which the transactions may be executed, either in a member's proprietary account or on an agency basis, for the reversal and conversion, jelly roll and box spread strategies. Today, there is no limitation as to whether reversal and conversion, jelly roll and box spread strategy caps must be executed on a proprietary or agency basis. For clarity, the Exchange is noting within the rule text that members may transact reversal and conversion, jelly roll and box spread strategy caps either in their own proprietary accounts or on an agency basis, in conjunction with merger and short stock interest strategies. To the extent that a member is transacting merger, short stock interest, reversal and conversion, jelly roll and box spread strategies on an agency basis, the benefit of the cap would apply separately to each beneficial account on whose behalf the member is executing the merger, short stock interest, reversal and conversion, jelly

roll and box spread strategy. The Exchange believes that it is reasonable to apply the cap to each beneficial account when the merger, short stock interest, reversal and conversion, jelly roll and box spread strategies were transacted on an agency basis, as compared to the member that transacts a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy for his own proprietary account and therefore may capture the benefit of these strategies for all qualifying transactions in their proprietary account.

When the member transacts a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy on an agency basis, it is for the benefit of a customer. The Exchange believes that applying the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap to each of those customer accounts separately is reasonable as the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap is intended to encourage each member to execute a greater amount of these strategies. The Exchange believes applying the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap per beneficial account when transacted on an agency basis would allow the Exchange to incentivize reversal and conversion, jelly roll and box spread strategies in accordance with the order flow that each member executes on the Exchange. Despite the increase in the cap from \$700 to \$1,100 for the reversal and conversion, jelly roll and box spread strategies, the Exchange believes that members will be able to meet the new qualification because members will be able to aggregate all options classes to qualify for the increased cap.

The Exchange's proposal to eliminate the current reversal and conversion, jelly roll and box spread strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers and adopt a new strategy cap for these strategies which requires that

these strategies be executed on the same trading day for all options classes in the aggregate, when such members are trading in their own proprietary accounts or on an agency basis, in conjunction with the merger and short stock interest strategies, is equitable and not unfairly discriminatory. All members may qualify for the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy caps provided they transact the requisite amount of merger, short stock interest, reversal and conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it is equitable and not unfairly discriminatory to permit a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy on an agency basis, the benefit of the merger, short stock interest, reversal and conversion, jelly roll and box spread cap would apply separately to each beneficial account on whose behalf the member is executing these strategies because the transaction is for the benefit of a customer and not the member.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will

offer market participants with another choice of where to transact options. The Exchange 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, the Exchange must continually adjust its fees to remain competitive with other exchanges 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, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

#### Intra-market Competition

The proposed amendments do not impose an undue burden on intra-market competition. The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers dividend strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for dividend strategies does not impose an undue burden on intra-market competition because all members may qualify for the dividend strategy cap provided they transact the requisite amount of dividend strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it does not impose an undue burden on competition to permit a dividend cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a dividend strategy on an agency basis, the benefit of the dividend cap would apply separately to each beneficial

account on whose behalf the member is executing the dividend strategy because the transaction is for the benefit of a customer and not the member.

The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers merger and short stock interest strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for these strategies to allow these strategies to be in the aggregate for all options classes and on an agency basis, along with reversal and conversion, jelly roll and box spread strategies, while continuing to permit members to trade in their own proprietary accounts, in conjunction with the reversal and conversion, jelly roll and box spread strategies, does not impose an undue burden on competition because all members may qualify for the merger and short stock interest strategy caps provided they transact the requisite amount of merger, short stock interest, reversal and conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it does not impose an undue burden on competition to permit a merger, short stock interest, reversal and conversion, jelly roll and box spread cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy on an agency basis, the benefit of the merger, short stock interest, reversal and conversion, jelly roll and box spread would apply separately to each beneficial account on whose behalf the member is executing these strategies because the transaction is for the benefit of a customer and not the member.

The Exchange's proposal to eliminate the current reversal and conversion, jelly roll and box spread strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers and adopt a new strategy increased cap of \$1,100 for these strategies which requires that these strategies be executed on the same trading day for all options classes in the aggregate, when such members are trading in their own proprietary accounts or on an agency basis, in conjunction with merger and short stock interest strategies, does not impose an undue burden on competition. All members may qualify for the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy caps provided they transact the requisite amount of merger, short stock interest, reversal and conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. Further, increasing the cap from \$700 to \$1,100 for the reversal and conversion, jelly roll and box spread strategies does not impose an undue burden on competition because all members may qualify for the new qualification by aggregating all options classes to qualify for the increased cap in the merger and short stock interest, reversal and conversion, jelly roll and box spread strategies.

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,<sup>25</sup> the Exchange 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.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

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 Change for publication in the Federal Register.

5. Text of the proposed rule change.

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<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2020-02)

January \_\_, 2020

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend Phlx's Pricing Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 14, 2020, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Phlx's Pricing Schedule. Specifically, the Exchange proposes to amend Options 7, Section 4, titled "Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed)."

The Exchange originally filed the proposed pricing changes on January 2, 2020 (SR-Phlx-2020-01). On January 14, 2020, the Exchange withdrew that filing and submitted this filing.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Phlx proposes to amend its Pricing Schedule at Options 7, Section 4, titled "Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed)." The Exchange proposes to amend pricing for certain strategy caps. The Exchange believes the proposed amendments will incentivize market participants to transact various options strategies on Phlx to take advantage of the opportunity to cap floor option transaction charges and lower their costs.

Today, to qualify for a strategy cap, the buy and sell side of a transaction must originate from the Exchange floor.<sup>3</sup> Today, the Exchange offers the following strategy caps:

<b>Floor Options Transactions -</b>	<b>Strategy</b>	<b>Qualification</b>	<b>Cap</b>
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<sup>3</sup> See Phlx's Pricing Schedule at Options 7, Section 4.

### **Multiply Listed Options**

Specialist, Market Maker, Professional, Firm and Broker-Dealer	dividend, merger and short stock interest strategies	executed on the same trading day in the same options class when such members are trading in their own proprietary accounts.	\$1,500
Specialist, Market Maker, Professional, Firm and Broker-Dealer	reversal and conversion strategies	executed on the same trading day in the same options class	\$700
Specialist, Market Maker, Professional, Firm and Broker-Dealer	jelly rolls	executed on the same trading day in the same options class	\$700
Specialist, Market Maker, Professional, Firm and Broker-Dealer	box spreads	executed on the same trading day in the same options class	\$700
Per member organization	dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategies ("Monthly Strategy Cap")	combined executions in a month when trading in own proprietary accounts	\$65,000

NDX and NDXP Options Transactions are excluded from Strategy Cap pricing.<sup>4</sup>

The Exchange proposes to amend the strategy caps applicable to Specialists,<sup>5</sup> Market

<sup>4</sup> Today, reversal and conversion, jelly roll and box spread strategy executions are not included in the Monthly Strategy Cap for a Firm. Also, all dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions are excluded from the Monthly Market Maker Cap. Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$500,000 which is explained in greater detail within Options 7, Section 4.

<sup>5</sup> The term "Specialist" applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)). A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a). An options Specialist includes a Remote Specialist which is defined as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.

Makers,<sup>6</sup> Professionals,<sup>7</sup> Firms<sup>8</sup> and Broker-Dealers<sup>9</sup> with respect to dividend,<sup>10</sup> merger<sup>11</sup> and short stock interest<sup>12</sup> strategies.

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<sup>6</sup> The term “Market Maker” will be utilized to describe fees and rebates applicable to Registered Options Traders, Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”). RSQTs may also be referred to as Remote Market Markers (“RMMs”). The term “Registered Option Trader” or “ROT” is defined in Exchange Rule 1000(b)(57). A ROT includes SQTs and RSQTs as well as on and off-floor ROTS. The term “Streaming Quote Trader” is defined in Exchange Rule 1000(b)(59). The term “Remote Streaming Quote Trader” is defined in Exchange Rule in 1000(b)(60). A Remote Streaming Quote Trader Organization or “RSQTO,” which may also be referred to as a Remote Market Making Organization (“RMO”), is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

<sup>7</sup> The term “Professional” applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>8</sup> The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. See Options 7, Section 1.

<sup>9</sup> The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1.

<sup>10</sup> A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. See Options 7, Section 4.

<sup>11</sup> A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. See Options 7, Section 4.

<sup>12</sup> A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. See Options 7, Section 4.

*Dividend Strategy*

Today, to qualify for a dividend cap, a Specialist, Market Maker, Professional, Firm or Broker-Dealer must execute on the same trading day in the same options class when such members are trading in their own proprietary accounts. If the qualification is met, Specialists, Market Makers, Professionals, Firms and Broker-Dealers floor option transaction charges are capped at \$1,500. The Exchange proposes to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers dividend strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for dividend strategies. The proposed qualification would be expanded to allow Specialists, Market Makers, Professionals, Firms and Broker-Dealers to qualify for the cap by executing on the same trading in the same options class when (1) such members are trading in their own proprietary account, as is the case today, or (2) when transacted on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account. For example, if Firm A transacted \$600 of qualifying dividend strategies for customer A, \$1,500 qualifying dividend strategies for customer B and \$2,000 qualifying dividend strategies for customer C, then customer A would not qualify for a dividend strategy cap and customers B and C would each separately cap at \$1,100 for qualifying dividend strategies pursuant to this proposal. The Exchange believes that its proposal will incentivize members to transact a greater number of dividend strategies because the cap is being lowered from \$1,500 to \$1,100 and the Exchange is permitting members to qualify for the cap by transacting dividend strategies either in their proprietary account or on an agency basis.

*Merger and Short Stock Interest Strategies*

The Exchange proposes to amend the current merger and short stock interest strategy cap which require the strategies to be executed on the same trading day in the same options class when such members are trading in their own proprietary accounts, to qualify for a \$1,500 cap. The Exchange proposes to instead require Specialists, Market Makers, Professionals, Firms and Broker-Dealers that transact merger and short stock interest strategies, along with reversal, conversion, jelly roll and box spread strategies, to execute these strategies on the same trading day for all options classes in the aggregate when such members are trading (1) in their own proprietary accounts, as is the case today, or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account. The Exchange would offer a cap of \$1,100 to Specialists, Market Makers, Professionals, Firms and Broker-Dealers who qualify for the merger, short stock interest, reversal, conversion, jelly roll and box spread strategies, collectively. The Exchange believes that its proposal will incentivize members to transact a greater number of merger and short stock interest strategies because the cap for merger and short stock interest strategies is being lowered from \$1,500 to \$1,100 and the Exchange is permitting members to aggregate all options classes to qualify for the cap and also permitting members to transact merger, short stock interest, reversal, conversion, jelly roll and box spread strategies either in their proprietary account or on an agency basis.

*Reversal and Conversion, Jelly Roll and Box Spread Strategies*

The Exchange proposes to eliminate the current reversal and conversion,<sup>13</sup> jelly

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<sup>13</sup> Reversal and conversion strategies are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that

roll<sup>14</sup> and box spread<sup>15</sup> strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers which require the strategies to be executed on the same trading day in the same options class for a cap of \$700, respectively, for each strategy and adopt strategy caps similar to those proposed for the merger and short stock interest strategies. Specifically, Phlx proposes to adopt a new strategy cap for Specialists, Market Makers, Professionals, Firms and Broker-Dealers for merger, short stock interest, reversal and conversion, jelly roll and box spread strategies, collectively, which requires that these strategies be executed on the same trading day for all options classes in the aggregate. Today, members are not limited as to the manner in which they may transact reversal and conversion, jelly roll or box spread strategies. For clarity, the Exchange proposes to state within the rule text that members may transact these strategies in their own proprietary accounts or on an agency basis to qualify for the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap. The Exchange proposes to limit members who transact merger, short stock interest, reversal and conversion, jelly roll or box spread strategies on an agency basis by applying the cap per beneficial account similar to the dividend strategy cap. The Exchange would offer a cap of \$1,100 for

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shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration. See Options 7, Section 4.

<sup>14</sup> A jelly roll strategy is defined as transactions created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position. See Options 7, Section 4.

<sup>15</sup> A box spread strategy is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively. See Options 7, Section 4.

qualifying merger, short stock interest, reversal and conversion, jelly roll or box spread strategies. The Exchange believes that its proposal will incentivize members to transact a greater number of reversal and conversion, jelly roll and box spread strategies despite the increase in the cap from \$700 to \$1,100 because members may aggregate all options classes and collectively aggregate merger, short stock interest, reversal and conversion, jelly roll or box spread strategies to qualify for the cap.

For purposes of the Exhibit 5 rule text, the dividend strategy cap will have its own qualification and cap and the remainder of the strategies, merger, short stock interest, reversal and conversion, jelly roll and box spread, will be grouped into a second category with a collective qualification and cap applicable to those strategies. The Exchange proposes the below rule text:

<b>Floor Options Transactions - Multiply Listed Options</b>	<b>Strategy</b>	<b>Qualification</b>	<b>Cap</b>
Specialist, Market Maker, Professional, Firm and Broker-Dealer	dividend	executed on the same trading day in the same options class when such members are trading: (1) in their own proprietary accounts; or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account.	\$1,100
Specialist, Market Maker, Professional, Firm and Broker-Dealer	reversal and conversion, merger, short stock interest, jelly roll, and box spread strategies	executed on the same trading day for all options classes in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account.	\$1,100

Per member organization	dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategies ("Monthly Strategy Cap")	combined executions in a month when trading in its own proprietary accounts	\$65,000
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The Exchange is not proposing to amend the \$65,000 cap per member organization which is currently offered.<sup>16</sup> The Exchange is proposing a technical amendment to add the word “its” for the qualifying language for a member organization. The amended phrase would state “combined executions in a month when trading in **its** own proprietary account.”

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>17</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>18</sup> 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve

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<sup>16</sup> Member organization that qualify for a Monthly Strategy Cap for a dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy by combining executions in a month when trading in their own proprietary accounts are capped at \$65,000 for the month.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(4) and (5).

the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>19</sup>

Likewise, in NetCoalition v. Securities and Exchange Commission<sup>20</sup> (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.<sup>21</sup> As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”<sup>22</sup>

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”<sup>23</sup> Although the court

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<sup>19</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>20</sup> NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

<sup>21</sup> See NetCoalition, at 534 - 535.

<sup>22</sup> Id. at 537.

<sup>23</sup> Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

*Dividend Strategy*

The Exchange's proposal to amend the Specialist, Market Maker, Professional, Firm and Broker-Dealer qualification and cap for dividend strategies cap is reasonable. The Exchange is lowering the cap from \$1,500 to \$1,100. Also, the proposed qualification would be expanded to allow Specialists, Market Makers, Professionals, Firms and Broker-Dealers to qualify for the cap by executing on the same trading in the same options class when such members are trading: (1) in their own proprietary account, as is the case today; or (2) on an agency basis.<sup>24</sup> This expanded qualification would allow additional options transactions to qualify for the dividend strategy cap. The combination of the expansion of the qualification and lowering of the dividend cap should encourage members to transact additional dividend strategies on Phlx. Finally, the proposal to permit the dividend strategy cap to apply to each beneficial account is reasonable. As explained herein, members would be permitted to transact dividend strategies in their own proprietary account or on an agency basis. To the extent that a member is transacting a dividend strategy on an agency basis, the benefit of the dividend cap would apply separately to each beneficial account on whose behalf the member is executing the dividend strategy. The Exchange believes that it is reasonable to apply the cap to each beneficial account when the dividend strategy was transacted on an agency basis, as compared to the member that transacts a dividend strategy for his own proprietary account and therefore may capture the benefit of the dividend strategy for all

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<sup>24</sup> If transacted on an agency basis, the daily cap will apply per beneficial account.

qualifying transactions in their proprietary account. When the member transacts the dividend strategy on an agency basis, it is for the benefit of a customer. The Exchange believes that applying the dividend cap to each of those customer accounts separately is reasonable as the dividend cap is intended to encourage each member to execute a greater amount of dividend strategies. The Exchange believes applying the dividend cap per beneficial account when transacted on an agency basis would allow the Exchange to incentivize dividend strategies in accordance with the order flow that each member executes on the Exchange.

The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers dividend strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for dividend strategies is equitable and not unfairly discriminatory because all members may qualify for the dividend strategy cap provided they transact the requisite amount of dividend strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it is equitable and not unfairly discriminatory to permit a dividend strategy cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a dividend strategy on an agency basis, the Exchange would uniformly apply the benefit of the dividend cap separately to each beneficial account on whose behalf the member is executing the dividend strategy because the transaction is for the benefit of a customer and not the member.

#### *Merger and Short Stock Strategies*

The Exchange's proposal to amend the current merger and short stock interest strategy cap, which requires that the strategies be executed on the same trading day in the

same options class when such members are trading in their own proprietary accounts, to qualify for a \$1,500 cap is reasonable. The Exchange proposes to expand the current requirement to permit Specialists, Market Makers, Professionals, Firms and Broker-Dealers that transact merger and short stock interest strategies, along with reversal, conversion, jelly roll and box spread strategies, to execute these strategies on the same trading day for all options classes in the aggregate when such members are trading in their own proprietary accounts or on an agency basis to qualify. Today, members may transact merger and short stock interest strategies in their own proprietary account. Adding the ability to transact merger and short stock interest on an agency basis to qualify for the cap is proposed herein. To the extent that a member is transacting merger or short stock interest strategies on an agency basis, or a reversal, conversion, jelly roll and box spread strategy, the benefit of the cap would apply separately to each beneficial account on whose behalf the member is executing the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy. The Exchange believes that it is reasonable to apply the cap to each beneficial account when the merger or short stock interest strategy, along with the reversal, conversion, jelly roll and box spread strategy, was transacted on an agency basis, as compared to the member that transacts a merger or short stock interest strategy, or reversal, conversion, jelly roll and box spread strategy, for his own proprietary account and therefore may capture the benefit of the merger or short stock interest strategy, or reversal, conversion, jelly roll and box spread strategy, for all qualifying transactions in their proprietary account. When the member transacts the merger or short stock interest strategy on an agency basis, or reversal, conversion, jelly roll and box spread strategy, it is for the benefit of a customer. The Exchange believes

that applying the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap to each of those customer accounts separately is reasonable as the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap is intended to encourage each member to execute a greater amount of these strategies. The Exchange believes applying the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap per beneficial account when transacted on an agency basis would allow the Exchange to incentivize merger and short stock interest strategies in accordance with the order flow that each member executes on the Exchange.

The Exchange would also lower the current merger and short stock interest cap from \$1,500 to \$1,100. The Exchange believes that the combination of expanding the qualifications to permit members to aggregate all options classes and transact on an agency basis, in addition to also continuing to trade in their own proprietary account, as well as lowering the cap will encourage members to transact a greater number of merger and short stock interest strategies.

The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers merger and short stock interest strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for these strategies is equitable and not unfairly discriminatory because all members may qualify for the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy cap provided they transact the requisite amount of merger, short stock interest, reversal, conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it is equitable and not unfairly discriminatory to permit a merger, short stock interest,

reversal, conversion, jelly roll and box spread strategy cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a merger, short stock interest, reversal, conversion, jelly roll and box spread strategy on an agency basis, the benefit of the merger or short stock interest cap would apply separately to each beneficial account on whose behalf the member is executing the merger, short stock interest, reversal, conversion, jelly roll and box spread strategy because the transaction is for the benefit of a customer and not the member.

*Reversal and Conversion, Jelly Roll and Box Spread Strategies*

The Exchange's proposal to eliminate the current reversal and conversion, jelly roll and box spread strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers and adopt a new strategy cap for these strategies, along with the merger and short stock interest strategies, which requires that these strategies be executed on the same trading day for all options classes in the aggregate when such members are trading in their own proprietary accounts or transacted on an agency basis to qualify is reasonable. Unlike the current qualification for reversal and conversion, jelly roll and box spread strategies which requires that these strategies be executed on the same trading day in the same options class, the proposed qualification would permit the strategies to be executed on the same trading day for all options classes in the aggregate, along with the merger and short stock interest strategies. Further, the Exchange will continue to not limit the manner in which the transactions may be executed, either in a member's proprietary account or on an agency basis, for the reversal and conversion, jelly roll and box spread strategies. Today, there is no limitation as to whether reversal and conversion, jelly roll and box spread strategy caps must be executed on a proprietary or

agency basis. For clarity, the Exchange is noting within the rule text that members may transact reversal and conversion, jelly roll and box spread strategy caps either in their own proprietary accounts or on an agency basis, in conjunction with merger and short stock interest strategies. To the extent that a member is transacting merger, short stock interest, reversal and conversion, jelly roll and box spread strategies on an agency basis, the benefit of the cap would apply separately to each beneficial account on whose behalf the member is executing the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy. The Exchange believes that it is reasonable to apply the cap to each beneficial account when the merger, short stock interest, reversal and conversion, jelly roll and box spread strategies were transacted on an agency basis, as compared to the member that transacts a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy for his own proprietary account and therefore may capture the benefit of these strategies for all qualifying transactions in their proprietary account.

When the member transacts a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy on an agency basis, it is for the benefit of a customer. The Exchange believes that applying the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap to each of those customer accounts separately is reasonable as the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap is intended to encourage each member to execute a greater amount of these strategies. The Exchange believes applying the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap per beneficial account when transacted on an agency basis would allow the Exchange to incentivize reversal and conversion, jelly roll and box spread strategies in accordance with the order flow that

each member executes on the Exchange. Despite the increase in the cap from \$700 to \$1,100 for the reversal and conversion, jelly roll and box spread strategies, the Exchange believes that members will be able to meet the new qualification because members will be able to aggregate all options classes to qualify for the increased cap.

The Exchange's proposal to eliminate the current reversal and conversion, jelly roll and box spread strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers and adopt a new strategy cap for these strategies which requires that these strategies be executed on the same trading day for all options classes in the aggregate, when such members are trading in their own proprietary accounts or on an agency basis, in conjunction with the merger and short stock interest strategies, is equitable and not unfairly discriminatory. All members may qualify for the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy caps provided they transact the requisite amount of merger, short stock interest, reversal and conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it is equitable and not unfairly discriminatory to permit a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a merger, short stock interest, reversal and conversion, jelly roll and box spread strategy on an agency basis, the benefit of the merger, short stock interest, reversal and conversion, jelly roll and box spread cap would apply separately to each beneficial account on whose behalf the member is executing these strategies because the transaction is for the benefit of a customer and not the member.

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.

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange 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, the Exchange must continually adjust its fees to remain competitive with other exchanges 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, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-market Competition

The proposed amendments do not impose an undue burden on intra-market competition. The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers dividend strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for dividend strategies does not impose an undue burden on intra-market competition because all members may

qualify for the dividend strategy cap provided they transact the requisite amount of dividend strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it does not impose an undue burden on competition to permit a dividend cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a dividend strategy on an agency basis, the benefit of the dividend cap would apply separately to each beneficial account on whose behalf the member is executing the dividend strategy because the transaction is for the benefit of a customer and not the member.

The Exchange's proposal to amend the qualification for Specialists, Market Makers, Professionals, Firms and Broker-Dealers merger and short stock interest strategies by lowering the cap from \$1,500 to \$1,100 and also amending the qualification for these strategies to allow these strategies to be in the aggregate for all options classes and on an agency basis, along with reversal and conversion, jelly roll and box spread strategies, while continuing to permit members to trade in their own proprietary accounts, in conjunction with the reversal and conversion, jelly roll and box spread strategies, does not impose an undue burden on competition because all members may qualify for the merger and short stock interest strategy caps provided they transact the requisite amount of merger, short stock interest, reversal and conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. The Exchange also believes that it does not impose an undue burden on competition to permit a merger, short stock interest, reversal and conversion, jelly roll and box spread cap to apply to each beneficial account when transacted on an agency basis. To the extent that a member is transacting a merger, short stock interest, reversal

and conversion, jelly roll and box spread strategy on an agency basis, the benefit of the merger, short stock interest, reversal and conversion, jelly roll and box spread would apply separately to each beneficial account on whose behalf the member is executing these strategies because the transaction is for the benefit of a customer and not the member.

The Exchange's proposal to eliminate the current reversal and conversion, jelly roll and box spread strategy caps for Specialists, Market Makers, Professionals, Firms and Broker-Dealers and adopt a new strategy increased cap of \$1,100 for these strategies which requires that these strategies be executed on the same trading day for all options classes in the aggregate, when such members are trading in their own proprietary accounts or on an agency basis, in conjunction with merger and short stock interest strategies, does not impose an undue burden on competition. All members may qualify for the merger, short stock interest, reversal and conversion, jelly roll and box spread strategy caps provided they transact the requisite amount of merger, short stock interest, reversal and conversion, jelly roll and box spread strategies wherein the buy and sell side of a transaction originated from the Exchange floor. Further, increasing the cap from \$700 to \$1,100 for the reversal and conversion, jelly roll and box spread strategies does not impose an undue burden on competition because all members may qualify for the new qualification by aggregating all options classes to qualify for the increased cap in the merger and short stock interest, reversal and conversion, jelly roll and box spread strategies

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>25</sup>

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2020-02 on the subject line.

Paper comments:

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

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<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-Phlx-2020-02. 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-2020-02 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.<sup>26</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>26</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

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**Nasdaq PHLX LLC Rules**

\* \* \* \* \*

**Options Rules**

\* \* \* \* \*

**Options 7 Pricing Schedule**

\* \* \* \* \*

**Section 4. Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed)**

\* \* \* \* \*

*Strategies Defined:*

- A **dividend strategy** is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend.
- A **merger strategy** is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock.
- A **short stock interest strategy** is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.
- **Reversal and conversion strategies** are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.
- A **jelly roll strategy** is defined as transactions created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position.
- A **box spread strategy** is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively.

*Strategy Caps:*

To qualify for a strategy cap, the buy and sell side of a transaction must originate from the Exchange floor.

<b>Floor Options Transactions - Multiply Listed Options</b>	<b>Strategy</b>	<b>Qualification</b>	<b>Cap</b>
Specialist, Market Maker, Professional, Firm and Broker-Dealer	dividend[, merger and short stock interest strategies]	executed on the same trading day in the same options class when such members are trading: <u>(1) in their own proprietary accounts; or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account.</u>	[\$1,500]1,100
Specialist, Market Maker, Professional, Firm and Broker-Dealer	reversal and conversion, <u>merger, short stock interest, jelly roll, and box spread</u> strategies	executed on the same trading day [in the same]for all options classes <u>in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis. If transacted on an agency basis, the daily cap will apply per beneficial account.</u>	[\$700]1,100
[Specialist, Market Maker, Professional, Firm and Broker-Dealer]	[jelly rolls]	[executed on the same trading day in the same options class]	[\$700]
[Specialist, Market Maker, Professional, Firm and Broker-Dealer]	[box spreads]	[executed on the same trading day in the same options class]	[\$700]
Per member organization	dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategies	combined executions in a month when trading in <u>its</u> own proprietary accounts	\$65,000

("Monthly  
Strategy Cap")

- Reversal and conversion, jelly roll and box spread strategy executions will not be included in the Monthly Strategy Cap for a Firm. Reversal and conversion, jelly roll and box spread strategy executions (as defined in this Options 7, Section 4) are included in the Monthly Firm Fee Cap. All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in this Options 7, Section 4) will be excluded from the Monthly Market Maker Cap. NDX and NDXP Options Transactions will be excluded from Strategy Cap pricing.

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