Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2022 - * 24
Amendment No. (req. for Amendments *)

Filing by Nasdaq PHLX LLC

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

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

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

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

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

Section 806(e)(1) * ☐

Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

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

A proposal to amend the Exchanges schedule of credits, at Equity 7, Section 3.

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 * Katie
Last Name * Hopkins
Title * Associate General Counsel
E-mail * katie.hopkins@nasdaq.com
Telephone * (301) 232-4067
Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Nasdaq PHLX LLC
has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 06/01/2022

By John Zecca
(Name *)

(Title *)
EVP and Chief Legal Officer

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

Date: 2022.06.01
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Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View SR-Phlx-2022-24 19b-4.doc	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View SR-Phlx-2022-24 Exhibit 1.doc	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 Advanced Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2- Notices, Written Comments, Transcripts, Other Communications Add Remove View	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 Sent As Paper Document
Exhibit 3 - Form, Report, or Questionnaire Add Remove View	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 Sent As Paper Document
Exhibit 4 - Marked Copies Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View SR-Phlx-2022-24 Exhibit 5.doc	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq PHLX LLC ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to amend the Exchange's schedule of credits, at Equity 7, Section 3, as described further below.

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"). 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:

Katie Hopkins
Associate General Counsel
Nasdaq, Inc.
301-232-4067

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

2 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes to amend its pricing schedule, at Equity 7, Section 3, to: (1) adopt a new $0.0025 per share executed credit for member organizations that provide non-displayed liquidity with midpoint pegging of at least one million shares average daily value during the month; and (2) modify the per share executed credit for member organizations that provide non-displayed liquidity with midpoint pegging for all other orders from $0.0023 to $0.0018.

Pursuant to Equity 7, Section 3, the Exchange currently provides a credit of $0.0023 per share executed to member organizations for all non-displayed orders with midpoint pegging that provide liquidity. The Exchange proposes to establish credit tiers for member organizations providing liquidity for non-displayed orders with midpoint pegging to provide an incentive for member organizations to engage in a significant amount of liquidity adding activity on the Exchange.

The Exchange proposes establishing a new credit that will reward a member organization with a credit of $0.0025 per share executed to the extent that it provides a daily average volume of at least one million shares of non-displayed liquidity with midpoint pegging during the month. The proposed new credit for non-displayed orders with midpoint pegging will provide an additional incentive to member organizations to add liquidity to the Exchange. Insofar as the proposed new credit will require a qualifying member organization to provide at least one million shares average daily value during the month in order to qualify for the $0.0025 per share credit, the Exchange believes it is reasonable for the amount of the proposed credit to be larger than the credit for other non-displayed orders with midpoint pegging, which the Exchange proposes to modify to $0.0018. To the extent that the proposed new credit structure succeeds in increasing liquidity on the Exchange, the quality of the Exchange's market will improve, to the benefit of all participants.

In addition, the Exchange proposes lowering the credit to member organizations for all other non-displayed orders with midpoint pegging that provide liquidity during the month from $0.0023 to $0.0018 per share executed. The Exchange has limited resources available to it to offer its member organizations market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective, such as the proposed new credit and away from those that are less effective, such as this existing credit for midpoint pegged orders that add liquidity to the Exchange. Accordingly, the Exchange is reducing the amount of this credit from $0.0023 to $0.0018 per share executed.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among member organizations and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4) and (5).

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[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'…."[5]

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."[6]

Numerous indicia demonstrate the competitive nature of this market. For

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5 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

6 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon member organizations achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes that its proposals are reasonable, equitable, and not unfairly discriminatory to: (1) establish a new $0.0025 per share executed credit for non-displayed orders with midpoint pegging that provide liquidity of at least one million shares average daily value during the month; and (2) reduce from $0.0023 to $0.0018 per share executed its existing credit for all other non-displayed orders with midpoint pegging that provide liquidity to the Exchange. The Exchange assesses a particular need to increase liquidity on the Exchange as a means of improving market quality. The proposal is reasonable in serving that purpose by providing a new incentive for member organizations to add a substantial amount of liquidity to the Exchange, while reducing an existing incentive for member organizations that add a lesser amount of liquidity to the Exchange. As noted above, the Exchange has limited resources available to it to offer its member organizations market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective. It is reasonable and equitable to address the need for increased liquidity on the Exchange by allocating its limited resources to establish a new credit that rewards member organizations that provide a substantial volume of liquidity to the Exchange and reduce an existing credit that rewards member organizations for providing a lesser volume of liquidity to the Exchange.

The Exchange also believes that these proposals are an equitable allocation and not unfairly discriminatory because all market participants stand to benefit to the extent that the proposal is successful in increasing liquidity on the Exchange and improving market quality. Insofar as the $0.0025 credit will require a member organization to provide a daily average volume of at least one million shares of liquidity on the Exchange during the month, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory for the amount of the proposed credit to be larger than the credit for all other non-displayed orders with midpoint pegging.

Any member organization that is dissatisfied with the proposed credits is free to shift their order flow to competing venues that provide more favorable rates or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participants at a competitive disadvantage. As noted above, all member organizations of the Exchange will benefit from an increase in activity on the Exchange.

Moreover, member organizations are free to trade on other venues to the extent they believe that the credits provided are not attractive or the qualifying criteria for such credits is too stringent. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

The Exchange believes that the proposed changes to its schedule of credits for non-displayed orders with midpoint pegging will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. 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 credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit changes in this market may impose any burden on competition is extremely limited.

The proposed changes to the Exchange's credits for non-displayed orders with midpoint pegging are reflective of this competition because, as a threshold issue, the

Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17-18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume in recent months.

In sum, the Exchange intends for the proposed changes to credits for non-displayed orders with midpoint pegging to incent member organizations to add liquidity to the Exchange and to thereby contribute to market quality, which is reflective of fierce competition for order flow noted above; however, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will either fail to increase its market share or even lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

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

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,[7] 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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[7] 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2022-24)

June __, 2022

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend its Schedule of Credits, at Equity 7, Section 3

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on June 1, 2022, 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 the Exchange's schedule of credits, at Equity 7, Section 3, as described further below. The text of the proposed rule change is available on the Exchange's Website at https://listingcenter.nasdaq.com/rulebook/phlx/rules, 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

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

2 17 CFR 240.19b-4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend its pricing schedule, at Equity 7, Section 3, to: (1) adopt a new $0.0025 per share executed credit for member organizations that provide non-displayed liquidity with midpoint pegging of at least one million shares average daily value during the month; and (2) modify the per share executed credit for member organizations that provide non-displayed liquidity with midpoint pegging for all other orders from $0.0023 to $0.0018.

Pursuant to Equity 7, Section 3, the Exchange currently provides a credit of $0.0023 per share executed to member organizations for all non-displayed orders with midpoint pegging that provide liquidity. The Exchange proposes to establish credit tiers for member organizations providing liquidity for non-displayed orders with midpoint pegging to provide an incentive for member organizations to engage in a significant amount of liquidity adding activity on the Exchange.

The Exchange proposes establishing a new credit that will reward a member organization with a credit of $0.0025 per share executed to the extent that it provides a daily average volume of at least one million shares of non-displayed liquidity with midpoint pegging during the month. The proposed new credit for non-displayed orders with midpoint pegging will provide an additional incentive to member organizations to add liquidity to the Exchange. Insofar as the proposed new credit will require a qualifying member organization to provide at least one million shares average daily value during the month in order to qualify for the $0.0025 per share credit, the Exchange believes it is reasonable for the amount of the proposed credit to be larger than the credit for other non-displayed orders with midpoint pegging, which the Exchange proposes to modify to $0.0018. To the extent that the proposed new credit structure succeeds in increasing liquidity on the Exchange, the quality of the Exchange's market will improve, to the benefit of all participants.

In addition, the Exchange proposes lowering the credit to member organizations for all other non-displayed orders with midpoint pegging that provide liquidity during the month from $0.0023 to $0.0018 per share executed. The Exchange has limited resources available to it to offer its member organizations market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective, such as the proposed new credit and away from those that are less effective, such as this existing credit for midpoint pegged orders that add liquidity to the Exchange. Accordingly, the Exchange is reducing the amount of this credit from $0.0023 to $0.0018 per share executed.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among member organizations and issuers and other persons using any

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4) and (5).

facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[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'…."[5]

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

5 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

broader forms that are most important to investors and listed companies."[6]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon member organizations achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes that its proposals are reasonable, equitable, and not unfairly discriminatory to: (1) establish a new \$0.0025 per share executed credit for non-displayed orders with midpoint pegging that provide liquidity of at least one million shares average daily value during the month; and (2) reduce from \$0.0023 to \$0.0018 per share executed its existing credit for all other non-displayed orders with midpoint pegging that provide liquidity to the Exchange. The Exchange assesses a particular need to increase liquidity on the Exchange as a means of improving market quality. The proposal is reasonable in serving that purpose by providing a new incentive for member organizations to add a substantial amount of liquidity to the Exchange, while reducing an existing incentive for member organizations that add a lesser amount of liquidity to the Exchange. As noted above, the Exchange has limited resources available to it to offer its

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6 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

member organizations market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective. It is reasonable and equitable to address the need for increased liquidity on the Exchange by allocating its limited resources to establish a new credit that rewards member organizations that provide a substantial volume of liquidity to the Exchange and reduce an existing credit that rewards member organizations for providing a lesser volume of liquidity to the Exchange.

The Exchange also believes that these proposals are an equitable allocation and not unfairly discriminatory because all market participants stand to benefit to the extent that the proposal is successful in increasing liquidity on the Exchange and improving market quality. Insofar as the $0.0025 credit will require a member organization to provide a daily average volume of at least one million shares of liquidity on the Exchange during the month, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory for the amount of the proposed credit to be larger than the credit for all other non-displayed orders with midpoint pegging.

Any member organization that is dissatisfied with the proposed credits is free to shift their order flow to competing venues that provide more favorable rates or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participants at a competitive disadvantage. As noted above, all member organizations of the Exchange will benefit from an increase in activity on the Exchange. Moreover, member organizations are free to trade on other venues to the extent they believe that the credits provided are not attractive or the qualifying criteria for such credits is too stringent. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

The Exchange believes that the proposed changes to its schedule of credits for non-displayed orders with midpoint pegging will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. 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 credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the

Exchange believes that the degree to which credit changes in this market may impose any burden on competition is extremely limited.

The proposed changes to the Exchange's credits for non-displayed orders with midpoint pegging are reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17-18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume in recent months.

In sum, the Exchange intends for the proposed changes to credits for non-displayed orders with midpoint pegging to incent member organizations to add liquidity to the Exchange and to thereby contribute to market quality, which is reflective of fierce competition for order flow noted above; however, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will either fail to increase its market share or even lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7]

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. Please include File Number SR-Phlx-2022-24 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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7 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-Phlx-2022-24. 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-2022-24 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.[8]

J. Matthew DeLesDernier
Assistant Secretary

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[8] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

Nasdaq PHLX Rules

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Equity Rules

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Equity 7: Pricing Schedule

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Section 3 Nasdaq PSX Fees

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Order Execution and Routing

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

> (1) Fees for Execution of Quotes/Orders in Nasdaq-Listed Securities, Securities Listed on the New York Stock Exchange ("NYSE") and Securities Listed on Exchanges other than Nasdaq and NYSE. As used in this rule, the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

Charge to member organization entering order that executes in Nasdaq PSX:	$0.0029 per share executed for orders entered by a member organization that: (i) adds a daily average of at least 2 million shares of liquidity in all securities from the Exchange during the month; (ii) increases its average daily volume added to the Exchange by 50% or more during the month relative to the month of January 2022; (iii) increases its

	average daily volume added to and removed from the Exchange by 100% or more during the month relative to the month of January 2022; and (iv) adds and removes a daily average of at least 10 million shares of liquidity in all securities from the Exchange during the month; $0.0030 per share executed for all other orders
Credit to member organization providing liquidity through the Nasdaq PSX System:	
Displayed Quote/Order:	$0.0035 per share executed for Quotes/Orders entered by a member organization that provides 0.10% or more of total Consolidated Volume during the month $0.0034 per share executed for Quotes/Orders entered by a member organization that provides 0.05% or more of total Consolidated Volume during the month and removes 0.02% of total Consolidated Volume during the month $0.0032 per share executed for Quotes/Orders entered by a member organization that: (i) provides a daily average of at least 2 million shares of liquidity in all securities on the Exchange during the month; and (ii) increases its average daily volume of Quotes/Orders added to the Exchange by 75% or more during the month relative to the month of March 2022 $0.0030 per share executed for Quotes/Orders entered by a member organization that: (i) provides a daily

average of at least 1 million shares of liquidity in all securities on the Exchange during the month; and (ii) increases its average daily volume of Quotes/Orders added to the Exchange by 100% or more during the month relative to the month of October 2021

$0.0020 per share executed for all other Quotes/Orders

Non-Displayed Order Charges and Credits:	$0.0025 per share executed credit for orders with midpoint pegging that provide liquidity of at least 1 million shares ADV during the month
	$0.00[23]18 per share executed credit for all other orders with midpoint pegging that provide liquidity
	$0.0015 per share executed credit for orders entered by a member organization that provides 0.01% or more of total Consolidated Volume during the month through non-displayed orders (other than midpoint orders) that provide liquidity
	$0.0005 per share executed credit for other non-displayed orders that provide liquidity

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