Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2022 - * 27
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 *).

Adopt Pricing for VOLQ Options

Contact Information

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

First Name * Angela
Last Name * Dunn
Title * Principal Associate General Counsel
E-mail * Angela.dunn@nasdaq.com
Telephone * (215) 496-5692
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 06/16/2022

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: 2022.06.16 16:35:46 -04'00'

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-2022-27 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-2022-27 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-2022-27 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 Pricing Schedule at Options 7, Section 5, Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange), to adopt pricing for options on a Nasdaq-100® Volatility Index ("VOLQ").[3]

Additionally, the proposal amends Options 7, Section 2, Customer Rebate Program; Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY); and Options 7, Section 6, Other Transaction Fees.

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.

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

2 17 CFR 240.19b-4.

3 VOLQ a new index that measures changes in 30-day implied volatility of the Nasdaq-100® Index. See Securities Exchange Act Release No. 91781 (May 5, 2021), 86 FR 25918 (May 11, 2021) (SR-Phlx-2020-41) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Options on a Nasdaq-100 Volatility Index). See also Securities Exchange Act Release No. 93628 (November 19, 2021), 86 FR 67555 (November 26, 2021) (SR-Phlx-2021-56) (Order Approving a Proposed Rule Change To Amend Options 4A, Section 12 Regarding the Calculation of the Closing Volume Weighted Average Price for Options on the Nasdaq-100 Volatility Index in Certain Circumstances). Today, VOLQ is only listed on Phlx.

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 November 5, 2020. 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:

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

The Exchange received approval to list index options on VOLQ.[4] The Exchange will commence listing VOLQ options on June 14, 2022. At this time, the Exchange proposes to amend its Pricing Schedule at Options 7, Section 5.A., Broad-Based Index Options, to adopt pricing for VOLQ Options for transactions executed electronically and on the floor.[5]

Additionally, the proposal amends Options 7, Section 2, Customer Rebate Program; Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY); and Options 7, Section 6, Other Transaction Fees. Each change is described below.

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[4] See note 3 above.

[5] The term "floor transaction" is a transaction that is effected in open outcry on the Exchange's Trading Floor. See Options 7, Section 1(c).

The Exchange proposes to assess Professionals,[6] Lead Market Makers,[7] Market Makers,[8] Broker-Dealers[9] and Firms[10] a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor. Customers[11] will not be assessed a transaction fee to transact VOLQ options electronically or on the floor.

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6 The term "Professional" applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 7, Section 1(c).

7 The term "Lead Market Maker" applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c). The term "Floor Lead Market Maker" is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange's trading floor. See Options 8, Section 2(a)(3).

8 The term "Market Maker" is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c). The term "Floor Market Maker" is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Options 8, Section 2(a)(4).

9 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(c).

10 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(c).

11 The term "Customer" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of a broker or dealer or for the account of a "Professional" (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

Additionally, the Exchange will assess a surcharge[12] of $0.10 per contract to Non-Customers[13] who transact VOLQ options, in addition to the transaction fees.

The Exchange proposes to pay a rebate of $0.40 per contract to Lead Market Makers and Market Makers who add liquidity in VOLQ. The Exchange proposes to note within the rule text that, with respect to Section 5 of this Options 7 Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

The Exchange also proposes to amend various sections of the Pricing Schedule to make clear that pricing for broad-based index options symbols listed within Options 7, Section 5.A. is governed by the pricing within Options 7, Section 5.A. Today, the Pricing Schedule makes note where options symbols currently listed within Options 7, Section 5.A. (NDX, NDXP and XND) are excluded from pricing. For example, Options 7, Section 2 Customer Rebates are not paid on NDX, NDXP, or XND contracts. The Exchange proposes to also exclude VOLQ options from Customer Rebates, similar to NDX, NDXP, and XND. The pricing for certain broad-based proprietary index options, NDX, NDXP, and XND, and now VOLQ, is specified within Options 7, Section 5.A. and

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12 The surcharge is assessed because VOLQ is a proprietary product and there is a license associated with this product.

13 The term "Non-Customer" applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. The term "Joint Back Office" or "JBO" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer. A JBO participant is a member, member organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer ("JBO Broker") subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed at Options 6D, Section 1. See Options 7, Section 1(c).

other pricing within Options 7 does not apply to these products. The Exchange specifically makes clear within Options 7, Sections 2, 4, and 6 that the pricing within Options 7, Section 5.A. will govern for NDX, NDXP, XND and now VOLQ.

Also, today, a member's transacted options volume for broad-based options symbols currently listed within Options 7, Section 5.A. (NDX, NDXP, and XND) may count toward certain volume requirements despite these symbols not being eligible for corresponding rebates. For example, NDX, NDXP, and XND contracts count toward the volume requirement to qualify for a Customer Rebate Tier within Options 7, Section 2, and continue to not be eligible for Customer rebates. VOLQ will also count toward the volume requirement to qualify for a Customer Rebate Tier within Options 7, Section 2, and not be eligible for Customer rebates.

The Exchange is replacing rule text within Options 7 concerning NDX, NDXP, and XND with rule text that instead refers to "broad-based index options symbols within Options 7, Section 5.A." which exclusively includes NDX, NDXP, XND and now VOLQ. Within Options 7, Section 4, the Exchange proposes to amend the title of the rule to state that broad-based index options symbols listed within Options 7, Section 5.A are excluded in place of noting the exclusion by symbol within the table in that section. Additionally, the Exchange proposes to note that broad-based index options symbols listed within Options 7, Section 5.A are excluded from the $0.12 per contract surcharge assessed to Non-Customer electronic Complex Orders that remove liquidity from the Complex Order Book and auctions within Options 7, Section 4. The surcharges for NDX, NDXP, XND, and VOLQ are noted within Options 7, Section 5.A. Likewise, broad-based index options symbols listed within Options 7, Section 5.A are excluded from the Monthly Market Maker Cap, Monthly Firm Fee Cap, Firm Floor Options Transaction Charge and Broker-Dealer Floor Options Transaction Charge waivers, Monthly Strategy Cap, and Marketing Fees within Options 7, Section 4 and the PIXL Pricing, FLEX Transaction Fees and MARS pricing within Options 7, Section 6. Making clear which section of the Options 7 Pricing Schedule governs for particular products will provide members and member organizations easy references to how Phlx's pricing will be applied.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] 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 proposed changes to the pricing schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for order flow, which constrains its pricing determinations. The fact that the market for order flow is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated, "[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

14 15 U.S.C. 78f(b).

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

granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[16]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention to determine 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."[17]

Congress directed the Commission to "rely on 'competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system.'"[18] As a result, the Commission has historically relied on competitive forces to determine whether a fee proposal is equitable, fair, reasonable, and not unreasonably or unfairly discriminatory. "If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior."[19] Accordingly, "the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable,

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16 See NetCoalition, 615 F.3d at 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)).

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

18 See NetCoalition, 615 F.3d at 534-35; see also H.R. Rep. No. 94-229 at 92 (1975) ("[I]t is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed.").

19 See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 Fed. Reg. 74,770 (December 9, 2008) (SR-NYSEArca-2006-21).

fair, reasonable, and not unreasonably or unfairly discriminatory."[20]

Proposed Pricing Is Reasonable

The Exchange believes that it is reasonable to assess Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor while assessing Customers no such fee. Additionally, the Exchange believes that it is reasonable to assess a surcharge of $0.10 per contract to Non-Customers who transact VOLQ options, in addition to transaction fees. Finally, the Exchange believes that it is reasonable to offer a rebate of $0.40 per contract to Lead Market Makers and Market Makers who add liquidity in VOLQ. The proposed pricing is reasonably designed because it is intended to incentivize market participants to transact VOLQ index options on the Exchange, which enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

VOLQ is subject to significant substitution-based competitive forces; market participants can substitute options on VOLQ for products offered by other exchanges, for example, the options on the Cboe Volatility Index® ("VIX")[21] and options on the SPIKES Volatility Index ("SPIKES®").[22] The proposed fees and rebates are in line with those of other options markets for similar products. The Exchange notes that if the fees are not within the range of fees offered by competitors, the proposed pricing may cause market

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20 Id.

21 The VIX Index is a financial benchmark designed to be an up-to-the-minute market estimate of expected volatility of the S&P 500 Index, and is calculated by using the midpoint of real-time S&P 500® Index (SPX) option bid/ask quotes.

22 The SPIKES Volatility Index is a measure of the expected 30-day volatility in the SPDR S&P 500 ETF.

participants to select other substitutes to Phlx's VOLQ product, so the most efficient price-setting strategy is to set prices at the same level as competing products.

Today, Cboe Exchange, Inc. ("Cboe") assesses Customers VIX simple order fees based on tiered premium price which ranges from \$0.10 to \$0.45 per contract and complex order fees based on tiered premium price which ranges from \$0.05 to \$0.45 per contract.[23] A Clearing Trading Permit Holder Proprietary is assessed a VIX fee based on a VIX sliding scale which ranges from \$0.25 to \$0.01 per contract.[24] A Cboe Options Market-Maker/DPM/LMM are assessed fees based on tiered premium price which ranges from \$0.05 to \$0.23 per contract.[25] Joint Back Office, Non-Trading Permit Holder Market Makers, and Professionals are assessed a VIX \$0.40 per contract fee.[26] VIX transactions are assessed a Surcharge Fee/ Index License of \$0.10 (\$0.00 for capacity codes F and L for VIX transactions where the VIX Premium is ≤ \$0.10 and the related series has an expiration of seven (7) calendar days or less).[27]

Miami International Securities Exchange, LLC ("MIAX") assesses SPIKE fees as follows: Priority Customers are assessed no fees; Market Makers are assessed a \$0.20 per contract simple/complex taker fee and a \$0.15 per contract simple opening fee; Non-MIAX Market Makers are assessed a \$0.10 per contract simple/complex maker fee, a

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23 See Cboe's Fee Schedule. Transactions fees will be waived for Customer orders executed in VIX options during GTH through December 31, 2022.

24 See Cboe's Fee Schedule.

25 See Cboe's Fee Schedule.

26 See Cboe's Fee Schedule.

27 See Cboe's Fee Schedule. The Surcharge Fees apply to all non-public customer transactions (i.e. Cboe Options and non-Trading Permit Holder market-maker, Clearing Trading Permit Holder, JBO participant, and broker-dealer), including professionals.

$0.25 per contract simple/complex taker fee and a $0.15 per contract simple opening fee; Broker-Dealers are assessed a $0.10 per contract simple/complex maker fee, a $0.25 per contract simple/complex taker fee and a $0.15 per contract simple opening fee; Firm Proprietary are assessed a $0.00 per contract simple/complex maker fee, a $0.20 per contract simple/complex taker fee[28] and a $0.15 per contract simple opening fee; and Public Customer that is not a Priority Customer are assessed a $0.10 per contract simple/complex maker fee, a $0.25 per contract simple/complex taker fee and a $0.15 per contract simple opening fee.[29] MIAX also offers a SPIKES Market Maker Incentive Program wherein Market Makers that satisfy the quote width requirement, 70% time in market requirement, and average quote size of 25 contracts are entitled to receive Incentive 1 for that particular month ($10,000 per Market Maker).[30]

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28 Taker fees for options with a premium price of $0.10 or less will be charged $0.05 per contract. See MIAX's Options Exchange Fee Schedule.

29 See MIAX's Options Exchange Fee Schedule.

30 The compensation pool for Incentive 1 is capped at a total of $40,000 per month. If more than four (4) Market Makers satisfy the requirements for Incentive 1, each Market Maker will receive a pro-rata share of the compensation pool based on the total number of Market Makers that qualify in that particular month. Each Market Maker that meets or exceeds all the requirements of Incentive 1, ("qualifying Market Maker"), may earn an additional rebate each month. Each qualifying Market Maker's spread width for eligible ITM and OTM SPIKES options is calculated and ranked relative to each other qualifying Market Maker. Market Makers with the highest quality width spread (i.e., the tightest spread) are eligible for compensation under Incentive 2. Each qualifying Market Maker receives a rebate, capped at $25,000 per Member per month, based on their relative ranking to each other qualifying Market Maker, with the top performer receiving the largest rebate amount and the bottom performer receiving the smallest rebate amount. The compensation pool size for Incentive 2 is generated by the market quality that is created by qualifying Market Makers, where $5,000 per basis point improvement over the market quality baseline, as established by MIAX, is contributed to fund Incentive Pool 2, which is capped at $100,000 per month.

Unlike Cboe's Customer fees for VIX, VOLQ will assess no fees to Customers. Today, Customers are not assessed fees for NDX, NDXP or XND. The $0.40 per contract fee proposed for Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms to transact VOLQ simple and complex options electronically and on the floor is within the range of fees assessed by Cboe for VIX. Also, Phlx currently assesses a $0.75 per contract fee to Non-Customers for options transacted in NDX, a broad-based index. VOLQ is similarly a broad-based index. Because VOLQ is a new index, the Exchange proposes a lower fee as compared to NDX, a more mature product ($0.40 per contract for VOLQ vs. $0.75 per contract for NDX).

The $0.10 per contract surcharge proposed for Non-Customers who transact VOLQ options is within the range of the VIX surcharge. Customers would not pay a VOLQ surcharge as is the case today for all index option surcharges assessed by Phlx. Today, the Exchange assesses a $0.25 per contract surcharge for options transactions in NDX. The proposed VOLQ options surcharge is less than half the surcharge for NDX. The Exchange believes this surcharge is appropriate for options transactions on this new broad based index.

Finally, today MIAX offers a SPIKES Market Maker Incentive Program. The Exchange proposes offering Lead Market Makers and Market Makers a $0.40 per contract rebate when adding liquidity in VOLQ to offset the proposed transaction fee.[31] The Exchange believes that this rebate would incentivize Lead Market Makers and Market Makers to add liquidity to the Exchange in VOLQ.

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[31] The order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

The Exchange believes that there are many factors that may cause a market participant to decide to become a member of a particular exchange. Among various factors, the Exchange believes market participants consider when deciding to become a member are product offerings. Introducing new and innovative products to the marketplace designed to meet customer demands may attract market participants to become a member of a particular options venue. New products in the options industry may allow market participants greater trading and hedging opportunities, as well as new avenues to manage risks. The listing of new options products enhances competition among market participants by providing investors with additional investment vehicles, as well as competitive alternatives, to existing investment products. An exchange's proprietary product offering may attract order flow to a particular exchange to trade a particular options product and generally make that exchange a more desirable venue to transaction options, thereby attracting membership to that exchange.

Specifically, VOLQ introduces a cash-settled options contract focused on equity exposure using options on the NDX, which are actively traded equity option products, into the marketplace. The Exchange believes that VOLQ's novel structure will enhance competition among market participants, to the benefit of investors and the marketplace. The introduction of VOLQ is intended to attract market participants to Phlx in order to transact this solely listed product.

The Exchange's proposal to amend Options 7, Sections 2, 4, and 6 to make clear that the pricing within Options 7, Section 5.A. will govern for NDX, NDXP, XND and now VOLQ is reasonable, equitable and not unfairly discriminatory. Also, making clear within Options 7, Section 2, where VOLQ options volume would count toward the volume requirement to qualify for a Customer Rebate Tier within Options 7, Section 2, and not be eligible for Customer rebates, is reasonable, equitable and not unfairly discriminatory. The proposed rule text will make clear to members and member organizations how Phlx's pricing will be applied. Also, applying VOLQ options volume in the Customer Rebate Tiers is consistent with the manner in which other index options currently listed on Phlx are treated. The Exchange believes that excluding the broad-based index options symbols within Options 7, Section 5.A from other multiply-listed options pricing[32] on the Exchange is reasonable, equitable, and not unfairly discriminatory because multiply-listed options pricing assesses fees, pays rebates, waives pricing or discounts pricing for most multiply-listed option symbols generally, regardless of symbol.[33] In contrast, pricing for proprietary broad-based index options is specific to the product. It is not novel to assess different pricing for multiply-listed options as compared to proprietary singly-listed options.[34]

Finally, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular

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32 Broad-based index options symbols within Options 7, Section 5.A are excluded from Customer Rebates within Options 7, Section 2, the $0.12 per contract surcharge assessed to Non-Customer electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, Monthly Market Maker Cap, Monthly Firm Fee Cap, Firm Floor Options Transaction Charge and Broker-Dealer Floor Options Transaction Charge waivers, Monthly Strategy Cap, and Marketing Fees within Options 7, Section 4 and the PIXL Pricing, FLEX Transaction Fees and MARS pricing within Options 7, Section 6.

33 Today, Phlx prices options in SPY differently than other multiply-listed options symbols.

34 Today, Cboe, MIAX and Phlx assess different pricing for singly-listed options and multiply-listed options.

products. Other options exchanges price by symbol.[35] Finally, it is reasonable, equitable and not unfairly discriminatory to assess the proposed fees and rebates for both simple and complex executions in VOLQ options, as is the case for other index options currently listed on Phlx.

Proposed Pricing Is Equitable and Not Unfairly Discriminatory

The Exchange believes that it is equitable and not unfairly discriminatory to assess Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor, and a $0.10 per contract surcharge, while assessing Customers no such transaction fee or surcharge. Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Customer liquidity provides more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed pricing for Customer orders in VOLQ is intended to attract Customer trading volume to the Exchange. In addition, the proposed VOLQ pricing for Customers will apply equally to all Customer orders. Non-Customers (Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms) would be uniformly assessed a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor and a $0.10 per contract surcharge in VOLQ. All Non-Customers may transact VOLQ options and would be assessed the same fees.

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[35] See pricing NQX on Nasdaq ISE, LLC.

The Exchange believes that it is equitable and not unfairly discriminatory to pay Lead Market Makers and Market Makers a $0.40 per contract rebate when adding liquidity in VOLQ. Maker Makers take on a number of obligations,[36] including quoting obligations,[37] unlike other market participants. Further, the proposed pricing for Lead Market Makers and Market Makers in VOLQ is intended to incentivize them to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. As noted above, the $0.40 per contract rebate when adding liquidity in VOLQ is intended to offset the $0.40 per contract VOLQ transaction fee. The Exchange believes the proposed pricing will incentivize Lead Market Makers and Market Makers to provide liquidity in the new product. Additionally, the proposed VOLQ rebate will be applied equally to all Lead Market Makers and Market Makers.

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.

In terms of inter-market competition, the Exchange believes its proposal remains competitive with other options markets that offer similar substitute products, and will offer market participants with another choice of venue to transact options. While VOLQ options are singly-listed on Phlx, 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. The Exchange notes that there are other

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36 See Options 2, Section 4.

37 See Options 2, Section 5 and Options 3, Section 8.

volatility products available today on other options markets, such as VIX and SPIKES, which allow investors to gauge volatility. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result.

In terms of intra-market competition, the Exchange believes that the proposed pricing does not impose an undue burden on competition. Assessing no transaction fees or surcharge fees to Customer orders in VOLQ does not impose an undue burden on competition because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Customer liquidity provides more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed pricing for Customer orders in VOLQ is intended to attract Customer trading volume to the Exchange. In addition, the proposed VOLQ pricing for Customers will apply equally to all Customer orders. Further, uniformly assessing Non-Customers (Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms) a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor and a $0.10 per contract surcharge in VOLQ does not impose an undue burden on competition. All Non-Customers may transact VOLQ options and would be assessed the same fees. Finally, paying Lead Market Makers and Market Makers a $0.40 per contract rebate when adding liquidity in VOLQ does not impose an undue burden on competition. Maker Makers take on a number of obligations,[38] including quoting obligations,[39] unlike

[38] See Options 2, Section 4.

other market participants. Further, the proposed pricing for Lead Market Makers and Market Makers in VOLQ is intended to incentivize them to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. As noted above, the $0.40 per contract rebate when adding liquidity in VOLQ is intended to offset the $0.40 per contract VOLQ transaction fee. The Exchange believes the proposed pricing will incentivize Lead Market Makers and Market Makers to provide liquidity in the new product. Additionally, the proposed VOLQ rebate will be applied equally to all Lead Market Makers and Market Makers.

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,[40] 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

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[39] See Options 2, Section 5 and Options 3, Section 8.

[40] 15 U.S.C. 78s(b)(3)(A)(ii).

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2022-27)

June __, 2022

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Pricing for Options on a Nasdaq-100® Volatility Index

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 16, 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 Pricing Schedule at Options 7, Section 5, Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange), to adopt pricing for options on a Nasdaq-100® Volatility Index ("VOLQ").[3]

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

2 17 CFR 240.19b-4.

3 VOLQ a new index that measures changes in 30-day implied volatility of the Nasdaq-100® Index. See Securities Exchange Act Release No. 91781 (May 5, 2021), 86 FR 25918 (May 11, 2021) (SR-Phlx-2020-41) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Options on a Nasdaq-100 Volatility Index). See also Securities Exchange Act Release No. 93628 (November 19, 2021), 86 FR 67555 (November 26, 2021) (SR-Phlx-2021-56) (Order Approving a Proposed Rule Change To Amend

Additionally, the proposal amends Options 7, Section 2, Customer Rebate Program; Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY); and Options 7, Section 6, Other Transaction Fees.

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 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 received approval to list index options on VOLQ.[4] The Exchange will commence listing VOLQ options on June 14, 2022. At this time, the Exchange proposes to amend its Pricing Schedule at Options 7, Section 5.A., Broad-Based Index

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Options 4A, Section 12 Regarding the Calculation of the Closing Volume Weighted Average Price for Options on the Nasdaq-100 Volatility Index in Certain Circumstances).

4 See note 3 above.

Options, to adopt pricing for VOLQ Options for transactions executed electronically and on the floor.[5]

Additionally, the proposal amends Options 7, Section 2, Customer Rebate Program; Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY); and Options 7, Section 6, Other Transaction Fees. Each change is described below.

The Exchange proposes to assess Professionals,[6] Lead Market Makers,[7] Market Makers,[8] Broker-Dealers[9] and Firms[10] a $0.40 per contract fee to transact simple and

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5 The term "floor transaction" is a transaction that is effected in open outcry on the Exchange's Trading Floor. See Options 7, Section 1(c).

6 The term "Professional" applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 7, Section 1(c).

7 The term "Lead Market Maker" applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c). The term "Floor Lead Market Maker" is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange's trading floor. See Options 8, Section 2(a)(3).

8 The term "Market Maker" is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c). The term "Floor Market Maker" is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Options 8, Section 2(a)(4).

9 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(c).

complex VOLQ options electronically and on the floor. Customers[11] will not be assessed a transaction fee to transact VOLQ options electronically or on the floor.

Additionally, the Exchange will assess a surcharge[12] of $0.10 per contract to Non-Customers[13] who transact VOLQ options, in addition to the transaction fees.

The Exchange proposes to pay a rebate of $0.40 per contract to Lead Market Makers and Market Makers who add liquidity in VOLQ. The Exchange proposes to note within the rule text that, with respect to Section 5 of this Options 7 Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

The Exchange also proposes to amend various sections of the Pricing Schedule to make clear that pricing for broad-based index options symbols listed within Options 7,

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10 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(c).

11 The term "Customer" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of a broker or dealer or for the account of a "Professional" (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

12 The surcharge is assessed because VOLQ is a proprietary product and there is a license associated with this product.

13 The term "Non-Customer" applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. The term "Joint Back Office" or "JBO" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer. A JBO participant is a member, member organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer ("JBO Broker") subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed at Options 6D, Section 1. See Options 7, Section 1(c).

Section 5.A. is governed by the pricing within Options 7, Section 5.A. Today, the Pricing Schedule makes note where options symbols currently listed within Options 7, Section 5.A. (NDX, NDXP and XND) are excluded from pricing. For example, Options 7, Section 2 Customer Rebates are not paid on NDX, NDXP, or XND contracts. The Exchange proposes to also exclude VOLQ options from Customer Rebates, similar to NDX, NDXP, and XND. The pricing for certain broad-based proprietary index options, NDX, NDXP, and XND, and now VOLQ, is specified within Options 7, Section 5.A. and other pricing within Options 7 does not apply to these products. The Exchange specifically makes clear within Options 7, Sections 2, 4, and 6 that the pricing within Options 7, Section 5.A. will govern for NDX, NDXP, XND and now VOLQ.

Also, today, a member's transacted options volume for broad-based options symbols currently listed within Options 7, Section 5.A. (NDX, NDXP, and XND) may count toward certain volume requirements despite these symbols not being eligible for corresponding rebates. For example, NDX, NDXP, and XND contracts count toward the volume requirement to qualify for a Customer Rebate Tier within Options 7, Section 2, and continue to not be eligible for Customer rebates. VOLQ will also count toward the volume requirement to qualify for a Customer Rebate Tier within Options 7, Section 2, and not be eligible for Customer rebates.

The Exchange is replacing rule text within Options 7 concerning NDX, NDXP, and XND with rule text that instead refers to "broad-based index options symbols within Options 7, Section 5.A." which exclusively includes NDX, NDXP, XND and now VOLQ. Within Options 7, Section 4, the Exchange proposes to amend the title of the rule to state that broad-based index options symbols listed within Options 7, Section 5.A are excluded in place of noting the exclusion by symbol within the table in that section. Additionally, the Exchange proposes to note that broad-based index options symbols listed within Options 7, Section 5.A are excluded from the $0.12 per contract surcharge assessed to Non-Customer electronic Complex Orders that remove liquidity from the Complex Order Book and auctions within Options 7, Section 4. The surcharges for NDX, NDXP, XND, and VOLQ are noted within Options 7, Section 5.A. Likewise, broad-based index options symbols listed within Options 7, Section 5.A are excluded from the Monthly Market Maker Cap, Monthly Firm Fee Cap, Firm Floor Options Transaction Charge and Broker-Dealer Floor Options Transaction Charge waivers, Monthly Strategy Cap, and Marketing Fees within Options 7, Section 4 and the PIXL Pricing, FLEX Transaction Fees and MARS pricing within Options 7, Section 6. Making clear which section of the Options 7 Pricing Schedule governs for particular products will provide members and member organizations easy references to how Phlx's pricing will be applied.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] 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 proposed changes to the pricing schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the

[14] 15 U.S.C. 78f(b).

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

market for order flow, which constrains its pricing determinations. The fact that the market for order flow is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated, "[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'…."[16]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention to determine 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."[17]

Congress directed the Commission to "rely on 'competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system.'"[18] As a result, the Commission has historically relied on competitive forces to

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16 See NetCoalition, 615 F.3d at 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)).

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

18 See NetCoalition, 615 F.3d at 534-35; see also H.R. Rep. No. 94-229 at 92 (1975) ("[I]t is the intent of the conferees that the national market system evolve through

determine whether a fee proposal is equitable, fair, reasonable, and not unreasonably or unfairly discriminatory. "If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior."[19] Accordingly, "the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory."[20]

Proposed Pricing Is Reasonable

The Exchange believes that it is reasonable to assess Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor while assessing Customers no such fee. Additionally, the Exchange believes that it is reasonable to assess a surcharge of $0.10 per contract to Non-Customers who transact VOLQ options, in addition to transaction fees. Finally, the Exchange believes that it is reasonable to offer a rebate of $0.40 per contract to Lead Market Makers and Market Makers who add liquidity in VOLQ. The proposed pricing is reasonably designed because it is intended to incentivize market participants to transact VOLQ index options on the Exchange, which enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

VOLQ is subject to significant substitution-based competitive forces; market participants can substitute options on VOLQ for products offered by other exchanges, for

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the interplay of competitive forces as unnecessary regulatory restrictions are removed.").

19 See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 Fed. Reg. 74,770 (December 9, 2008) (SR-NYSEArca-2006-21).

20 Id.

example, the options on the Cboe Volatility Index® ("VIX")[21] and options on the SPIKES Volatility Index ("SPIKES®").[22] The proposed fees and rebates are in line with those of other options markets for similar products. The Exchange notes that if the fees are not within the range of fees offered by competitors, the proposed pricing may cause market participants to select other substitutes to Phlx's VOLQ product, so the most efficient price-setting strategy is to set prices at the same level as competing products.

Today, Cboe Exchange, Inc. ("Cboe") assesses Customers VIX simple order fees based on tiered premium price which ranges from $0.10 to $0.45 per contract and complex order fees based on tiered premium price which ranges from $0.05 to $0.45 per contract.[23] A Clearing Trading Permit Holder Proprietary is assessed a VIX fee based on a VIX sliding scale which ranges from $0.25 to $0.01 per contract.[24] A Cboe Options Market-Maker/DPM/LMM are assessed fees based on tiered premium price which ranges from $0.05 to $0.23 per contract.[25] Joint Back Office, Non-Trading Permit Holder Market Makers, and Professionals are assessed a VIX $0.40 per contract fee.[26] VIX transactions are assessed a Surcharge Fee/ Index License of $0.10 ($0.00 for capacity

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[21] The VIX Index is a financial benchmark designed to be an up-to-the-minute market estimate of expected volatility of the S&P 500 Index, and is calculated by using the midpoint of real-time S&P 500® Index (SPX) option bid/ask quotes.

[22] The SPIKES Volatility Index is a measure of the expected 30-day volatility in the SPDR S&P 500 ETF.

[23] See Cboe's Fee Schedule. Transactions fees will be waived for Customer orders executed in VIX options during GTH through December 31, 2022.

[24] See Cboe's Fee Schedule.

[25] See Cboe's Fee Schedule.

[26] See Cboe's Fee Schedule.

codes F and L for VIX transactions where the VIX Premium is ≤ $0.10 and the related series has an expiration of seven (7) calendar days or less).[27]

Miami International Securities Exchange, LLC ("MIAX") assesses SPIKE fees as follows: Priority Customers are assessed no fees; Market Makers are assessed a $0.20 per contract simple/complex taker fee and a $0.15 per contract simple opening fee; Non-MIAX Market Makers are assessed a $0.10 per contract simple/complex maker fee, a $0.25 per contract simple/complex taker fee and a $0.15 per contract simple opening fee; Broker-Dealers are assessed a $0.10 per contract simple/complex maker fee, a $0.25 per contract simple/complex taker fee and a $0.15 per contract simple opening fee; Firm Proprietary are assessed a $0.00 per contract simple/complex maker fee, a $0.20 per contract simple/complex taker fee[28] and a $0.15 per contract simple opening fee; and Public Customer that is not a Priority Customer are assessed a $0.10 per contract simple/complex maker fee, a $0.25 per contract simple/complex taker fee and a $0.15 per contract simple opening fee.[29] MIAX also offers a SPIKES Market Maker Incentive Program wherein Market Makers that satisfy the quote width requirement, 70% time in market requirement, and average quote size of 25 contracts are entitled to receive Incentive 1 for that particular month ($10,000 per Market Maker).[30]

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27 See Cboe's Fee Schedule. The Surcharge Fees apply to all non-public customer transactions (i.e. Cboe Options and non-Trading Permit Holder market-maker, Clearing Trading Permit Holder, JBO participant, and broker-dealer), including professionals.

28 Taker fees for options with a premium price of $0.10 or less will be charged $0.05 per contract. See MIAX's Options Exchange Fee Schedule.

29 See MIAX's Options Exchange Fee Schedule.

30 The compensation pool for Incentive 1 is capped at a total of $40,000 per month. If more than four (4) Market Makers satisfy the requirements for Incentive 1, each Market Maker will receive a pro-rata share of the compensation pool based on the

Unlike Cboe's Customer fees for VIX, VOLQ will assess no fees to Customers. Today, Customers are not assessed fees for NDX, NDXP or XND. The $0.40 per contract fee proposed for Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms to transact VOLQ simple and complex options electronically and on the floor is within the range of fees assessed by Cboe for VIX. Also, Phlx currently assesses a $0.75 per contract fee to Non-Customers for options transacted in NDX, a broad-based index. VOLQ is similarly a broad-based index. Because VOLQ is a new index, the Exchange proposes a lower fee as compared to NDX, a more mature product ($0.40 per contract for VOLQ vs. $0.75 per contract for NDX).

The $0.10 per contract surcharge proposed for Non-Customers who transact VOLQ options is within the range of the VIX surcharge. Customers would not pay a VOLQ surcharge as is the case today for all index option surcharges assessed by Phlx. Today, the Exchange assesses a $0.25 per contract surcharge for options transactions in NDX. The proposed VOLQ options surcharge is less than half the surcharge for NDX. The Exchange believes this surcharge is appropriate for options transactions on this new broad based index.

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total number of Market Makers that qualify in that particular month. Each Market Maker that meets or exceeds all the requirements of Incentive 1, ("qualifying Market Maker"), may earn an additional rebate each month. Each qualifying Market Maker's spread width for eligible ITM and OTM SPIKES options is calculated and ranked relative to each other qualifying Market Maker. Market Makers with the highest quality width spread (i.e., the tightest spread) are eligible for compensation under Incentive 2. Each qualifying Market Maker receives a rebate, capped at $25,000 per Member per month, based on their relative ranking to each other qualifying Market Maker, with the top performer receiving the largest rebate amount and the bottom performer receiving the smallest rebate amount. The compensation pool size for Incentive 2 is generated by the market quality that is created by qualifying Market Makers, where $5,000 per basis point improvement over the market quality baseline, as established by MIAX, is contributed to fund Incentive Pool 2, which is capped at $100,000 per month.

Finally, today MIAX offers a SPIKES Market Maker Incentive Program. The Exchange proposes offering Lead Market Makers and Market Makers a $0.40 per contract rebate when adding liquidity in VOLQ to offset the proposed transaction fee.[31] The Exchange believes that this rebate would incentivize Lead Market Makers and Market Makers to add liquidity to the Exchange in VOLQ.

The Exchange believes that there are many factors that may cause a market participant to decide to become a member of a particular exchange. Among various factors, the Exchange believes market participants consider when deciding to become a member are product offerings. Introducing new and innovative products to the marketplace designed to meet customer demands may attract market participants to become a member of a particular options venue. New products in the options industry may allow market participants greater trading and hedging opportunities, as well as new avenues to manage risks. The listing of new options products enhances competition among market participants by providing investors with additional investment vehicles, as well as competitive alternatives, to existing investment products. An exchange's proprietary product offering may attract order flow to a particular exchange to trade a particular options product and generally make that exchange a more desirable venue to transaction options, thereby attracting membership to that exchange.

Specifically, VOLQ introduces a cash-settled options contract focused on equity exposure using options on the NDX, which are actively traded equity option products, into the marketplace. The Exchange believes that VOLQ's novel structure will enhance

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31 The order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

competition among market participants, to the benefit of investors and the marketplace. The introduction of VOLQ is intended to attract market participants to Phlx in order to transact this solely listed product.

The Exchange's proposal to amend Options 7, Sections 2, 4, and 6 to make clear that the pricing within Options 7, Section 5.A. will govern for NDX, NDXP, XND and now VOLQ is reasonable, equitable and not unfairly discriminatory. Also, making clear within Options 7, Section 2, where VOLQ options volume would count toward the volume requirement to qualify for a Customer Rebate Tier within Options 7, Section 2, and not be eligible for Customer rebates, is reasonable, equitable and not unfairly discriminatory. The proposed rule text will make clear to members and member organizations how Phlx's pricing will be applied. Also, applying VOLQ options volume in the Customer Rebate Tiers is consistent with the manner in which other index options currently listed on Phlx are treated. The Exchange believes that excluding the broad-based index options symbols within Options 7, Section 5.A from other multiply-listed options pricing[32] on the Exchange is reasonable, equitable, and not unfairly discriminatory because multiply-listed options pricing assesses fees, pays rebates, waives pricing or discounts pricing for most multiply-listed option symbols generally, regardless

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32 Broad-based index options symbols within Options 7, Section 5.A are excluded from Customer Rebates within Options 7, Section 2, the $0.12 per contract surcharge assessed to Non-Customer electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, Monthly Market Maker Cap, Monthly Firm Fee Cap, Firm Floor Options Transaction Charge and Broker-Dealer Floor Options Transaction Charge waivers, Monthly Strategy Cap, and Marketing Fees within Options 7, Section 4 and the PIXL Pricing, FLEX Transaction Fees and MARS pricing within Options 7, Section 6.

of symbol.[33] In contrast, pricing for proprietary broad-based index options is specific to the product. It is not novel to assess different pricing for multiply-listed options as compared to proprietary singly-listed options.[34]

Finally, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. Other options exchanges price by symbol.[35] Finally, it is reasonable, equitable and not unfairly discriminatory to assess the proposed fees and rebates for both simple and complex executions in VOLQ options, as is the case for other index options currently listed on Phlx.

Proposed Pricing Is Equitable and Not Unfairly Discriminatory

The Exchange believes that it is equitable and not unfairly discriminatory to assess Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor, and a $0.10 per contract surcharge, while assessing Customers no such transaction fee or surcharge. Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Customer liquidity provides more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed pricing for Customer orders in VOLQ is intended to attract Customer trading volume to

33 Today, Phlx prices options in SPY differently than other multiply-listed options symbols.

34 Today, Cboe, MIAX and Phlx assess different pricing for singly-listed options and multiply-listed options.

35 See pricing NQX on Nasdaq ISE, LLC.

the Exchange. In addition, the proposed VOLQ pricing for Customers will apply equally to all Customer orders. Non-Customers (Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms) would be uniformly assessed a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor and a $0.10 per contract surcharge in VOLQ. All Non-Customers may transact VOLQ options and would be assessed the same fees.

The Exchange believes that it is equitable and not unfairly discriminatory to pay Lead Market Makers and Market Makers a $0.40 per contract rebate when adding liquidity in VOLQ. Maker Makers take on a number of obligations,[36] including quoting obligations,[37] unlike other market participants. Further, the proposed pricing for Lead Market Makers and Market Makers in VOLQ is intended to incentivize them to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. As noted above, the $0.40 per contract rebate when adding liquidity in VOLQ is intended to offset the $0.40 per contract VOLQ transaction fee. The Exchange believes the proposed pricing will incentivize Lead Market Makers and Market Makers to provide liquidity in the new product. Additionally, the proposed VOLQ rebate will be applied equally to all Lead Market Makers and Market Makers.

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.

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36 See Options 2, Section 4.

37 See Options 2, Section 5 and Options 3, Section 8.

In terms of inter-market competition, the Exchange believes its proposal remains competitive with other options markets that offer similar substitute products, and will offer market participants with another choice of venue to transact options. While VOLQ options are singly-listed on Phlx, 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. The Exchange notes that there are other volatility products available today on other options markets, such as VIX and SPIKES, which allow investors to gauge volatility. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result.

In terms of intra-market competition, the Exchange believes that the proposed pricing does not impose an undue burden on competition. Assessing no transaction fees or surcharge fees to Customer orders in VOLQ does not impose an undue burden on competition because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Customer liquidity provides more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed pricing for Customer orders in VOLQ is intended to attract Customer trading volume to the Exchange. In addition, the proposed VOLQ pricing for Customers will apply equally to all Customer orders. Further, uniformly assessing Non-Customers (Professionals, Lead Market Makers, Market Makers, Broker-Dealers and Firms) a $0.40 per contract fee to transact simple and complex VOLQ options electronically and on the floor and a $0.10 per contract surcharge in VOLQ does not impose an undue burden on competition. All Non-Customers may transact VOLQ options and would be assessed the same fees. Finally, paying Lead Market Makers and Market Makers a $0.40 per contract rebate when adding liquidity in VOLQ does not impose an undue burden on competition. Maker Makers take on a number of obligations,[38] including quoting obligations,[39] unlike other market participants. Further, the proposed pricing for Lead Market Makers and Market Makers in VOLQ is intended to incentivize them to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. As noted above, the $0.40 per contract rebate when adding liquidity in VOLQ is intended to offset the $0.40 per contract VOLQ transaction fee. The Exchange believes the proposed pricing will incentivize Lead Market Makers and Market Makers to provide liquidity in the new product. Additionally, the proposed VOLQ rebate will be applied equally to all Lead Market Makers and Market Makers.

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.[40]

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38 See Options 2, Section 4.

39 See Options 2, Section 5 and Options 3, Section 8.

40 15 U.S.C. 78s(b)(3)(A)(ii).

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-2022-27 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.

All submissions should refer to File Number SR-Phlx-2022-27. 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-2022-27 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.[41]

J. Matthew DeLesDernier
Assistant Secretary

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[41] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq PHLX LLC Rules

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Options Rules

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Options 7 Pricing Schedule

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Section 2. Customer Rebate Program

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Rebates will not be paid on [NDX, NDXP, or XND contracts]broad-based index options symbols listed within Options 7, Section 5.A. in any Category, however [NDX, NDXP, or XND contracts]broad-based index options symbols listed within Options 7, Section 5.A. will count toward the volume requirement to qualify for a Customer Rebate Tier.

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Section 4. Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A)

	Customer	Professional		Lead Market Maker and Market Maker		Broker-Dealer		Firm	
		Electronic	Floor	Electronic	Floor	Electronic	Floor	Electronic	Floor
Options Transaction Charge (Penny Symbol) [6]	$0.00	$0.48 [2]	$0.05 [8]	$0.22	$0.35 [8]	$0.48 [2]	$0.25 [8]	$0.48 [1], [2]	$0.25 [8]
Options Transaction Charge (non-Penny Symbol) [7], **[excluding NDX, NDXP, and**	$0.00	$0.75 [3]	$0.05 [8]	$0.25 [4]	$0.35 [8]	$0.75 [3]	$0.25 [8]	$0.75 [1], [3]	$0.25 [8]

XND]									
Options Surcharge in BKX	N/A	$0.10	$0.10[8]	$0.10	$0.10[8]	$0.10	$0.10[8]	$0.10	$0.10[8]
Cabinet Options	$0.00	N/A	$0.10[8]	N/A	$0.10[8]	N/A	$0.10[8]	N/A	$0.10[8]

• These fees are per contract.

[1] Firm electronic simple orders in AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF will be assessed $0.45.

[2] Electronic Complex Orders will be assessed $0.40 per contract.

[3] Any member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Options 7, Section 2 of the Pricing Schedule will be assessed $0.65 per contract.

[4] Any member or member organization under Common Ownership with another member or member organization or an Appointed MM of an Affiliate Entity that qualifies for Customer Rebate Tiers 4 or 5 in Options 7, Section 2 of the Pricing Schedule will be assessed $0.23 per contract.

[5] Reserved.

[6] A $0.03 per contract surcharge will be assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Penny Symbols (excluding SPY). An order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

[7] A $0.12 per contract surcharge will be assessed to Non-Customer electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Symbols (excluding [NDX, NDXP, and XND]<u>broad-based index options symbols listed within Options 7, Section 5.A</u>). An order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

* * * * *

• Lead Market Makers and Market Makers are subject to a "Monthly Market Maker Cap" of $500,000 for: (i) electronic Option Transaction Charges, excluding surcharges and excluding options overlying [NDX, NDXP, and XND]<u>broad-based index options symbols listed within Options 7, Section 5.A</u>; and (ii) QCC Transaction Fees (as defined in Exchange Options 3, Section 12 and Floor QCC Orders, as defined in Options 8, Section 30(e)). The trading activity of separate Lead Market Maker and Market Maker member organizations will be aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. 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. Lead Market Makers or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction; and (ii) have reached the Monthly Market Maker Cap will be assessed fees as follows:

* * * * *

• Firms are subject to a maximum fee of $75,000 ("Monthly Firm Fee Cap"). Firm Floor Option Transaction Charges and QCC Transaction Fees, as defined in this section above, in the aggregate, for one billing month will not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in this Options 7, Section 4) will be excluded from the Monthly Firm Fee Cap. [NDX, NDXP, and XND Options]Transactions<u> in broad-based index options symbols listed within Options 7, Section 5.A.</u> will be excluded from the Monthly Firm Fee Cap. Reversal and conversion, jelly roll and box spread strategy executions (as defined in this Options 7, Section 4) will be included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. Member organizations must notify the Exchange in writing of all accounts in which the member is not trading in its own proprietary account. The Exchange will not make adjustments to billing invoices where transactions are commingled in accounts which are not subject to the Monthly Firm Fee Cap.

• The Firm Floor Options Transaction Charges will be waived for members executing facilitation orders pursuant to Options 8, Section 30 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges). The Firm Floor Options Transaction Charges will be waived for the buy side of a transaction if the same member or its affiliates under Common Ownership represents both sides of a Firm transaction when such members are trading in their own proprietary account. In addition, the Broker-Dealer Floor Options Transaction Charge (including Cabinet Options Transaction Charges) will be waived for members executing facilitation orders pursuant to Options 8, Section 30 when such members would otherwise incur this charge for trading in their own proprietary account contra to a Customer ("BD-Customer Facilitation"), if the member's BD-Customer Facilitation average daily volume (including both FLEX and non-FLEX transactions) exceeds 10,000 contracts per day in a given month. [NDX, NDXP, and XND Options]Transactions <u>in broad-based index options symbols listed within Options 7, Section 5.A.</u> will be excluded from each of the waivers set forth in the above paragraph.

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• 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, NDXP, and XND Options]Transactions in broad-based index options symbols listed within Options 7, Section 5.A. will be excluded from Strategy Cap pricing.

Marketing Fees

Options that are trading in the Penny Interval Program	$0.25 per contract
Remaining Equity Options	$0.70 per contract

- For trades resulting from either Directed or non-Directed Orders that are delivered electronically and executed on the Exchange, the above fees will be assessed on Lead Market Makers, Market Makers and Directed Market Makers on those trades when the Lead Market Maker unit or Directed Market Maker elects to participate in the Marketing program.

- No Marketing Fees will be assessed on transactions in [NDX, NDXP, or XND]broad-based index options symbols listed within Options 7, Section 5.A.

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Section 5. Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange)

A. Broad-Based Index Options

The below pricing applies to electronic (simple and complex orders) and floor transactions.

Options Transaction Charges

Symbol	Customer	Professional	Lead Market Maker and Market Maker	Broker-Dealer	Firm
NDX[1]	**$0.00**	**$0.75**	**$0.75**	**$0.75**	**$0.75**
NDXP[1]	**$0.00**	**$0.75**	**$0.75**	**$0.75**	**$0.75**
XND[2]	**$0.00**	**$0.10**	**$0.10**	**$0.10**	**$0.10**
VOLQ[3]	**$0.00**	**$0.40**	**$0.40[4]**	**$0.40**	**$0.40**

- These fees are per contract.

- Floor transaction fees will apply to any "as of" or "reversal" adjustments for manually processed trades originally submitted electronically or through FBMS.

[1]A surcharge for NDX and NDXP of $0.25 per contract will be assessed to Non-Customers.

[2]A surcharge for XND of $0.10 per contract will be assessed to Non-Customers.

[3] A surcharge for VOLQ of $0.10 per contract will be assessed to Non-Customers.

[4] In addition to the above VOLQ transaction fees, a rebate of $0.40 per contract will be paid to Lead Market Makers and Market Makers who add liquidity in VOLQ. With respect to Section 5 of this Options 7 Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

* * * * *

Section 6. Other Transaction Fees

A. PIXL Pricing*

*Options overlying [NDX, NDXP, and XND]broad-based index options symbols listed within Options 7, Section 5.A. are not subject to Options 7, Section 6.A. PIXL Pricing,[. NDX, NDXP, and XND transactions in PIXL will be subject to]Options 7, Section 5.A pricing applies to these broad-based options symbols.

* * * * *

B. FLEX Transaction Fees

• FLEX Multiply Listed Options:

Customer	$0.00
Non-Customer	$0.25

- The Monthly Firm Fee Cap, Monthly Market Maker Cap, Strategy Caps and the Options Surcharge in BKX,[NDX, NDXP, and XND]described in Options 7, Section[s] 4[and 5.A] will apply to this Section 6.B. No other fees described in Options 7, Section 4 will apply to this Section 6.B.

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• FLEX [NDX, NDXP, and XND]Options in broad-based index options symbols within Options 7, Section 5.A: Options 7, Section 5.A pricing will apply.

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E. Market Access and Routing Subsidy ("MARS")

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MARS Eligible Contracts

MARS Payment would be made to Phlx members that have System Eligibility and have routed the requisite number of Eligible Contracts daily in a month, which were executed on Phlx. For the purpose of qualifying for the MARS Payment, Eligible Contracts include the following: Firm, Broker-Dealer, Joint Back Office or "JBO" or Professional equity option orders that are electronically delivered and executed. Eligible Contracts do not include floor-based orders, qualified contingent cross or "QCC" orders, price improvement or "PIXL" orders, or Singly Listed Orders. Options overlying [NDX, NDXP, and XND]<u>broad-based index options symbols within Options 7, Section 5.A.</u> are not considered Eligible Contracts.

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