

Required fields are shown with yellow backgrounds and asterisks.

Proposed Rule Change by NASDAQ OMX PHLX LLC.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

<b>Initial *</b>	<b>Amendment *</b>	<b>Withdrawal</b>	<b>Section 19(b)(2) *</b>	<b>Section 19(b)(3)(A) *</b>		<b>Section 19(b)(3)(B) *</b>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>		
			Rule					
<b>Pilot</b>	<b>Extension of Time Period for Commission Action *</b>	<b>Date Expires *</b>	<b>19b-4(f)(1)</b>	<b>19b-4(f)(2)</b>	<b>19b-4(f)(3)</b>	<b>19b-4(f)(4)</b>	<b>19b-4(f)(5)</b>	<b>19b-4(f)(6)</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Exhibit 2 Sent As Paper Document</b>	<b>Exhibit 3 Sent As Paper Document</b>
<input type="checkbox"/>	<input type="checkbox"/>

**Description**  
Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked \*).

**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 proposed rule change.

First Name \*  Last Name \*   
Title \*   
E-mail \*   
Telephone \*  Fax

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

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

Date   
By    
(Name \*) (Title \*)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information (required)**

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

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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

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

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

Add Remove View

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

1. Text of the Proposed Rule Change

(a) NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposes to file Section I of the Exchange’s Pricing Schedule entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols” in order to preserve amendments to the Pricing Schedule that became effective after the suspension of certain fees on April 30, 2012.

The Exchange has designated the proposed amendment to be operative on December 3, 2012.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the applicable portion of the Exchange’s Pricing Schedule is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on July 10, 2012. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

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

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

Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, at (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 filed two immediately effective rule changes, SR-Phlx-2012-27 and SR-Phlx-2012-54,<sup>3</sup> to amend certain fees and rebates in Section I, which filings were temporarily suspended by the Commission as of April 30, 2012 (“Suspension Order”).<sup>4</sup> In order to continue the effectiveness of certain fees and rebates that were contained in SR-Phlx-2012-27, but not the subject of the Suspension Order, the Exchange filed a rule change on April 30, 2012.<sup>5</sup> On November 9, 2012, the Commission approved SR-Phlx-2012-27 and SR-Phlx-2012-54, as modified by Amendment No. 1, on a one-year pilot basis, with such fees being operative on December 3, 2012 (“Approval Order”).<sup>6</sup>

The Approval Order reinstated the fees that were proposed by the Exchange in SR-Phlx-2012-27.<sup>7</sup> Since the date of the suspension, the Exchange filed multiple

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<sup>3</sup> See Securities Exchange Act Release Nos. 66551 (March 9, 2012), 77 FR 15400 (March 15, 2012) (SR-Phlx-2012-27) and 66883 (April 30, 2012), 77 FR 26591 (May 4, 2012) (SR-Phlx-2012-54).

<sup>4</sup> By order dated April 30, 2012, the Commission suspended SR-Phlx-2012-27 and SR-Phlx-2012-54. See Securities Exchange Release No. 66884 (April 30, 2012), 77 FR 26595 (May 4, 2012) (SR-Phlx-2012-27 and SR-Phlx-2012-54).

<sup>5</sup> See Securities Exchange Act Release No. 66968 (May 11, 2012), 77 FR 29425 (May 17, 2012) (SR-Phlx-2012-57).

<sup>6</sup> See Securities Exchange Act Release No. 68202 (November 9, 2012), 77 FR 68856 (November 16, 2012) (SR-Phlx-2012-27 and SR-Phlx-2012-54).

<sup>7</sup> Specifically, SR-Phlx-2012-27 proposed to: (1) increase the Customer Complex Order Rebate for Adding Liquidity from \$0.30 to \$0.32 per contract, (2) create a new Complex Order Rebate for Removing Liquidity and specifically pay a Customer a \$0.06 Complex

amendments to Section I of the Pricing Schedule which became effective after the Suspension Order.<sup>8</sup> The Exchange proposes to preserve the amendments to Section I of the Pricing Schedule that became effective after the Suspension Order in order to continue the effectiveness of the current fees and rebates which were not the subject of the Approval Order. The fees for executions of Complex Orders by Directed Participants and Market Makers, which were the subject of the Approval Order, will be addressed in a separate filing proposed to be operative on December 3, 2012 and are not included in this filing.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is concerned solely with the administration of the Exchange. This filing serves to preserve the current pricing that has been filed with the Commission notwithstanding the Approval Order that was issued by the Commission. The Exchange believes this proposal is a technical and non-substantive rule change with

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Order Rebate for Removing Liquidity, and (3) increase the Complex Order Fees for Removing Liquidity for Firms, Broker-Dealers and Professionals from \$0.35 per contract to \$0.38 per contract.

<sup>8</sup> See Securities Exchange Act Release Nos. 66985 (May 14, 2012), 77 FR 29726 (May 18, 2012) (SR-Phlx-2012-61); 67047 (May 23, 2012), 77 FR 32165 (May 31, 2012) (SR-Phlx-2012-70); 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77); 67439 (July 13, 2012), 77 FR 42541 (July 19, 2012) (SR-Phlx-2012-90); 67633 (August 9, 2012), 77 FR 49040 (August 15, 2012) (SR-Phlx-2012-104); 67830 (September 11, 2012), 77 FR 57169 (September 17, 2012) (SR-Phlx-2012-112); and SR-Phlx-2012-125) (not yet published).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

the sole purpose of preserving the current fees and rebates in Section I. The fees that were the subject of the Approval Order, which related to fees for executions of Complex Orders by Directed Participants and Market Makers, will be addressed in a separate filing. This proposal maintains the status quo, which would be otherwise altered by the Approval Order.

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.

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)(iii) of the Act,<sup>11</sup> the Exchange has designated this proposal as concerned solely with the administration of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Exhibits

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

1. Notice of proposed rule for publication in the Federal Register.
5. Applicable portion of the Exchange's Pricing Schedule.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2012-137)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Rebates and Fees for Adding and Removing Liquidity

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 3, 2012, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to file Section I of the Exchange’s Pricing Schedule entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols” in order to preserve amendments to the Pricing Schedule that became effective after the suspension of certain fees on April 30, 2012.

The Exchange has designated the proposed amendment to be operative on December 3, 2012.

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

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

The text of the proposed rule change is available on the Exchange's Website at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXfilings>, 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 filed two immediately effective rule changes, SR-Phlx-2012-27 and SR-Phlx-2012-54,<sup>3</sup> to amend certain fees and rebates in Section I, which filings were temporarily suspended by the Commission as of April 30, 2012 ("Suspension Order").<sup>4</sup> In order to continue the effectiveness of certain fees and rebates that were contained in SR-Phlx-2012-27, but not the subject of the Suspension Order, the Exchange filed a rule change on April 30, 2012.<sup>5</sup> On November 9, 2012, the Commission approved SR-Phlx-

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<sup>3</sup> See Securities Exchange Act Release Nos. 66551 (March 9, 2012), 77 FR 15400 (March 15, 2012) (SR-Phlx-2012-27) and 66883 (April 30, 2012), 77 FR 26591 (May 4, 2012) (SR-Phlx-2012-54).

<sup>4</sup> By order dated April 30, 2012, the Commission suspended SR-Phlx-2012-27 and SR-Phlx-2012-54. See Securities Exchange Release No. 66884 (April 30, 2012), 77 FR 26595 (May 4, 2012) (SR-Phlx-2012-27 and SR-Phlx-2012-54).

<sup>5</sup> See Securities Exchange Act Release No. 66968 (May 11, 2012), 77 FR 29425 (May 17, 2012) (SR-Phlx-2012-57).

2012-27 and SR-Phlx-2012-54, as modified by Amendment No. 1, on a one-year pilot basis, with such fees being operative on December 3, 2012 (“Approval Order”).<sup>6</sup>

The Approval Order reinstated the fees that were proposed by the Exchange in SR-Phlx-2012-27.<sup>7</sup> Since the date of the suspension, the Exchange filed multiple amendments to Section I of the Pricing Schedule which became effective after the Suspension Order.<sup>8</sup> The Exchange proposes to preserve the amendments to Section I of the Pricing Schedule that became effective after the Suspension Order in order to continue the effectiveness of the current fees and rebates which were not the subject of the Approval Order. The fees for executions of Complex Orders by Directed Participants and Market Makers, which were the subject of the Approval Order, will be addressed in a separate filing proposed to be operative on December 3, 2012 and are not included in this filing.

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<sup>6</sup> See Securities Exchange Act Release No. 68202 (November 9, 2012), 77 FR 68856 (November 16, 2012) (SR-Phlx-2012-27 and SR-Phlx-2012-54).

<sup>7</sup> Specifically, SR-Phlx-2012-27 proposed to: (1) increase the Customer Complex Order Rebate for Adding Liquidity from \$0.30 to \$0.32 per contract, (2) create a new Complex Order Rebate for Removing Liquidity and specifically pay a Customer a \$0.06 Complex Order Rebate for Removing Liquidity, and (3) increase the Complex Order Fees for Removing Liquidity for Firms, Broker-Dealers and Professionals from \$0.35 per contract to \$0.38 per contract.

<sup>8</sup> See Securities Exchange Act Release Nos. 66985 (May 14, 2012), 77 FR 29726 (May 18, 2012) (SR-Phlx-2012-61); 67047 (May 23, 2012), 77 FR 32165 (May 31, 2012) (SR-Phlx-2012-70); 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77); 67439 (July 13, 2012), 77 FR 42541 (July 19, 2012) (SR-Phlx-2012-90); 67633 (August 9, 2012), 77 FR 49040 (August 15, 2012) (SR-Phlx-2012-104); 67830 (September 11, 2012), 77 FR 57169 (September 17, 2012) (SR-Phlx-2012-112); and SR-Phlx-2012-125 (not yet published).

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is concerned solely with the administration of the Exchange. This filing serves to preserve the current pricing that has been filed with the Commission notwithstanding the Approval Order that was issued by the Commission. The Exchange believes this proposal is a technical and non-substantive rule change with the sole purpose of preserving the current fees and rebates in Section I. The fees that were the subject of the Approval Order, which related to fees for executions of Complex Orders by Directed Participants and Market Makers, will be addressed in a separate filing. This proposal maintains the status quo, which would be otherwise altered by the Approval Order.

### 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.

### 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

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

19(b)(3)(A)(iii) of the Act.<sup>11</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2012-137 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-Phlx-2012-137. 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

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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-2012-137 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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

**Exhibit 5**

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

**NASDAQ OMX PHLX LLC<sup>1</sup> PRICING SCHEDULE**

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**[I. Rebates and Fees for Adding and Removing Liquidity in Select Symbols]**

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**[Part B. Complex Order]**

	<b>[Customer]</b>	<b>[Directed Participant]</b>	<b>[Market Maker]</b>	<b>[Firm]</b>	<b>[Broker-Dealer]</b>	<b>[Professional]</b>
<b>[Rebate for Adding Liquidity]</b>	[\$0.32]	[\$0.00]	[\$0.00]	[\$0.00]	[\$0.00]	[\$0.00]
<b>[Rebate for Removing Liquidity]</b>	[\$0.06]	[\$0.00]	[\$0.00]	[\$0.00]	[\$0.00]	[\$0.00]
<b>[Fee for Adding Liquidity]</b>	[\$0.00]	[\$0.10]	[\$0.10]	[\$0.20]	[\$0.20]	[\$0.20]
<b>[Fee for Removing Liquidity ]</b>	[\$0.00]	[\$0.32]	[\$0.37]	[\$0.38]	[\$0.38]	[\$0.38]

[● Market Makers that execute more than 25,000 contracts per day in a month of Complex Orders, either adding or removing liquidity, in Select Symbols are entitled to a \$0.01 per contract reduction of both the Directed Participant and Market Maker Complex Order Fees for Removing Liquidity, as applicable, on all of their transactions for the month. In calculating the 25,000 contracts per day in a month, the trading activity of Market Makers will be aggregated if there is at least 75% common ownership between the member organizations.]

[● Single contra-side orders that are executed against the individual components of Complex Orders will be assessed the fees in Part A. However, the individual components of such a Complex Order will be assessed the fees in Part B.]

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**I. Rebates and Fees for Adding and Removing Liquidity in Select Symbols**

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**Part B. Complex Order**

	<u>Customer</u>	<u>Specialist</u>	<u>Market Maker</u>	<u>Firm</u>	<u>Broker-Dealer</u>	<u>Professional</u>
<b><u>Rebate for Adding Liquidity</u></b>	<u>\$0.32</u>	<u>\$0.10</u>	<u>\$0.10</u>	<u>\$0.10</u>	<u>\$0.10</u>	<u>\$0.10</u>
<b><u>Rebate for Removing Liquidity</u></b>	<u>\$0.06</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<b><u>Fee for Removing Liquidity</u></b>	<u>\$0.00</u>	<u>\$0.39</u>	<u>\$0.39</u>	<u>\$0.39</u>	<u>\$0.39</u>	<u>\$0.39</u>

- Fees for Removing Liquidity, applicable to Specialists and Market Makers, will be decreased by \$0.02 per contract when the Specialist or Market Maker transacts against a Customer Order directed to that Specialist or Market Maker for execution.
- Single contra-side orders that are executed against the individual components of Complex Orders will be assessed the fees in Part A. However, the individual components of such a Complex Order will be assessed the fees in Part B.

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