

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

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

1. Text of the Proposed Rule Change

(a) NASDAQ OMX 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 proposes to amend the fee caps applicable to certain strategies on Multiply Listed Options in Section II, entitled “Equity Options Fees.”³ The Exchange also proposes to apply the fee caps to transactions on certain reversal⁴ and conversion⁵ strategies.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Section II Equity Options fees include options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

⁴ Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration.

⁵ Conversions are established by combining a long position in the underlying stock with a long put and a short call position that share the same strike and expiration.

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 purpose of the proposed rule change is to amend the fee caps relating to dividend,⁶ merger⁷ and short stock interest⁸ strategies in Section II of the Pricing Schedule.⁹ The Exchange also proposes to apply the fee caps to reversal and conversion strategies in Section II of the Pricing Schedule and modify the application of reversal and conversion strategies in other parts of the Pricing Schedule. The Exchange believes the amendments would continue to incentivize market participants to trade on the Exchange by capping floor option transaction charges related to various strategies.

Today, Specialist,¹⁰ Market Maker,¹¹ Professional,¹² Firm and Broker-Dealer floor option transaction charges are capped at \$1,000 for dividend, merger and short stock

⁶ A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend.

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

⁸ A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.

⁹ While the fee caps are noted in Section II of the Pricing Schedule, the caps apply to all Multiply Listed Options in Sections I and II.

¹⁰ A "Specialist" is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

interest strategies executed on the same trading day in the same options class when such members are trading in their own proprietary accounts. In addition, floor option transaction charges for dividend, merger and short stock interest strategies combined are further capped at the greater of \$10,000 per member or \$25,000 per member organization when such members are trading in their own proprietary account.

The Exchange proposes to increase the cap for dividend, merger and short stock interest strategies from \$1,000 to \$1,250 provided the strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary account. Further, the Exchange proposes to adopt a cap for floor options transaction charges for reversal and conversion strategies of \$750, provided the reversal and conversion strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary account, similar to dividend, merger and short stock interest strategies. The Exchange also proposes to increase the cap for floor equity options transaction charges for dividend, merger and short stock interest strategies combined from the greater of \$10,000 per member or \$25,000 per member organization per month to simply \$35,000 per member organization per month provided that such members are trading in their own proprietary account.¹³ The Exchange proposes to apply this cap of \$35,000 per member

¹¹ A “Market Maker” includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (see Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (see Rule 1014(b)(ii)(B)).

¹² The term “Professional” is a 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 Rule 1000(b)(14).

¹³ The requirement that such members trade in their own proprietary account would not be amended by this proposal.

organization per month to reversal and conversion strategies as well and term the cap as the “Monthly Strategy Cap.”¹⁴

The Exchange proposes to define reversal and conversion strategies within Section II of the Pricing Schedule as follows: “Reversals and conversions are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.”

Further, the Exchange proposes to include Firm reversal and conversion transactions in the Monthly Firm Fee Cap¹⁵ and note this in Section II of the Pricing Schedule. Because of the inclusion of the Firm reversal and conversion transactions in the Monthly Firm Fee Cap, the Exchange also proposes to exclude Firm reversal and conversion transactions from the Monthly Strategy Cap. The reversal and conversion strategy cap of \$750 would apply to Firms, as proposed herein, as it applies to other market participants. The Exchange also proposes to note this exception to the Monthly Strategy Cap in Section II of the Pricing Schedule.

The Exchange proposes to exclude reversal and conversion strategy transactions from the \$0.07 per side Service Fee which is applicable once a Specialist and Market Maker has

¹⁴ Reversal and conversion strategies executed on the floor will be assessed the floor options transaction charge of \$0.25 per contract. Floor QCC Orders are defined in 1064(e). See Section II of the Pricing Schedule.

¹⁵ 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.

reached the Monthly Market Maker Cap.¹⁶ The Exchange proposes to note in Section II of the Pricing Schedule that the \$0.07 per side Service Fee "...will apply to every contract side of the QCC Order and Floor QCC Order after a Specialist or Market Maker has reached the Monthly Market Maker Cap, except for reversal and conversion strategies executed via QCC." Similarly, the Exchange proposes to exclude reversal and conversion strategy transactions from the \$0.01 per side Service Fee which is applicable once a Firm has reached the Monthly Firm Fee Cap.¹⁷ The Exchange proposes to note in Section II of the Pricing Schedule that the \$0.01 per side Service Fee "...will apply once a Firm has reached the Monthly Firm Fee Cap, except for reversal and conversion strategies executed via QCC."

For purposes of clarity, the Exchange proposes to add the word "floor" when describing the fee caps to indicate that the cap is only applicable to transactions which originated from the Exchange floor. This is not a change to the Pricing Schedule but rather a clarification. In addition, the Exchange proposes to amend the applicability of the fees caps by further specifying that in order to qualify for a fee cap, the buy and sell side of a transaction must originate on the Exchange floor. Today, the Exchange does not restrict the buy and sell sides to floor transactions. This proposal would require that the cap apply to

¹⁶ Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$550,000 for: (i) equity option transaction fees; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of \$0.07 per side will apply once a Specialist and Market Maker has reached the Monthly Market Maker Cap.

¹⁷ 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. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of \$0.01 per side will apply once a Firm has reached the Monthly Firm Fee Cap

floor options transactions charges if both the buy and sell sides originated on the Exchange floor to receive the benefit of the fee cap. The Exchange is proposing to add this language to Section II of the Pricing Schedule.

For purposes of clarity, the Exchange also proposes to make a technical correction to Section II of the Pricing Schedule to remove a reference the term “Reversal and Conversion Cap” and replace it with “reversal and conversion strategy.” The Exchange also proposes to substitute the word “or” instead of “and” to further clarify text related to the Monthly Market Maker Cap. The Exchange previously eliminated a former Reversal and Conversion Cap and inadvertently did not also eliminate a reference to this defined terminology from a prior rule filing. The Exchange proposes to remove the defined term at this time and utilize the term “reversal and conversion strategy.” The Exchange also proposes to make a technical amendment to substitute the term “equity options transaction fees” with “options transaction charges” so that the terminology is consistent throughout Section II of the Pricing Schedule. Finally, the Exchange proposes to add the term “Multiply Listed Options” in Section II for clarity to indicate the strategies apply to all Multiply Listed Options.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4).

The Exchange's proposal to increase the fee cap on floor option transaction charges for dividend, merger and short stock interest strategies from \$1,000 to \$1,250 per month, provided the strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary account, is reasonable because the Exchange seeks to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap. Also, this proposal is similar in nature to caps on other exchanges, namely NYSE Arca, Inc. ("NYSE Arca"),²⁰ NYSE Amex, Inc. ("NYSE Amex")²¹ and the Chicago Board Options Exchange, Incorporated ("CBOE")²² for strategies. The Exchange also believes that the increased fee cap is equitable and not unfairly discriminatory because the Exchange is offering all members, except for Customers,²³ the same opportunity to cap their floor option transaction charges in Multiply Listed Options.

The Exchange believes that its proposal to adopt a \$750 per month fee cap on floor options transaction charges for reversal and conversion strategies, provided the reversal and conversion strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary accounts, is reasonable because the Exchange seeks to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap. Also, this proposal is similar to

²⁰ See NYSE Arca General Options and Trading Permit (OTP) Fees.

²¹ See NYSE Amex Options Fee Schedule.

²² See CBOE's Fees Schedule.

²³ Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

reversal and conversion fee caps on other exchanges, namely NYSE Arca,²⁴ NYSE Amex²⁵ and CBOE.²⁶ The Exchange also believes that the adoption of the fee cap is equitable and not unfairly discriminatory because the Exchange would offer all members, except for Customers,²⁷ the same opportunity to cap floor option transaction charges in Multiply Listed Options.

The Exchange believes its proposal to amend and increase fee caps for floor options transaction charges for dividend, merger and short stock interest strategies and adopt the cap for reversal and conversion strategies of \$35,000 per member organization per month, provided that such members are trading in their own proprietary accounts, is reasonable because the Exchange seeks to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap. The Exchange also believes its proposal to increase the Monthly Strategy Cap is equitable and not unfairly discriminatory because the Exchange would offer all members, except for Customers,²⁸ the opportunity to cap their floor equity options transaction fees for dividend, merger and short stock interest strategies. With respect to reversal and conversion strategies, the Exchange believes that its proposal to increase the Monthly Strategy Cap is equitable and not unfairly discriminatory because the

²⁴ See NYSE Arca General Options and Trading Permit (OTP) Fees.

²⁵ See NYSE Amex Options Fee Schedule.

²⁶ See CBOE's Fees Schedule.

²⁷ Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

²⁸ Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

Exchange would offer all members, except for Customers and Firms,²⁹ the opportunity to cap their floor equity options transaction charges for dividend, merger and short stock interest strategies.

The Exchange's proposal to exclude Firm floor options transaction charges related to reversal and conversion strategies from the Monthly Strategy Cap is reasonable because these fees would be capped as part of the Monthly Firm Fee Cap, which applies only to Firms. The Exchange believes that the exclusion of Firm floor options transaction charges related to reversal and conversion strategies from the Monthly Strategy Cap is equitable and not unfairly discriminatory because Firms, unlike other market participants, have the ability to cap transaction fees up to \$75,000 per month. The Exchange would include floor option transaction charges related to reversal and conversion strategies in the Monthly Strategy Cap for Professionals, and Broker Dealers because these market participants are not subject to the Monthly Firm Fee Cap or other similar Cap. While Specialists and Market Makers are subject to a Monthly Market Maker Cap on both electronic and floor options transaction charges, reversal and conversion transactions are excluded from the Monthly Market Maker Cap.³⁰ For the reasons described above, the Exchange believes including reversal and conversion strategies in the Monthly Firm Fee Cap is reasonable, equitable and not unfairly discriminatory because the cap provides an incentive for Firms to transact floor transactions

²⁹ Firms transaction fees are capped at \$75,000 per month as noted in Section II of the Pricing Schedule.

³⁰ The reversal and conversion strategy executions are excluded from the Monthly Market Maker Cap. See Section II of the Pricing Schedule.

on the Exchange, which brings increased liquidity and order flow to the floor for the benefit of all market participants.³¹

The Exchange believes that its proposal to amend the applicability of the fee caps to orders originating from the Exchange floor is reasonable because members pay floor brokers to execute trades on the Exchange floor. The Exchange believes that offering fee caps to members executing floor transactions would defray brokerage costs associated with executing strategy transactions and continue to incentivize members to utilize the floor for certain executions.³² The Exchange believes that its proposal to amend the applicability of the fee caps to orders originating from the Exchange floor is equitable and not unfairly discriminatory because today, the fee caps are only applicable for floor transactions. The Exchange believes that a requirement that both the buy and sell sides of the order originate from the floor to qualify for the fee cap would constitute equal treatment of members.

The Exchange believes that excluding the reversal and conversion strategy transactions from both the \$0.07 per side Service Fee applicable to the Monthly Market Maker Cap and the \$0.01 per side Service Fee applicable to the Monthly Firm Fee Cap is reasonable because the Exchange is not offering members a QCC rebate for floor transactions executed via QCC.³³ The Exchange specifically excludes dividend, merger,

³¹ Firms are eligible to cap floor options transactions charges and QCC Transaction Fees as part of the Monthly Firm Fee Cap. QCC Transaction Fees apply to QCC Orders as defined in Exchange Rule 1080(o) and Floor QCC Orders as defined in 1064(e). See Section II of the Pricing Schedule.

³² The Exchange's proposal would only apply the fee cap to options transaction charges where buy and sell sides originate from the Exchange floor. See proposed rule text in Section II of the Pricing Schedule.

³³ QCC Transaction Fees for a Specialist, Market Maker, Professional, Firm and Broker-Dealer are \$0.20 per contract. QCC Transaction Fees apply to QCC Orders, as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e). A rebate, as

short stock interest or reversal or conversion strategy executions from the QCC rebate and therefore does not desire to assess the Service Fees for these types of transactions.³⁴ The Exchange believes that excluding the reversal and conversion strategy transactions from both the \$0.07 per side Service Fee applicable to the Monthly Market Maker Cap and the \$0.01 per side Service Fee applicable to the Monthly Firm Fee Cap is equitable and not unfairly discriminatory because the Exchange would not assess the Service Fees described herein on any member executing reversal and conversion strategies on QCC.

The Exchange believes that removing an outdated reference and making clarifying changes to the Pricing Schedule, such as adding the reference to floor and amending “equity options transaction fees” to “options transaction charges,” adding the term “Multiply Listed Options” to the discussion of strategies and substituting the word “and” with “or” in the Monthly Market Maker Cap are reasonable, equitable and not unfairly discriminatory amendments because these technical amendments would clarify the Pricing Schedule and make it terms consistent throughout.

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. To the contrary, the proposed fees would continue to encourage members to transact

specified in Section II of the Pricing Schedule is paid pursuant to the QCC Rebate Schedule on all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger or short stock interest strategy or reversal or conversion strategy executions (as defined in Section II). The proposed rule text relating to reversal and conversion strategies is included in this explanation.

³⁴ Dividend, merger and short stock interest strategies do not qualify as QCC Transactions pursuant to Rule 1080(o)(3) because of the necessity of the stock component.

strategies on the exchange because the proposed fee caps are competitive with fee caps at other options exchanges.

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,³⁵ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

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

9. Exhibits

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

³⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2012-138)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of
Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Strategies

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 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 amend the fee caps applicable to certain strategies on Multiply Listed Options in Section II, entitled “Equity Options Fees.”³ The Exchange also proposes to apply the fee caps to transactions on certain reversal⁴ and conversion⁵ strategies.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Section II Equity Options fees include options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

⁴ Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration.

⁵ Conversions are established by combining a long position in the underlying stock with a long put and a short call position that share the same strike and expiration.

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 purpose of the proposed rule change is to amend the fee caps relating to dividend,⁶ merger⁷ and short stock interest⁸ strategies in Section II of the Pricing

⁶ A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend.

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

⁸ A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.

Schedule.⁹ The Exchange also proposes to apply the fee caps to reversal and conversion strategies in Section II of the Pricing Schedule and modify the application of reversal and conversion strategies in other parts of the Pricing Schedule. The Exchange believes the amendments would continue to incentivize market participants to trade on the Exchange by capping floor option transaction charges related to various strategies.

Today, Specialist,¹⁰ Market Maker,¹¹ Professional,¹² Firm and Broker-Dealer floor option transaction charges are capped at \$1,000 for dividend, merger and short stock interest strategies executed on the same trading day in the same options class when such members are trading in their own proprietary accounts. In addition, floor option transaction charges for dividend, merger and short stock interest strategies combined are further capped at the greater of \$10,000 per member or \$25,000 per member organization when such members are trading in their own proprietary account.

The Exchange proposes to increase the cap for dividend, merger and short stock interest strategies from \$1,000 to \$1,250 provided the strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary account. Further, the Exchange proposes to adopt a cap for floor options transaction charges

⁹ While the fee caps are noted in Section II of the Pricing Schedule, the caps apply to all Multiply Listed Options in Sections I and II.

¹⁰ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

¹¹ A “Market Maker” includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (see Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (see Rule 1014(b)(ii)(B)).

¹² The term “Professional” is a 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 Rule 1000(b)(14).

for reversal and conversion strategies of \$750, provided the reversal and conversion strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary account, similar to dividend, merger and short stock interest strategies. The Exchange also proposes to increase the cap for floor equity options transaction charges for dividend, merger and short stock interest strategies combined from the greater of \$10,000 per member or \$25,000 per member organization per month to simply \$35,000 per member organization per month provided that such members are trading in their own proprietary account.¹³ The Exchange proposes to apply this cap of \$35,000 per member organization per month to reversal and conversion strategies as well and term the cap as the “Monthly Strategy Cap.”¹⁴

The Exchange proposes to define reversal and conversion strategies within Section II of the Pricing Schedule as follows: “Reversals and conversions are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.”

Further, the Exchange proposes to include Firm reversal and conversion transactions in the Monthly Firm Fee Cap¹⁵ and note this in Section II of the Pricing Schedule. Because

¹³ The requirement that such members trade in their own proprietary account would not be amended by this proposal.

¹⁴ Reversal and conversion strategies executed on the floor will be assessed the floor options transaction charge of \$0.25 per contract. Floor QCC Orders are defined in 1064(e). See Section II of the Pricing Schedule.

¹⁵ 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

of the inclusion of the Firm reversal and conversion transactions in the Monthly Firm Fee Cap, the Exchange also proposes to exclude Firm reversal and conversion transactions from the Monthly Strategy Cap. The reversal and conversion strategy cap of \$750 would apply to Firms, as proposed herein, as it applies to other market participants. The Exchange also proposes to note this exception to the Monthly Strategy Cap in Section II of the Pricing Schedule.

The Exchange proposes to exclude reversal and conversion strategy transactions from the \$0.07 per side Service Fee which is applicable once a Specialist and Market Maker has reached the Monthly Market Maker Cap.¹⁶ The Exchange proposes to note in Section II of the Pricing Schedule that the \$0.07 per side Service Fee "...will apply to every contract side of the QCC Order and Floor QCC Order after a Specialist or Market Maker has reached the Monthly Market Maker Cap, except for reversal and conversion strategies executed via QCC." Similarly, the Exchange proposes to exclude reversal and conversion strategy transactions from the \$0.01 per side Service Fee which is applicable once a Firm has reached the Monthly Firm Fee Cap.¹⁷ The Exchange proposes to note in Section II of the Pricing

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.

¹⁶ Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$550,000 for: (i) equity option transaction fees; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of \$0.07 per side will apply once a Specialist and Market Maker has reached the Monthly Market Maker Cap.

¹⁷ 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. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined

Schedule that the \$0.01 per side Service Fee "...will apply once a Firm has reached the Monthly Firm Fee Cap, except for reversal and conversion strategies executed via QCC."

For purposes of clarity, the Exchange proposes to add the word "floor" when describing the fee caps to indicate that the cap is only applicable to transactions which originated from the Exchange floor. This is not a change to the Pricing Schedule but rather a clarification. In addition, the Exchange proposes to amend the applicability of the fees caps by further specifying that in order to qualify for a fee cap, the buy and sell side of a transaction must originate on the Exchange floor. Today, the Exchange does not restrict the buy and sell sides to floor transactions. This proposal would require that the cap apply to floor options transactions charges if both the buy and sell sides originated on the Exchange floor to receive the benefit of the fee cap. The Exchange is proposing to add this language to Section II of the Pricing Schedule.

For purposes of clarity, the Exchange also proposes to make a technical correction to Section II of the Pricing Schedule to remove a reference the term "Reversal and Conversion Cap" and replace it with "reversal and conversion strategy." The Exchange also proposes to substitute the word "or" instead of "and" to further clarify text related to the Monthly Market Maker Cap. The Exchange previously eliminated a former Reversal and Conversion Cap and inadvertently did not also eliminate a reference to this defined terminology from a prior rule filing. The Exchange proposes to remove the defined term at this time and utilize the term "reversal and conversion strategy." The Exchange also proposes to make a technical amendment to substitute the term "equity options transaction fees" with "options transaction charges" so that the terminology is consistent throughout Section II of the Pricing Schedule.

in 1064(e), a Service Fee of \$0.01 per side will apply once a Firm has reached the Monthly Firm Fee Cap

Finally, the Exchange proposes to add the term “Multiply Listed Options” in Section II for clarity to indicate the strategies apply to all Multiply Listed Options.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange’s proposal to increase the fee cap on floor option transaction charges for dividend, merger and short stock interest strategies from \$1,000 to \$1,250 per month, provided the strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary account, is reasonable because the Exchange seeks to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap. Also, this proposal is similar in nature to caps on other exchanges, namely NYSE Arca, Inc. (“NYSE Arca”),²⁰ NYSE Amex, Inc. (“NYSE Amex”)²¹ and the Chicago Board Options Exchange, Incorporated (“CBOE”)²² for strategies. The Exchange also believes that the increased fee cap is equitable and not unfairly discriminatory because the Exchange is offering all members,

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4).

²⁰ See NYSE Arca General Options and Trading Permit (OTP) Fees.

²¹ See NYSE Amex Options Fee Schedule.

²² See CBOE’s Fees Schedule.

except for Customers,²³ the same opportunity to cap their floor option transaction charges in Multiply Listed Options.

The Exchange believes that its proposal to adopt a \$750 per month fee cap on floor options transaction charges for reversal and conversion strategies, provided the reversal and conversion strategy is executed on the same trading day in the same options class when such members are trading in their own proprietary accounts, is reasonable because the Exchange seeks to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap. Also, this proposal is similar to reversal and conversion fee caps on other exchanges, namely NYSE Arca,²⁴ NYSE Amex²⁵ and CBOE.²⁶ The Exchange also believes that the adoption of the fee cap is equitable and not unfairly discriminatory because the Exchange would offer all members, except for Customers,²⁷ the same opportunity to cap floor option transaction charges in Multiply Listed Options.

The Exchange believes its proposal to amend and increase fee caps for floor options transaction charges for dividend, merger and short stock interest strategies and adopt the cap for reversal and conversion strategies of \$35,000 per member organization per month, provided that such members are trading in their own proprietary accounts, is reasonable

²³ Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

²⁴ See NYSE Arca General Options and Trading Permit (OTP) Fees.

²⁵ See NYSE Amex Options Fee Schedule.

²⁶ See CBOE's Fees Schedule.

²⁷ Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

because the Exchange seeks to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap. The Exchange also believes its proposal to increase the Monthly Strategy Cap is equitable and not unfairly discriminatory because the Exchange would offer all members, except for Customers,²⁸ the opportunity to cap their floor equity options transaction fees for dividend, merger and short stock interest strategies. With respect to reversal and conversion strategies, the Exchange believes that its proposal to increase the Monthly Strategy Cap is equitable and not unfairly discriminatory because the Exchange would offer all members, except for Customers and Firms,²⁹ the opportunity to cap their floor equity options transaction charges for dividend, merger and short stock interest strategies.

The Exchange's proposal to exclude Firm floor options transaction charges related to reversal and conversion strategies from the Monthly Strategy Cap is reasonable because these fees would be capped as part of the Monthly Firm Fee Cap, which applies only to Firms. The Exchange believes that the exclusion of Firm floor options transaction charges related to reversal and conversion strategies from the Monthly Strategy Cap is equitable and not unfairly discriminatory because Firms, unlike other market participants, have the ability to cap transaction fees up to \$75,000 per month. The Exchange would include floor option transaction charges related to reversal and conversion strategies in the Monthly Strategy Cap for Professionals, and Broker Dealers because these market participants are not subject to the Monthly Firm Fee Cap or other similar Cap. While Specialists and Market Makers are

²⁸ Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

²⁹ Firms transaction fees are capped at \$75,000 per month as noted in Section II of the Pricing Schedule.

subject to a Monthly Market Maker Cap on both electronic and floor options transaction charges, reversal and conversion transactions are excluded from the Monthly Market Maker Cap.³⁰ For the reasons described above, the Exchange believes including reversal and conversion strategies in the Monthly Firm Fee Cap is reasonable, equitable and not unfairly discriminatory because the cap provides an incentive for Firms to transact floor transactions on the Exchange, which brings increased liquidity and order flow to the floor for the benefit of all market participants.³¹

The Exchange believes that its proposal to amend the applicability of the fee caps to orders originating from the Exchange floor is reasonable because members pay floor brokers to execute trades on the Exchange floor. The Exchange believes that offering fee caps to members executing floor transactions would defray brokerage costs associated with executing strategy transactions and continue to incentivize members to utilize the floor for certain executions.³² The Exchange believes that its proposal to amend the applicability of the fee caps to orders originating from the Exchange floor is equitable and not unfairly discriminatory because today, the fee caps are only applicable for floor transactions. The Exchange believes that a requirement that both the buy and sell sides of the order originate from the floor to qualify for the fee cap would constitute equal treatment of members.

³⁰ The reversal and conversion strategy executions are excluded from the Monthly Market Maker Cap. See Section II of the Pricing Schedule.

³¹ Firms are eligible to cap floor options transactions charges and QCC Transaction Fees as part of the Monthly Firm Fee Cap. QCC Transaction Fees apply to QCC Orders as defined in Exchange Rule 1080(o) and Floor QCC Orders as defined in 1064(e). See Section II of the Pricing Schedule.

³² The Exchange's proposal would only apply the fee cap to options transaction charges where buy and sell sides originate from the Exchange floor. See proposed rule text in Section II of the Pricing Schedule.

The Exchange believes that excluding the reversal and conversion strategy transactions from both the \$0.07 per side Service Fee applicable to the Monthly Market Maker Cap and the \$0.01 per side Service Fee applicable to the Monthly Firm Fee Cap is reasonable because the Exchange is not offering members a QCC rebate for floor transactions executed via QCC.³³ The Exchange specifically excludes dividend, merger, short stock interest or reversal or conversion strategy executions from the QCC rebate and therefore does not desire to assess the Service Fees for these types of transactions.³⁴ The Exchange believes that excluding the reversal and conversion strategy transactions from both the \$0.07 per side Service Fee applicable to the Monthly Market Maker Cap and the \$0.01 per side Service Fee applicable to the Monthly Firm Fee Cap is equitable and not unfairly discriminatory because the Exchange would not assess the Service Fees described herein on any member executing reversal and conversion strategies on QCC.

The Exchange believes that removing an outdated reference and making clarifying changes to the Pricing Schedule, such as adding the reference to floor and amending “equity options transaction fees” to “options transaction charges,” adding the term “Multiply Listed Options” to the discussion of strategies and substituting the word “and” with “or” in the Monthly Market Maker Cap are reasonable, equitable and not unfairly discriminatory

³³ QCC Transaction Fees for a Specialist, Market Maker, Professional, Firm and Broker-Dealer are \$0.20 per contract. QCC Transaction Fees apply to QCC Orders, as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e). A rebate, as specified in Section II of the Pricing Schedule is paid pursuant to the QCC Rebate Schedule on all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger or short stock interest strategy or reversal or conversion strategy executions (as defined in Section II). The proposed rule text relating to reversal and conversion strategies is included in this explanation.

³⁴ Dividend, merger and short stock interest strategies do not qualify as QCC Transactions pursuant to Rule 1080(o)(3) because of the necessity of the stock component.

amendments because these technical amendments would clarify the Pricing Schedule and make it terms consistent throughout.

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. To the contrary, the proposed fees would continue to encourage members to transact strategies on the exchange because the proposed fee caps are competitive with fee caps at other options exchanges.

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.³⁵ 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

³⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2012-138 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-2012-138. 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-2012-138 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.³⁶

Kevin M. O'Neill
Deputy Secretary

³⁶ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

* * * * *

II. Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed⁹)

* * * * *

- QCC Transaction Fees for a Specialist, Market Maker, Professional, Firm and Broker-Dealer are \$0.20 per contract. QCC Transaction Fees apply to QCC Orders, as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e). A rebate, as specified in the below QCC Rebate Schedule, will be paid for all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger, or short stock interest or reversal or conversion strategy [and] executions [subject to the Reversal and Conversion Cap] (as defined in Section II).

* * * * *

- Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$550,000 for: (i) equity option transaction fees; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. The trading activity of separate Specialist and Market Maker member organizations will be aggregated in calculating the Monthly Market Maker Cap if there is at least 75% common ownership between the member organizations. All dividend, merger, short stock interest and reversal and conversion strategy executions (as defined in this Section II) will be excluded from the Monthly Market Maker Cap. In addition, Specialists [and]or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order; and (ii) have reached the Monthly Market Maker Cap will be assessed a \$0.16 per contract fee. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of \$0.07 per side will apply once a Specialist [and]or Market Maker has reached the Monthly Market Maker Cap. This \$0.07 Service Fee will apply to every contract side of the QCC Order and Floor QCC Order after a Specialist [and]or Market Maker has reached the Monthly Market Maker Cap, except for reversal and conversion strategies executed via QCC. The Service Fee will not be assessed to a Specialist [and]or Market Maker that does not reach the Monthly Market Maker Cap in a particular calendar month.

- Firms are subject to a maximum fee of \$75,000 ("Monthly Firm Fee Cap"). Firm floor [equity] option transaction [fees]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 [and reversal and conversion] strategy executions (as defined in

this Section II) will be excluded from the Monthly Firm Fee Cap. Reversal and conversion strategy executions (as defined in this Section II) will be included in the Monthly Firm Fee Cap. The Firm [equity] options transaction [fees]charges will be waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet [equity] options transaction [fees]charges). 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. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of \$0.01 per side will apply once a Firm has reached the Monthly Firm Fee Cap, except for reversal and conversion strategies executed via QCC. This \$0.01 Service Fee will apply to every contract side of the QCC Order and Floor QCC Order after a Firm has reached the Monthly Firm Fee Cap. The Service Fee will not be assessed to a Firm that does not reach the Monthly Firm Fee Cap in a particular calendar month.

* * * * *

- Specialist, Market Maker, Professional, Firm and Broker-Dealer floor [equity] option transaction [fees]charges in Multiply Listed Options will be capped at \$1,[00]250 per month for dividend, merger and short stock interest strategies executed on the same trading day in the same options class, and option transaction charges in Multiply Listed Options will be capped at \$750 per month for reversal and conversion strategies executed on the same trading day in the same options class when such members are trading in their own proprietary accounts. Floor [Equity] option transaction [fees] charges in Multiply Listed Options for dividend, merger, [and] short stock interest and reversal and conversion strategies combined will be further capped at [the greater of \$10,000 per member or] \$[2]35,000 per member organization, per month when such members are trading in their own proprietary accounts (“Monthly Strategy Cap”). Reversal and conversion strategy executions will not be included in the Monthly Strategy Cap for a Firm. To qualify for a strategy fee cap, the buy and sell side of a transaction must originate from the Exchange floor. A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. Reversals and conversions are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

* * * * *