

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

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

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| Exhibit 2 Sent As Paper Document | Exhibit 3 Sent As Paper Document |
| <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

Add Remove View

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”)¹ and Rule 19b-4 thereunder,² proposes to amend Section I, Part B of the Exchange’s Pricing Schedule entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols” to apply a fee differential approved by the Commission.

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.

Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, at (215) 496-5692.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange filed two immediately effective rule changes, SR-Phlx-2012-27 and SR-Phlx-2012-54,³ to amend certain fees and rebates in Section I, which filings were temporarily suspended by the Commission as of April 30, 2012 (“Suspension Order”).⁴ 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”).⁵

The Approval Order approved certain fees that were proposed by the Exchange in SR-Phlx-2012-27.⁶ The Exchange proposes, pursuant to the Approval Order, to reinstate the Complex Order pricing differential that was suspended on April 30, 2012. In SR-Phlx-2012-27, the Exchange filed to amend various fees.⁷ The fees for execution of

³ 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).

⁴ 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).

⁵ 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).

⁶ Specifically, SR-Phlx-2012-27 proposed, among other things, 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.

⁷ See Securities Exchange Act Release No. 66551 (March 9, 2012), 77 FR 15400 (March 15, 2012) (SR-Phlx-2012-27).

Complex Orders by Directed Participants and Market Makers became the subject of the Suspension Order. Specifically, the Exchange filed to amend the Directed Participant Complex Order Fee for Removing Liquidity from \$0.30 to \$0.32 per contract and the Market Maker Complex Order Fee for Removing Liquidity from \$0.32 to \$0.37 per contract.⁸ On April 30, 2012, the Commission suspended both SR-Phlx-2012-27 and a related filing SR-Phlx-2012-54 and instituted proceedings to determine whether the Exchange's proposed rule changes should be approved or disapproved.⁹ The proposed \$0.05 per contract Complex Order differential as between Directed Participants and Market Makers was suspended and the \$0.02 fee differential was reinstated as of April 30, 2012.¹⁰ The subsequent Approval Order approved the fees related to Complex Orders on a one-year pilot basis operative on December 3, 2012.¹¹ Since the date of the Suspension Order, the Exchange has filed amendments to Section I of its Pricing Schedule which amended certain fees and also the categories of market participants.¹²

⁸ Id.

⁹ The Commission noted in the Suspension Order that it "...believes it is appropriate to further evaluate the potential effect of the proposed rule changes on competition among different types of market participants and on market quality, particularly with respect to the fee differential between Directed Participants and Market Makers, and the basis for such differential put forth by the Exchange." See Securities Exchange Release No. 66884 (April 30, 2012), 77 FR 26595, 26596 (May 4, 2012) (SR-Phlx-2012-27 and SR-Phlx-2012-54).

¹⁰ 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).

¹¹ 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).

¹² See Securities Exchange Act Release Nos. 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77) (an immediately effective rule filing which, among other things, amended the Complex Order Directed Participant fee from \$0.34 to \$0.36 per

The Exchange amended its categories of market participants to specifically define a Specialist¹³ separate and apart from other Market Makers.¹⁴ At the time of the Suspension Order, the Exchange defined a Market Maker to include Specialists and Registered Options Traders.¹⁵ The Exchange redefined a Market Maker to include ROTs, SQTs and RSQTs. The Exchange eliminated the category “Directed Participant”¹⁶ from the categories of market participants, and instead added Specialists as a category of market participants.¹⁷

The Exchange is therefore proposing to amend the Pricing Schedule to reflect the \$0.05 fee differential between Market Makers and Specialists that execute directed

contract and noted that the Complex Order fee 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 them. This filing also established the category of Specialist); and 67633 (August 9, 2012), 77 FR 49040 (August 15, 2012) (SR-Phlx-2012-104) (an immediately effective rule filing, which, among other things, amended the Complex Order Specialist and Market Maker fees from \$0.36 to \$0.39 per contract).

¹³ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

¹⁴ See Securities Exchange Act Release No. 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77).

¹⁵ A Registered Options Trader (“ROT”) includes a Streaming Quote Trader (“SQT”), a Remote Streaming Quote Trader (“RSQT”) and a Non-SQT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii).

¹⁶ The term “Directed Participant” applies to transactions for the account of a Specialist, Streaming Quote Trader or Remote Streaming Quote Trader resulting from a Customer order that is (1) directed to it by an order flow provider, and (2) executed by it electronically on Phlx XL II.

¹⁷ See Securities Exchange Act Release Nos. 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77).

Complex Orders and those that do not that was proposed in SR-Phlx-2012-27 and SR-Phlx-2012-54. The Exchange also proposes to state in the Pricing Schedule that the fee differential is subject to a one-year pilot. The Exchange proposes these amendments become operative on December 3, 2012 consistent with the Approval Order.¹⁸

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act²⁰ 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 also believes that it is an equitable allocation of reasonable rebates among Exchange members and other persons using its facilities.

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”).²¹ Pursuant to that Approval Order and the reasons articulated therein, the Exchange is modifying its Pricing Schedule to reflect the \$0.05 per contract Complex Order fee differential that was proposed in SR-

¹⁸ 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).

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(4).

²¹ 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).

Phlx-2012-27 and SR-Phlx-2012-54 and approved. This filing incorporates the \$0.05 per contract Complex Order fee differential that was recently approved by the Commission.²²

This proposal does not amend the current pricing in Section I, Part B of the Pricing Schedule other than to offer discounted pricing to Market Makers and Specialists when the Market Maker or Specialist transacts against a Customer Order directed to them by increasing the Complex Order Fee for Removing Liquidity discount from \$0.02 to \$0.05 per contract, consistent with the Approval Order.²³

The Exchange believes that the proposed amendments are consistent with the Act because the proposal merely incorporates amendments approved by the Commission pursuant to an Approval Order.²⁴

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. Further, the Exchange notes that the Market Maker and Specialists Complex Order Fees for Removing Liquidity currently in place at the Exchange apply only to certain Select Symbols which are Multiply-Listed and highly liquid securities. As described herein, the Exchange's fees are comparable to and lower than other fee differentials today at other options exchanges. Given the highly competitive environment for options trading and the attendant benefits to investors, the Exchange believes that no exchange

²² To the extent that the Approval Order modified the Exchange's Pricing Schedule by restoring a previous amendment which was not the subject of the Approval Order, the Exchange addresses those amendments in a separate rule change. See SR-Phlx-2012-137 (not yet published).

²³ 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).

²⁴ Id.

has market power sufficient to raise prices for competitively-traded options in an unreasonable or unfairly discriminatory manner in violation of the Exchange Act. In actuality, it is member firms that control the order flow that options markets compete to attract as evidenced by the large number of pricing-related rule changes and shifts of market share among options markets.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁵ 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.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2012-139)

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

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 Section I, Part B of the Exchange’s Pricing Schedule entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols” to apply a fee differential approved by the Commission.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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-2012-54,³ to amend certain fees and rebates in Section I, which filings were temporarily suspended by the Commission as of April 30, 2012 (“Suspension Order”).⁴ 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”).⁵

³ 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).

⁴ 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).

⁵ 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).

The Approval Order approved certain fees that were proposed by the Exchange in SR-Phlx-2012-27.⁶ The Exchange proposes, pursuant to the Approval Order, to reinstate the Complex Order pricing differential that was suspended on April 30, 2012. In SR-Phlx-2012-27, the Exchange filed to amend various fees.⁷ The fees for execution of Complex Orders by Directed Participants and Market Makers became the subject of the Suspension Order. Specifically, the Exchange filed to amend the Directed Participant Complex Order Fee for Removing Liquidity from \$0.30 to \$0.32 per contract and the Marker Maker Complex Order Fee for Removing Liquidity from \$0.32 to \$0.37 per contract.⁸ On April 30, 2012, the Commission suspended both SR-Phlx-2012-27 and a related filing SR-Phlx-2012-54 and instituted proceedings to determine whether the Exchange's proposed rule changes should be approved or disapproved.⁹ The proposed \$0.05 per contract Complex Order differential as between Directed Participants and Market Makers was suspended and the \$0.02 fee differential was reinstated as of April

⁶ Specifically, SR-Phlx-2012-27 proposed, among other things, 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.

⁷ See Securities Exchange Act Release No. 66551 (March 9, 2012), 77 FR 15400 (March 15, 2012) (SR-Phlx-2012-27).

⁸ Id.

⁹ The Commission noted in the Suspension Order that it "...believes it is appropriate to further evaluate the potential effect of the proposed rule changes on competition among different types of market participants and on market quality, particularly with respect to the fee differential between Directed Participants and Market Makers, and the basis for such differential put forth by the Exchange." See Securities Exchange Release No. 66884 (April 30, 2012), 77 FR 26595, 26596 (May 4, 2012) (SR-Phlx-2012-27 and SR-Phlx-2012-54).

30, 2012.¹⁰ The subsequent Approval Order approved the fees related to Complex Orders on a one-year pilot basis operative on December 3, 2012.¹¹ Since the date of the Suspension Order, the Exchange has filed amendments to Section I of its Pricing Schedule which amended certain fees and also the categories of market participants.¹²

The Exchange amended its categories of market participants to specifically define a Specialist¹³ separate and apart from other Market Makers.¹⁴ At the time of the Suspension Order, the Exchange defined a Market Maker to include Specialists and Registered Options Traders.¹⁵ The Exchange redefined a Market Maker to include ROTs,

¹⁰ 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).

¹¹ 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).

¹² See Securities Exchange Act Release Nos. 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77) (an immediately effective rule filing which, among other things, amended the Complex Order Directed Participant fee from \$0.34 to \$0.36 per contract and noted that the Complex Order fee 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 them. This filing also established the category of Specialist); and 67633 (August 9, 2012), 77 FR 49040 (August 15, 2012) (SR-Phlx-2012-104) (an immediately effective rule filing, which, among other things, amended the Complex Order Specialist and Market Maker fees from \$0.36 to \$0.39 per contract).

¹³ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

¹⁴ See Securities Exchange Act Release No. 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77).

¹⁵ A Registered Options Trader (“ROT”) includes a Streaming Quote Trader (“SQT”), a Remote Streaming Quote Trader (“RSQT”) and a Non-SQT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Exchange Rule 1014 (b)(i) and (ii).

SQTs and RSQTs. The Exchange eliminated the category “Directed Participant”¹⁶ from the categories of market participants, and instead added Specialists as a category of market participants.¹⁷

The Exchange is therefore proposing to amend the Pricing Schedule to reflect the \$0.05 fee differential between Market Makers and Specialists that execute directed Complex Orders and those that do not that was proposed in SR-Phlx-2012-27 and SR-Phlx-2012-54. The Exchange also proposes to state in the Pricing Schedule that the fee differential is subject to a one-year pilot. The Exchange proposes these amendments become operative on December 3, 2012 consistent with the Approval Order.¹⁸

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act²⁰ 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

¹⁶ The term “Directed Participant” applies to transactions for the account of a Specialist, Streaming Quote Trader or Remote Streaming Quote Trader resulting from a Customer order that is (1) directed to it by an order flow provider, and (2) executed by it electronically on Phlx XL II.

¹⁷ See Securities Exchange Act Release Nos. 67189 (June 12, 2012), 77 FR 36310 (June 18, 2012) (SR-Phlx-2012-77).

¹⁸ 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).

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(4).

Exchange also believes that it is an equitable allocation of reasonable rebates among Exchange members and other persons using its facilities.

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”).²¹ Pursuant to that Approval Order and the reasons articulated therein, the Exchange is modifying its Pricing Schedule to reflect the \$0.05 per contract Complex Order fee differential that was proposed in SR-Phlx-2012-27 and SR-Phlx-2012-54 and approved. This filing incorporates the \$0.05 per contract Complex Order fee differential that was recently approved by the Commission.²²

This proposal does not amend the current pricing in Section I, Part B of the Pricing Schedule other than to offer discounted pricing to Market Makers and Specialists when the Market Maker or Specialist transacts against a Customer Order directed to them by increasing the Complex Order Fee for Removing Liquidity discount from \$0.02 to \$0.05 per contract, consistent with the Approval Order.²³

The Exchange believes that the proposed amendments are consistent with the Act because the proposal merely incorporates amendments approved by the Commission pursuant to an Approval Order.²⁴

²¹ 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).

²² To the extent that the Approval Order modified the Exchange’s Pricing Schedule by restoring a previous amendment which was not the subject of the Approval Order, the Exchange addresses those amendments in a separate rule change. See SR-Phlx-2012-137 (not yet published).

²³ 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).

²⁴ Id.

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. Further, the Exchange notes that the Market Maker and Specialists Complex Order Fees for Removing Liquidity currently in place at the Exchange apply only to certain Select Symbols which are Multiply-Listed and highly liquid securities. As described herein, the Exchange's fees are comparable to and lower than other fee differentials today at other options exchanges. Given the highly competitive environment for options trading and the attendant benefits to investors, the Exchange believes that no exchange has market power sufficient to raise prices for competitively-traded options in an unreasonable or unfairly discriminatory manner in violation of the Exchange Act. In actuality, it is member firms that control the order flow that options markets compete to attract as evidenced by the large number of pricing-related rule changes and shifts of market share among options markets.

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

No written comments were either solicited or received.

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

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

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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. Please include File Number SR-Phlx-2012-139 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-2012-139. 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-2012-139 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.²⁶

Kevin M. O'Neill
Deputy Secretary

²⁶ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

* * * * *

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

* * * * *

Part B. Complex Order

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

- Fees for Removing Liquidity, applicable to Specialists and Market Makers, will be decreased by \$0.0[2]5 per contract when the Specialist or Market Maker transacts against a Customer Order directed to that Specialist or Market Maker for execution pursuant to a one-year pilot set to expire on December 2, 2013.
- 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.

* * * * *