

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 21	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2012 - * 141	Amendment No. (req. for Amendments *)	
Filing by NASDAQ OMX PHLX LLC. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934					
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input checked="" type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). Relating to Professional Options Transaction Charges					
Contact Information Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action. First Name * Angela Last Name * Dunn Title * Associate General Counsel E-mail * angela.dunn@nasdaqomx.com Telephone * (215) 496-5692 Fax <input type="text"/>					
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. (Title *) Date 12/21/2012 By Edward S. Knight (Name *) Executive Vice President and General Counsel Edward S Knight,					

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 EFFF website.

Form 19b-4 Information *

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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 *

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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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies

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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, security-based swap submission, or advance notice 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 certain electronic Professional³ Options Transaction Charges in Section II⁴ of the Exchange’s Pricing Schedule entitled “Multiply Listed Options.”

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on January 2, 2013.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

⁴ Section II of the Pricing Schedule includes options overlying equities, ETFs, ETNs, and indexes which are Multiply Listed.

rule change.

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

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

a. Purpose

The Exchange proposes to amend Section II of the Exchange's Pricing Schedule to increase the electronic Professional Options Transaction Charges for both Penny Pilot Options⁵ and non-Penny Pilot Options.⁶ The Exchange believes that increasing the electronic Professional Options Transaction Charges in Penny Pilot and non-Penny Pilot Options will allow the Exchange to compete more effectively. The Exchange also believes that the proposed fees will operate to assist the Exchange in recouping increased

⁵ The Penny Pilot was established in January 2007; and in October 2009, it was expanded and extended through June 30, 2012. See Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR-Phlx-2006-74) (notice of filing and approval order establishing Penny Pilot); 60873 (October 23, 2009), 74 FR 56675 (November 2, 2009) (SR-Phlx-2009-91) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60966 (November 9, 2009), 74 FR 59331 (November 17, 2009) (SR-Phlx-2009-94) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61454 (February 1, 2010), 75 FR 6233 (February 8, 2010) (SR-Phlx-2010-12) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62028 (May 4, 2010), 75 FR 25890 (May 10, 2010) (SR-Phlx-2010-65) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62616 (July 30, 2010), 75 FR 47664 (August 6, 2010) (SR-Phlx-2010-103) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 63395 (November 30, 2010), 75 FR 76062 (December 7, 2010) (SR-Phlx-2010-167) (notice of filing and immediate effectiveness extending the Penny Pilot); 65976 (December 15, 2011), 76 FR 79247 (December 21, 2011) (SR-Phlx-2011-172) (notice of filing and immediate effectiveness extending the Penny Pilot); and 67326 (June 29, 2012), 77 FR 40126 (July 6, 2012) (SR-Phlx-2012-86) (notice of filing and immediate effectiveness extending the Penny Pilot). See also Exchange Rule 1034.

⁶ Non-Penny Pilot refers to options classes not in the Penny Pilot.

costs generally tied to supporting a larger number of options classes, option series and overall transaction volume.

Specifically, the Exchange proposes to increase the electronic Professional Options Transaction Charges for both Penny Pilot Options and non-Penny Pilot Options from \$0.25 to \$0.30 per contract. The Exchange is not proposing to increase the floor Professional Options Transaction Charges or any other electronic Professional transaction charges.

The Exchange also proposes to amend its Pricing Schedule at Section II to add another column to the Professional fees to differentiate electronic and floor fees as it does today with other market participants.⁷ The Exchange also proposes a technical amendment to the Specialist,⁸ Market Maker,⁹ Broker-Dealer¹⁰ and Firm¹¹ transaction fees to correct the Pricing Schedule to note an “N/A” for electronic FLEX¹² and Cabinet¹³

⁷ Today, the Specialist, Market Maker, Broker-Dealer and Firm fees are differentiated between electronic and firm fees.

⁸ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

⁹ 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)). Directed Participants are also market makers.

¹⁰ Broker-Dealers are assessed a Penny Pilot Options Transaction Charge of \$0.45 per contract for electronic orders and a non-Penny Pilot Options Transaction Charge of \$0.60 for electronic orders.

¹¹ Firms are assessed a Penny Pilot Options Transaction Charge of \$0.40 per contract for electronic orders and a non-Penny Pilot Options Transaction Charge of \$0.45 for electronic orders.

¹² A FLEX option is a customized option that provides parties to the transaction with the ability to fix terms including the exercise style, expiration date, and certain exercise

Options pricing instead of \$0.10 per contract. While the \$0.10 per contract fee is noted on the Pricing Schedule, no market participant has been assessed that fee because FLEX and Cabinet Options are transacted on the Exchange's trading floor and are not transacted electronically.¹⁴ The Exchange proposes to note "N/A" for those electronic fees because these types of transactions are not able to be executed electronically on the Exchange and this would correct the Pricing Schedule to reflect no fee is being assessed.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁶ 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 electronic Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options is reasonable because of the greater costs incurred by the Exchange associated with supporting a larger

prices. See Exchange Rule 1079. FLEX Options are a trademark of the Chicago Board Options Exchange.

¹³ An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with Exchange Rules, except as provided in Exchange Rule 1059 entitled "Accommodation Trading", which sets forth specific procedures for engaging in cabinet trading below \$ 1 per option contract. Cabinet or accommodation trading of option contracts is intended to accommodate persons wishing to effect closing transactions in those series of options dealt in on the Exchange for which there is no auction market.

¹⁴ The Exchange's systems do not allow for FLEX or Cabinet transactions to be executed electronically.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4).

number of options classes, option series and overall transaction volume. Also, the Exchange believes increasing the electronic Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options from \$0.25 to \$0.30 per contract is reasonable because the \$0.05 per contract increase would allow the Exchange to recoup the aforementioned costs while also continuing to assess a Professional a rate that is lower than Broker-Dealer and Firm electronic rates. Also, the increased Professional fees are comparable with electronic Professional fees at other options exchanges.¹⁷

The Exchange's proposal to increase the electronic Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options is equitable and not unfairly discriminatory because Professionals would continue to be assessed lower fees as compared to Broker-Dealers and Firms with respect to electronic options transactions charges. Market Makers and Specialists would be assessed lower fees, both electronic and floor, as compared to Professionals, because Market Makers and Specialists have burdensome quoting obligations¹⁸ to the market which do not apply to Professionals, Customers, Firms and Broker-Dealers. Customers are not assessed Options Transactions Charges in either Penny Pilot or non-Penny Pilot Options because Customer order flow brings liquidity to the market, which in turn benefits all market participants. Broker-Dealers and Firms today pay higher fees as compared to a Professional for electronic transactions and this is not changing. The Professional

¹⁷ The Chicago Board Options Exchange Incorporated ("CBOE") assesses professionals and voluntary professionals a \$0.30 per contract transaction fee for electronic orders. See CBOE's Fees Schedule. See also NYSE Amex LLC's ("NYSE Amex") Fee Schedule, which assesses Professional Customers a \$0.32 per contract fee for electronic orders which take liquidity from 1 to 16,999 contracts.

¹⁸ See Exchange Rule 1014 entitled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options for non-electronic transactions or floor transactions would remain unchanged.

The Exchange believes that assessing higher electronic Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options of \$0.30 per contract as compared to a floor Options Transaction Charge in both Penny Pilot and non-Penny Pilot Options of \$0.25 per contract is reasonable, equitable and not unfairly discriminatory because these fees recognize the distinction between the floor order entry model and the electronic model and the proposed fees respond to competition along the same lines.¹⁹ Floor participants incur costs associated with accessing the floor, i.e. need for a floor broker, and other costs which are not born by electronic members. Today, the Exchange assesses different fees for electronic as compared to floor transactions for Firms, Broker-Dealers, Specialists and Market Makers in Section II of the Pricing Schedule. The Exchange is proposing to likewise distinguish electronic and floor Professional Options Transactions Charges in both Penny and non-Penny Pilot Options. Other options exchanges likewise distinguish floor and electronic fees for Professionals.²⁰ The

¹⁹ A transaction resulting from an order that was electronically delivered utilizes Phlx XL II. See Exchange Rules 1014 and 1080. Electronically delivered orders do not include orders transacted on the Exchange floor. A transaction resulting from an order that is non-electronically-delivered is represented on the trading floor by a floor broker. See Exchange Rule 1063. All orders will be either electronically or non-electronically delivered.

²⁰ CBOE assesses a Professional and Voluntary Professional a \$0.25 per contract manual fee in Penny and Non-Penny Classes and assesses a \$0.45 per contract electronic fee in Penny and a \$0.60 per contract electronic fee in Non-Penny Pilot Options. NYSE Amex assesses a \$0.25 per contract fee for manual Professional Customer transactions and a tiered electronic Professional Customer rate starting at \$.32 per contract for electronic orders which take liquidity from 1 to 16,999 contracts.

Exchange believes that the proposed fees are in line with similar fees offered on other exchanges.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee and rebate levels at a particular venue to be excessive.

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. The Exchange believes that the proposed electronic Professional Options Transaction Charges in Penny and non-Penny Pilot Options remain competitive with fees at other options exchanges. The Exchange believes that the proposed fees are competitive and do not misalign the differentials currently assessed with respect to other market participants. Market participants can easily and readily direct order flow to competing venues if they deem fee and rebate levels at a particular venue to be excessive. Accordingly, the fees that are assessed and the rebates paid by the Exchange must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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,²¹ 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. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2012-141)

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

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 21, 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 certain electronic Professional³ Options Transaction Charges in Section II⁴ of the Exchange’s Pricing Schedule entitled “Multiply Listed Options.”

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

⁴ Section II of the Pricing Schedule includes options overlying equities, ETFs, ETNs, and indexes which are Multiply Listed.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on January 2, 2013.

The text of the proposed rule change is available on the Exchange's Website at <http://nasdaqomxphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Section II of the Exchange's Pricing Schedule to increase the electronic Professional Options Transaction Charges for both Penny Pilot Options⁵ and non-Penny Pilot Options.⁶ The Exchange believes that increasing the

⁵ The Penny Pilot was established in January 2007; and in October 2009, it was expanded and extended through June 30, 2012. See Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR-Phlx-2006-74) (notice of filing and approval order establishing Penny Pilot); 60873 (October 23, 2009), 74 FR 56675 (November 2, 2009) (SR-Phlx-2009-91) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60966 (November 9, 2009), 74 FR 59331 (November 17, 2009) (SR-Phlx-2009-94) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61454 (February 1, 2010), 75 FR 6233 (February 8, 2010) (SR-Phlx-2010-12) (notice of filing and immediate effectiveness

electronic Professional Options Transaction Charges in Penny Pilot and non-Penny Pilot Options will allow the Exchange to compete more effectively. The Exchange also believes that the proposed fees will operate to assist the Exchange in recouping increased costs generally tied to supporting a larger number of options classes, option series and overall transaction volume.

Specifically, the Exchange proposes to increase the electronic Professional Options Transaction Charges for both Penny Pilot Options and non-Penny Pilot Options from \$0.25 to \$0.30 per contract. The Exchange is not proposing to increase the floor Professional Options Transaction Charges or any other electronic Professional transaction charges.

The Exchange also proposes to amend its Pricing Schedule at Section II to add another column to the Professional fees to differentiate electronic and floor fees as it does today with other market participants.⁷ The Exchange also proposes a technical amendment to the Specialist,⁸ Market Maker,⁹ Broker-Dealer¹⁰ and Firm¹¹ transaction

adding seventy-five classes to Penny Pilot); 62028 (May 4, 2010), 75 FR 25890 (May 10, 2010) (SR-Phlx-2010-65) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62616 (July 30, 2010), 75 FR 47664 (August 6, 2010) (SR-Phlx-2010-103) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 63395 (November 30, 2010), 75 FR 76062 (December 7, 2010) (SR-Phlx-2010-167) (notice of filing and immediate effectiveness extending the Penny Pilot); 65976 (December 15, 2011), 76 FR 79247 (December 21, 2011) (SR-Phlx-2011-172) (notice of filing and immediate effectiveness extending the Penny Pilot); and 67326 (June 29, 2012), 77 FR 40126 (July 6, 2012) (SR-Phlx-2012-86) (notice of filing and immediate effectiveness extending the Penny Pilot). See also Exchange Rule 1034.

⁶ Non-Penny Pilot refers to options classes not in the Penny Pilot.

⁷ Today, the Specialist, Market Maker, Broker-Dealer and Firm fees are differentiated between electronic and firm fees.

⁸ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

fees to correct the Pricing Schedule to note an “N/A” for electronic FLEX¹² and Cabinet¹³ Options pricing instead of \$0.10 per contract. While the \$0.10 per contract fee is noted on the Pricing Schedule, no market participant has been assessed that fee because FLEX and Cabinet Options are transacted on the Exchange’s trading floor and are not transacted electronically.¹⁴ The Exchange proposes to note “N/A” for those electronic fees because these types of transactions are not able to be executed electronically on the Exchange and this would correct the Pricing Schedule to reflect no fee is being assessed.

⁹ 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)). Directed Participants are also market makers.

¹⁰ Broker-Dealers are assessed a Penny Pilot Options Transaction Charge of \$0.45 per contract for electronic orders and a non-Penny Pilot Options Transaction Charge of \$0.60 for electronic orders.

¹¹ Firms are assessed a Penny Pilot Options Transaction Charge of \$0.40 per contract for electronic orders and a non-Penny Pilot Options Transaction Charge of \$0.45 for electronic orders.

¹² A FLEX option is a customized option that provides parties to the transaction with the ability to fix terms including the exercise style, expiration date, and certain exercise prices. See Exchange Rule 1079. FLEX Options are a trademark of the Chicago Board Options Exchange.

¹³ An “accommodation” or “cabinet” trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with Exchange Rules, except as provided in Exchange Rule 1059 entitled “Accommodation Trading”, which sets forth specific procedures for engaging in cabinet trading below \$ 1 per option contract. Cabinet or accommodation trading of option contracts is intended to accommodate persons wishing to effect closing transactions in those series of options dealt in on the Exchange for which there is no auction market.

¹⁴ The Exchange’s systems do not allow for FLEX or Cabinet transactions to be executed electronically.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁶ 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 electronic Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options is reasonable because of the greater costs incurred by the Exchange associated with supporting a larger number of options classes, option series and overall transaction volume. Also, the Exchange believes increasing the electronic Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options from \$0.25 to \$0.30 per contract is reasonable because the \$0.05 per contract increase would allow the Exchange to recoup the aforementioned costs while also continuing to assess a Professional a rate that is lower than Broker-Dealer and Firm electronic rates. Also, the increased Professional fees are comparable with electronic Professional fees at other options exchanges.¹⁷

The Exchange's proposal to increase the electronic Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options is equitable and not unfairly discriminatory because Professionals would continue to be assessed lower

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4).

¹⁷ The Chicago Board Options Exchange Incorporated ("CBOE") assesses professionals and voluntary professionals a \$0.30 per contract transaction fee for electronic orders. See CBOE's Fees Schedule. See also NYSE Amex LLC's ("NYSE Amex") Fee Schedule, which assesses Professional Customers a \$0.32 per contract fee for electronic orders which take liquidity from 1 to 16,999 contracts.

fees as compared to Broker-Dealers and Firms with respect to electronic options transactions charges. Market Makers and Specialists would be assessed lower fees, both electronic and floor, as compared to Professionals, because Market Makers and Specialists have burdensome quoting obligations¹⁸ to the market which do not apply to Professionals, Customers, Firms and Broker-Dealers. Customers are not assessed Options Transactions Charges in either Penny Pilot or non-Penny Pilot Options because Customer order flow brings liquidity to the market, which in turn benefits all market participants. Broker-Dealers and Firms today pay higher fees as compared to a Professional for electronic transactions and this is not changing. The Professional Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options for non-electronic transactions or floor transactions would remain unchanged.

The Exchange believes that assessing higher electronic Options Transaction Charges in both Penny Pilot and non-Penny Pilot Options of \$0.30 per contract as compared to a floor Options Transaction Charge in both Penny Pilot and non-Penny Pilot Options of \$0.25 per contract is reasonable, equitable and not unfairly discriminatory because these fees recognize the distinction between the floor order entry model and the electronic model and the proposed fees respond to competition along the same lines.¹⁹

Floor participants incur costs associated with accessing the floor, i.e. need for a floor

¹⁸ See Exchange Rule 1014 entitled “Obligations and Restrictions Applicable to Specialists and Registered Options Traders.”

¹⁹ A transaction resulting from an order that was electronically delivered utilizes Phlx XL II. See Exchange Rules 1014 and 1080. Electronically delivered orders do not include orders transacted on the Exchange floor. A transaction resulting from an order that is non-electronically-delivered is represented on the trading floor by a floor broker. See Exchange Rule 1063. All orders will be either electronically or non-electronically delivered.

broker, and other costs which are not born by electronic members. Today, the Exchange assesses different fees for electronic as compared to floor transactions for Firms, Broker-Dealers, Specialists and Market Makers in Section II of the Pricing Schedule. The Exchange is proposing to likewise distinguish electronic and floor Professional Options Transactions Charges in both Penny and non-Penny Pilot Options. Other options exchanges likewise distinguish floor and electronic fees for Professionals.²⁰ The Exchange believes that the proposed fees are in line with similar fees offered on other exchanges.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee and rebate levels at a particular venue to be excessive.

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. The Exchange believes that the proposed electronic Professional Options Transaction Charges in Penny and non-Penny Pilot Options remain competitive with fees at other options exchanges. The Exchange believes that the proposed fees are competitive and do not misalign the differentials currently assessed with respect to other market participants. Market participants can easily and readily direct order flow to competing venues if they deem fee and rebate levels at a particular venue to be excessive.

²⁰ CBOE assesses a Professional and Voluntary Professional a \$0.25 per contract manual fee in Penny and Non-Penny Classes and assesses a \$0.45 per contract electronic fee in Penny and a \$0.60 per contract electronic fee in Non-Penny Pilot Options. NYSE Amex assesses a \$0.25 per contract fee for manual Professional Customer transactions and a tiered electronic Professional Customer rate starting at \$.32 per contract for electronic orders which take liquidity from 1 to 16,999 contracts.

Accordingly, the fees that are assessed and the rebates paid by the Exchange must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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.²¹ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form

(<http://www.sec.gov/rules/sro.shtml>); or

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2012-141 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-2012-141. 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-2012-141 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.²²

Kevin M. O'Neill
Deputy Secretary

²² 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)

	Customer	Professional		Specialist and Market Maker		Broker-Dealer		Firm	
		<u>Electronic</u>	<u>Floor</u>	Electronic	Floor	Electronic	Floor	Electronic	Floor
Options Transaction Charge (Penny Pilot)	\$0.00	<u>\$0.30</u>	\$0.25	\$0.22	\$0.25	\$0.45	\$0.25	\$0.40	\$0.25
Options Transaction Charge (non-Penny Pilot)	\$0.00	<u>\$0.30</u>	\$0.25	\$0.23	\$0.25	\$0.60	\$0.25	\$0.45	\$0.25
Options Surcharge in RUT, MNX and NDX	N/A	<u>\$0.15</u>	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15
Options Surcharge in BKX	N/A	<u>\$0.10</u>	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10
FLEX Options	\$0.00	<u>N/A</u>	\$0.10	<u>N/A</u> [\$0.10]	\$0.10	<u>N/A</u> [\$0.10]	\$0.10	<u>N/A</u> [\$0.10]	\$0.10
Cabinet Options	\$0.00	<u>N/A</u>	\$0.10	<u>N/A</u> [\$0.10]	\$0.10	<u>N/A</u> [\$0.10]	\$0.10	<u>N/A</u> [\$0.10]	\$0.10

• These fees are per contract.

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