

Required fields are shown with yellow backgrounds and asterisks.

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

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<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 checked="" type="checkbox"/> Section 806(e)(2) <input checked="" type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input checked="" type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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Description
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

NASDAQ OMX PHLX's Pricing Schedule

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

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 01/02/2013 Executive Vice President and General Counsel
 By Edward S. Knight
 (Name *)

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 the Exchange’s Pricing Schedule at Section A, entitled “Customer Rebate Program,” Section I entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols,”³ Section II entitled “Multiply Listed Options Fees”⁴ and at Section IV entitled “Other Transaction Fees.” Specifically, the Exchange proposes to amend the Customer Rebate Program, Select Symbols,⁵ Simple and Complex Order⁶ fees and rebates, the applicability of Payment for Order Flow⁷ and PIXL⁸ Pricing.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The rebates and fees in Section I apply to certain Select Symbols which are listed in Section I of the Pricing Schedule.

⁴ The pricing in Section II includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

⁵ The Select Symbols are listed in Section I of the Pricing Schedule.

⁶ A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (“ETF”) coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i).

⁷ The Payment for Order Flow program started on July 1, 2005 as a pilot and after a series of orders extending the pilot became effective on April 29, 2012. See Securities Exchange Act Release No. 52114 (July 22, 2005), 70 FR 44138 (August 1, 2005) (SR-Phlx-2005-44); 57851 (May 22, 2008), 73 FR 31177 (May 20, 2008)(SR-Phlx-2008-38); 55891 (June 11, 2007), 72 FR 333271 (June 15, 2007)(SR-Phlx-2007-39); 53754 (May 3, 2006), 71 FR 27301 (May 10, 2006) (SR-Phlx-2006-25); 53078 (January 9, 2006), 71 FR 2289 (January 13, 2006) (SR-Phlx-2005-88); 52568 (October 6, 2005), 70 FR 60120

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.

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 accomplish various objectives. First, the Exchange proposes to amend the Customer Rebate Program to incentivize market participants to increase the amount of Customer order flow they transact on the Exchange. Towards this end, the Exchange proposes the addition of Category D to the Customer Rebate Program relating to Customer Simple Orders in Select Symbols. The

(October 14, 2005) (SR-Phlx-2005-58); and 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR-Phlx-2009-38).

⁸ PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXLSM). See Rule 1080(n).

Exchange also proposes to offer certain credits when an order, which is sent to the Exchange, is routed to an away market. Second, the Exchange proposes to remove certain Select Symbols from Section I and instead assess the fees and offer caps as specified in Section II of the Pricing Schedule. The Exchange believes that the pricing in Section II, coupled with the proposed enhancements to the Customer Rebate Program may encourage an increase in Customer transactions in those symbols. Third, the Exchange proposes to amend the Section I pricing in Simple and Complex Orders and PIXL Pricing to also encourage additional Customer order flow by not assessing fees to Customers. The Exchange proposes to lower the Simple Order Fees for Removing Liquidity and certain PIXL Pricing to encourage additional Simple Order transactions. Fourth, the Exchange proposes to increase the Simple Order Fees for Adding Liquidity, adopt Complex Order Fees for Adding Liquidity and increase certain Complex Orders Fees for Removing Liquidity to permit the Exchange to offer additional rebates in the Customer Rebate Program in Section A. Fifth, the Exchange proposes to lower the Complex Order Specialist and Market Fees for Removing Liquidity in Select Symbols, as well as auctions and openings, and amend the applicability of Payment for Order Flow Fee for Select Symbols and broadcast messages to encourage greater Customer order interaction on the Exchange.

Customer Rebate Program

The Exchange is proposing to amend its Customer Rebate Program in Section A of the Pricing Schedule. Currently, the Exchange has a four-tiered Customer Rebate Program as follows:

Average Daily Volume Threshold	Rebate per Contract Categories		
	Category A	Category B	Category C
0 to 49,999 contracts in a month	\$0.00	\$0.00	\$0.00
50,000 to 99,999 contracts in a month	\$0.07	\$0.10	\$0.00
100,000 to 274,999 contracts in a month	\$0.10	\$0.14	\$0.05
over 275,000 contracts in a month	\$0.12	\$0.15	\$0.06

(a) *Changes to the Tiers and Rebate Rates*

At this time, the Exchange proposes to reduce the Customer Rebate Program to a three-tiered rebate structure. The Exchange proposes to amend Tier 1 which is currently 0 to 49,999 contracts in a month to 0 to 99,999 contracts in a month. The Exchange is not proposing to amend the rebate rates in Categories A, B or C for Tier 1. Those rebates will remain at \$0.00 per contract. Next, the Exchange is proposing to amend Tier 2 which is currently 50,000 to 99,999 contracts in a month to 100,000 to 349,999 contracts in a month. The Exchange proposes to amend the Tier 2 rate in Category A from \$0.07 to \$0.10 per contract. The Exchange proposes to amend the Tier 2 rate in Category B from \$0.10 to \$0.12 per contract. The Exchange proposes to amend the Tier 2 rate in Category C from \$0.00 to \$0.13 per contract. The Exchange proposes to eliminate Tier 3 which is currently 100,000 to 274,999 contracts in a month.⁹ The Exchange proposes to

⁹ Currently, Tier 3 pays the following rebates: a Category A rebate of \$0.10 per contract, a Category B rebate \$0.14 per contract and a Category C rebate of \$0.05 per contract.

amend current Tier 4 which awards rebates over 275,000 contracts in a month and rename it Tier 3 and award rebates over 350,000 contracts in a month. The Exchange proposes to amend the new Tier 3 rate in Category A from \$0.12 to \$0.15 per contract. The Exchange would not amend the Tier 3 rate in Category B. The Exchange proposes to amend the Tier 3 rate in Category C from \$0.06 to \$0.15 per contract. The Exchange is not proposing to amend the types of orders that qualify for Categories A, B or C.¹⁰

The Exchange also proposes to add another Category of orders eligible for rebates entitled “Category D.” This new category would pay rebates to members executing electronically-delivered Customer Simple Orders in Select Symbols in Section I. Also, the rebate would be paid on PIXL Orders in Section I symbols that execute against non-Initiating Order interest.¹¹ The Exchange proposes to pay the following Category D rebates: no rebate for Tier 1, a \$0.05 per contract rebate for Tier 2 and a \$0.07 per contract rebate for Tier 3. The Exchange also proposes to add the words “Tier 1,” “Tier 2,” and “Tier 3” to the Pricing Schedule to further clarify the tiers. The proposed Customer Rebate Program would be as follows:

Average Daily Volume Threshold	Rebate per Contract Categories			
	Category A	Category B	Category C	Category D
Tier 1: 0 to 99,999 contracts in a	\$0.00	\$0.00	\$0.00	\$0.00

¹⁰ The Exchange notes that it will evaluate the tiers monthly and may file modifications to the tiers periodically depending on market conditions.

¹¹ This application of the Category D rebate to PIXL Orders is similar to the current application of the Category A rebate to PIXL Orders.

month

Tier 2: 100,000 to 349,999 contracts in a month	\$0.10	\$0.12	\$0.13	\$0.05
Tier 3: over 350,000 contracts in a month	\$0.15	\$0.15	\$0.15	\$0.07

(b) Changes to Average Daily Volume Calculation

Currently, the Exchange calculates Average Daily Volume Threshold by totaling Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with the following: (i) electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity; and (ii) electronic Qualified Contingent Cross Orders (“QCC Orders”),¹² as defined in Exchange Rule 1080(o) (“Threshold Volume”). Rebates are paid on Threshold Volume.

The Exchange proposes to amend the Average Daily Volume Calculation by eliminating Customer volume in Multiply-Listed Options that are electronically-delivered and executed except for volume associated with electronically-delivered and executed Simple Orders in Select Symbols that remove liquidity. The Exchange is proposing to

¹² A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer (“NBBO”) and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. See Rule 1080(o). See also Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR-Phlx-2011-47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (“QCTs”) that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of the Regulation NMS).

amend the Average Daily Volume by eliminating the exclusion of the electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity. The QCC Orders would be the only exception when calculating Customer volume in Multiply-Listed Options that are electronically-delivered in the Average Daily Volume Threshold calculation.¹³

(c) Credit for Member Qualifying for Tier 2 and 3 rebates

The Exchange proposes to reduce Routing Fees in Section V of the Exchange's Pricing Schedule for member organizations that qualify for Tier 2 or Tier 3 of the Customer Rebate Program. Specifically, the Exchange proposes to credit member organizations that qualify for either a Tier 2 or Tier 3 rebate with a credit of \$0.04 per contract, which credit would be applied to Routing Fees, as specified in Section V of the Pricing Schedule, when a Customer order is routed to NASDAQ OMX BX, Inc. ("BX Options") or the NASDAQ Options Market LLC ("NOM"). Member organizations that qualify for either a Tier 2 or Tier 3 rebate would be entitled to receive a \$0.10 per contract credit, which credit would be applied to Routing Fees, specified in Section V of the Pricing Schedule, when a Customer order is routed to an away market other than BX Options or NOM.

The Exchange believes that the proposed amendments to the Customer Rebate Program, including the credit proposed for Routing Fees, would further incentivize members to transact Customer orders on the Exchange. The Exchange believes the proposed amendments will attract additional Customer order flow to the Exchange for the benefit of all market participants.

¹³ QCC Orders are excluded today.

Section I Amendments*(a) Select Symbols*

The Exchange displays a list of Select Symbols in its Pricing Schedule at Section I, which symbols are subject to the rebates and fees in that section. The Exchange is proposing to delete the following symbols from the list of Select Symbols in Section I of the Pricing Schedule: Arena Pharmaceuticals, Inc. (“ARNA”), Alcoa, Inc. (“AA”), Advanced Micro Devices, Inc. (“AMD”), Cisco Systems, Inc. (“CSCO”), SPDR DOW Jones Industrial Average (“DIA”), iShares MSCI EAFE Index Fund (“EFA”), iShares MSCI Brazil Index Fund (“EWZ”), Ford Motor Co. (“F”), (Direxion Daily Financial Bull 3x Shares (“FAS”), Direxion Daily Financial Bear 3X Shares (“FAZ”), iShares FTSE China 25 Index Fund (“FXI”), Market Vectors Gold Miners ETF (“GDX”), General Electric Company (“GE”), Intel Corporation (“INTC”), Nokia Corporation (“NOK”), Oracle Corporation (“ORCL”), Pfizer, Inc. (“PFE”), Research in Motion Limited (“RIMM”), ProShares UltraShort S&P 500 (“SDS”), Sirius XM Radio Inc. (“SIRI”), iShares Silver Trust (“SLV”), ProShares UltraShort 20+ Year Treasury (“TBT”), iShares Barclays 20 Year Treasury (“TLT”), Direxion Daily Small Cap Bear 3X Shares (“TZA”), United States Natural Gas (“UNG”), United States Oil (“USO”), Vale S.A. (“VALE”), iPath S&P 500 VIX ST Futures ETN (“VXX”), Verizon Communications Inc. (“VZ”), SPDR Select Sector Fund – Energy (“XLE”), SPDR Select Sector Fund (“XLI”) and Yahoo! Inc. (“YHOO”) (collectively, “Proposed Deleted Symbols”). These Proposed Deleted Symbols would be subject to the fees, fee caps and related discounts in Section II of the Pricing Schedule entitled “Multiply Listed Options Fees.” The Exchange believes

that by assessing the Proposed Deleted Symbols the pricing in Section II of the Pricing Schedule the Exchange will attract order flow to the Exchange.

(b) Simple Orders

The Exchange proposes to amend the Simple Order rebates and fees in Section I, Part A of the Pricing Schedule. Currently, the Exchange pays the following Simple Order Rebates for Adding Liquidity: Customer \$0.26 per contract, Specialist¹⁴ and Market Maker¹⁵ \$0.23 per contract, Firm and Broker-Dealer receive no rebate and Professional¹⁶ receives a \$0.23 per contract rebate. The Exchange proposes to not pay a Customer or Professional rebate and decrease the Specialist and Market Maker rebate from \$0.23 to \$0.20 per contract, however the Exchange would only pay a Specialist or Market Maker Rebate for Adding Liquidity in Simple Orders if the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional. In other words, the Specialist or Market Maker would not receive a Simple Order Rebate for Adding Liquidity if they are contra to a Customer and instead would be assessed the Simple Order Fee for Adding Liquidity, which will be discussed below. The Rebate for Adding Liquidity for Customer, Broker-Dealer, Firm and Professional would be marked “N/A” as those market participants would be assessed a Fee for Adding Liquidity to be

¹⁴ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

¹⁵ 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.

¹⁶ 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).

discussed below. In addition, the Exchange proposes to add a note to the Pricing Schedule indicating the above exception to the payment of the Specialist and Market Maker Rebate for Adding Liquidity in Simple Orders.

Currently, the Exchange assesses the following Simple Order Fees for Adding Liquidity: Customer, Specialist, Professional and Market Maker pay no fee, a Firm and Broker-Dealer pay \$0.05 per contract. The Exchange proposes to amend the Simple Order Fees for Adding Liquidity as follows: a Customer would continue to not be assessed however instead of “N/A” the Exchange would reflect the fee as “\$0.00” on the Pricing Schedule. A Specialist and Market Maker would be assessed a \$0.10 per contract Simple Order Fee for Adding Liquidity, but only when contra to a Customer order. If the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional, then the Specialist or Market Maker would be entitled to the Simple Order Rebate for Adding Liquidity.

As explained above, Specialists and Market Makers receive a Rebate for Adding Liquidity when contra to a Specialist, Market Maker, Firm, Broker-Dealer and Professional. The Firm and Broker-Dealer Fees for Adding Liquidity would be increased from \$0.05 to \$0.45 per contract. A Professional would be assessed \$0.45 per contract pursuant to this proposal as compared to no fee.

Currently the Exchange assesses the following Simple Orders Fees for Removing Liquidity: a Customer is assessed \$0.43 per contract, a Specialist, Market Maker, Firm, Broker-Dealer and Professional are assessed \$0.45 per contract. The Exchange proposes to decrease the Customer Fee for Removing Liquidity from \$0.43 to \$0.00 per contract.

The Exchange also proposes to decrease the Specialist, Market Maker, Firm, Broker-Dealer and Professional fees from \$0.45 to \$0.44 per contract.

The Exchange believes that decreasing certain Simple Order fees will incentivize market participants to send order flow to the Exchange, particularly Customer order flow. In addition, the Exchange believes that the increased fees would allow the Exchange to offer additional Customer rebates as proposed in the Customer Rebate Program to attract liquidity to the Exchange.

(c) Complex Orders

The Exchange proposes to amend the Complex Order rebates and fees in Section I, Part B of the Pricing Schedule. The Exchange currently pays the following Complex Order Rebates for Adding Liquidity: a Customer is paid \$0.32 per contract and Specialists, Market Makers, Firms, Broker-Dealers and Professionals are paid \$0.10 per contract. The Exchange proposes to eliminate the Rebates for Adding Liquidity in Complex Orders. Currently, Customers are paid a \$0.06 Complex Order Rebate for Removing Liquidity. No other market participant is paid a Complex Order Rebate for Removing Liquidity. The Exchange proposes to eliminate the Customer Complex Order Rebate for Removing Liquidity. The Exchange's proposal would therefore pay no rebates in Section I, Part B with respect to Complex Orders.

The Exchange proposes to adopt a Complex Order Fee for Adding Liquidity of \$0.10 per contract that will be applicable to Specialists, Market Makers, Firms, Broker-Dealers and Professionals. Customers would not be assessed a Complex Order Fee for Adding Liquidity.

The Exchange currently assesses the following Complex Order Fees for Removing Liquidity: \$0.39 per contract for Specialists, Market Makers, Firms, Broker-Dealers and Professionals. Customers are not assessed a Complex Order Fee for Removing Liquidity. The Exchange is proposing to decrease the Specialist and Market Maker Complex Order Fees for Removing Liquidity from \$0.39 to \$0.25 per contract. The Exchange proposes to increase the Complex Order Fees for Removing Liquidity for Firms, Broker-Dealers and Professionals from \$0.39 to \$0.50 per contract. A Customer would continue to not be assessed a Complex Order Fee for Removing Liquidity. The Exchange is proposing to decrease certain fees to incentivize market participants to transact Complex Orders on the Exchange and the Exchange is proposing to increase certain fees in order that it may offer additional rebates in the Customer Rebate Program as described herein.

(d) Complex Auctions, non-Complex auctions and the opening process

Today the Exchange pays market participants for Customer executions that occur as part of a Complex electronic auction¹⁷ and the opening process the Complex Order Rebate for Removing Liquidity. Customer executions that occur as part of a non-Complex auction¹⁸ are paid the Simple Order Rebate for Removing Liquidity, except when contra to another Customer order. Today, the Exchange does not assess a Fee for Removing Liquidity for transactions that occur either as part of a Complex electronic auction or a non-Complex electronic auction.

¹⁷ A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA").

¹⁸ A non-Complex electronic auction includes the Quote Exhaust auction and, for purposes of these fees, the opening process.

The Exchange proposes to no longer pay rebates for Customer executions that occur as part of a Complex electronic auction, the opening process or a Complex Order or a non-Complex auction. In addition, the Exchange would not assess any fees for transactions that occur as part of a Complex electronic auction, the opening process or a non-Complex electronic auction, as is the case today for Customer orders. The Exchange believes that assessing no fees and paying no rebates for transactions executed during certain auctions and the opening process would benefit market participants. While no rebates would be paid, there would also be no fees assessed.

Currently, the Specialists and Market Makers pay the Simple Order Fee for Removing Liquidity during the opening the process. The Exchange proposes to assess Specialists and Market Makers the Simple Order Fee for Adding Liquidity if contra to a Customer during the opening process. Specialists and Market Makers will continue to pay the Simple Order Fee for Removing Liquidity during the opening the process if contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional.

(e) Payment for Order Flow Fees

Currently, Payment for Order Flow¹⁹ Fees are not collected on transactions in Select Symbols.²⁰ The Exchange is proposing to amend the Pricing Schedule to collect

¹⁹ The Payment for Order Flow (“PFOF”) Program assesses fees to Specialists and Market Makers resulting from Customer orders (“PFOF Fees”). The PFOF fees are available to be disbursed by the Exchange according to the instructions of the Specialist or Market Maker to order flow providers who are members or member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those customer orders. Any excess PFOF funds billed but not utilized by the Specialist or Market Maker are carried forward unless the Specialist or Market Maker elects to have those funds rebated on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange calculates the amount of excess funds from the previous quarter and

Payment for Order Flow Fees on transactions in Select Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity, in which case the Payment for Order Flow fees would not apply. The Exchange believes that assessing Payment for Order Flow Fees on Select Symbols, similar to other Multiply Listed Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity would attract additional Customer order flow to the Exchange.

The Exchange also proposes to make a technical amendment in Section II of the Pricing Schedule to amend the Pricing Schedule to change the term “Single contra-side” in Part B of Section II of the Pricing Schedule to “Simple Order” for consistency in use of its terms.

(f) Order Exposure Alert

The Exchange recently filed to amend Rule 1080(m) to provide for the broadcast of certain orders that are on the Phlx Book.²¹ The Exchange proposed to broadcast orders on the Phlx Book by issuing order exposure alerts to all Phlx XL II²² participants and market participants that subscribe to certain data feeds. The Exchange proposes to

subsequently rebates excess funds on a pro-rata basis to the applicable Specialist or Market Maker who paid into that pool of funds.

²⁰ The Select Symbols are listed in Section I of the Pricing Schedule.

²¹ See Securities Exchange Act Release No. 68517 (December 21, 2012), 77 FR 77134 (December 31, 2012) (SR-Phlx-2012-136).

²² This proposal refers to “PHLX XL[®]” as the Exchange’s automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as “Phlx XL II.” See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from “Phlx XL II” to “PHLX XL” for branding purposes.

specify in Section II of its Pricing Schedule that no Payment for Order Flow Fees would be assessed on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options, including Select Symbols. By eliminating Payment for Order Flow Fees the Exchange desires to spur Specialists and Market Makers to transact against orders that triggered the broadcast message.

Section IV Amendments

(a) *PIXL*

The Exchange proposes to amend Section IV of the Pricing Schedule at Part A. Currently, the Exchange assesses an Initiating Order²³ a \$0.07 per contract or \$0.05 per contract fee if the Customer Rebate Program Threshold Volume, defined in Section A, is greater than 275,000 contracts per day in a month. The Exchange is proposing to instead assess an Initiating Order a \$0.07 per contract or \$0.05 per contract fee if the Customer Rebate Program Threshold Volume defined in Section A is greater than *100,000* contracts per day in a month.

In addition, the Exchange also proposes to permit Phlx members and member organizations under common ownership to aggregate their Customer Rebate Program Threshold Volume in order to determine if they qualify for the \$0.07 or \$0.05 per contract Initiating Order fee. Common ownership is defined as 75 percent common ownership or control.

²³ A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity (“PIXL Order”) against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent (“Initiating Order”) provided it submits the PIXL order for electronic execution into the PIXL Auction (“Auction”) pursuant to Rule 1080. See Exchange Rule 1080(n).

Today, when a PIXL order in a Select Symbol²⁴ is contra to a PIXL Auction Responder, the Exchange will either pay a Rebate for Adding Liquidity or assess a Fee for Adding Liquidity in Section I of the Pricing Schedule. Today, a Responder is assessed \$0.30 per contract. The Exchange proposes to amend the PIXL pricing for order executions in Select Symbols as follows: when a PIXL Order in a Select Symbol is contra to a PIXL Auction Responder, the PIXL Order would be assessed the Fee for Adding Liquidity in Section I and the Responder would be assessed \$0.30 per contract, unless the Responder is a Customer, in which case the fee would be \$0.00 per contract.

Additionally, today when a PIXL Order in a Select Symbol is contra to a resting order or quote that was on the PHLX book prior to the auction, the PIXL Order is assessed \$0.30 per contract and the resting order or quote is either paid the Rebate for Adding Liquidity or assessed the Fee for Adding Liquidity in Section I. Today, if the resting order or quote that was on the PHLX book was entered during the Auction, the PIXL Order receives the Rebate for Adding Liquidity or is assessed the Fee for Adding Liquidity in Section I and the resting order or quote is assessed \$0.30 per contract. The Exchange proposes to amend the PIXL pricing for order executions in Select Symbols as follows: when the PIXL Order is contra to a resting order or quote that was on the PHLX book prior to the auction, the PIXL Order would be assessed the Fee for Removing Liquidity not to exceed \$0.30 per contract and the resting order or quote would be assessed the Fee for Adding Liquidity in Section I. Further, the Exchange proposes that if the resting order or quote that was on the PHLX book was entered during the Auction, the PIXL Order would be assessed the Fee for Adding Liquidity in Section I and the

²⁴ Select Symbols are subject to the rebates and fees in Section I of the Pricing Schedule.

resting order or quote would be assessed the Fee for Removing Liquidity not to exceed \$0.30 per contract.

The Exchange proposes to eliminate the payment of rebates, not assess fees and lower the Threshold Volume to 100,000 contracts per day in a month in order to incentivize market participants to transact PIXL Orders.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act²⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act²⁶ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Customer Rebate Program

The Exchange's proposal to amend its Customer Rebate Program in Section A of the Pricing Schedule is reasonable because the Exchange believes that the amended Customer Rebate Program, including the addition of Category D, would further incentivize market participants to transact Customer order flow on the Exchange, which liquidity will benefit all market participants. The Exchange believes that reducing the Customer Rebate Program to a three-tiered rebate structure and amending the tier volumes is reasonable because it should incentivize market participants to increase the amount of Customer orders that are transacted on the Exchange to obtain a rebate. The Exchange proposes herein to amend the Average Daily Volume Threshold to only

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(4).

exclude QCC Orders,²⁷ which should permit market participants to include additional orders in the Average Daily Volume Threshold and obtain larger rebates on eligible contracts. In addition, other exchanges employ similar incentive programs.²⁸

The Exchange believes that the proposal to amend the rebate tiers is equitable and not unfairly discriminatory because while market participants would need to transact a greater number of contracts to achieve a Tier 2 or 3 rebate, the Exchange is also amending the Average Daily Volume Threshold to allow market participants to receive a rebate on a greater number of eligible contracts. The Exchange's proposal to amend its rebates is equitable and not unfairly discriminatory for the following reasons. With respect to Tier 1 which is currently 0 to 49,999 contracts in a month and would be 0 to 99,999 contracts in a month pursuant to this proposal, the Exchange would continue to pay no rebate. For those market participants executing from 1 to 49,999 contracts, this is the same as today. For those market participants that currently transact 50,000 to 99,999 contracts, they would not be eligible for a rebate under the proposal. The Exchange believes that market participants would be incentivized to transact a greater number of contracts in order to obtain a rebate in Tiers 2 or 3. With respect to Tier 2 which is

²⁷ Today, the Average Daily Volume Threshold is calculated by totaling Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with: (i) electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity; and (ii) electronic QCC Orders, as defined in Exchange Rule 1080(o).

²⁸ See the Chicago Board Options Exchange, Incorporated's ("CBOE") Fees Schedule. CBOE offers each Trading Permit Holder ("TPH") a credit for each public customer order transmitted by the TPH which is executed electronically in all multiply-listed option classes, excluding QCC trades and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan, provided the TPH meets certain volume thresholds in a month (Volume Incentive Program).

currently 50,000 to 99,999 contracts in a month, the proposal would amend the contract volume to 100,000 to 349,999 contracts in a month which today is the volume necessary to obtain a Tier 2 rebate or a Tier 3 rebate if the number of contracts is greater than 275,000. A Category A²⁹ rebate would remain the same as the Exchange proposes to increase Tier 2 in Category A from \$0.07 to \$0.10 per contract. The Exchange would pay a lower rebate in Category B³⁰ which would increase from \$0.10 to \$0.12 per contract. Today, a Tier 2, Category B rebate receives a \$0.14 per contract rebate up to 274,999 contracts. A market participant executing between 100,000 to 274,999 contracts today would receive a lower rebate (\$0.12 per contract as compared to \$0.14 per contract). A Category C³¹ rebate would increase for those market participants transacting between 100,000 to 274,999 contracts. Today, a market participant receives no rebate for transacting up to 99,999 contracts in Category C. The Exchange is proposing to pay \$0.13 per contract in Category C to market participants that execute between 100,000 and 349,999 contracts in a month. The Exchange also proposes to increase the volume required for current Tier 4 which awards rebates over 275,000 contracts in a month to create a new Tier 3 to award rebates over 350,000 contracts in a month. A market participant executing over 275,000 contracts today in Category A would receive a \$0.12

²⁹ A Category A rebate is paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Section II. Rebates are paid on PIXL Orders in Section II symbols that execute against non-Initiating Order interest.

³⁰ A Category B rebate is paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options and Non-Penny Pilot Options in Section II.

³¹ A Category C rebate is paid to members executing electronically-delivered Customer Complex Orders in Select Symbols in Section I.

per contract rebate. As mentioned, that rebate would decrease between 100,000 to 349,999 contracts to \$0.10 per contract, but would increase over 350,000 contracts to \$0.15 per contract. A market participant executing over 275,000 contracts today in Category B would receive \$0.15 per contract. As mentioned, that rebate would decrease between 100,000 to 349,999 contracts to \$0.12 per contract and would remain the same over 350,000 contracts. A market participant executing over 275,000 contracts today in Category C would receive a \$0.06 rebate. As mentioned, that rebate would increase between 100,000 to 349,999 contracts to \$0.13 per contract and would also increase over 350,000 contracts to \$0.15 per contract. The Exchange believes that while market participants in Categories A and B would need to execute additional contracts to receive the same or greater rebates, the Exchange believes that it continues to incentivize those market participants to direct Customer orders to the Exchange. With respect to Category C, the Exchange is providing greater incentives to transact Customer Complex Orders in Select Symbols.

The Exchange believes that the addition of Category D is reasonable because the Exchange is incentivizing market participants to transact Customer Simple Orders in Select Symbols by offering a rebate. The Exchange also believes that the Category D rebates are equitable and not unfairly discriminatory because all market participants that direct Customer Simple Orders in Select Symbols are eligible for the rebates. The Exchange would pay a Category D rebate of \$0.05 per contract to a market participant that transacts between 100,000 and 349,999 contracts in a month. Additionally, the

Exchange would pay a Category D rebate of \$0.07 per contract to a market participant that transacts over 350,000 contracts in a month.³²

The Exchange's amended rebate calculation is reasonable because the Exchange proposes to include Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with QCC Orders as defined in Exchange Rule 1080(o). Volume associated with electronically-delivered Customer Simple Orders in Select Symbols that remove liquidity would be included as part of this proposal. This volume is currently excluded. The Exchange believes that the inclusion of the electronically-delivered Customer Simple Orders in Select Symbols that remove liquidity would allow market participants to obtain greater rebates. In addition, the Exchange believes that the amended rebate calculation is equitable and not unfairly discriminatory because the calculation would apply uniformly to all market participants.

The Exchange's proposal to reduce Routing Fees³³ in Section V of the Exchange's Pricing Schedule for member organizations that qualify for a Tier 2 or Tier 3 Customer Rebate in Section A of the Pricing Schedule is reasonable because the Exchange proposes to provide an additional incentive for transacting Customer orders on the Exchange. The Exchange believes that providing a credit of \$0.04 per contract

³² The Exchange would not pay a Category D rebate for contract volume below 100,000 contracts.

³³ Each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets. The costs to the Exchange include clearing costs, administrative and technical costs associated with operating NOS that are assessed on the Exchange, membership fees at away markets, and technical costs associated with routing options. The Routing Fees enable the Exchange to recover the costs it incurs to route orders to away markets in addition to transaction fees assessed to market participants for the execution of orders by the away market.

toward the Routing Fee specified in Section V of the Pricing Schedule if a Customer order is routed to BX Options or NOM and a \$0.10 per contract credit toward the Routing Fee specified in Section V of the Pricing Schedule if the Customer order is routed to away market other than BX Options or NOM would encourage market participants to transact their Customer orders on the Exchange because they have the opportunity to receive a Tier 2 or Tier 3 rebate and also reduce Routing Fees. The Exchange believes that the proposal to reduce Routing Fees in Section V of the Exchange's Pricing Schedule for members that qualify for a Tier 2 or Tier 3 Customer Rebate in Section A of the Pricing Schedule is equitable and not unfairly discriminatory because any market participant that transacts Customer orders may qualify for the credit. Also, the Routing Fees specified in Section V of the Pricing Schedule are lower for a Customer order routed to BX Options or NOM today and higher for an away market other than BX Options or NOM.³⁴

Section I Amendments

The Exchange believes that it is reasonable to remove the Proposed Deleted Symbols from its list of Select Symbols to attract additional order flow to the Exchange. The Exchange believes that applying the pricing in Section II of the Pricing Schedule to

³⁴ The Exchange assesses a fixed fee of \$0.10 per contract for non-NASDAQ OMX exchanges and a \$0.04 per contract fee for BX Options and NOM. These fixed costs represent overall cost to the Exchange for technical, administrative, clearing, regulatory, compliance and other costs, which are in addition to the transaction fee assessed by the away market. Also, market participants whose orders routed to away markets are entitled to receive rebates offered by away markets, which rebates would net against fees assessed by the Exchange for routing orders. As explained in a previous rule change, the actual cash outlays for the Exchange to route to BX Options and NOM is lower as compared to routing to other non-NASDAQ OMX exchanges. See Securities Exchange Act Release No. 68213 (November 13, 2012), 77 FR 69530 (November 19, 2012) (SR-Phlx-2012-129). The Exchange noted in that rule change that the costs related to connectivity to route orders to other NASDAQ OMX exchanges are de minimis.

the Proposed Deleted Symbols, including the opportunity to receive payment for order flow, will attract order flow to the Exchange.

The Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols to remove the Proposed Deleted Symbols because the list of Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade the Select Symbols would be subject to the rebates and fees in Section I of the Pricing Schedule, which would not include the Proposed Deleted Symbols. Also, all market participants would be uniformly subject to the fees in Section II, which would include the Proposed Deleted Symbols.

The Exchange's proposal to amend the Simple Order rebates and fees in Section I, Part A of the Pricing Schedule is reasonable because the Exchange is proposing to only pay rebates to Specialists and Market Makers in limited circumstances and only when the Exchange is able to fund that rebate with a Simple Order Fee for Removing Liquidity. In other words, if a Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional, these market participants pay Simple Order Fees for Removing Liquidity, which fund the rebate to the Specialist or Market Maker. When a Specialist or Market Maker is contra to a Customer, then the Specialist or Market Maker would pay the Simple Order Fee for Adding Liquidity because the Customer is assessed no Simple Order Fee for Removing Liquidity pursuant to this proposal and instead receives the rebates defined in Category D. The Exchange is reducing the Simple Order Fees for Removing Liquidity because it is no longer paying certain Simple Order rebates to Customers or Professionals. The Exchange believes that its proposal to assess Simple Order Fees for Adding Liquidity is reasonable because as explained herein, the Exchange

is funding the rebates it offers to Specialists and Market Makers with those Simple Order Fees for Adding Liquidity.

The Exchange's proposal to amend the Simple Order rebates and fees in Section I, Part A of the Pricing Schedule is equitable and not unfairly discriminatory for the reasons which follow. With respect to Customers, the Exchange would no longer assess a Customer the \$0.43 per contract Simple Order Fee for Removing Liquidity, the Exchange would continue not to assess a Customer a Simple Order Fee for Adding Liquidity, as is the case today. In light of eliminating these fees, the Exchange proposes to no longer pay the \$0.26 per contract Simple Order Rebate for Adding Liquidity. Customer order flow is assessed no fee because incentivizing members to continue to offer Customer trading opportunities in Simple Orders benefits all market participants through increased liquidity. The Exchange instead proposes to pay Customer rebates for Simple Orders in Select Symbols as part of proposed Category D to the Customer Rebate Program in Section A.³⁵ Market participants would continue to be incentivized to send Customer order flow to the Exchange and would receive rebates as part of the Customer Rebate Program and would also not pay fees.

With respect to the Simple Order Rebate for Adding Liquidity, the Exchange proposes to reduce the rebates for Specialists and Market Makers from \$0.23 to \$0.20 per

³⁵ The Exchange believes that market participants would continue to be incentivized to send Customer order flow to the Exchange because the Customer Rebate Program would pay rebates on electronic orders, as is the case today for the rebates that are being eliminated in Section I, Parts A and B. Transactions in the Select Symbols originating on the Exchange floor are subject to pricing in Section II and would not be subject to the rebates in the Customer Rebate Program, as is the case today. The rebates in Section I, Parts A and B are paid on electronic orders today. Also, the Customer Rebate Program would pay rebates on both adding and removing liquidity similar to the rebates that are being eliminated in Section I, Parts A and B.

contract and not pay a Professional a rebate³⁶ because the Exchange proposes to offer market participants greater rebates as part of the Customer Rebate Program in Section A. The Exchange proposes to only pay Specialists and Market Makers a Simple Order Rebate for Adding Liquidity, in limited circumstances, because unlike other market participants, Specialists and Market Makers have burdensome quoting obligations³⁷ to the market. Specialists and Market Makers would only be paid a Simple Order Rebate for Adding Liquidity when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer and Professional. The Exchange believes that its proposal to only pay a Specialist or Market Maker a Simple Order Rebate for Adding Liquidity as long as the Specialist or Market Maker is not contra to a Customer is equitable and not unfairly discriminatory because the Exchange is only paying Specialists and Market Makers a Simple Order Rebate to Add Liquidity when it is able to fund that rebate with a Fee for Removing Liquidity. In the case of a Customer, the Exchange proposes not to assess a Customer a Simple Order Fee for Removing Liquidity and therefore in that instance the Exchange would assess the Specialist or Market Maker the Simple Order Fee for Adding Liquidity.

With respect to the Simple Order Fees for Adding Liquidity, the Exchange currently only assesses Firms, Broker-Dealer and Professionals a \$0.05 per contract fee. The Exchange proposes to increase those fees to \$0.45 per contract for Firms, Broker-Dealer and Professionals to permit the Exchange to continue to pay Customer rebates as

³⁶ Today, a Professional is paid a \$0.23 per contract Simple Order Rebate for Adding Liquidity.

³⁷ See Rule 1014 titled “Obligations and Restrictions Applicable to Specialists and Registered Options Traders.”

proposed in Section A of the Pricing Schedule. The Exchange would assess these market participants the same fee because as explained herein the proposed differentiation as between Customers, Specialists and Market Makers and other market participants (Professionals, Firms and Broker-Dealers) recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. As noted previously, the Exchange is proposing not to assess Customers Simple Order fees. The Exchange proposes to assess Specialists and Market Makers a lower fee of \$0.10 per contract to recognize the obligations born by these market participants.

With respect to the Simple Order Fees for Removing Liquidity, the Exchange proposes to decrease the fee from \$0.45 to \$0.44 per contract for Specialists, Market Makers, Professionals, Firms and Broker-Dealers. The Exchange proposes to continue to assess, uniformly, the same fees for all market participants except Customers, as is the case today. As noted previously, the Exchange is proposing not to assess Customers Simple Order fees.³⁸

The Exchange's proposal to make technical amendments to the Simple Order Fees for Adding Liquidity to remove "N/A" and instead note the fee as "\$0.00" on the Pricing Schedule is reasonable, equitable and not unfairly discriminatory because the Exchange proposes to indicate that no fee is being assessed to clarify the Pricing Schedule.

³⁸ Today, the Exchange reduces its Fees for Removing Liquidity, applicable to Specialists and Market Makers, by \$0.05 per contract when the Specialist or Market Maker transacts against a Customer Order directed to that Specialist or Market Maker for execution. This is not changing with this proposal.

As stated herein, the Exchange's proposal to amend Complex Order rebates and fees in Section I, Part B of the Pricing Schedule are reasonable because the Exchange is proposing to only pay rebates in limited circumstances³⁹ and only when the Exchange is able to fund that rebate with a Complex Order Fee for Removing Liquidity as described more fully above. The Exchange is proposing to decrease certain fees to incentivize Specialists and Market Makers to add Complex Order liquidity to the market and the Exchange is proposing to increase certain fees for Firms, Broker-Dealers and Professionals in order that it may offer additional rebates in the Customer Rebate Program in Section A as described herein.

The Exchange's proposal to amend the Complex Order rebates and fees in Section I, Part B of the Pricing Schedule are equitable and not unfairly discriminatory for the reasons which follow. The Exchange is proposing to eliminate the Complex Order Rebate for Adding Liquidity and the Rebate for Removing Liquidity because the Exchange is amending its Customer Rebate Program in Section A of the Pricing Schedule to include an opportunity to obtain greater rebates. The Exchange is proposing to adopt a Complex Order Fee for Adding Liquidity and assess all market participants, except Customers a fee of \$0.10 per contract. The Exchange believes that uniformly assessing market participants, other than Customers, a \$0.10 per contract Complex Order Fee for Adding Liquidity is equitable and not unfairly discriminatory. The Exchange proposes to no longer assess Customers Complex Order fees. Today, the Exchange does not assess a Customer Complex Order Fee for Removing Liquidity and would likewise assess no Customer Complex Order Fee for Adding Liquidity with this proposal. Customer order

³⁹ The Exchange is only proposing to pay rebates to Specialists and Market Makers when they are not contra to a Customer order as described herein.

flow is assessed no fee because incentivizing members to continue to offer Customer trading opportunities in Complex Orders benefits all market participants through increased liquidity.

With respect to the Complex Order Fees for Removing Liquidity, as previously noted, the Exchange would continue to not assess a Customer a Complex Order Fee for Removing Liquidity. Today, Specialists, Market Makers, Firms, Broker-Dealers and Professionals all pay a \$0.39 per contract Complex Order Fee for Removing Liquidity. The Exchange proposes to reduce the Specialist and Market Maker fee to \$0.25 per contract and increase the Firm, Broker-Dealer and Professional fees to \$0.50 per contract. The Exchange assesses Specialists and Market Maker lower fees as compared to other market participants, other than Customers, because Specialists and Market Makers have burdensome quoting obligations⁴⁰ to the market. In this case, the Exchange is proposing to increase the fee differential in assessing the Complex Order Fee for Removing Liquidity as between Specialist and Market Makers and other non-Customer market participants from 0 to \$0.25 per contract (\$0.25 vs. \$0.50 per contract). The Exchange believes that this fee differential is equitable and not unfairly discriminatory because Specialists and Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs unlike other market participants including, but not limited to, PFOF and other costs associated with market making activities,⁴¹ which results

⁴⁰ See Rule 1014 titled “Obligations and Restrictions Applicable to Specialists and Registered Options Traders.”

⁴¹ Specialists and Market Makers pay for certain data feeds including the SQF Port Fee. SQF Port Fees are listed in the Exchange’s Pricing Schedule at Section VII. SQF is an interface that allows Specialists and Market Makers to connect and send quotes into Phlx XL and assists them in responding to auctions and providing liquidity to the market.

in a higher average cost per execution as compared to Firms, Broker-Dealers and Professionals. The Exchange believes that the fees assessed to Specialists and Market Makers in Complex Orders remain aligned with fees assessed to Firms, Broker-Dealer and Professionals when other costs are taken into account.

The Exchange's proposal to amend the Pricing Schedule to change "Single contra-side" in Part B of Section II of the Pricing Schedule to "Simple" is reasonable, equitable and not unfairly discriminatory because it would further clarify the Pricing Schedule.

The Exchange's proposal to amend Part C of Section I of the Pricing Schedule to no longer pay rebates for Customer executions that occur as part of a Complex electronic auction, the opening process or a non-Complex auction is reasonable because the Exchange proposes to pay Customer rebates as proposed in Section A of the Pricing Schedule. Also, the Exchange has proposed a similar elimination of Customer rebates in Section I, Parts A and B of the Pricing Schedule. In addition, the Exchange's proposal to not assess any fees for transactions that occur as part of a Complex electronic auction, the opening process or a non-Complex electronic auction is reasonable because those transactions would not be subject to rebates. Today, the Exchange does not assess Customer fees on Complex electronic auctions, the opening process or non-Complex electronic auctions. The Exchange believes that it is reasonable to neither pay rebates nor assess fees on these types of transactions and market participants would continue to be incentivized to transact these types of orders on the Exchange.

The Exchange believes that its proposal to no longer pay rebates for Customer executions that occur as part of a Complex electronic auction, the opening process or a

non-Complex auction and to no longer assess fees for transactions that occur as part of a Complex electronic auction, the opening process or a non-Complex electronic auction is equitable and not unfairly discriminatory because the Exchange proposes to not pay rebates or assess fees during auctions and opening, as specified herein, uniformly with respect to all market participants.

The Exchange's proposal to collect Payment for Order Flow Fees on transactions in Select Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity, is reasonable because it would attract additional Customer order flow to the Exchange because of the benefit that order flow providers would obtain from the Payment for Order Flow Program.⁴²

The Exchange's proposal to assess Specialists and Market Makers the Simple Order Fee for Adding Liquidity if contra to a Customer during the opening process is reasonable because the Exchange desires to incentivize Specialists and Market Makers to transact orders during the opening process by lowering costs when the Specialist or Market Maker trades against a Customer.

The Exchange's proposal to assess Specialists and Market Makers the Simple Order Fee for Adding Liquidity if contra to a Customer during the opening process is equitable and not unfairly discriminatory because Specialists and Market Makers serve an important role on the Exchange with regard to order interaction. The Exchange believes that incentivizing Specialists and Market Makers to transact a greater number of orders at

⁴² The PFOF Program assists Specialists and Market Maker establish PFOF arrangements with an order flow provider in exchange for that order flow provider directing some or all of its order flow to that Specialist or Market Maker.

the open by offering lower pricing would benefit all market participants through increased order interaction.

The Exchange's proposal to collect Payment for Order Flow Fees on transactions in Select Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity is equitable and not unfairly discriminatory because the Exchange today collects assesses Specialists and Market Makers Payment for Order Flow Fees on all Multiply Listed Options except Select Symbols. The Exchange believes that not assessing Specialists and Market Makers Payment for Order Flow Fees when the Simple Order Fee for Removing Liquidity is assessed is equitable and not unfairly discriminatory because the Exchange does not desire to unfairly disadvantage Specialists and Market Makers by assessing them a \$0.44 per contract Simple Order Fee for Removing Liquidity as well as a \$0.25 per contract Payment for Order Flow fee. The Exchange believes that in this instance the fee would be much higher as compared to other market participants and does not proposes to assess the fee.

The Exchange's proposal to not assess PFOF on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options is reasonable the Exchange believes that it would serve to incentivize Specialists and Market Makers to remove liquidity from the Phlx Book. The Exchange believes that the broadcast message, which alerts market participants to orders placed on the Phlx book combined with the opportunity to not be assessed PFOF in Penny Pilot Options would serve to incentivize participants to remove liquidity. The Exchange believes that all market participants would benefit from such an incentive which would lead to greater order interaction and may further reduce fees related to routing.

The Exchange's proposal to not assess PFOF on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange would not assess any Specialist or Market Maker such a PFOF fee regardless of whether or not that Specialist or Market Maker was aware of the alert at the time of execution.

Section IV Amendments

The Exchange's proposal to amend Section IV of the Pricing Schedule at Part A to decrease the Threshold Volume from 275,000 to 100,000 contracts per day in a month is reasonable because the lower Threshold Volume should allow a greater number of market participants to obtain the requisite volume to be assessed the lower \$0.05 per contract fee. The Exchange's proposal to amend Section IV of the Pricing Schedule at Part A to decrease the Threshold Volume from 275,000 to 100,000 contracts per day in a month is equitable and not unfairly discriminatory because it would be uniformly assessed on all market participants.

In addition, the Exchange's proposal to permit Phlx members and member organizations under common ownership⁴³ to aggregate their Customer Rebate Program Threshold Volume in order to determine if they qualify for the \$0.07 or \$0.05 per contract Initiating Order fee is reasonable because the Exchange desires to provide all market participants the ability to obtain the lower Initiating Order Fee. The Exchange believes that its proposal to permit Phlx members and member organizations under common ownership to aggregate their Customer Rebate Program Threshold Volume for purposes of the Initiating Order fee is equitable and not unfairly discriminatory because

⁴³ Common ownership is defined as 75 percent common ownership or control.

the Exchange would permit all market participants the ability to aggregate for purposes of the fee even if certain members and member organizations chose to operate under separate entities. The Exchange currently permits such aggregation in the calculation of the Monthly Market Maker Cap.⁴⁴

The Exchange's proposal to amend the PIXL pricing for order executions in Select Symbols by assessing a PIXL Order the Fee for Adding Liquidity in Section I and the Responder the \$0.30 per contract fee unless the Responder is a Customer, in which case no fee is assessed, when a PIXL Order in a Select Symbol is contra to a PIXL Auction Responder is reasonable because the Exchange is proposing to only pay Rebates to Add Liquidity in Section I to Specialists and Market Makers in certain circumstances⁴⁵ and is not otherwise paying rebates except as proposed in Section A of the Pricing Schedule as part of the Customer Rebate Program. The Exchange does not desire to assess Customers fees and therefore is amending the PIXL pricing to not assess a fee if the Responder is contra to a Customer. The Exchange desires to incentivize market participants to send Customer order flow by offering the Customer Rebates in Section A and not assessing Customers fees in Section I of the Pricing Schedule. Customer order

⁴⁴ See Section II of the Pricing Schedule. 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.

⁴⁵ The Rebate for Adding Liquidity will be paid to a Specialist or Market Maker only when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional.

flow benefits all market participants by increased liquidity. In addition, the Exchange believes that the proposed amendments to Section IV would align the pricing with respect to Select Symbols to the amendments that are proposed herein in Section I, Parts A and B. The Exchange also believes that market participants would still be able to obtain rebates for PIXL orders because the Exchange proposes to pay rebates on PIXL Orders in Section I symbols that execute against non-Initiating Order interest as part of proposed Category D of the Customer Rebate Program.

The Exchange's proposal to amend the PIXL pricing for order executions in Select Symbols by assessing the Fee for Removing Liquidity not to exceed \$0.30 per contract when the PIXL Order is contra to a resting order or quote that was on the PHLX book prior to the auction and assessing the resting order or quote the Fee for Adding Liquidity in Section I is reasonable because the Exchange has amended certain of its Fees for Removing Liquidity in Section I below \$0.30 per contract and desires to assess the lower fee where applicable to market participants to further incentivize market participants to transact PIXL orders in Select Symbols. The Exchange's elimination of the Rebate to Add Liquidity with respect to PIXL Orders and the resting order or quote is reasonable because the Exchange is proposing to only pay Rebates to Add Liquidity in Section I to Specialists and Market Makers in certain circumstances⁴⁶ and is not otherwise paying rebates except as proposed in Section A of the Pricing Schedule.⁴⁷

⁴⁶ The Rebate for Adding Liquidity will be paid to a Specialist or Market Maker only when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional.

⁴⁷ Market participants would still be able to obtain rebates for PIXL orders because the Exchange proposes to pay rebates on PIXL Orders in Section I symbols that execute

The Exchange's proposal to amend the PIXL Pricing by eliminating the Rebates to Add Liquidity in Select Symbols and assess the Fee for Removing Liquidity not to exceed \$0.30 per contract is equitable and not unfairly discriminatory because the Exchange would uniformly apply the pricing to all market participants transacting PIXL orders. The Exchange's elimination of the Rebates for Adding Liquidity would impact Specialists and Market Makers because they are the only market participants entitled to rebates in certain circumstances in Section I. The Exchange believes this is equitable and not unfairly discriminatory because Specialists and Market Makers also benefit from being assessed the lower Fee for Removing Liquidity in Complex Orders as proposed herein, while other market participants are assessed \$0.30 per contract. The Exchange assessed this lower fee because these market participants bear obligations not born by other market participants. The Exchange also believes that assessing the Fee for Removing Liquidity not to exceed \$0.30 per contract specifically benefits Customers because they would not be assessed a fee pursuant to this proposal with respect to Simple Orders. Incentivizing Customer order flow benefits all market participants through increased liquidity.

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 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 levels at a particular venue to be excessive or rebates

against non-Initiating Order interest as part of proposed Category D of the Customer Rebate Program.

to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore 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.

The Exchange believes that the Customer Rebate Program will encourage Customer order flow to be directed to the Exchange, which will benefit all market participants. The Exchange believes that not assessing Customers fees in Section I would also encourage market participants to direct Customer orders to the Exchange. The Exchange also believes that encouraging Specialists and Market Makers to remove liquidity from the book by incentivizing them with lower fees would benefit order interaction on the Exchange to the benefit of all market participants and therefore does not create a burden on competition. To the extent that the Exchange is increasing certain fees, those fees would permit the Exchange to offer the proposed Customer Rebate Program which benefits the market. Further, the fee increases impact all non-Customer members in a similar fashion and are comparable to fees assessed at other venues for transactions in similarly situated options. With respect to the Complex Order Fee for Removing Liquidity, the Exchange believes that the differential as between Specialists and Market Makers as compared to Firms, Broker-Dealers and Professionals must be considered in light of other fees which are applied to Specialists and Makers and are not assessed on Firms, Broker-Dealers and Professionals, such as the PFOF fee of \$0.25 per contract. When this additional fee and other fees paid by Specialists and Market Makers are taken into consideration, the Exchange does not believe that the proposed increase to

the Complex Order Fee for Removing Liquidity creates a burden on these market participants. Rather, the cost to transact orders for non-Customers become more closely aligned when the total costs is transacting a Complex Order is taken into account as Specialists and Market Makers are contra to a Customer in most cases. Additionally, a \$0.25 per contract differential among non-Customers is not uncommon when competing for order flow. The Exchange notes that its floor fees for non-Customers in Multiply-Listed Options is \$0.25 per contract, except for Firms which are not assessed a fee when facilitating a Customer order pursuant to Exchange Rule 1064. The Exchange believes that other pricing amendments impact all market participants alike as proposed. The Exchange believes that the proposed rule change will continue to promote competition on the Exchange.

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,⁴⁸ 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

⁴⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

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.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2013-01)

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

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 January 2, 2013, 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 to amend the Exchange’s Pricing Schedule at Section A, entitled “Customer Rebate Program,” Section I entitled “Rebates and Fees for Adding and Removing Liquidity in Select Symbols,”³ Section II entitled “Multiply Listed Options Fees”⁴ and at Section IV entitled “Other Transaction Fees.” Specifically, the Exchange proposes to amend the Customer Rebate Program, Select Symbols,⁵ Simple and Complex Order⁶ fees and rebates, the applicability of Payment for Order Flow⁷ and PIXL⁸ Pricing.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The rebates and fees in Section I apply to certain Select Symbols which are listed in Section I of the Pricing Schedule.

⁴ The pricing in Section II includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

⁵ The Select Symbols are listed in Section I of the Pricing Schedule.

The text of the proposed rule change is provided in Exhibit 5. The text of the proposed rule change is also 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

⁶ A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund ("ETF") coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i).

⁷ The Payment for Order Flow program started on July 1, 2005 as a pilot and after a series of orders extending the pilot became effective on April 29, 2012. See Securities Exchange Act Release No. 52114 (July 22, 2005), 70 FR 44138 (August 1, 2005) (SR-Phlx-2005-44); 57851 (May 22, 2008), 73 FR 31177 (May 20, 2008)(SR-Phlx-2008-38); 55891 (June 11, 2007), 72 FR 333271 (June 15, 2007)(SR-Phlx-2007-39); 53754 (May 3, 2006), 71 FR 27301 (May 10, 2006) (SR-Phlx-2006-25); 53078 (January 9, 2006), 71 FR 2289 (January 13, 2006) (SR-Phlx-2005-88); 52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR-Phlx-2005-58); and 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR-Phlx-2009-38).

⁸ PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXLSM). See Rule 1080(n).

The purpose of the proposed rule change is to accomplish various objectives. First, the Exchange proposes to amend the Customer Rebate Program to incentivize market participants to increase the amount of Customer order flow they transact on the Exchange. Towards this end, the Exchange proposes the addition of Category D to the Customer Rebate Program relating to Customer Simple Orders in Select Symbols. The Exchange also proposes to offer certain credits when an order, which is sent to the Exchange, is routed to an away market. Second, the Exchange proposes to remove certain Select Symbols from Section I and instead assess the fees and offer caps as specified in Section II of the Pricing Schedule. The Exchange believes that the pricing in Section II, coupled with the proposed enhancements to the Customer Rebate Program may encourage an increase in Customer transactions in those symbols. Third, the Exchange proposes to amend the Section I pricing in Simple and Complex Orders and PIXL Pricing to also encourage additional Customer order flow by not assessing fees to Customers. The Exchange proposes to lower the Simple Order Fees for Removing Liquidity and certain PIXL Pricing to encourage additional Simple Order transactions. Fourth, the Exchange proposes to increase the Simple Order Fees for Adding Liquidity, adopt Complex Order Fees for Adding Liquidity and increase certain Complex Orders Fees for Removing Liquidity to permit the Exchange to offer additional rebates in the Customer Rebate Program in Section A. Fifth, the Exchange proposes to lower the Complex Order Specialist and Market Fees for Removing Liquidity in Select Symbols, as well as auctions and openings, and amend the applicability of Payment for Order Flow Fee for Select Symbols and broadcast messages to encourage greater Customer order interaction on the Exchange.

Customer Rebate Program

The Exchange is proposing to amend its Customer Rebate Program in Section A of the Pricing Schedule. Currently, the Exchange has a four-tiered Customer Rebate Program as follows:

Average Daily Volume Threshold	Rebate per Contract Categories		
	Category A	Category B	Category C
0 to 49,999 contracts in a month	\$0.00	\$0.00	\$0.00
50,000 to 99,999 contracts in a month	\$0.07	\$0.10	\$0.00
100,000 to 274,999 contracts in a month	\$0.10	\$0.14	\$0.05
over 275,000 contracts in a month	\$0.12	\$0.15	\$0.06

(a) Changes to the Tiers and Rebate Rates

At this time, the Exchange proposes to reduce the Customer Rebate Program to a three-tiered rebate structure. The Exchange proposes to amend Tier 1 which is currently 0 to 49,999 contracts in a month to 0 to 99,999 contracts in a month. The Exchange is not proposing to amend the rebate rates in Categories A, B or C for Tier 1. Those rebates will remain at \$0.00 per contract. Next, the Exchange is proposing to amend Tier 2 which is currently 50,000 to 99,999 contracts in a month to 100,000 to 349,999 contracts in a month. The Exchange proposes to amend the Tier 2 rate in Category A from \$0.07 to \$0.10 per contract. The Exchange proposes to amend the Tier 2 rate in Category B from \$0.10 to \$0.12 per contract. The Exchange proposes to amend the Tier 2 rate in

Category C from \$0.00 to \$0.13 per contract. The Exchange proposes to eliminate Tier 3 which is currently 100,000 to 274,999 contracts in a month.⁹ The Exchange proposes to amend current Tier 4 which awards rebates over 275,000 contracts in a month and rename it Tier 3 and award rebates over 350,000 contracts in a month. The Exchange proposes to amend the new Tier 3 rate in Category A from \$0.12 to \$0.15 per contract. The Exchange would not amend the Tier 3 rate in Category B. The Exchange proposes to amend the Tier 3 rate in Category C from \$0.06 to \$0.15 per contract. The Exchange is not proposing to amend the types of orders that qualify for Categories A, B or C.¹⁰

The Exchange also proposes to add another Category of orders eligible for rebates entitled “Category D.” This new category would pay rebates to members executing electronically-delivered Customer Simple Orders in Select Symbols in Section I. Also, the rebate would be paid on PIXL Orders in Section I symbols that execute against non-Initiating Order interest.¹¹ The Exchange proposes to pay the following Category D rebates: no rebate for Tier 1, a \$0.05 per contract rebate for Tier 2 and a \$0.07 per contract rebate for Tier 3. The Exchange also proposes to add the words “Tier 1,” “Tier 2,” and “Tier 3” to the Pricing Schedule to further clarify the tiers. The proposed Customer Rebate Program would be as follows:

Average Daily Volume Threshold	Rebate per Contract Categories			
	Category	Category	Category	Category

⁹ Currently, Tier 3 pays the following rebates: a Category A rebate of \$0.10 per contract, a Category B rebate \$0.14 per contract and a Category C rebate of \$0.05 per contract.

¹⁰ The Exchange notes that it will evaluate the tiers monthly and may file modifications to the tiers periodically depending on market conditions.

¹¹ This application of the Category D rebate to PIXL Orders is similar to the current application of the Category A rebate to PIXL Orders.

	A	B	C	D
Tier 1: 0 to 99,999 contracts in a month	\$0.00	\$0.00	\$0.00	\$0.00
Tier 2: 100,000 to 349,999 contracts in a month	\$0.10	\$0.12	\$0.13	\$0.05
Tier 3: over 350,000 contracts in a month	\$0.15	\$0.15	\$0.15	\$0.07

(b) Changes to Average Daily Volume Calculation

Currently, the Exchange calculates Average Daily Volume Threshold by totaling Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with the following: (i) electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity; and (ii) electronic Qualified Contingent Cross Orders (“QCC Orders”),¹² as defined in Exchange Rule 1080(o) (“Threshold Volume”). Rebates are paid on Threshold Volume.

¹² A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer (“NBBO”) and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. See Rule 1080(o). See also Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR-Phlx-2011-47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (“QCTs”) that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of the Regulation NMS).

The Exchange proposes to amend the Average Daily Volume Calculation by eliminating Customer volume in Multiply-Listed Options that are electronically-delivered and executed except for volume associated with electronically-delivered and executed Simple Orders in Select Symbols that remove liquidity. The Exchange is proposing to amend the Average Daily Volume by eliminating the exclusion of the electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity. The QCC Orders would be the only exception when calculating Customer volume in Multiply-Listed Options that are electronically-delivered in the Average Daily Volume Threshold calculation.¹³

(c) Credit for Member Qualifying for Tier 2 and 3 rebates

The Exchange proposes to reduce Routing Fees in Section V of the Exchange's Pricing Schedule for member organizations that qualify for Tier 2 or Tier 3 of the Customer Rebate Program. Specifically, the Exchange proposes to credit member organizations that qualify for either a Tier 2 or Tier 3 rebate with a credit of \$0.04 per contract, which credit would be applied to Routing Fees, as specified in Section V of the Pricing Schedule, when a Customer order is routed to NASDAQ OMX BX, Inc. ("BX Options") or the NASDAQ Options Market LLC ("NOM"). Member organizations that qualify for either a Tier 2 or Tier 3 rebate would be entitled to receive a \$0.10 per contract credit, which credit would be applied to Routing Fees, specified in Section V of the Pricing Schedule, when a Customer order is routed to an away market other than BX Options or NOM.

¹³ QCC Orders are excluded today.

The Exchange believes that the proposed amendments to the Customer Rebate Program, including the credit proposed for Routing Fees, would further incentivize members to transact Customer orders on the Exchange. The Exchange believes the proposed amendments will attract additional Customer order flow to the Exchange for the benefit of all market participants.

Section I Amendments

(a) Select Symbols

The Exchange displays a list of Select Symbols in its Pricing Schedule at Section I, which symbols are subject to the rebates and fees in that section. The Exchange is proposing to delete the following symbols from the list of Select Symbols in Section I of the Pricing Schedule: Arena Pharmaceuticals, Inc. (“ARNA”), Alcoa, Inc. (“AA”), Advanced Micro Devices, Inc. (“AMD”), Cisco Systems, Inc. (“CSCO”), SPDR DOW Jones Industrial Average (“DIA”), iShares MSCI EAFE Index Fund (“EFA”), iShares MSCI Brazil Index Fund (“EWZ”), Ford Motor Co. (“F”), Direxion Daily Financial Bull 3x Shares (“FAS”), Direxion Daily Financial Bear 3X Shares (“FAZ”), iShares FTSE China 25 Index Fund (“FXI”), Market Vectors Gold Miners ETF (“GDX”), General Electric Company (“GE”), Intel Corporation (“INTC”), Nokia Corporation (“NOK”), Oracle Corporation (“ORCL”), Pfizer, Inc. (“PFE”), Research in Motion Limited (“RIMM”), ProShares UltraShort S&P 500 (“SDS”), Sirius XM Radio Inc. (“SIRI”), iShares Silver Trust (“SLV”), ProShares UltraShort 20+ Year Treasury (“TBT”), iShares Barclays 20 Year Treasury (“TLT”), Direxion Daily Small Cap Bear 3X Shares (“TZA”), United States Natural Gas (“UNG”), United States Oil (“USO”), Vale S.A. (“VALE”), iPath S&P 500 VIX ST Futures ETN (“VXX”), Verizon Communications Inc. (“VZ”),

SPDR Select Sector Fund – Energy (“XLE”), SPDR Select Sector Fund (“XLI”) and Yahoo! Inc. (“YHOO”) (collectively, “Proposed Deleted Symbols”). These Proposed Deleted Symbols would be subject to the fees, fee caps and related discounts in Section II of the Pricing Schedule entitled “Multiply Listed Options Fees.” The Exchange believes that by assessing the Proposed Deleted Symbols the pricing in Section II of the Pricing Schedule the Exchange will attract order flow to the Exchange.

(b) Simple Orders

The Exchange proposes to amend the Simple Order rebates and fees in Section I, Part A of the Pricing Schedule. Currently, the Exchange pays the following Simple Order Rebates for Adding Liquidity: Customer \$0.26 per contract, Specialist¹⁴ and Market Maker¹⁵ \$0.23 per contract, Firm and Broker-Dealer receive no rebate and Professional¹⁶ receives a \$0.23 per contract rebate. The Exchange proposes to not pay a Customer or Professional rebate and decrease the Specialist and Market Maker rebate from \$0.23 to \$0.20 per contract, however the Exchange would only pay a Specialist or Market Maker Rebate for Adding Liquidity in Simple Orders if the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional. In other words, the Specialist or Market Maker would not receive a Simple Order Rebate for

¹⁴ A “Specialist” is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

¹⁵ 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.

¹⁶ 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).

Adding Liquidity if they are contra to a Customer and instead would be assessed the Simple Order Fee for Adding Liquidity, which will be discussed below. The Rebate for Adding Liquidity for Customer, Broker-Dealer, Firm and Professional would be marked “N/A” as those market participants would be assessed a Fee for Adding Liquidity to be discussed below. In addition, the Exchange proposes to add a note to the Pricing Schedule indicating the above exception to the payment of the Specialist and Market Maker Rebate for Adding Liquidity in Simple Orders.

Currently, the Exchange assesses the following Simple Order Fees for Adding Liquidity: Customer, Specialist, Professional and Market Maker pay no fee, a Firm and Broker-Dealer pay \$0.05 per contract. The Exchange proposes to amend the Simple Order Fees for Adding Liquidity as follows: a Customer would continue to not be assessed however instead of “N/A” the Exchange would reflect the fee as “\$0.00” on the Pricing Schedule. A Specialist and Market Maker would be assessed a \$0.10 per contract Simple Order Fee for Adding Liquidity, but only when contra to a Customer order. If the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional, then the Specialist or Market Maker would be entitled to the Simple Order Rebate for Adding Liquidity.

As explained above, Specialists and Market Makers receive a Rebate for Adding Liquidity when contra to a Specialist, Market Maker, Firm, Broker-Dealer and Professional. The Firm and Broker-Dealer Fees for Adding Liquidity would be increased from \$0.05 to \$0.45 per contract. A Professional would be assessed \$0.45 per contract pursuant to this proposal as compared to no fee.

Currently the Exchange assesses the following Simple Orders Fees for Removing Liquidity: a Customer is assessed \$0.43 per contract, a Specialist, Market Maker, Firm, Broker-Dealer and Professional are assessed \$0.45 per contract. The Exchange proposes to decrease the Customer Fee for Removing Liquidity from \$0.43 to \$0.00 per contract. The Exchange also proposes to decrease the Specialist, Market Maker, Firm, Broker-Dealer and Professional fees from \$0.45 to \$0.44 per contract.

The Exchange believes that decreasing certain Simple Order fees will incentivize market participants to send order flow to the Exchange, particularly Customer order flow. In addition, the Exchange believes that the increased fees would allow the Exchange to offer additional Customer rebates as proposed in the Customer Rebate Program to attract liquidity to the Exchange.

(c) Complex Orders

The Exchange proposes to amend the Complex Order rebates and fees in Section I, Part B of the Pricing Schedule. The Exchange currently pays the following Complex Order Rebates for Adding Liquidity: a Customer is paid \$0.32 per contract and Specialists, Market Makers, Firms, Broker-Dealers and Professionals are paid \$0.10 per contract. The Exchange proposes to eliminate the Rebates for Adding Liquidity in Complex Orders. Currently, Customers are paid a \$0.06 Complex Order Rebate for Removing Liquidity. No other market participant is paid a Complex Order Rebate for Removing Liquidity. The Exchange proposes to eliminate the Customer Complex Order Rebate for Removing Liquidity. The Exchange's proposal would therefore pay no rebates in Section I, Part B with respect to Complex Orders.

The Exchange proposes to adopt a Complex Order Fee for Adding Liquidity of \$0.10 per contract that will be applicable to Specialists, Market Makers, Firms, Broker-Dealers and Professionals. Customers would not be assessed a Complex Order Fee for Adding Liquidity.

The Exchange currently assesses the following Complex Order Fees for Removing Liquidity: \$0.39 per contract for Specialists, Market Makers, Firms, Broker-Dealers and Professionals. Customers are not assessed a Complex Order Fee for Removing Liquidity. The Exchange is proposing to decrease the Specialist and Market Maker Complex Order Fees for Removing Liquidity from \$0.39 to \$0.25 per contract. The Exchange proposes to increase the Complex Order Fees for Removing Liquidity for Firms, Broker-Dealers and Professionals from \$0.39 to \$0.50 per contract. A Customer would continue to not be assessed a Complex Order Fee for Removing Liquidity. The Exchange is proposing to decrease certain fees to incentivize market participants to transact Complex Orders on the Exchange and the Exchange is proposing to increase certain fees in order that it may offer additional rebates in the Customer Rebate Program as described herein.

(d) Complex Auctions, non-Complex auctions and the opening process

Today the Exchange pays market participants for Customer executions that occur as part of a Complex electronic auction¹⁷ and the opening process the Complex Order Rebate for Removing Liquidity. Customer executions that occur as part of a non-

¹⁷ A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA").

Complex auction¹⁸ are paid the Simple Order Rebate for Removing Liquidity, except when contra to another Customer order. Today, the Exchange does not assess a Fee for Removing Liquidity for transactions that occur either as part of a Complex electronic auction or a non-Complex electronic auction.

The Exchange proposes to no longer pay rebates for Customer executions that occur as part of a Complex electronic auction, the opening process or a Complex Order or a non-Complex auction. In addition, the Exchange would not assess any fees for transactions that occur as part of a Complex electronic auction, the opening process or a non-Complex electronic auction, as is the case today for Customer orders. The Exchange believes that assessing no fees and paying no rebates for transactions executed during certain auctions and the opening process would benefit market participants. While no rebates would be paid, there would also be no fees assessed.

Currently, the Specialists and Market Makers pay the Simple Order Fee for Removing Liquidity during the opening the process. The Exchange proposes to assess Specialists and Market Makers the Simple Order Fee for Adding Liquidity if contra to a Customer during the opening process. Specialists and Market Makers will continue to pay the Simple Order Fee for Removing Liquidity during the opening the process if contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional.

(e) Payment for Order Flow Fees

Currently, Payment for Order Flow¹⁹ Fees are not collected on transactions in

¹⁸ A non-Complex electronic auction includes the Quote Exhaust auction and, for purposes of these fees, the opening process.

¹⁹ The Payment for Order Flow (“PFOF”) Program assesses fees to Specialists and Market Makers resulting from Customer orders (“PFOF Fees”). The PFOF fees are available to be disbursed by the Exchange according to the instructions of the Specialist

Select Symbols.²⁰ The Exchange is proposing to amend the Pricing Schedule to collect Payment for Order Flow Fees on transactions in Select Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity, in which case the Payment for Order Flow fees would not apply. The Exchange believes that assessing Payment for Order Flow Fees on Select Symbols, similar to other Multiply Listed Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity would attract additional Customer order flow to the Exchange.

The Exchange also proposes to make a technical amendment in Section II of the Pricing Schedule to amend the Pricing Schedule to change the term “Single contra-side” in Part B of Section II of the Pricing Schedule to “Simple Order” for consistency in use of its terms.

(f) Order Exposure Alert

The Exchange recently filed to amend Rule 1080(m) to provide for the broadcast of certain orders that are on the Phlx Book.²¹ The Exchange proposed to broadcast orders

or Market Maker to order flow providers who are members or member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those customer orders. Any excess PFOF funds billed but not utilized by the Specialist or Market Maker are carried forward unless the Specialist or Market Maker elects to have those funds rebated on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange calculates the amount of excess funds from the previous quarter and subsequently rebates excess funds on a pro-rata basis to the applicable Specialist or Market Maker who paid into that pool of funds.

²⁰ The Select Symbols are listed in Section I of the Pricing Schedule.

²¹ See Securities Exchange Act Release No. 68517 (December 21, 2012), 77 FR 77134 (December 31, 2012) (SR-Phlx-2012-136).

on the Phlx Book by issuing order exposure alerts to all Phlx XL II²² participants and market participants that subscribe to certain data feeds. The Exchange proposes to specify in Section II of its Pricing Schedule that no Payment for Order Flow Fees would be assessed on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options, including Select Symbols. By eliminating Payment for Order Flow Fees the Exchange desires to spur Specialists and Market Makers to transact against orders that triggered the broadcast message.

Section IV Amendments

(a) PIXL

The Exchange proposes to amend Section IV of the Pricing Schedule at Part A. Currently, the Exchange assesses an Initiating Order²³ a \$0.07 per contract or \$0.05 per contract fee if the Customer Rebate Program Threshold Volume, defined in Section A, is greater than 275,000 contracts per day in a month. The Exchange is proposing to instead assess an Initiating Order a \$0.07 per contract or \$0.05 per contract fee if the Customer Rebate Program Threshold Volume defined in Section A is greater than *100,000* contracts per day in a month.

²² This proposal refers to “PHLX XL[®]” as the Exchange’s automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as “Phlx XL II.” See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from “Phlx XL II” to “PHLX XL” for branding purposes.

²³ A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity (“PIXL Order”) against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent (“Initiating Order”) provided it submits the PIXL order for electronic execution into the PIXL Auction (“Auction”) pursuant to Rule 1080. See Exchange Rule 1080(n).

In addition, the Exchange also proposes to permit Phlx members and member organizations under common ownership to aggregate their Customer Rebate Program Threshold Volume in order to determine if they qualify for the \$0.07 or \$0.05 per contract Initiating Order fee. Common ownership is defined as 75 percent common ownership or control.

Today, when a PIXL order in a Select Symbol²⁴ is contra to a PIXL Auction Responder, the Exchange will either pay a Rebate for Adding Liquidity or assess a Fee for Adding Liquidity in Section I of the Pricing Schedule. Today, a Responder is assessed \$0.30 per contract. The Exchange proposes to amend the PIXL pricing for order executions in Select Symbols as follows: when a PIXL Order in a Select Symbol is contra to a PIXL Auction Responder, the PIXL Order would be assessed the Fee for Adding Liquidity in Section I and the Responder would be assessed \$0.30 per contract, unless the Responder is a Customer, in which case the fee would be \$0.00 per contract.

Additionally, today when a PIXL Order in a Select Symbol is contra to a resting order or quote that was on the PHLX book prior to the auction, the PIXL Order is assessed \$0.30 per contract and the resting order or quote is either paid the Rebate for Adding Liquidity or assessed the Fee for Adding Liquidity in Section I. Today, if the resting order or quote that was on the PHLX book was entered during the Auction, the PIXL Order receives the Rebate for Adding Liquidity or is assessed the Fee for Adding Liquidity in Section I and the resting order or quote is assessed \$0.30 per contract. The Exchange proposes to amend the PIXL pricing for order executions in Select Symbols as follows: when the PIXL Order is contra to a resting order or quote that was on the PHLX

²⁴ Select Symbols are subject to the rebates and fees in Section I of the Pricing Schedule.

book prior to the auction, the PIXL Order would be assessed the Fee for Removing Liquidity not to exceed \$0.30 per contract and the resting order or quote would be assessed the Fee for Adding Liquidity in Section I. Further, the Exchange proposes that if the resting order or quote that was on the PHLX book was entered during the Auction, the PIXL Order would be assessed the Fee for Adding Liquidity in Section I and the resting order or quote would be assessed the Fee for Removing Liquidity not to exceed \$0.30 per contract.

The Exchange proposes to eliminate the payment of rebates, not assess fees and lower the Threshold Volume to 100,000 contracts per day in a month in order to incentivize market participants to transact PIXL Orders.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act²⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act²⁶ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Customer Rebate Program

The Exchange's proposal to amend its Customer Rebate Program in Section A of the Pricing Schedule is reasonable because the Exchange believes that the amended Customer Rebate Program, including the addition of Category D, would further incentivize market participants to transact Customer order flow on the Exchange, which liquidity will benefit all market participants. The Exchange believes that reducing the

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(4).

Customer Rebate Program to a three-tiered rebate structure and amending the tier volumes is reasonable because it should incentivize market participants to increase the amount of Customer orders that are transacted on the Exchange to obtain a rebate. The Exchange proposes herein to amend the Average Daily Volume Threshold to only exclude QCC Orders,²⁷ which should permit market participants to include additional orders in the Average Daily Volume Threshold and obtain larger rebates on eligible contracts. In addition, other exchanges employ similar incentive programs.²⁸

The Exchange believes that the proposal to amend the rebate tiers is equitable and not unfairly discriminatory because while market participants would need to transact a greater number of contracts to achieve a Tier 2 or 3 rebate, the Exchange is also amending the Average Daily Volume Threshold to allow market participants to receive a rebate on a greater number of eligible contracts. The Exchange's proposal to amend its rebates is equitable and not unfairly discriminatory for the following reasons. With respect to Tier 1 which is currently 0 to 49,999 contracts in a month and would be 0 to 99,999 contracts in a month pursuant to this proposal, the Exchange would continue to pay no rebate. For those market participants executing from 1 to 49,999 contracts, this is

²⁷ Today, the Average Daily Volume Threshold is calculated by totaling Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with: (i) electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity; and (ii) electronic QCC Orders, as defined in Exchange Rule 1080(o).

²⁸ See the Chicago Board Options Exchange, Incorporated's ("CBOE") Fees Schedule. CBOE offers each Trading Permit Holder ("TPH") a credit for each public customer order transmitted by the TPH which is executed electronically in all multiply-listed option classes, excluding QCC trades and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan, provided the TPH meets certain volume thresholds in a month (Volume Incentive Program).

the same as today. For those market participants that currently transact 50,000 to 99,999 contracts, they would not be eligible for a rebate under the proposal. The Exchange believes that market participants would be incentivized to transact a greater number of contracts in order to obtain a rebate in Tiers 2 or 3. With respect to Tier 2 which is currently 50,000 to 99,999 contracts in a month, the proposal would amend the contract volume to 100,000 to 349,999 contracts in a month which today is the volume necessary to obtain a Tier 2 rebate or a Tier 3 rebate if the number of contracts is greater than 275,000. A Category A²⁹ rebate would remain the same as the Exchange proposes to increase Tier 2 in Category A from \$0.07 to \$0.10 per contract. The Exchange would pay a lower rebate in Category B³⁰ which would increase from \$0.10 to \$0.12 per contract. Today, a Tier 2, Category B rebate receives a \$0.14 per contract rebate up to 274,999 contracts. A market participant executing between 100,000 to 274,999 contracts today would receive a lower rebate (\$0.12 per contract as compared to \$0.14 per contract). A Category C³¹ rebate would increase for those market participants transacting between 100,000 to 274,999 contracts. Today, a market participant receives no rebate for transacting up to 99,999 contracts in Category C. The Exchange is proposing to pay \$0.13 per contract in Category C to market participants that execute between 100,000 and

²⁹ A Category A rebate is paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Section II. Rebates are paid on PIXL Orders in Section II symbols that execute against non-Initiating Order interest.

³⁰ A Category B rebate is paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options and Non-Penny Pilot Options in Section II.

³¹ A Category C rebate is paid to members executing electronically-delivered Customer Complex Orders in Select Symbols in Section I.

349,999 contracts in a month. The Exchange also proposes to increase the volume required for current Tier 4 which awards rebates over 275,000 contracts in a month to create a new Tier 3 to award rebates over 350,000 contracts in a month. A market participant executing over 275,000 contracts today in Category A would receive a \$0.12 per contract rebate. As mentioned, that rebate would decrease between 100,000 to 349,999 contracts to \$0.10 per contract, but would increase over 350,000 contracts to \$0.15 per contract. A market participant executing over 275,000 contracts today in Category B would receive \$0.15 per contract. As mentioned, that rebate would decrease between 100,000 to 349,999 contracts to \$0.12 per contract and would remain the same over 350,000 contracts. A market participant executing over 275,000 contracts today in Category C would receive a \$0.06 rebate. As mentioned, that rebate would increase between 100,000 to 349,999 contracts to \$0.13 per contract and would also increase over 350,000 contracts to \$0.15 per contract. The Exchange believes that while market participants in Categories A and B would need to execute additional contracts to receive the same or greater rebates, the Exchange believes that it continues to incentivize those market participants to direct Customer orders to the Exchange. With respect to Category C, the Exchange is providing greater incentives to transact Customer Complex Orders in Select Symbols.

The Exchange believes that the addition of Category D is reasonable because the Exchange is incentivizing market participants to transact Customer Simple Orders in Select Symbols by offering a rebate. The Exchange also believes that the Category D rebates are equitable and not unfairly discriminatory because all market participants that direct Customer Simple Orders in Select Symbols are eligible for the rebates. The

Exchange would pay a Category D rebate of \$0.05 per contract to a market participant that transacts between 100,000 and 349,999 contracts in a month. Additionally, the Exchange would pay a Category D rebate of \$0.07 per contract to a market participant that transacts over 350,000 contracts in a month.³²

The Exchange's amended rebate calculation is reasonable because the Exchange proposes to include Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with QCC Orders as defined in Exchange Rule 1080(o). Volume associated with electronically-delivered Customer Simple Orders in Select Symbols that remove liquidity would be included as part of this proposal. This volume is currently excluded. The Exchange believes that the inclusion of the electronically-delivered Customer Simple Orders in Select Symbols that remove liquidity would allow market participants to obtain greater rebates. In addition, the Exchange believes that the amended rebate calculation is equitable and not unfairly discriminatory because the calculation would apply uniformly to all market participants.

The Exchange's proposal to reduce Routing Fees³³ in Section V of the Exchange's Pricing Schedule for member organizations that qualify for a Tier 2 or Tier 3 Customer Rebate in Section A of the Pricing Schedule is reasonable because the

³² The Exchange would not pay a Category D rebate for contract volume below 100,000 contracts.

³³ Each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets. The costs to the Exchange include clearing costs, administrative and technical costs associated with operating NOS that are assessed on the Exchange, membership fees at away markets, and technical costs associated with routing options. The Routing Fees enable the Exchange to recover the costs it incurs to route orders to away markets in addition to transaction fees assessed to market participants for the execution of orders by the away market.

Exchange proposes to provide an additional incentive for transacting Customer orders on the Exchange. The Exchange believes that providing a credit of \$0.04 per contract toward the Routing Fee specified in Section V of the Pricing Schedule if a Customer order is routed to BX Options or NOM and a \$0.10 per contract credit toward the Routing Fee specified in Section V of the Pricing Schedule if the Customer order is routed to away market other than BX Options or NOM would encourage market participants to transact their Customer orders on the Exchange because they have the opportunity to receive a Tier 2 or Tier 3 rebate and also reduce Routing Fees. The Exchange believes that the proposal to reduce Routing Fees in Section V of the Exchange's Pricing Schedule for members that qualify for a Tier 2 or Tier 3 Customer Rebate in Section A of the Pricing Schedule is equitable and not unfairly discriminatory because any market participant that transacts Customer orders may qualify for the credit. Also, the Routing Fees specified in Section V of the Pricing Schedule are lower for a Customer order routed to BX Options or NOM today and higher for an away market other than BX Options or NOM.³⁴

³⁴ The Exchange assesses a fixed fee of \$0.10 per contract for non-NASDAQ OMX exchanges and a \$0.04 per contract fee for BX Options and NOM. These fixed costs represent overall cost to the Exchange for technical, administrative, clearing, regulatory, compliance and other costs, which are in addition to the transaction fee assessed by the away market. Also, market participants whose orders routed to away markets are entitled to receive rebates offered by away markets, which rebates would net against fees assessed by the Exchange for routing orders. As explained in a previous rule change, the actual cash outlays for the Exchange to route to BX Options and NOM is lower as compared to routing to other non-NASDAQ OMX exchanges. See Securities Exchange Act Release No. 68213 (November 13, 2012), 77 FR 69530 (November 19, 2012) (SR-Phlx-2012-129). The Exchange noted in that rule change that the costs related to connectivity to route orders to other NASDAQ OMX exchanges are de minimis.

Section I Amendments

The Exchange believes that it is reasonable to remove the Proposed Deleted Symbols from its list of Select Symbols to attract additional order flow to the Exchange. The Exchange believes that applying the pricing in Section II of the Pricing Schedule to the Proposed Deleted Symbols, including the opportunity to receive payment for order flow, will attract order flow to the Exchange.

The Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols to remove the Proposed Deleted Symbols because the list of Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade the Select Symbols would be subject to the rebates and fees in Section I of the Pricing Schedule, which would not include the Proposed Deleted Symbols. Also, all market participants would be uniformly subject to the fees in Section II, which would include the Proposed Deleted Symbols.

The Exchange's proposal to amend the Simple Order rebates and fees in Section I, Part A of the Pricing Schedule is reasonable because the Exchange is proposing to only pay rebates to Specialists and Market Makers in limited circumstances and only when the Exchange is able to fund that rebate with a Simple Order Fee for Removing Liquidity. In other words, if a Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional, these market participants pay Simple Order Fees for Removing Liquidity, which fund the rebate to the Specialist or Market Maker. When a Specialist or Market Maker is contra to a Customer, then the Specialist or Market Maker would pay the Simple Order Fee for Adding Liquidity because the Customer is assessed no Simple Order Fee for Removing Liquidity pursuant to this proposal and instead

receives the rebates defined in Category D. The Exchange is reducing the Simple Order Fees for Removing Liquidity because it is no longer paying certain Simple Order rebates to Customers or Professionals. The Exchange believes that its proposal to assess Simple Order Fees for Adding Liquidity is reasonable because as explained herein, the Exchange is funding the rebates it offers to Specialists and Market Makers with those Simple Order Fees for Adding Liquidity.

The Exchange's proposal to amend the Simple Order rebates and fees in Section I, Part A of the Pricing Schedule is equitable and not unfairly discriminatory for the reasons which follow. With respect to Customers, the Exchange would no longer assess a Customer the \$0.43 per contract Simple Order Fee for Removing Liquidity, the Exchange would continue not to assess a Customer a Simple Order Fee for Adding Liquidity, as is the case today. In light of eliminating these fees, the Exchange proposes to no longer pay the \$0.26 per contract Simple Order Rebate for Adding Liquidity. Customer order flow is assessed no fee because incentivizing members to continue to offer Customer trading opportunities in Simple Orders benefits all market participants through increased liquidity. The Exchange instead proposes to pay Customer rebates for Simple Orders in Select Symbols as part of proposed Category D to the Customer Rebate Program in Section A.³⁵ Market participants would continue to be incentivized to send Customer

³⁵ The Exchange believes that market participants would continue to be incentivized to send Customer order flow to the Exchange because the Customer Rebate Program would pay rebates on electronic orders, as is the case today for the rebates that are being eliminated in Section I, Parts A and B. Transactions in the Select Symbols originating on the Exchange floor are subject to pricing in Section II and would not be subject to the rebates in the Customer Rebate Program, as is the case today. The rebates in Section I, Parts A and B are paid on electronic orders today. Also, the Customer Rebate Program would pay rebates on both adding and removing liquidity similar to the rebates that are being eliminated in Section I, Parts A and B.

order flow to the Exchange and would receive rebates as part of the Customer Rebate Program and would also not pay fees.

With respect to the Simple Order Rebate for Adding Liquidity, the Exchange proposes to reduce the rebates for Specialists and Market Makers from \$0.23 to \$0.20 per contract and not pay a Professional a rebate³⁶ because the Exchange proposes to offer market participants greater rebates as part of the Customer Rebate Program in Section A. The Exchange proposes to only pay Specialists and Market Makers a Simple Order Rebate for Adding Liquidity, in limited circumstances, because unlike other market participants, Specialists and Market Makers have burdensome quoting obligations³⁷ to the market. Specialists and Market Makers would only be paid a Simple Order Rebate for Adding Liquidity when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer and Professional. The Exchange believes that its proposal to only pay a Specialist or Market Maker a Simple Order Rebate for Adding Liquidity as long as the Specialist or Market Maker is not contra to a Customer is equitable and not unfairly discriminatory because the Exchange is only paying Specialists and Market Makers a Simple Order Rebate to Add Liquidity when it is able to fund that rebate with a Fee for Removing Liquidity. In the case of a Customer, the Exchange proposes not to assess a Customer a Simple Order Fee for Removing Liquidity and therefore in that instance the Exchange would assess the Specialist or Market Maker the Simple Order Fee for Adding Liquidity.

³⁶ Today, a Professional is paid a \$0.23 per contract Simple Order Rebate for Adding Liquidity.

³⁷ See Rule 1014 titled “Obligations and Restrictions Applicable to Specialists and Registered Options Traders.”

With respect to the Simple Order Fees for Adding Liquidity, the Exchange currently only assesses Firms, Broker-Dealer and Professionals a \$0.05 per contract fee. The Exchange proposes to increase those fees to \$0.45 per contract for Firms, Broker-Dealer and Professionals to permit the Exchange to continue to pay Customer rebates as proposed in Section A of the Pricing Schedule. The Exchange would assess these market participants the same fee because as explained herein the proposed differentiation as between Customers, Specialists and Market Makers and other market participants (Professionals, Firms and Broker-Dealers) recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. As noted previously, the Exchange is proposing not to assess Customers Simple Order fees. The Exchange proposes to assess Specialists and Market Makers a lower fee of \$0.10 per contract to recognize the obligations born by these market participants.

With respect to the Simple Order Fees for Removing Liquidity, the Exchange proposes to decrease the fee from \$0.45 to \$0.44 per contract for Specialists, Market Makers, Professionals, Firms and Broker-Dealers. The Exchange proposes to continue to assess, uniformly, the same fees for all market participants except Customers, as is the case today. As noted previously, the Exchange is proposing not to assess Customers Simple Order fees.³⁸

The Exchange's proposal to make technical amendments to the Simple Order Fees for Adding Liquidity to remove "N/A" and instead note the fee as "\$0.00" on the Pricing Schedule is reasonable, equitable and not unfairly discriminatory because the

³⁸ Today, the Exchange reduces its Fees for Removing Liquidity, applicable to Specialists and Market Makers, by \$0.05 per contract when the Specialist or Market Maker transacts against a Customer Order directed to that Specialist or Market Maker for execution. This is not changing with this proposal.

Exchange proposes to indicate that no fee is being assessed to clarify the Pricing Schedule.

As stated herein, the Exchange's proposal to amend Complex Order rebates and fees in Section I, Part B of the Pricing Schedule are reasonable because the Exchange is proposing to only pay rebates in limited circumstances³⁹ and only when the Exchange is able to fund that rebate with a Complex Order Fee for Removing Liquidity as described more fully above. The Exchange is proposing to decrease certain fees to incentivize Specialists and Market Makers to add Complex Order liquidity to the market and the Exchange is proposing to increase certain fees for Firms, Broker-Dealers and Professionals in order that it may offer additional rebates in the Customer Rebate Program in Section A as described herein.

The Exchange's proposal to amend the Complex Order rebates and fees in Section I, Part B of the Pricing Schedule are equitable and not unfairly discriminatory for the reasons which follow. The Exchange is proposing to eliminate the Complex Order Rebate for Adding Liquidity and the Rebate for Removing Liquidity because the Exchange is amending its Customer Rebate Program in Section A of the Pricing Schedule to include an opportunity to obtain greater rebates. The Exchange is proposing to adopt a Complex Order Fee for Adding Liquidity and assess all market participants, except Customers a fee of \$0.10 per contract. The Exchange believes that uniformly assessing market participants, other than Customers, a \$0.10 per contract Complex Order Fee for Adding Liquidity is equitable and not unfairly discriminatory. The Exchange proposes to no longer assess Customers Complex Order fees. Today, the Exchange does not assess a

³⁹ The Exchange is only proposing to pay rebates to Specialists and Market Makers when they are not contra to a Customer order as described herein.

Customer Complex Order Fee for Removing Liquidity and would likewise assess no Customer Complex Order Fee for Adding Liquidity with this proposal. Customer order flow is assessed no fee because incentivizing members to continue to offer Customer trading opportunities in Complex Orders benefits all market participants through increased liquidity.

With respect to the Complex Order Fees for Removing Liquidity, as previously noted, the Exchange would continue to not assess a Customer a Complex Order Fee for Removing Liquidity. Today, Specialists, Market Makers, Firms, Broker-Dealers and Professionals all pay a \$0.39 per contract Complex Order Fee for Removing Liquidity. The Exchange proposes to reduce the Specialist and Market Maker fee to \$0.25 per contract and increase the Firm, Broker-Dealer and Professional fees to \$0.50 per contract. The Exchange assesses Specialists and Market Maker lower fees as compared to other market participants, other than Customers, because Specialists and Market Makers have burdensome quoting obligations⁴⁰ to the market. In this case, the Exchange is proposing to increase the fee differential in assessing the Complex Order Fee for Removing Liquidity as between Specialist and Market Makers and other non-Customer market participants from 0 to \$0.25 per contract (\$0.25 vs. \$0.50 per contract). The Exchange believes that this fee differential is equitable and not unfairly discriminatory because Specialists and Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs unlike other market participants including, but not

⁴⁰ See Rule 1014 titled “Obligations and Restrictions Applicable to Specialists and Registered Options Traders.”

limited to, PFOF and other costs associated with market making activities,⁴¹ which results in a higher average cost per execution as compared to Firms, Broker-Dealers and Professionals. The Exchange believes that the fees assessed to Specialists and Market Makers in Complex Orders remain aligned with fees assessed to Firms, Broker-Dealer and Professionals when other costs are taken into account.

The Exchange's proposal to amend the Pricing Schedule to change "Single contra-side" in Part B of Section II of the Pricing Schedule to "Simple" is reasonable, equitable and not unfairly discriminatory because it would further clarify the Pricing Schedule.

The Exchange's proposal to amend Part C of Section I of the Pricing Schedule to no longer pay rebates for Customer executions that occur as part of a Complex electronic auction, the opening process or a non-Complex auction is reasonable because the Exchange proposes to pay Customer rebates as proposed in Section A of the Pricing Schedule. Also, the Exchange has proposed a similar elimination of Customer rebates in Section I, Parts A and B of the Pricing Schedule. In addition, the Exchange's proposal to not assess any fees for transactions that occur as part of a Complex electronic auction, the opening process or a non-Complex electronic auction is reasonable because those transactions would not be subject to rebates. Today, the Exchange does not assess Customer fees on Complex electronic auctions, the opening process or non-Complex electronic auctions. The Exchange believes that it is reasonable to neither pay rebates nor

⁴¹ Specialists and Market Makers pay for certain data feeds including the SQF Port Fee. SQF Port Fees are listed in the Exchange's Pricing Schedule at Section VII. SQF is an interface that allows Specialists and Market Makers to connect and send quotes into Phlx XL and assists them in responding to auctions and providing liquidity to the market.

assess fees on these types of transactions and market participants would continue to be incentivized to transact these types of orders on the Exchange.

The Exchange believes that its proposal to no longer pay rebates for Customer executions that occur as part of a Complex electronic auction, the opening process or a non-Complex auction and to no longer assess fees for transactions that occur as part of a Complex electronic auction, the opening process or a non-Complex electronic auction is equitable and not unfairly discriminatory because the Exchange proposes to not pay rebates or assess fees during auctions and opening, as specified herein, uniformly with respect to all market participants.

The Exchange's proposal to collect Payment for Order Flow Fees on transactions in Select Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity, is reasonable because it would attract additional Customer order flow to the Exchange because of the benefit that order flow providers would obtain from the Payment for Order Flow Program.⁴²

The Exchange's proposal to assess Specialists and Market Makers the Simple Order Fee for Adding Liquidity if contra to a Customer during the opening process is reasonable because the Exchange desires to incentivize Specialists and Market Makers to transact orders during the opening process by lowering costs when the Specialist or Market Maker trades against a Customer.

The Exchange's proposal to assess Specialists and Market Makers the Simple Order Fee for Adding Liquidity if contra to a Customer during the opening process is

⁴² The PFOF Program assists Specialists and Market Maker establish PFOF arrangements with an order flow provider in exchange for that order flow provider directing some or all of its order flow to that Specialist or Market Maker.

equitable and not unfairly discriminatory because Specialists and Market Makers serve an important role on the Exchange with regard to order interaction. The Exchange believes that incentivizing Specialists and Market Makers to transact a greater number of orders at the open by offering lower pricing would benefit all market participants through increased order interaction.

The Exchange's proposal to collect Payment for Order Flow Fees on transactions in Select Symbols, except when a Specialist or Market Maker is assessed the Simple Order Fee for Removing Liquidity is equitable and not unfairly discriminatory because the Exchange today collects assesses Specialists and Market Makers Payment for Order Flow Fees on all Multiply Listed Options except Select Symbols. The Exchange believes that not assessing Specialists and Market Makers Payment for Order Flow Fees when the Simple Order Fee for Removing Liquidity is assessed is equitable and not unfairly discriminatory because the Exchange does not desire to unfairly disadvantage Specialists and Market Makers by assessing them a \$0.44 per contract Simple Order Fee for Removing Liquidity as well as a \$0.25 per contract Payment for Order Flow fee. The Exchange believes that in this instance the fee would be much higher as compared to other market participants and does not proposes to assess the fee.

The Exchange's proposal to not assess PFOF on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options is reasonable the Exchange believes that it would serve to incentivize Specialists and Market Makers to remove liquidity from the Phlx Book. The Exchange believes that the broadcast message, which alerts market participants to orders placed on the Phlx book combined with the opportunity to not be assessed PFOF in Penny Pilot Options would

serve to incentivize participants to remove liquidity. The Exchange believes that all market participants would benefit from such an incentive which would lead to greater order interaction and may further reduce fees related to routing.

The Exchange's proposal to not assess PFOF on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange would not assess any Specialist or Market Maker such a PFOF fee regardless of whether or not that Specialist or Market Maker was aware of the alert at the time of execution.

Section IV Amendments

The Exchange's proposal to amend Section IV of the Pricing Schedule at Part A to decrease the Threshold Volume from 275,000 to 100,000 contracts per day in a month is reasonable because the lower Threshold Volume should allow a greater number of market participants to obtain the requisite volume to be assessed the lower \$0.05 per contract fee. The Exchange's proposal to amend Section IV of the Pricing Schedule at Part A to decrease the Threshold Volume from 275,000 to 100,000 contracts per day in a month is equitable and not unfairly discriminatory because it would be uniformly assessed on all market participants.

In addition, the Exchange's proposal to permit Phlx members and member organizations under common ownership⁴³ to aggregate their Customer Rebate Program Threshold Volume in order to determine if they qualify for the \$0.07 or \$0.05 per contract Initiating Order fee is reasonable because the Exchange desires to provide all market participants the ability to obtain the lower Initiating Order Fee. The Exchange

⁴³ Common ownership is defined as 75 percent common ownership or control.

believes that its proposal to permit Phlx members and member organizations under common ownership to aggregate their Customer Rebate Program Threshold Volume for purposes of the Initiating Order fee is equitable and not unfairly discriminatory because the Exchange would permit all market participants the ability to aggregate for purposes of the fee even if certain members and member organizations chose to operate under separate entities. The Exchange currently permits such aggregation in the calculation of the Monthly Market Maker Cap.⁴⁴

The Exchange's proposal to amend the PIXL pricing for order executions in Select Symbols by assessing a PIXL Order the Fee for Adding Liquidity in Section I and the Responder the \$0.30 per contract fee unless the Responder is a Customer, in which case no fee is assessed, when a PIXL Order in a Select Symbol is contra to a PIXL Auction Responder is reasonable because the Exchange is proposing to only pay Rebates to Add Liquidity in Section I to Specialists and Market Makers in certain circumstances⁴⁵ and is not otherwise paying rebates except as proposed in Section A of the Pricing Schedule as part of the Customer Rebate Program. The Exchange does not desire to assess Customers fees and therefore is amending the PIXL pricing to not assess a fee if the Responder is contra to a Customer. The Exchange desires to incentivize market

⁴⁴ See Section II of the Pricing Schedule. 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.

⁴⁵ The Rebate for Adding Liquidity will be paid to a Specialist or Market Maker only when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional.

participants to send Customer order flow by offering the Customer Rebates in Section A and not assessing Customers fees in Section I of the Pricing Schedule. Customer order flow benefits all market participants by increased liquidity. In addition, the Exchange believes that the proposed amendments to Section IV would align the pricing with respect to Select Symbols to the amendments that are proposed herein in Section I, Parts A and B. The Exchange also believes that market participants would still be able to obtain rebates for PIXL orders because the Exchange proposes to pay rebates on PIXL Orders in Section I symbols that execute against non-Initiating Order interest as part of proposed Category D of the Customer Rebate Program.

The Exchange's proposal to amend the PIXL pricing for order executions in Select Symbols by assessing the Fee for Removing Liquidity not to exceed \$0.30 per contract when the PIXL Order is contra to a resting order or quote that was on the PHLX book prior to the auction and assessing the resting order or quote the Fee for Adding Liquidity in Section I is reasonable because the Exchange has amended certain of its Fees for Removing Liquidity in Section I below \$0.30 per contract and desires to assess the lower fee where applicable to market participants to further incentivize market participants to transact PIXL orders in Select Symbols. The Exchange's elimination of the Rebate to Add Liquidity with respect to PIXL Orders and the resting order or quote is reasonable because the Exchange is proposing to only pay Rebates to Add Liquidity in

Section I to Specialists and Market Makers in certain circumstances⁴⁶ and is not otherwise paying rebates except as proposed in Section A of the Pricing Schedule.⁴⁷

The Exchange's proposal to amend the PIXL Pricing by eliminating the Rebates to Add Liquidity in Select Symbols and assess the Fee for Removing Liquidity not to exceed \$0.30 per contract is equitable and not unfairly discriminatory because the Exchange would uniformly apply the pricing to all market participants transacting PIXL orders. The Exchange's elimination of the Rebates for Adding Liquidity would impact Specialists and Market Makers because they are the only market participants entitled to rebates in certain circumstances in Section I. The Exchange believes this is equitable and not unfairly discriminatory because Specialists and Market Makers also benefit from being assessed the lower Fee for Removing Liquidity in Complex Orders as proposed herein, while other market participants are assessed \$0.30 per contract. The Exchange assessed this lower fee because these market participants bear obligations not born by other market participants. The Exchange also believes that assessing the Fee for Removing Liquidity not to exceed \$0.30 per contract specifically benefits Customers because they would not be assessed a fee pursuant to this proposal with respect to Simple Orders. Incentivizing Customer order flow benefits all market participants through increased liquidity.

⁴⁶ The Rebate for Adding Liquidity will be paid to a Specialist or Market Maker only when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional.

⁴⁷ Market participants would still be able to obtain rebates for PIXL orders because the Exchange proposes to pay rebates on PIXL Orders in Section I symbols that execute against non-Initiating Order interest as part of proposed Category D of the Customer Rebate Program.

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 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 levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore 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.

The Exchange believes that the Customer Rebate Program will encourage Customer order flow to be directed to the Exchange, which will benefit all market participants. The Exchange believes that not assessing Customers fees in Section I would also encourage market participants to direct Customer orders to the Exchange. The Exchange also believes that encouraging Specialists and Market Makers to remove liquidity from the book by incentivizing them with lower fees would benefit order interaction on the Exchange to the benefit of all market participants and therefore does not create a burden on competition. To the extent that the Exchange is increasing certain fees, those fees would permit the Exchange to offer the proposed Customer Rebate Program which benefits the market. Further, the fee increases impact all non-Customer members in a similar fashion and are comparable to fees assessed at other venues for transactions in similarly situated options. With respect to the Complex Order Fee for

Removing Liquidity, the Exchange believes that the differential as between Specialists and Market Makers as compared to Firms, Broker-Dealers and Professionals must be considered in light of other fees which are applied to Specialists and Makers and are not assessed on Firms, Broker-Dealers and Professionals, such as the PFOF fee of \$0.25 per contract. When this additional fee and other fees paid by Specialists and Market Makers are taken into consideration, the Exchange does not believe that the proposed increase to the Complex Order Fee for Removing Liquidity creates a burden on these market participants. Rather, the cost to transact orders for non-Customers become more closely aligned when the total costs is transacting a Complex Order is taken into account as Specialists and Market Makers are contra to a Customer in most cases. Additionally, a \$0.25 per contract differential among non-Customers is not uncommon when competing for order flow. The Exchange notes that its floor fees for non-Customers in Multiply-Listed Options is \$0.25 per contract, except for Firms which are not assessed a fee when facilitating a Customer order pursuant to Exchange Rule 1064. The Exchange believes that other pricing amendments impact all market participants alike as proposed. The Exchange believes that the proposed rule change will continue to promote competition on the Exchange.

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.⁴⁸ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2013-01 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-2013-01. 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

⁴⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2013-01 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.⁴⁹

Kevin M. O'Neill
Deputy Secretary

⁴⁹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

* * * * *

A. Customer Rebate Program

The Average Daily Volume Threshold described below will be calculated by totaling Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with [the following: (i) electronically-delivered and executed Customer Simple Orders in Select Symbols that remove liquidity; and (ii)] electronic QCC Orders, as defined in Exchange Rule 1080(o) ("Threshold Volume"). Rebates will be paid on Threshold Volume.

Average Daily Volume Threshold	Rebate per Contract Categories			
	Category A	Category B	Category C	Category D
<u>Tier 1</u> : 0 to [4]99,999 contracts in a month	\$0.00	\$0.00	\$0.00	<u>\$0.00</u>
<u>Tier 2</u> : [5]100,000 to [9]349,999 contracts in a month	\$0.[07]10	\$0.1[0]2	\$0.[00]13	<u>\$0.05</u>
[100,000 to 274,999 contracts in a month]	[\$0.10]	[\$0.14]	[\$0.05]	
<u>Tier 3</u> : over [275]350,000 contracts in a month	\$0.1[2]5	\$0.15	\$0.[06]15	<u>\$0.07</u>

Category A: Rebate will be paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Section II. Rebate will be paid on PIXL Orders in Section II symbols that execute against non-Initiating Order interest.

Category B: Rebate will be paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options and Non-Penny Pilot Options in Section II.

Category C: Rebate will be paid to members executing electronically-delivered Customer Complex Orders in Select Symbols in Section I.

Category D: Rebate will be paid to members executing electronically-delivered Customer Simple Orders in Select Symbols in Section I. The rebate will be paid on PIXL Orders in Section I symbols that execute against non-Initiating Order interest.

Member organizations qualifying for either a Tier 2 or Tier 3 rebate are entitled to receive a credit of \$0.04 per contract toward the Routing Fee specified in Section V of the Pricing Schedule if a Customer order is routed to BX Options or the NASDAQ Options Market (NOM). A member organization qualifying for either a Tier 2 or Tier 3 rebate is entitled to receive a credit of \$0.10 per contract toward the Routing Fee specified in Section V of the Pricing Schedule if the Customer order is routed to an away market other than BX Options or NOM.

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

Select Symbols shall be defined as options overlying the following symbols: [ARNA, AA, AMD,] BAC, [CSCO, DIA,] EEM,[EFA, EWZ, F, FAS, FAZ, FXI, GDX, GE,] GLD,[INTC,] IWM, MSFT, [NOK, ORCL, PFE,] QQQ, [RIMM, SDS, SIRI, SLV,] SPY, [TBT, TLT, TZA, UNG, USO, VALE, VXX, VZ, XLE,] and XLF[, XLI, and YHOO]. The following fees in this Section I shall only apply to Select Symbols.

Part A. Simple Order

	Customer	Specialist	Market Maker	Firm	Broker- Dealer	Professional
Rebate for Adding Liquidity¹	[\$0.26] N/A	\$0.2[3]0	\$0.2[3]0	N/A	N/A	[\$0.23] N/A
Fee[s] for Adding Liquidity	[N/A] \$0.00	[N/A] \$0.10	[\$0.00] \$0.10	\$0.[0]45	\$0.[0]45	[N/A] \$0.45
Fee for Removing Liquidity	\$0.[43]00	\$0.4[5]4	\$0.4[5]4	\$0.4[5]4	\$0.4[5]4	\$0.4[5]4

¹The Rebate for Adding Liquidity will be paid to a Specialist or Market Maker only when the Specialist or Market Maker is contra to a Specialist, Market Maker, Firm, Broker-Dealer or Professional. If contra to a Customer order, the Specialist or Market Maker would be assessed the Simple Order Fee for Adding Liquidity.

Part B. Complex Order

	Customer Specialist	Market Maker	Firm	Broker-Dealer	Professional
[Rebate]Fee for Adding Liquidity	\$0.[32]00	\$0.10	\$0.10	\$0.10	\$0.10
[Rebate for Removing Liquidity]	[\$0.06]	[N/A]	[N/A]	[N/A]	[N/A]
Fee for Removing Liquidity	\$0.00	\$0.[39]25	\$0.[39]25	\$0.[39]50	\$0.[39]50

- Fees for Removing Liquidity, applicable to Specialists and Market Makers, will be decreased by \$0.05 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]Simple 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.

Part C. The following will apply to fees in Parts A and B:

- The Monthly Market Maker Cap on transaction fees that are currently applicable to Market Makers and Specialists transacting Multiply Listed options will not be applicable to electronic transactions in the Select Symbols, except for QCC Transaction Fees.
- The Monthly Firm Fee Cap will apply to floor transactions for Section I and Section II symbols, subject to the fees and rebates in Section II, and QCC electronic and floor transactions.
- Payment for Order Flow fees defined in Section II will [not] be collected on transactions in the Select Symbols, except when a Specialist or Market Maker is also assessed the Simple Order Fee for Removing Liquidity, in which case the Payment for Order Flow fees will not apply.
- The Cancellation Fee for each cancelled electronically delivered Professional AON order will continue to apply to the Select Symbols. The Cancellation Fee will not apply for each cancelled electronically delivered Customer order in Select Symbols.
- Transactions in the Select Symbols originating on the Exchange floor will be subject to the Multiply Listed Options Fees (see Multiply Listed Options Fees in Section II). However, if one side of the transaction originates on the Exchange floor and any other side of the trade was the result of an electronically submitted order or a quote, then these fees will apply to the

transactions which originated on the Exchange floor and contracts that are executed electronically on all sides of the transaction.

- A non-Complex electronic auction includes the Quote Exhaust auction and, for purposes of the these fees, the opening process. A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA").
 - Customer executions that occur as part of a Complex electronic auction will be assessed \$0.00 per contract[receive the Rebate for Adding Liquidity as set forth in Part B]. Customer executions that occur as part of a non-Complex electronic auction will be assessed \$0.00 per contract[receive the Rebate for Adding Liquidity as set forth in Part A, except when contra to another Customer order. Customers will not be assessed a Fee for Removing Liquidity for transactions that occur in either Complex electronic auctions or non-Complex electronic auctions].
 - Professional, Firm, Broker-Dealer, Specialist and Market Maker executions that occur as part of a Complex electronic auction will be assessed the Fees for Removing Liquidity in Part B. Professional, Firm, Broker-Dealer, Specialist and Market Maker executions that occur as part of a non-Complex electronic auction will be assessed the Fees for Removing Liquidity in Part A. However, during the opening auction a Specialist or Market Maker will pay the Simple Order Fee for Adding Liquidity if contra to a Customer.
- The QCC Transaction fees and rebates, defined in Section II, are applicable to this Section I.

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

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Payment For Order Flow Fees

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

- For trades resulting from either Directed or non-Directed Orders that are delivered electronically and executed on the Exchange, the above fees will be assessed on Specialists, Market Makers and Directed ROTs on those trades when the Specialist unit or Directed ROT elects to participate in the payment for order flow program.
- No payment for order flow fees will be assessed on trades that are not delivered electronically.
- No payment for order flow fees will be assessed on Professional orders.

- No payment for order flow fees will be assessed on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options, including Select Symbols.
- Payment for Order Flow Fees will be assessed on transactions resulting from Customer orders and are available to be disbursed by the Exchange according to the instructions of the Specialist units/Specialists or Directed ROTs to order flow providers who are members or member organizations, who submit, as agent, Customer orders to the Exchange or non-members or non-member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those Customer orders.
- Any excess payment for order flow funds billed but not utilized by the Specialist or Directed ROT will be carried forward unless the Directed ROT or Specialist elects to have those funds rebated to the applicable ROT, Directed ROT or Specialist on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange will calculate the amount of excess funds from the previous quarter and subsequently rebate excess funds on a pro-rata basis to the applicable ROT, Directed ROT or Specialist who paid into that pool of funds.
- Each month, the Exchange will assess an administrative fee of .45% on the total amount of the funds collected each month.

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IV. Other Transaction Fees

A. PIXL Pricing

Initiating Order \$0.07 per contract or \$0.05 per contract if Customer Rebate Program Threshold Volume defined in Section A is greater than [275]100,000 (Sections I and II) contracts per day in a month. Members and member organizations under common ownership may aggregate their Customer Rebate Program Threshold Volume for purposes of calculating the Threshold Volume for the Initiating Order fee. Common ownership is defined as 75 percent common ownership or control.

PIXL Order Executions in Section I Select Symbols:

- When the PIXL Order is contra to the Initiating Order a Customer PIXL Order will be assessed \$0.00 and all non-Customer market participant PIXL Orders will be assessed \$0.30 per contract when contra to the Initiating Order.
- When a PIXL Order is contra to a PIXL Auction Responder, the PIXL Order will [either] be [paid the Rebate for Adding Liquidity or] assessed the Fee for Adding Liquidity in Section I and the Responder will be assessed \$0.30 per contract, unless the Responder is a Customer, in which case the fee will be \$0.00 per contract.

- When the PIXL Order is contra to a resting order or quote that was on the PHLX book prior to the auction, the PIXL Order will be assessed the Fee for Removing Liquidity not to exceed \$0.30 per contract and the resting order or quote will [either] be [paid the Rebate for Adding Liquidity or] assessed the Fee for Adding Liquidity in Section I. If the resting order or quote that was on the PHLX book was entered during the Auction, the PIXL Order will [receive the Rebate for Adding Liquidity or] be assessed the Fee for Adding Liquidity in Section I and the resting order or quote will be assessed the Fee for Removing Liquidity not to exceed \$0.30 per contract.

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