

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 20	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2013 - * 06	Amendment No. (req. for Amendments *)	
Filing by NASDAQ OMX PHLX LLC. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934					
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input checked="" type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
<b>Description</b> Provide a brief description of the action (limit 250 characters, required when Initial is checked *).  Relating to a Clarification of the Pricing Schedule					
<b>Contact Information</b> Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.  First Name * Angela Last Name * Dunn Title * Associate General Counsel E-mail * angela.dunn@nasdaqomx.com Telephone * (215) 496-5692 Fax <input type="text"/>					
<b>Signature</b> 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 01/18/2013 By Edward S. Knight (Name *) Executive Vice President and General Counsel Edward S Knight,					

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

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**

Add Remove View

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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposes to clarify its Pricing Schedule by clarifying when an order or quote is adding or removing liquidity.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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

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

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

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

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

a. Purpose

The purpose of the proposed rule change is to amend Section I of the Pricing Schedule entitled “Rebates for Adding and Removing Liquidity in Select Symbols” to provide additional specificity with respect to the manner in which the Exchange assesses fees and pays rebates for adding and removing liquidity. Today, the Exchange determines whether to assess Fees for Removing Liquidity or Fees for Adding Liquidity and pay Rebates for Adding Liquidity based on the time the order or quote was received by Phlx XL.<sup>3</sup> The order or quote that arrives into the trading system first in time is considered the order or quote adding liquidity and the order or quote which trades against the order or quote that added liquidity is considered the order or quote removing liquidity.

The Exchange proposes to clarify that, with respect to Section I of the Pricing Schedule, the order that is received by the trading system first in time is considered the order adding liquidity and the order that trades against that order is considered the order removing liquidity, except with respect to orders that trigger an order exposure alert. For purposes of pricing, the order that triggered an order exposure alert is considered the order removing liquidity only during the order exposure period and the order that executed against such order is considered the order adding liquidity only during the order exposure period. For purposes of the Pricing Schedule only, the “order exposure period” is a time period established by the Exchange not to exceed one second. Accordingly,

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<sup>3</sup> PHLX XL<sup>®</sup> is the Exchange’s automated options trading system.

after the end of the order exposure period, the Exchange reverts back to considering the order received first as the order adding liquidity. This is the case today.

The Exchange seeks to clarify the manner in which it assesses its fees and pays rebates in Section I to clarify its Pricing Schedule and believes that defining the terms adding and removing liquidity in Section I of the Pricing Schedule should provide further clarity to market participants as well as transparency with respect to pricing. In the ordinary sense of the terms “adding” and “removing,” the order or quote received first is considered to be adding liquidity to the Exchange. The Exchange believes that orders subject to an order exposure alert are different. During the order exposure period, those orders are, in effect, advertising in a certain way that they cannot be executed and therefore the Exchange is inviting liquidity to trade with them. The quotes and orders that respond to that advertisement are, therefore, considered to be adding liquidity, because they are adding liquidity *to the advertised orders*. Accordingly, the Exchange believes that considering those responsive orders to be adding liquidity is logical and fair, consistent with the Exchange’s goal of attracting the other side of advertised orders. At the end of the order exposure period, the Exchange reverts back to treating the advertised orders as adding liquidity, because the Exchange no longer presumes that a responsive order is specifically responding to the advertisement and might be coincidental. In that case, the Exchange believes that it is more appropriate to restore to the advertised order the status of being the order adding liquidity.

b. Statutory Basis

The Exchange believes that its proposal to clarify its Pricing Schedule is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act<sup>5</sup> in particular. The Exchange's proposal to clarify its Pricing Schedule is intended to provide additional guidance to market participants with respect to the application of fees and rebates in Section I of the Pricing Schedule. The Exchange has added other clarifying rule text to its Pricing Schedule in the past to better address the applicability of its fees to certain transactions.<sup>6</sup> At this time, the Exchange believes that providing clarification regarding the manner in which the Exchange applies fee and rebates for adding and removing liquidity will provide additional transparency regarding the Pricing Schedule. The Exchange only recently adopted the order exposure alert message<sup>7</sup> and believes this filing will serve to clarify the distinction in applying add rebates and remove fees in Section I with respect to those types of alerts. The Exchange believes that this clarification is reasonable because it would provide market participants with clear guidance on the application of Section I fees and rebates.<sup>8</sup>

The Exchange believes that the clarification is equitable and not unfairly discriminatory because it applies to all market participants in a uniform manner. With

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

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>6</sup> See Securities Exchange Act. Release No. 62140 (May 20, 2010), 75 FR 29788 (May 27, 2010) (SR-Phlx-2010-69) (an immediately effective rule change to address the applicability of its fees to certain transactions).

<sup>7</sup> See Securities Exchange Act. Release No. 68517 (December 21, 2012), 77 FR 77134 (December 31, 2012) (SR-Phlx-2012-136).

<sup>8</sup> The order exposure alerts are only applicable to the Simple Orders in Section I.

respect to Customer pricing, the Customer is not assessed a fee when adding or removing liquidity and therefore no fee advantage or disadvantage with respect to whether an order triggering the order exposure alert is considered to be adding or removing liquidity.. With respect to Firms, Broker-Dealers and Professionals, the Fees for Adding Liquidity are \$0.45 per contract and the Fees for Removing Liquidity are \$0.44 per contract. There is no significant fee advantage or disadvantage with respect to whether an order triggering the order exposure alert is considered to be adding or removing liquidity. Finally, with respect to Specialists and Market Makers, the Exchange is seeking to encourage these market participants to trade against orders that generate an order exposure alert by paying the Rebate to Add Liquidity and assessing the lower Fee for Removing Liquidity when responding to an order exposure alert. Even though a market participant is assessed the Fee for Removing Liquidity, they are nevertheless avoiding any routing fees from other options exchanges on FIND and SRCH orders,<sup>9</sup> because, potentially as a result of the order exposure alert, the order would not be routed, which lowers the overall cost of the transaction.

The Exchange assesses similar fees and pays similar rebates, pursuant to Section I, on routable FIND and SRCH orders today and prior to the implementation of the order exposure alert, which are considered the remover of liquidity. This clarification seeks to make it clear that a DNR order<sup>10</sup> is viewed in a similar manner as FIND and SRCH orders when the order exposure alert occurs; that is, such order is treated as the remover

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<sup>9</sup> See Rule 1080(m).

<sup>10</sup> See Rule 1080(m).

of liquidity. The Exchange treats all orders executed on the Exchange similarly for purposes of the order exposure alert, regardless of the market participant.

The Exchange is filing this proposed rule change to define the terms adding and removing liquidity to provide member organizations with greater transparency in pricing Section I fees and rebates. Additionally, the Exchange does not believe that there is confusion among market participants with respect to the application of add rebates and remove fees with respect to Section I generally or the order exposure alert specifically.

The Exchange believes that the proposal is consistent with of Section 6(b)(5) in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by clarifying what fees and rebate in Section I of the Exchange's Pricing Schedule apply to certain transactions. Moreover, the Exchange believes that treating orders subject to an order exposure period as removing liquidity during that period is consistent with this statutory standard, because the responding order can logically be considered adding liquidity. Thus, this rewards, in terms of fees, the order that responds and results in an execution on the Exchange. In clarifying how the Exchange applies certain fees and rebates, the Exchange believes that adding text to the Pricing Schedule to define the terms adding and removing liquidity provides transparency to market participants.

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 is merely filing this clarification to further specify how certain fees

and rebates in Section I are applied to market participants. The Exchange believes that this clarification will provide greater transparency to market participants. The Exchange does not believe that this amendment creates intramarket competition among its members as it is applied uniformly to all members and there is no significant fee advantage or disadvantage with respect to orders triggering the order exposure alert.

The Exchange believes that clarifying the applicability of certain fees and rebates for adding and removing liquidity within the Pricing Schedule provides market participants clear guidance. As mentioned herein, the Exchange has added similar guidance on the applicability of its pricing in the past in order that market participants can clearly determine the manner in which the Exchange applies its pricing and to avoid any ambiguity.

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) of the Act<sup>11</sup> and Rule 19b-4(f)(1)<sup>12</sup> thereunder, the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO, and therefore has become effective.

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

<sup>12</sup> 17 CFR 240.19b-4(f)(1).

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

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

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

Not applicable.

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

Not applicable.

11. Exhibits

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

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-Phlx-2013-06)

Self-Regulatory Organizations: NASDAQ OMX PHLX LLC Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Clarification to the Exchange's Pricing Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 18, 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 proposes to clarify its Pricing Schedule by clarifying when an order or quote is adding or removing liquidity.

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.

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

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

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend Section I of the Pricing Schedule entitled “Rebates for Adding and Removing Liquidity in Select Symbols” to provide additional specificity with respect to the manner in which the Exchange assesses fees and pays rebates for adding and removing liquidity. Today, the Exchange determines whether to assess Fees for Removing Liquidity or Fees for Adding Liquidity and pay Rebates for Adding Liquidity based on the time the order or quote was received by Phlx XL.<sup>3</sup> The order or quote that arrives into the trading system first in time is considered the order or quote adding liquidity and the order or quote which trades against the order or quote that added liquidity is considered the order or quote removing liquidity.

The Exchange proposes to clarify that, with respect to Section I of the Pricing Schedule, the order that is received by the trading system first in time is considered the order adding liquidity and the order that trades against that order is considered the order

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removing liquidity, except with respect to orders that trigger an order exposure alert. For purposes of pricing, the order that triggered an order exposure alert is considered the order removing liquidity only during the order exposure period and the order that executed against such order is considered the order adding liquidity only during the order exposure period. For purposes of the Pricing Schedule only, the “order exposure period” is a time period established by the Exchange not to exceed one second. Accordingly, after the end of the order exposure period, the Exchange reverts back to considering the order received first as the order adding liquidity. This is the case today.

The Exchange seeks to clarify the manner in which it assesses its fees and pays rebates in Section I to clarify its Pricing Schedule and believes that defining the terms adding and removing liquidity in Section I of the Pricing Schedule should provide further clarity to market participants as well as transparency with respect to pricing. In the ordinary sense of the terms “adding” and “removing,” the order or quote received first is considered to be adding liquidity to the Exchange. The Exchange believes that orders subject to an order exposure alert are different. During the order exposure period, those orders are, in effect, advertising in a certain way that they cannot be executed and therefore the Exchange is inviting liquidity to trade with them. The quotes and orders that respond to that advertisement are, therefore, considered to be adding liquidity, because they are adding liquidity *to the advertised orders*. Accordingly, the Exchange believes that considering those responsive orders to be adding liquidity is logical and fair, consistent with the Exchange’s goal of attracting the other side of advertised orders. At the end of the order exposure period, the Exchange reverts back to treating the advertised orders as adding liquidity, because the Exchange no longer presumes that a responsive

order is specifically responding to the advertisement and might be coincidental. In that case, the Exchange believes that it is more appropriate to restore to the advertised order the status of being the order adding liquidity.

2. Statutory Basis

The Exchange believes that its proposal to clarify its Pricing Schedule is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act<sup>5</sup> in particular. The Exchange's proposal to clarify its Pricing Schedule is intended to provide additional guidance to market participants with respect to the application of fees and rebates in Section I of the Pricing Schedule. The Exchange has added other clarifying rule text to its Pricing Schedule in the past to better address the applicability of its fees to certain transactions.<sup>6</sup> At this time, the Exchange believes that providing clarification regarding the manner in which the Exchange applies fee and rebates for adding and removing liquidity will provide additional transparency regarding the Pricing Schedule. The Exchange only recently adopted the order exposure alert message<sup>7</sup> and believes this filing will serve to clarify the distinction in applying add rebates and remove fees in Section I with respect to those types of alerts. The Exchange

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

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>6</sup> See Securities Exchange Act. Release No. 62140 (May 20, 2010), 75 FR 29788 (May 27, 2010) (SR-Phlx-2010-69) (an immediately effective rule change to address the applicability of its fees to certain transactions).

<sup>7</sup> See Securities Exchange Act. Release No. 68517 (December 21, 2012), 77 FR 77134 (December 31, 2012) (SR-Phlx-2012-136).

believes that this clarification is reasonable because it would provide market participants with clear guidance on the application of Section I fees and rebates.<sup>8</sup>

The Exchange believes that the clarification is equitable and not unfairly discriminatory because it applies to all market participants in a uniform manner. With respect to Customer pricing, the Customer is not assessed a fee when adding or removing liquidity and therefore no fee advantage or disadvantage with respect to whether an order triggering the order exposure alert is considered to be adding or removing liquidity.. With respect to Firms, Broker-Dealers and Professionals, the Fees for Adding Liquidity are \$0.45 per contract and the Fees for Removing Liquidity are \$0.44 per contract. There is no significant fee advantage or disadvantage with respect to whether an order triggering the order exposure alert is considered to be adding or removing liquidity. Finally, with respect to Specialists and Market Makers, the Exchange is seeking to encourage these market participants to trade against orders that generate an order exposure alert by paying the Rebate to Add Liquidity and assessing the lower Fee for Removing Liquidity when responding to an order exposure alert. Even though a market participant is assessed the Fee for Removing Liquidity, they are nevertheless avoiding any routing fees from other options exchanges on FIND and SRCH orders,<sup>9</sup> because, potentially as a result of the order exposure alert, the order would not be routed, which lowers the overall cost of the transaction.

The Exchange assesses similar fees and pays similar rebates, pursuant to Section I, on routable FIND and SRCH orders today and prior to the implementation of the order

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<sup>8</sup> The order exposure alerts are only applicable to the Simple Orders in Section I.

<sup>9</sup> See Rule 1080(m).

exposure alert, which are considered the remover of liquidity. This clarification seeks to make it clear that a DNR order<sup>10</sup> is viewed in a similar manner as FIND and SRCH orders when the order exposure alert occurs; that is, such order is treated as the remover of liquidity. The Exchange treats all orders executed on the Exchange similarly for purposes of the order exposure alert, regardless of the market participant.

The Exchange is filing this proposed rule change to define the terms adding and removing liquidity to provide member organizations with greater transparency in pricing Section I fees and rebates. Additionally, the Exchange does not believe that there is confusion among market participants with respect to the application of add rebates and remove fees with respect to Section I generally or the order exposure alert specifically.

The Exchange believes that the proposal is consistent with of Section 6(b)(5) in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by clarifying what fees and rebate in Section I of the Exchange's Pricing Schedule apply to certain transactions. Moreover, the Exchange believes that treating orders subject to an order exposure period as removing liquidity during that period is consistent with this statutory standard, because the responding order can logically be considered adding liquidity. Thus, this rewards, in terms of fees, the order that responds and results in an execution on the Exchange. In clarifying how the Exchange applies certain fees and rebates, the Exchange believes that adding text to the Pricing Schedule to define the terms adding and removing liquidity provides transparency to market participants.

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<sup>10</sup> See Rule 1080(m).

### 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 is merely filing this clarification to further specify how certain fees and rebates in Section I are applied to market participants. The Exchange believes that this clarification will provide greater transparency to market participants. The Exchange does not believe that this amendment creates intramarket competition among its members as it is applied uniformly to all members and there is no significant fee advantage or disadvantage with respect to orders triggering the order exposure alert.

The Exchange believes that clarifying the applicability of certain fees and rebates for adding and removing liquidity within the Pricing Schedule provides market participants clear guidance. As mentioned herein, the Exchange has added similar guidance on the applicability of its pricing in the past in order that market participants can clearly determine the manner in which the Exchange applies its pricing and to avoid any ambiguity.

### 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

Pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(1)<sup>12</sup> thereunder,

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

<sup>12</sup> 17 CFR 240.19b-4(f)(1).

the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration , or enforcement of an existing rule of the SRO, and therefore has become effective.

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

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2013-06 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-2013-06. This file number should be included on the subject line if e-mail is used. To help the Commission process

and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

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

All submissions should refer to File Number SR-Phlx-2013-06 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

**Exhibit 5**

*New text is underlined.*

**NASDAQ OMX PHLX LLC PRICING SCHEDULE**

\* \* \* \* \*

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

With respect to Section I of this Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity, except with respect to orders that trigger an order exposure alert. An order that triggered an order exposure alert shall be considered an order removing liquidity during the order exposure period and an order that executed against such order shall be considered an order adding liquidity during the order exposure period. For orders triggering an order exposure alert, the “order exposure period” shall be defined as a time period established by the Exchange not to exceed one second.

**Select Symbols** BAC, EEM, GLD, IWM, MSFT, QQQ, SPY, and XLF. The following fees in this Section I shall only apply to Select Symbols.

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