

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
 Provide a brief description of the action (limit 250 characters, required when Initial is checked *).
 Routing Fees

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 02/12/2013 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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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 Section V of the Pricing Schedule entitled “Routing Fees.”

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of this filing is to amend Routing Fees in Section V of the Pricing Schedule in order to recoup costs applicable to the C2 Options Exchange, Inc. ("C2") that the Exchange incurs for routing and executing orders in equity options. Today, the Exchange calculates Routing Fees by assessing certain Exchange costs related to routing orders to away markets plus the away market's transaction fee. The Exchange assesses a \$0.05 per contract fixed Routing Fee when routing orders to the NASDAQ Options Market LLC ("NOM") and NASDAQ OMX BX, Inc. ("BX Options") and a \$0.11 per contract fixed Routing Fee to all other options exchanges in addition to the actual transaction fee or rebate paid by the away market.³

The fixed Routing Fee is based on costs that are incurred by the Exchange when routing to an away market in addition to the away market's transaction fee. For example, the Exchange incurs a fee when it utilizes Nasdaq Options Services LLC ("NOS"), a member of the Exchange and the Exchange's exclusive order router,⁴ to route orders in

³ Today, the transaction fee assessed by the Exchange is based on the away market's actual transaction fee or rebate for a particular market participant at the time that the order was entered into the Exchange's trading system. This transaction fee is calculated on an order-by-order basis, since different away markets charge different amounts. In the event that there is no transaction fee or rebate assessed by the away market, the only fee assessed is the fixed Routing Fee. With respect to the rebate, the Exchange pays a market participant the rebate offered by an away market where there is such a rebate. Any rebate available is netted against a fee assessed by the Exchange. The Exchange is not proposing to amend its calculation of the away market's transaction fee as described herein.

⁴ In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC ("NOS"), a member of the Exchange, as the Exchange's exclusive order router. See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750

options listed and open for trading on the PHLX XL system to destination markets. Each time NOS routes to away markets NOS incurs a clearing-related cost⁵ and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange also incurs administrative and technical costs associated with operating NOS, membership fees at away markets, Options Regulatory Fees (“ORFs”) and technical costs associated with routing options.

C2 recently filed a rule change to amend its transaction fees and rebates for simple,⁶ non-complex orders, in equity options classes which became operative on February 1, 2013.⁷ C2 assesses its transaction fees based on a formula wherein fees are calculated on a per-contract basis.⁸ C2 pays rebates based on a formula wherein rebates

(June 3, 2009) (SR-Phlx-2009-32). NOS is utilized by the Exchange’s fully automated options trading system, PHLX XL.[®] “PHLX XL” is the Exchange’s automated options trading system.

⁵ The Options Clearing Corporation (“OCC”) assesses a clearing fee of \$0.01 per contract side. See Securities Exchange Act Release No. 68025 (October 10, 2012), 77 FR 63398 (October 16, 2012) (SR-OCC-2012-18).

⁶ C2 defines simple orders to exclude ETFs and indexes.

⁷ See Securities Exchange Act Release No. 68792 (January 31, 2013), 78 FR 8621 (February 6, 2013) (SR-C2-2013-004).

⁸ C2 utilizes the following formula to calculate its transaction fees: C2 BBO Market Width at time of execution) x (Market Participant Rate) x 50. The C2 BBO Market Width is the difference between the quoted best offer and best bid in each class on C2 (the displayed C2 ask price minus the displayed C2 bid price). The Market Participant Rates are different rates for different types of market participants, as follows: Market Participant Rate; C2 Market-Maker 30%; Public Customer (Maker) 40%; all other origins 50%. See C2’s Fees Schedule.

are calculated on a per-contract basis.⁹ Because of this recent rule change, the Exchange proposes to amend C2 Routing Fees to provide transparency to its market participants.

The Exchange proposes to amend its non-Customer C2 Routing Fees to assess the fixed cost of \$0.11 per contract plus a flat rate of \$0.85 per contract, except with respect to Customers.¹⁰ With respect to Customers, the Exchange proposes not to pass the rebate offered by C2, as is the case today for Routing to C2 and other away markets. The Exchange proposes to not assess Customers a Routing Fee when routing orders to C2. This is similar to the manner in which the BATS Exchange, Inc. (“BATS”) prices Customer orders routed to C2.¹¹ The Exchange proposes to specifically note the amended rates on its Pricing Schedule in order to simplify C2 Routing Fees.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

b. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Section

⁹ C2 utilizes the following formula to compute rebates for simple, non-complex Public Customer orders in all equity options classes that remove liquidity (i.e. takers): Rebate = (C2 BBO Market Width at time of execution) x (Order Size Multiplier) x 50. The order size multiplier is as follows: 1-10 contracts will be 36%; 11-99 contracts will be 30%; 100-250 contracts will be 20% and 251 plus contracts is 0%. The maximum rebate is capped at \$0.75 per contract. See C2’s Fees Schedule.

¹⁰ Recent pricing changes by C2 will result in a maximum fee of \$0.85 per contract for non-Customer orders executed at C2 and rebates or free executions for Customer orders executed at C2.

¹¹ See SR-BATS-2013-012 (not yet published).

¹² 15 U.S.C. 78f(b).

6(b)(4) of the Act,¹³ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that its proposal to amend non-Customer C2 Routing Fees from actual transaction charges to a flat rate, in addition to its fixed cost, is reasonable because the current C2 Routing Fees are not transparent. The Exchange believes that assessing a flat rate in addition to the fixed cost assessed by the Exchange will provide market participants certainty with respect to C2 Routing Fees. Further, 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, membership fees at away markets, ORFs and technical costs associated with routing options. The Exchange believes that the proposed non-Customer C2 Routing Fees will enable the Exchange to recover the costs it incurs to route orders to C2 in addition to the flat fee to recoup transaction costs.

The Exchange believes that its proposal to amend the non-Customer C2 Routing Fees from actual transaction charges to a flat rate, in addition to its fixed cost, is equitable and not unfairly discriminatory because the Exchange would uniformly assess the same C2 Routing Fees to all non-Customer market participants. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or a slight loss for orders routed to and executed at C2. The Exchange believes that its proposed Routing Fees for routing non-Customer orders to C2 are reasonable because they are an approximation of the maximum fees the Exchange will be charged for such

¹³ 15 U.S.C. 78f(b)(4).

executions, including costs. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to C2.

The Exchange believes that its proposal to not pay a rebate to Customers and assess no Customer Routing Fee is reasonable, equitable and not unfairly discriminatory. The Exchange believes that the pricing structure is reasonable because, although not an approximation of the cost of routing to C2, Customer orders will still receive executions free of charge, whereas all other non-Customer routed orders routed to C2 would be assessed a Routing Fee. The Exchange believes that the proposed pricing for Customer orders is equitable and not unfairly discriminatory because it would apply uniformly to all Customer transactions. Members desiring the rebate offered by C2 can route orders directly in order to take advantage of the rebate. Market participants may submit orders to the Exchange as ineligible for routing or “DNR” to avoid Routing Fees.

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess a fixed cost of \$0.05 per contract to route orders to NASDAQ OMX away markets (BX Options and NOM) because the cost, in terms of actual cash outlays, to the Exchange to route to those markets is lower. For example, costs related to routing to BX Options and NOM are lower as compared to other away markets because NOS is utilized by all three exchanges to route orders.¹⁴ NOS and the three NASDAQ OMX options markets have a common data center and staff that are responsible for the day-to-day operations of NOS. Because the three exchanges are in a common data center, Routing Fees are reduced because costly expenses related to, for example, telecommunication lines to obtain connectivity are avoided when routing orders in this instance. The costs

¹⁴ See Chapter VI, Section 11 of the BX Options and NOM Rules.

related to connectivity to route orders to other NASDAQ OMX exchanges are de minimis. When routing orders to non-NASDAQ OMX exchanges, the Exchange incurs costly connectivity charges related to telecommunication lines and other related costs when routing orders. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to pass along savings realized by leveraging NASDAQ OMX's infrastructure and scale to market participants when those orders are routed to BX Options and NOM. It is important to note with respect to routing to an away market that orders are routed based on price first. PHLX XL will route orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) ("NBBO") price.¹⁵

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the rule change would allow the Exchange to recoup its costs when routing orders designated as available for routing by the market participant to C2. Members and member organizations may choose to mark the order as ineligible for routing to avoid incurring these fees.¹⁶ Today, other options exchanges also assess

¹⁵ See Rule 1080(m). The Phlx XL II system will contemporaneously route an order marked as an Intermarket Sweep Order ("ISO") to each away market disseminating prices better than the Exchange's price, for the lesser of: (a) the disseminated size of such away markets, or (b) the order size and, if order size remains after such routing, trade at the Exchange's disseminated bid or offer up to its disseminated size. If contracts still remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the Phlx XL II system will not route the order to the locking or crossing market center, with some exceptions noted in Rule 1080(m).

¹⁶ Id.

similar fees to recoup costs incurred by the Exchange to route orders to away markets. PHLX XL routes orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) ("NBBO") price and based on price first.¹⁷

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

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁸ 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

¹⁷ See *supra* note 15.

¹⁸ 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-2013-17)

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend Routing Fees to C2

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 February 12, 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 amend Section V of the Pricing Schedule entitled “Routing Fees.”

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The purpose of this filing is to amend Routing Fees in Section V of the Pricing Schedule in order to recoup costs applicable to the C2 Options Exchange, Inc. ("C2") that the Exchange incurs for routing and executing orders in equity options. Today, the Exchange calculates Routing Fees by assessing certain Exchange costs related to routing orders to away markets plus the away market's transaction fee. The Exchange assesses a \$0.05 per contract fixed Routing Fee when routing orders to the NASDAQ Options Market LLC ("NOM") and NASDAQ OMX BX, Inc. ("BX Options") and a \$0.11 per contract fixed Routing Fee to all other options exchanges in addition to the actual transaction fee or rebate paid by the away market.³

³ Today, the transaction fee assessed by the Exchange is based on the away market's actual transaction fee or rebate for a particular market participant at the time that the order was entered into the Exchange's trading system. This transaction fee is calculated on an order-by-order basis, since different away markets charge different amounts. In the event that there is no transaction fee or rebate assessed by the away market, the only fee assessed is the fixed Routing Fee. With respect to the rebate, the Exchange pays a market participant the rebate offered by an away market where there is such a rebate. Any rebate available is netted against a fee assessed by the Exchange. The Exchange is not

The fixed Routing Fee is based on costs that are incurred by the Exchange when routing to an away market in addition to the away market's transaction fee. For example, the Exchange incurs a fee when it utilizes Nasdaq Options Services LLC ("NOS"), a member of the Exchange and the Exchange's exclusive order router,⁴ to route orders in options listed and open for trading on the PHLX XL system to destination markets. Each time NOS routes to away markets NOS incurs a clearing-related cost⁵ and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange also incurs administrative and technical costs associated with operating NOS, membership fees at away markets, Options Regulatory Fees ("ORFs") and technical costs associated with routing options.

C2 recently filed a rule change to amend its transaction fees and rebates for simple,⁶ non-complex orders, in equity options classes which became operative on February 1, 2013.⁷ C2 assesses its transaction fees based on a formula wherein fees are

proposing to amend its calculation of the away market's transaction fee as described herein.

⁴ In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC ("NOS"), a member of the Exchange, as the Exchange's exclusive order router. See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). NOS is utilized by the Exchange's fully automated options trading system, PHLX XL.[®] "PHLX XL" is the Exchange's automated options trading system.

⁵ The Options Clearing Corporation ("OCC") assesses a clearing fee of \$0.01 per contract side. See Securities Exchange Act Release No. 68025 (October 10, 2012), 77 FR 63398 (October 16, 2012) (SR-OCC-2012-18).

⁶ C2 defines simple orders to exclude ETFs and indexes.

⁷ See Securities Exchange Act Release No. 68792 (January 31, 2013), 78 FR 8621 (February 6, 2013) (SR-C2-2013-004).

calculated on a per-contract basis.⁸ C2 pays rebates based on a formula wherein rebates are calculated on a per-contract basis.⁹ Because of this recent rule change, the Exchange proposes to amend C2 Routing Fees to provide transparency to its market participants.

The Exchange proposes to amend its non-Customer C2 Routing Fees to assess the fixed cost of \$0.11 per contract plus a flat rate of \$0.85 per contract, except with respect to Customers.¹⁰ With respect to Customers, the Exchange proposes not to pass the rebate offered by C2, as is the case today for Routing to C2 and other away markets. The Exchange proposes to not assess Customers a Routing Fee when routing orders to C2. This is similar to the manner in which the BATS Exchange, Inc. (“BATS”) prices Customer orders routed to C2.¹¹ The Exchange proposes to specifically note the amended rates on its Pricing Schedule in order to simplify C2 Routing Fees.

⁸ C2 utilizes the following formula to calculate its transaction fees: C2 BBO Market Width at time of execution) x (Market Participant Rate) x 50. The C2 BBO Market Width is the difference between the quoted best offer and best bid in each class on C2 (the displayed C2 ask price minus the displayed C2 bid price). The Market Participant Rates are different rates for different types of market participants, as follows: Market Participant Rate; C2 Market-Maker 30%; Public Customer (Maker) 40%; all other origins 50%. See C2’s Fees Schedule.

⁹ C2 utilizes the following formula to compute rebates for simple, non-complex Public Customer orders in all equity options classes that remove liquidity (i.e. takers): Rebate = (C2 BBO Market Width at time of execution) x (Order Size Multiplier) x 50. The order size multiplier is as follows: 1-10 contracts will be 36%; 11-99 contracts will be 30%; 100-250 contracts will be 20% and 251 plus contracts is 0%. The maximum rebate is capped at \$0.75 per contract. See C2’s Fees Schedule.

¹⁰ Recent pricing changes by C2 will result in a maximum fee of \$0.85 per contract for non-Customer orders executed at C2 and rebates or free executions for Customer orders executed at C2.

¹¹ See SR-BATS-2013-012 (not yet published).

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Section 6(b)(4) of the Act,¹³ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that its proposal to amend non-Customer C2 Routing Fees from actual transaction charges to a flat rate, in addition to its fixed cost, is reasonable because the current C2 Routing Fees are not transparent. The Exchange believes that assessing a flat rate in addition to the fixed cost assessed by the Exchange will provide market participants certainty with respect to C2 Routing Fees. Further, 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, membership fees at away markets, ORFs and technical costs associated with routing options. The Exchange believes that the proposed non-Customer C2 Routing Fees will enable the Exchange to recover the costs it incurs to route orders to C2 in addition to the flat fee to recoup transaction costs.

The Exchange believes that its proposal to amend the non-Customer C2 Routing Fees from actual transaction charges to a flat rate, in addition to its fixed cost, is equitable

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

and not unfairly discriminatory because the Exchange would uniformly assess the same C2 Routing Fees to all non-Customer market participants. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or a slight loss for orders routed to and executed at C2. The Exchange believes that its proposed Routing Fees for routing non-Customer orders to C2 are reasonable because they are an approximation of the maximum fees the Exchange will be charged for such executions, including costs. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to C2.

The Exchange believes that its proposal to not pay a rebate to Customers and assess no Customer Routing Fee is reasonable, equitable and not unfairly discriminatory. The Exchange believes that the pricing structure is reasonable because, although not an approximation of the cost of routing to C2, Customer orders will still receive executions free of charge, whereas all other non-Customer routed orders routed to C2 would be assessed a Routing Fee. The Exchange believes that the proposed pricing for Customer orders is equitable and not unfairly discriminatory because it would apply uniformly to all Customer transactions. Members desiring the rebate offered by C2 can route orders directly in order to take advantage of the rebate. Market participants may submit orders to the Exchange as ineligible for routing or “DNR” to avoid Routing Fees.

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess a fixed cost of \$0.05 per contract to route orders to NASDAQ OMX away markets (BX Options and NOM) because the cost, in terms of actual cash outlays, to the Exchange to route to those markets is lower. For example, costs related to routing to BX Options and NOM are lower as compared to other away markets because NOS is utilized

by all three exchanges to route orders.¹⁴ NOS and the three NASDAQ OMX options markets have a common data center and staff that are responsible for the day-to-day operations of NOS. Because the three exchanges are in a common data center, Routing Fees are reduced because costly expenses related to, for example, telecommunication lines to obtain connectivity are avoided when routing orders in this instance. The costs related to connectivity to route orders to other NASDAQ OMX exchanges are de minimis. When routing orders to non-NASDAQ OMX exchanges, the Exchange incurs costly connectivity charges related to telecommunication lines and other related costs when routing orders. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to pass along savings realized by leveraging NASDAQ OMX's infrastructure and scale to market participants when those orders are routed to BX Options and NOM. It is important to note with respect to routing to an away market that orders are routed based on price first. PHLX XL will route orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) ("NBBO") price.¹⁵

¹⁴ See Chapter VI, Section 11 of the BX Options and NOM Rules.

¹⁵ See Rule 1080(m). The Phlx XL II system will contemporaneously route an order marked as an Intermarket Sweep Order ("ISO") to each away market disseminating prices better than the Exchange's price, for the lesser of: (a) the disseminated size of such away markets, or (b) the order size and, if order size remains after such routing, trade at the Exchange's disseminated bid or offer up to its disseminated size. If contracts still remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the Phlx XL II system will not route the order to the locking or crossing market center, with some exceptions noted in 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 believes that the rule change would allow the Exchange to recoup its costs when routing orders designated as available for routing by the market participant to C2. Members and member organizations may choose to mark the order as ineligible for routing to avoid incurring these fees.¹⁶ Today, other options exchanges also assess similar fees to recoup costs incurred by the Exchange to route orders to away markets. PHLX XL routes orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) ("NBBO") price and based on price first.¹⁷

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

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

No written comments were either solicited or received.

¹⁶ Id.

¹⁷ See supra note 15.

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.¹⁸ 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-2013-17 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.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-Phlx-2013-17. 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-2013-17 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.¹⁹

Kevin M. O'Neill
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC¹ PRICING SCHEDULE

* * * * *

V. Routing Fees

- Routing Fees to BX Options and NOM: \$0.05 per contract fee in addition to the actual transaction fee assessed or rebate paid by these exchanges.
- Routing Fees to all other options exchanges: \$0.11 per contract fee in addition to the actual transaction fee assessed or rebate paid by the away market.*

* Non-Customer simple, non-complex orders in equity options (single stock) that are routed to C2 will be assessed: \$0.11 per contract plus \$0.85 per contract. Customer simple, non-complex orders in equity options (single stock) that are routed to C2 will be assessed \$0.00.

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