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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2013 - * 47

Amendment No. (req. for Amendments *)

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) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☑ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) ☐ Section 806(e)(2) ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed changes to its schedule of fees and rebates for execution of quotes and orders on NASDAQ OMX PSX

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 * John Last Name * Yetter

Title * Vice President

E-mail * john.yetter@nasdaqomx.com

Telephone * (301) 978-8497 Fax (301) 978-8472

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.

Date 05/01/2013

By Edward S. Knight

(Name *)

(Title *)

Executive Vice President and General Counsel

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.

Edward S Knight,

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	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 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, 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 Add Remove View 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 Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)[1] and Rule 19b-4 thereunder,[2] NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) proposed changes to its schedule of fees and rebates for execution of quotes and orders on NASDAQ OMX PSX (“PSX”).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of Phlx on March 7, 2013. No other action by Phlx is necessary for the filing of the rule change. Phlx proposes to implement the proposed rule change on May 1, 2013.

Questions regarding this rule filing may be directed to John M. Yetter, Vice President and Deputy General Counsel, The NASDAQ OMX Group, (301) 978-8497.

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

a. Purpose

The Commission recently approved modifications to the rules governing the operation of Phlx’s PSX trading platform in order to replace its price/size/pro rata

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

allocation model with a price/time model, and to permit member organizations to register as market makers in securities traded on PSX.[3] Phlx is now proposing to modify its schedule of fees and rebates for transactions occurring on PSX. The primary focus of the price changes is on the establishment of fees and rebates for member organizations that are designated as Lead Market Makers ("LMM") in particular securities. Accordingly, the rule change also describes the process by which the LMM for a particular security will be designated (i.e., the process for determining which member organizations will benefit from the pricing incentives offered herein). In addition, the change establishes fees and rebates with respect to a class of member organizations designated as "PSX Supplemental Liquidity Providers" (or "XLPs") and makes other changes to the schedule of fees and rebates.

Currently, the Exchange charges the following fees for execution of orders that access liquidity on PSX: a volume-based discounted fee of $0.0028 per share executed for an order entered through a market participant identifier ("MPID") through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume[4] during the month; $0.0028 per share executed for an order that is designated as eligible for routing, and $0.0030 per share executed for other orders. The Exchange is proposing to reduce significantly the criterion for the volume-based discounted fee, from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares of liquidity provided. Otherwise, the Exchange's fees for

3 Securities Exchange Act Release No. 69452 (April 25, 2013), 78 FR 25512 (May 1, 2013) (SR-Phlx-2013-24).

4 "Consolidated Volume" is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities.

accessing liquidity will remain unchanged for securities listed on the NASDAQ Stock Market ("NASDAQ") or the New York Stock Exchange ("NYSE"). For securities listed on exchanges other than NASDAQ or NYSE, the Exchange proposes to make the discounted fee applicable to routed orders and orders entered through an MPID qualifying for the volume-based discount \$0.0025 per share executed rather than \$0.0028 per share executed.

With respect to orders that provide liquidity, the Exchange currently provides a rebate of \$0.0010 per share executed for non-displayed orders. The Exchange proposes to modify this rebate such that \$0.0010 per share executed would be paid with respect to midpoint pegged or midpoint peg post-only orders ("midpoint orders"), while \$0.0005 per share executed would be paid with respect to other forms of non-displayed orders. For displayed orders that provide liquidity, the Exchange currently provides a rebate of \$0.0028 per share executed for orders entered through an MPID through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume; \$0.0028 per share executed for orders entered through a PSX MPID through which the member organization provides shares of liquidity that represent more than 0.05% of Consolidated Volume, provided that the member organization and any affiliated member organizations also have an average daily volume during the month of 1,000 or more electronically delivered and executed customer contracts that add liquidity on the Exchange's Options Market; and \$0.0026 per share executed for other orders.

The Exchange proposes to lower the basic rebate for orders to which no other pricing applies from \$0.0026 to \$0.0020 per share executed. In addition, the Exchange proposes to reduce the requirement for an enhanced rebate based on volume of liquidity provision from 0.10% of Consolidated Volume to an average daily volume of 100,000 or more shares of liquidity provided, while also reducing the associated rebate from $0.0028 per share executed to $0.0026 per share executed. The Exchange is also proposing to eliminate the rebate tier that requires participation in the Exchange's Options Market.

In addition to these changes, the Exchange is proposing to introduce enhanced rebates payable to member organizations that qualify as LMMs or XLPs. The overall purpose of these changes is to use financial incentives to encourage member organizations to become LMMs or XLPs on PSX and adhere to rigorous standards of market quality. In doing so, the Exchange hopes to increase the attractiveness of PSX as a trading venue and benefit all of its market participants by increasing the extent to which liquidity is available on PSX at or near the national best bid or best offer ("NBBO").

An NMS stock that has been selected by the Exchange as a security for which it wishes to designate a Lead Market Maker will be known as a "Qualified Security." Initially, the Exchange expects that Qualified Securities will be limited to trust-issued receipts, portfolio depository receipts, managed fund shares, and other forms of exchange-traded products ("ETPs"). Phlx has the discretion, however, to designate any NMS stock eligible for trading on PSX as a Qualified Security for which an LMM may be designated. The Exchange will select Qualified Securities based on factors that include, but may not be limited to, historical trading patterns and the interest expressed by member organizations in making a market in particular securities. Depending on its trading volume, a Qualified Security may be categorized as an "LMM Tier 1 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 50 million shares per day); an "LMM

Tier 2 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 5 million but less than 50 million shares per day); an "LMM Tier 3 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 1 million but less than 5 million shares per day); or an "LMM Tier 4 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of less than 1 million shares per day).

For liquidity-providing displayed quotes/orders entered by a member organization in a Qualified Security for which it has been designated as the Lead Market Maker, the Exchange proposes to pay the following rebates: $0.0032 per share executed for an LMM Tier 1 Security, $0.0038 per share executed for an LMM Tier 2 Security, $0.0042 per share executed for an LMM Tier 3 Security, and $0.0048 per share executed for an LMM Tier 4 Security.[5]

In order to qualify for the foregoing pricing for a given Qualified Security, an LMM must, through the MPID in which is registered as a PSX Market Maker, adhere to the following performance standards with respect to that Qualified Security:

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5 The Exchange notes that these rebates are being added to the PSX fee schedule only with respect to transactions in securities listed on exchanges other than NYSE. This is the case because at this time, the Exchange expects to designate LMMs only for ETPs, and NYSE does not list a significant number of ETPs at this time. Thus, if the Exchange proposed to designate an LMM for a NYSE-listed security, it would amend the fee schedule at that time to add the applicable pricing.

- The LMM must at all times during regular market hours[6] maintain a displayed quote/order on each side of the market that is within at least 5% of the NBBO and that has a size of at least 500 shares;

- The LMM must maintain a displayed bid quotation and/or displayed offer quotation of at least 100 shares at the national best bid and/or the national best offer at least 25% of the time during regular market hours.

- For a period of six months following initial designation as an LMM for a "Group" of Qualified Securities,[7] the LMM must adhere to such additional commitments with respect to size and/or percentage time at the national best bid and national best offer as to which the LMM agreed when it was selected as an LMM, measured as an average across all Qualified Securities in the Group. The selection process, and the process for an LMM to make additional market quality commitments, is discussed below.

In addition, an LMM will not qualify for the pricing for LMMs for any Qualified Security unless the LMM, through the MPID in which it is registered as a PSX Market Maker (i) provides an average daily volume of 5 million or more shares of liquidity in all securities during the month and (ii) adheres to the foregoing performance standards with respect to at least 90% of the Qualified Securities for which it is the LMM. Any period of time for which an LMM has received an excused withdrawal under Rule 3219 will not be considered in determining an LMM's compliance with performance requirements.[8]

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[6] 9:30 a.m. through 4:00 p.m., Eastern Time, or such shorter period as may be designated by the Exchange on a day when PSX closes early (e.g., the day after Thanksgiving).

[7] A "Group" means one or more Qualified Securities designated from time to time by the Exchange for purposes of being assigned to an LMM. As discussed below, an LMM may be assigned to a Group of Qualified Securities through a competitive bidding process.

[8] PSX Rule 3219 provides that a member organization may be temporarily excused from market making obligations based a range of factors, such as equipment or connectivity problems, illness, vacation, non-voluntary suspension of a member organization's clearing arrangement, or advice of legal counsel.

In order to designate an LMM for a particular Qualified Security, the Exchange will engage in the following process:

(1) Qualified Securities will be assigned to a "Group," defined as one or more Qualified Securities designated from time to time by the Exchange for purposes of being assigned to an LMM. As with the determination that a particular security will be a Qualified Security, the assignment of Qualified Securities to a Group will be based on factors that include, but may not be limited to, historical trading patterns and the interest expressed by member organizations in making a market in particular securities.

(2) Upon the selection of a Group by the Exchange, member organizations that are registered market makers may submit a bid, within the time frame specified by the Exchange, to become the LMM for all of the Qualified Securities in such Group. Each bidder must agree to adhere to the minimum performance standards described above, and may, in addition, offer to adhere to heightened standards as follows:

- Percentage of time at which the LMM's bid quotation and/or offer quotation is at the national best bid and/or national best offer during regular market hours, in increments of 5% of the trading day above the base percentage of 25% of the trading day; and

- Size of bid quotation at the national best bid and offer quotation at the national best offer, in increments of 100 shares on each side above the base size of 100 shares on each side.

The LMM for a group of Qualified Securities will be designated on the basis of submitted bids, as follows:

- The bidder with the highest commitment to percentage of time at the national best bid and national best offer will be designated as the LMM. In the event of a tie, the bidder with the highest commitment to size at the national best bid and national best offer will be designated as the LMM. In the event of a tie with respect to both criteria, the bidder with the highest total volume on PSX during the prior twelve calendar months will be designated.

The designation will be effective on the first day of the month following the completion of the bidding process. If the Exchange is unable to allocate one or more Qualified Securities based on a bidding process (i.e., because no member organization expresses an interest in becoming the LMM), the Exchange will assign the Qualified Security to the first registered market maker that expresses in interest in becoming the LMM. To allow member organizations to become aware of opportunities to become an LMM, the Exchange will publish on its website a list of Qualified Securities that have not been assigned an LMM.

After serving as an LMM for a particular group of Qualified Securities for a period of six months, an LMM may withdraw from serving as LMM for any or all such Qualified Securities, by providing the Exchange three months' notice (or such shorter notice period as to which the Exchange may consent). In the event of an LMM withdrawal, the affected Qualified Securities will be reassigned through the auction process described above.

In the event an LMM fails to meet the performance standards detailed above with respect to a particular Qualified Security during a particular month, the Exchange will notify the LMM of such deficiency.[9] If the LMM fails to meet these performance standards with respect to the same Qualified Security during a second consecutive month, the Exchange may reassign such Qualified Security to another LMM by conducting an auction in the manner described above.[10]

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9 In addition, as noted above, the LMM will not receive LMM rebates with respect to that Qualified Security.

10 Thus, although an LMM is required to meet market quality requirements with respect to only 90% of the Qualified Securities to which it is assigned in order to

If a registered market maker for a Qualified Security that is not the LMM for such Qualified Security wishes to become the LMM for such Qualified Security, it may initiate a challenge by notifying the Exchange of its intention to initiate a challenge.[11] If this occurs, the incumbent LMM will be notified of the challenge, and the performance of the incumbent LMM and the challenger will be evaluated over the course of the following two calendar months with respect to both percentage of time and size at the NBBO. More than one member organization may challenge an LMM at one time.

If, during the two-month period of the challenge, a challenger (i) satisfies the requirements for LMM pricing (i.e., it has an average daily volume of 5 million or more shares of liquidity in all securities during the month and satisfies the performance standards for the Qualified Security, as described above) and (ii) exceeds the incumbent LMM's time at the NBBO by a daily average of at least 5%, or equals or exceeds the LMM's time at the NBBO by a daily average of less than 5% but exceeds the LMM's size at the NBBO by a daily average of at least 100 shares, the Qualified Security will be reassigned to the challenger on the first day of the following month. If there is more than one challenger and both satisfy the foregoing requirements, the Qualified Security will be assigned to the challenger with the highest time at the NBBO (or the highest size at the NBBO in the event of a tie). Moreover, during the challenge months, the challenger will be eligible to receive credits with respect to providing liquidity through displayed orders

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receive the rebates associated with being a QMM, it may lose its LMM designation with respect to Qualified Securities for which it does not meet these requirements.

11 However, no challenge may be initiated for the first six months after a Qualified Security has been assigned to a particular LMM.

in the Qualified Security that is the subject of the challenge at the rates paid to an LMM, provided that it satisfied all volume requirements and performance standards.

If a challenger does not exceed the incumbent LMM with respect to average time at the NBBO and average size at the NBBO over the course of the two challenge months, the Qualified Security will be retained by the incumbent LMM. If the challenger did, however, exceed the average time at the NBBO and average size at the NBBO of the incumbent LMM during the month immediately prior to the challenge months, and the challenger satisfied all volume requirements and performance standards associated with being an LMM for the Qualified Security, the challenger will receive, for the month of the challenge, the following credits with respect to providing liquidity through displayed orders in the Qualified Security that is the subject of the challenge: $0.0031 per share executed with respect to an LMM Tier 1 Security; $0.0034 per share executed with respect to an LMM Tier 2 Security; $0.0036 per share executed with respect to an LMM Tier 3 Security; and $0.0039 per share executed with respect to an LMM Tier 4 Security.

If a challenger does not exceed the incumbent LMM with respect to average time at the NBBO and average size at the NBBO over the course of the two challenge months, and did not exceed the average time at the NBBO and average size at the NBBO of the incumbent LMM during the month immediately prior to the challenge months, the Qualified Security will be retained by the incumbent LMM, the challenger will receive the credits otherwise applicable to its provision of liquidity, and the challenger may not attempt to challenge with respect to that Qualified Security again for a period of six months.

Finally, to provide further support to the trading of securities on PSX, the Exchange is introducing the PSX Supplemental Liquidity Provider Program. A member organization that provides an average daily volume of at least 2 million shares of liquidity during a month will receive a credit of $0.0028 per share executed with respect to displayed orders entered through a particular MPID in any security for which the MPID displays 100 shares or more at the national best bid and/or national best offer at least 25% of the time during regular market hours on average over the course of the month. If the member organization satisfies this requirement for 500 or more securities during the month, it will receive the credit of $0.0028 per share executed for all transactions during the month in which it provides displayed liquidity.

b. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The primary purpose of the pricing incentives proposed in this rule change is to use higher liquidity provider rebates to encourage market participants to make markets in Qualified Securities and support their trading by adhering to performance standards that are designed to markedly increase the extent to which PSX is quoting at or near the NBBO as well as the size of its quote. The

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[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4) and (5).

Exchange believes that this pricing approach is reasonable, not unfairly discriminatory, and reflective of an equitable allocation of fees because the higher rebates payable to LMMs and XLPs are available only to the extent that such market participants satisfy the market quality requirements of participation in the program. Specifically:

- Phlx believes that the proposed rebates of $0.0032, $0.0038, $0.0042, and $0.0048 per share executed to be paid with respect to displayed orders of LMMs that provide liquidity are reasonable because they are specifically designed to incentivize member organizations to engage in quoting activity that will benefit all market participants by increasing the extent of liquidity provided at the inside market in Qualified Securities. Moreover, the size of the proposed rebates is inversely correlated with the trading volume of the Qualified Security. This approach is reasonable because higher rebates will be paid with respect to historically less liquid Qualified Securities so as to increase the liquidity available to support trading in these securities. This approach is also reasonable because the aggregate amount of rebates paid with respect to a lower volume Qualified Security will be low as long as the trading volume of the security remains low. As the volume increases, the rebate rate will decrease, thereby insuring that the aggregate rebate paid to an LMM in a given month will not be excessively high.
- Phlx further believes that the proposed rebates payable to LMMs are equitable and not unreasonably discriminatory. Although only one market maker at a time may serve as an LMM for a given Qualified Security, the selection processes for LMMs is open to all member organizations and is designed to encourage member organizations that wish to become LMMs to compete to provide more liquidity at

or near the NBBO, thereby increasing the benefits of the program to all other market participants. Similarly, the opportunity for member organizations to challenge an incumbent LMM by competing to exceed its performance, and the ability of the Exchange to reassign Qualified Securities if an LMM is not consistently achieving performance standards, provide further assurance that the program is not unreasonably discriminatory and is consistent with an equitable allocation of fees. Finally, Phlx believes that the rebates are equitable and not unreasonably discriminatory because they are available only if the selected LMM actually achieves the performance standards required by the program.

- The proposed rebates payable to a challenger with respect to the liquidity it provides during the two months of a challenge period are reasonable because they correspond to the rebates payable to the incumbent LMM with respect to similar quoting activity. Thus, if a challenger is successful in its challenge, it is eligible to receive rebates at the same level as the incumbent for the period of the challenge, reflecting the fact that it exceeded the incumbent with respect to performance standards and therefore will receive LMM rebates going forward. If the challenger is unsuccessful but nevertheless contributed significantly to market quality during the challenge period, it is reasonable for it to receive rebates that are higher than rebates payable to other market participants but nevertheless lower than the LMM rebates. Moreover, the Exchange believes that this aspect of the proposal is consistent with an equitable allocation of fees and not unreasonably discriminatory because it encourages challengers to attempt to exceed the market quality performance of incumbents, thereby benefitting all market participants that trade the Qualified Security in question, and because the higher rebates paid to the challenger are consistent with its performance at a level above or near the level of the incumbent.

- The proposed rebate of $0.0028 per share executed payable to XLPs is reasonable because it provides an incentive for member organizations that are not LMMs for particular securities to provide higher volumes of liquidity and meet market quality standards with respect to securities in which they are active. Thus, the proposal will reduce trading costs for such member organizations. Moreover, the proposed rebate is consistent with an equitable allocation of fees because the rebate is provided to member organizations that benefit other market participants through high levels of liquidity provision and consistent quoting at the NBBO. Moreover, the rebate is payable with respect to a wide range of securities only when the XLP makes notable market quality contributions across 500 securities; otherwise, the rebate is limited to those securities in which the XLP achieves the program's security-specific requirements. Finally, the proposal is not unreasonably discriminatory because the rebate is consistent with the benefits provided by market participants receiving it, and because the Exchange offers alternative means to receive the same rebate.

The proposed change with respect to the volume-based tiers for accessing and providing liquidity is reasonable because the reduction in the liquidity-provision criterion for achieving the tier – from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares for the take fee discount, or 100,000 or more shares for the higher rebate[14] – will make it easier for a broader range of market participants to achieve the tier, thereby resulting in price reductions for PSX participants who may not qualify for the tier at present. In addition, the applicable fee for accessing liquidity in securities not listed on NASDAQ or NYSE will be reduced from $0.0028 to $0.0025 per share executed. The cost of enhancing the tier in this manner will be offset by reducing the rebate for liquidity provision from $0.0028 to $0.0026 per share executed, but the Exchange believes that this change is reasonable in light of the significant broadening of the tier. The Exchange further believes that these changes reflect an equitable allocation of fees and are not unreasonably discriminatory, because they are consistent with pricing at many other national securities exchanges under which discounts are provided to members that achieve specified volumes of liquidity provision. In addition, the changes should make the applicable discount available to a wider range of market participant, and the Exchange offers other means by which a member organization may achieve comparable or higher discounts.

The proposed changes with respect to the basic rebate to which no other pricing applies from $0.0026 to $0.0020 per share executed is reasonable because it is accompanied by the significant broadening of the volume-based tiers discussed above, as well as the LMM and XLP programs, which are designed to benefit all market participants by increasing the depth of liquidity available on PSX. In addition, the proposed base rebate of $0.0020 per share executed is comparable to the base rebate payable on several other national securities exchanges, including NASDAQ ($0.0020), NYSEArca ($0.0021), and the EDGX Exchange ($0.0021). The changes are consistent

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14 By contrast, on a trading day with a Consolidated Volume of 6 billion shares, the current tier would require a member to provide 6 million shares of liquidity.

with an equitable allocation of fees and not unreasonably discriminatory because they are consistent with providing a rebate to all liquidity providers, regardless of volume or other factors, while paying higher rebates to members organizations that do more to support the Exchange through higher volumes and/or contributions to market quality.

The elimination of the rebate tier that requires participation in both PSX and the Exchange’s Options Market is reasonable, consistent with an equitable allocation of fees, and not unreasonably discriminatory because any PSX Participant that qualifies for the tier at present would be required to have a volume of liquidity provision of at least 0.05% of Consolidated Volume. Following the implementation of the proposed change, any such market participant would also qualify for the proposed new rebate tier requiring an average daily volume of liquidity provision of at least 100,000 shares, and receive the same rebate of $0.0028 per share executed. Accordingly, the change will not alter the rebate for which such participants qualify.

The changes with respect to rebates payable for non-displayed orders is reasonable because the rebate will remain unchanged for midpoint orders that provide liquidity, and therefore will be reduced only for other forms of non-displayed orders, which are expected to constitute only a small percentage of liquidity-providing orders. The fees reflect an equitable allocation of fees and are not unreasonably discriminatory because they reflect the Exchange’s belief that all market participants benefit from pricing that encourages the use of displayed orders, which promote active price discovery. Accordingly, as is the case with other national securities exchanges, such as NASDAQ, the Exchange pays a lower rebate with respect to non-displayed orders than displayed orders. However, the change adopts a distinction between midpoint orders, which provide price improvement by executing at the midpoint between the national best bid and national best offer, and other forms of non-displayed orders, which do not provide such a benefit.

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

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Phlx notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, Phlx must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, Phlx believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, Phlx is introducing new pricing programs to accompany changes to PSX's market structure. These changes were necessitated by the failure of PSX's former price/size execution algorithm to garner significant market share, and therefore reflect an effort to increase PSX's competitiveness. If the changes are unattractive to market participants, it is likely that PSX will fail to increase its share of executions. Conversely, because certain of the proposed changes introduce new incentive programs and reflect overall reductions in fees, if they are successful in attracting additional order flow, they will reduce costs to market participants and possibly encouraging competitive responses from other trading venues. Accordingly, Phlx believes that the proposed changes will promote greater competition, but will not impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

Written comments were neither solicited nor 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,[15] Phlx has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization 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

Not applicable.

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

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15 15 U.S.C. 78s(b)(3)(A)(ii).

1. Completed notice of proposed rule change for publication in the Federal Register.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2013-47)

May __, 2013

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change to its Schedule of Fees and Rebates for Execution of Quotes and Orders on NASDAQ OMX PSX

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 May 1, 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 changes to its schedule of fees and rebates for execution of quotes and orders on NASDAQ OMX PSX ("PSX"). Phlx proposes to implement the proposed rule change on May 1, 2013. The text of the proposed rule change is available on the Exchange's Website at http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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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 Commission recently approved modifications to the rules governing the operation of Phlx's PSX trading platform in order to replace its price/size/pro rata allocation model with a price/time model, and to permit member organizations to register as market makers in securities traded on PSX.[3] Phlx is now proposing to modify its schedule of fees and rebates for transactions occurring on PSX. The primary focus of the price changes is on the establishment of fees and rebates for member organizations that are designated as Lead Market Makers ("LMM") in particular securities. Accordingly, the rule change also describes the process by which the LMM for a particular security will be designated (i.e., the process for determining which member organizations will benefit from the pricing incentives offered herein). In addition, the change establishes fees and rebates with respect to a class of member organizations designated as "PSX Supplemental Liquidity Providers" (or "XLPs") and makes other changes to the schedule of fees and rebates.

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3 Securities Exchange Act Release No. 69452 (April 25, 2013), 78 FR 25512 (May 1, 2013) (SR-Phlx-2013-24).

Currently, the Exchange charges the following fees for execution of orders that access liquidity on PSX: a volume-based discounted fee of $0.0028 per share executed for an order entered through a market participant identifier ("MPID") through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume[4] during the month; $0.0028 per share executed for an order that is designated as eligible for routing, and $0.0030 per share executed for other orders. The Exchange is proposing to reduce significantly the criterion for the volume-based discounted fee, from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares of liquidity provided. Otherwise, the Exchange's fees for accessing liquidity will remain unchanged for securities listed on the NASDAQ Stock Market ("NASDAQ") or the New York Stock Exchange ("NYSE"). For securities listed on exchanges other than NASDAQ or NYSE, the Exchange proposes to make the discounted fee applicable to routed orders and orders entered through an MPID qualifying for the volume-based discount $0.0025 per share executed rather than $0.0028 per share executed.

With respect to orders that provide liquidity, the Exchange currently provides a rebate of $0.0010 per share executed for non-displayed orders. The Exchange proposes to modify this rebate such that $0.0010 per share executed would be paid with respect to midpoint pegged or midpoint peg post-only orders ("midpoint orders"), while $0.0005 per share executed would be paid with respect to other forms of non-displayed orders. For displayed orders that provide liquidity, the Exchange currently provides a rebate of

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4 "Consolidated Volume" is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities.

$0.0028 per share executed for orders entered through an MPID through which a member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume; $0.0028 per share executed for orders entered through a PSX MPID through which the member organization provides shares of liquidity that represent more than 0.05% of Consolidated Volume, provided that the member organization and any affiliated member organizations also have an average daily volume during the month of 1,000 or more electronically delivered and executed customer contracts that add liquidity on the Exchange's Options Market; and $0.0026 per share executed for other orders.

The Exchange proposes to lower the basic rebate for orders to which no other pricing applies from $0.0026 to $0.0020 per share executed. In addition, the Exchange proposes to reduce the requirement for an enhanced rebate based on volume of liquidity provision from 0.10% of Consolidated Volume to an average daily volume of 100,000 or more shares of liquidity provided, while also reducing the associated rebate from $0.0028 per share executed to $0.0026 per share executed. The Exchange is also proposing to eliminate the rebate tier that requires participation in the Exchange's Options Market.

In addition to these changes, the Exchange is proposing to introduce enhanced rebates payable to member organizations that qualify as LMMs or XLPs. The overall purpose of these changes is to use financial incentives to encourage member organizations to become LMMs or XLPs on PSX and adhere to rigorous standards of market quality. In doing so, the Exchange hopes to increase the attractiveness of PSX as a trading venue and benefit all of its market participants by increasing the extent to which liquidity is available on PSX at or near the national best bid or best offer ("NBBO").

An NMS stock that has been selected by the Exchange as a security for which it wishes to designate a Lead Market Maker will be known as a "Qualified Security." Initially, the Exchange expects that Qualified Securities will be limited to trust-issued receipts, portfolio depository receipts, managed fund shares, and other forms of exchange-traded products ("ETPs"). Phlx has the discretion, however, to designate any NMS stock eligible for trading on PSX as a Qualified Security for which an LMM may be designated. The Exchange will select Qualified Securities based on factors that include, but may not be limited to, historical trading patterns and the interest expressed by member organizations in making a market in particular securities. Depending on its trading volume, a Qualified Security may be categorized as an "LMM Tier 1 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 50 million shares per day); an "LMM Tier 2 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 5 million but less than 50 million shares per day); an "LMM Tier 3 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 1 million but less than 5 million shares per day); or an "LMM Tier 4 Security" (a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of less than 1 million shares per day).

For liquidity-providing displayed quotes/orders entered by a member organization in a Qualified Security for which it has been designated as the Lead Market Maker, the Exchange proposes to pay the following rebates: $0.0032 per share executed for an LMM Tier 1 Security, $0.0038 per share executed for an LMM Tier 2 Security, $0.0042 per share executed for an LMM Tier 3 Security, and $0.0048 per share executed for an LMM Tier 4 Security.[5]

In order to qualify for the foregoing pricing for a given Qualified Security, an LMM must, through the MPID in which is registered as a PSX Market Maker, adhere to the following performance standards with respect to that Qualified Security:

- The LMM must at all times during regular market hours[6] maintain a displayed quote/order on each side of the market that is within at least 5% of the NBBO and that has a size of at least 500 shares;

- The LMM must maintain a displayed bid quotation and/or displayed offer quotation of at least 100 shares at the national best bid and/or the national best offer at least 25% of the time during regular market hours.

- For a period of six months following initial designation as an LMM for a "Group" of Qualified Securities,[7] the LMM must adhere to such additional commitments with respect to size and/or percentage time at the national best bid and national best offer as to which the LMM agreed when it was selected as an LMM, measured as an average across all Qualified Securities in the Group. The selection process, and the process for an LMM to make additional market quality commitments, is discussed below.

In addition, an LMM will not qualify for the pricing for LMMs for any Qualified Security unless the LMM, through the MPID in which it is registered as a PSX Market Maker (i)

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5 The Exchange notes that these rebates are being added to the PSX fee schedule only with respect to transactions in securities listed on exchanges other than NYSE. This is the case because at this time, the Exchange expects to designate LMMs only for ETPs, and NYSE does not list a significant number of ETPs at this time. Thus, if the Exchange proposed to designate an LMM for a NYSE-listed security, it would amend the fee schedule at that time to add the applicable pricing.

6 9:30 a.m. through 4:00 p.m., Eastern Time, or such shorter period as may be designated by the Exchange on a day when PSX closes early (e.g., the day after Thanksgiving).

7 A "Group" means one or more Qualified Securities designated from time to time by the Exchange for purposes of being assigned to an LMM. As discussed below, an LMM may be assigned to a Group of Qualified Securities through a competitive bidding process.

provides an average daily volume of 5 million or more shares of liquidity in all securities during the month and (ii) adheres to the foregoing performance standards with respect to at least 90% of the Qualified Securities for which it is the LMM. Any period of time for which an LMM has received an excused withdrawal under Rule 3219 will not be considered in determining an LMM's compliance with performance requirements.[8]

In order to designate an LMM for a particular Qualified Security, the Exchange will engage in the following process:

(1) Qualified Securities will be assigned to a "Group," defined as one or more Qualified Securities designated from time to time by the Exchange for purposes of being assigned to an LMM. As with the determination that a particular security will be a Qualified Security, the assignment of Qualified Securities to a Group will be based on factors that include, but may not be limited to, historical trading patterns and the interest expressed by member organizations in making a market in particular securities.

(2) Upon the selection of a Group by the Exchange, member organizations that are registered market makers may submit a bid, within the time frame specified by the Exchange, to become the LMM for all of the Qualified Securities in such Group. Each bidder must agree to adhere to the minimum performance standards described above, and may, in addition, offer to adhere to heightened standards as follows:

- Percentage of time at which the LMM's bid quotation and/or offer quotation is at the national best bid and/or national best offer during regular market hours, in increments of 5% of the trading day above the base percentage of 25% of the trading day; and

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8 PSX Rule 3219 provides that a member organization may be temporarily excused from market making obligations based a range of factors, such as equipment or connectivity problems, illness, vacation, non-voluntary suspension of a member organization's clearing arrangement, or advice of legal counsel.

- Size of bid quotation at the national best bid and offer quotation at the national best offer, in increments of 100 shares on each side above the base size of 100 shares on each side.

The LMM for a group of Qualified Securities will be designated on the basis of submitted bids, as follows:

- The bidder with the highest commitment to percentage of time at the national best bid and national best offer will be designated as the LMM. In the event of a tie, the bidder with the highest commitment to size at the national best bid and national best offer will be designated as the LMM. In the event of a tie with respect to both criteria, the bidder with the highest total volume on PSX during the prior twelve calendar months will be designated.

The designation will be effective on the first day of the month following the completion of the bidding process. If the Exchange is unable to allocate one or more Qualified Securities based on a bidding process (i.e., because no member organization expresses an interest in becoming the LMM), the Exchange will assign the Qualified Security to the first registered market maker that expresses in interest in becoming the LMM. To allow member organizations to become aware of opportunities to become an LMM, the Exchange will publish on its website a list of Qualified Securities that have not been assigned an LMM.

After serving as an LMM for a particular group of Qualified Securities for a period of six months, an LMM may withdraw from serving as LMM for any or all such Qualified Securities, by providing the Exchange three months' notice (or such shorter notice period as to which the Exchange may consent). In the event of an LMM withdrawal, the affected Qualified Securities will be reassigned through the auction process described above.

In the event an LMM fails to meet the performance standards detailed above with respect to a particular Qualified Security during a particular month, the Exchange will notify the LMM of such deficiency.[9] If the LMM fails to meet these performance standards with respect to the same Qualified Security during a second consecutive month, the Exchange may reassign such Qualified Security to another LMM by conducting an auction in the manner described above.[10]

If a registered market maker for a Qualified Security that is not the LMM for such Qualified Security wishes to become the LMM for such Qualified Security, it may initiate a challenge by notifying the Exchange of its intention to initiate a challenge.[11] If this occurs, the incumbent LMM will be notified of the challenge, and the performance of the incumbent LMM and the challenger will be evaluated over the course of the following two calendar months with respect to both percentage of time and size at the NBBO. More than one member organization may challenge an LMM at one time.

If, during the two-month period of the challenge, a challenger (i) satisfies the requirements for LMM pricing (i.e., it has an average daily volume of 5 million or more shares of liquidity in all securities during the month and satisfies the performance standards for the Qualified Security, as described above) and (ii) exceeds the incumbent

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[9] In addition, as noted above, the LMM will not receive LMM rebates with respect to that Qualified Security.

[10] Thus, although an LMM is required to meet market quality requirements with respect to only 90% of the Qualified Securities to which it is assigned in order to receive the rebates associated with being a QMM, it may lose its LMM designation with respect to Qualified Securities for which it does not meet these requirements.

[11] However, no challenge may be initiated for the first six months after a Qualified Security has been assigned to a particular LMM.

LMM’s time at the NBBO by a daily average of at least 5%, or equals or exceeds the LMM’s time at the NBBO by a daily average of less than 5% but exceeds the LMM’s size at the NBBO by a daily average of at least 100 shares, the Qualified Security will be reassigned to the challenger on the first day of the following month. If there is more than one challenger and both satisfy the foregoing requirements, the Qualified Security will be assigned to the challenger with the highest time at the NBBO (or the highest size at the NBBO in the event of a tie). Moreover, during the challenge months, the challenger will be eligible to receive credits with respect to providing liquidity through displayed orders in the Qualified Security that is the subject of the challenge at the rates paid to an LMM, provided that it satisfied all volume requirements and performance standards.

If a challenger does not exceed the incumbent LMM with respect to average time at the NBBO and average size at the NBBO over the course of the two challenge months, the Qualified Security will be retained by the incumbent LMM. If the challenger did, however, exceed the average time at the NBBO and average size at the NBBO of the incumbent LMM during the month immediately prior to the challenge months, and the challenger satisfied all volume requirements and performance standards associated with being an LMM for the Qualified Security, the challenger will receive, for the months of the challenge, the following credits with respect to providing liquidity through displayed orders in the Qualified Security that is the subject of the challenge: $0.0031 per share executed with respect to an LMM Tier 1 Security; $0.0034 per share executed with respect to an LMM Tier 2 Security; $0.0036 per share executed with respect to an LMM Tier 3 Security; and $0.0039 per share executed with respect to an LMM Tier 4 Security.

If a challenger does not exceed the incumbent LMM with respect to average time at the NBBO and average size at the NBBO over the course of the two challenge months, and did not exceed the average time at the NBBO and average size at the NBBO of the incumbent LMM during the month immediately prior to the challenge months, the Qualified Security will be retained by the incumbent LMM, the challenger will receive the credits otherwise applicable to its provision of liquidity, and the challenger may not attempt to challenge with respect to that Qualified Security again for a period of six months.

Finally, to provide further support to the trading of securities on PSX, the Exchange is introducing the PSX Supplemental Liquidity Provider Program. A member organization that provides an average daily volume of at least 2 million shares of liquidity during a month will receive a credit of $0.0028 per share executed with respect to displayed orders entered through a particular MPID in any security for which the MPID displays 100 shares or more at the national best bid and/or national best offer at least 25% of the time during regular market hours on average over the course of the month. If the member organization satisfies this requirement for 500 or more securities during the month, it will receive the credit of $0.0028 per share executed for all transactions during the month in which it provides displayed liquidity.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[13] in

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12 15 U.S.C. 78f.

13 15 U.S.C. 78f(b)(4) and (5).

particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The primary purpose of the pricing incentives proposed in this rule change is to use higher liquidity provider rebates to encourage market participants to make markets in Qualified Securities and support their trading by adhering to performance standards that are designed to markedly increase the extent to which PSX is quoting at or near the NBBO as well as the size of its quote. The Exchange believes that this pricing approach is reasonable, not unfairly discriminatory, and reflective of an equitable allocation of fees because the higher rebates payable to LMMs and XLPs are available only to the extent that such market participants satisfy the market quality requirements of participation in the program. Specifically:

- Phlx believes that the proposed rebates of $0.0032, $0.0038, $0.0042, and $0.0048 per share executed to be paid with respect to displayed orders of LMMs that provide liquidity are reasonable because they are specifically designed to incentivize member organizations to engage in quoting activity that will benefit all market participants by increasing the extent of liquidity provided at the inside market in Qualified Securities. Moreover, the size of the proposed rebates is inversely correlated with the trading volume of the Qualified Security. This approach is reasonable because higher rebates will be paid with respect to historically less liquid Qualified Securities so as to increase the liquidity available to support trading in these securities. This approach is also reasonable because the aggregate amount of rebates paid with respect to a lower volume Qualified

Security will be low as long as the trading volume of the security remains low. As the volume increases, the rebate rate will decrease, thereby insuring that the aggregate rebate paid to an LMM in a given month will not be excessively high.

- Phlx further believes that the proposed rebates payable to LMMs are equitable and not unreasonably discriminatory. Although only one market maker at a time may serve as an LMM for a given Qualified Security, the selection processes for LMMs is open to all member organizations and is designed to encourage member organizations that wish to become LMMs to compete to provide more liquidity at or near the NBBO, thereby increasing the benefits of the program to all other market participants. Similarly, the opportunity for member organizations to challenge an incumbent LMM by competing to exceed its performance, and the ability of the Exchange to reassign Qualified Securities if an LMM is not consistently achieving performance standards, provide further assurance that the program is not unreasonably discriminatory and is consistent with an equitable allocation of fees. Finally, Phlx believes that the rebates are equitable and not unreasonably discriminatory because they are available only if the selected LMM actually achieves the performance standards required by the program.
- The proposed rebates payable to a challenger with respect to the liquidity it provides during the two months of a challenge period are reasonable because they correspond to the rebates payable to the incumbent LMM with respect to similar quoting activity. Thus, if a challenger is successful in its challenge, it is eligible to receive rebates at the same level as the incumbent for the period of the challenge, reflecting the fact that it exceeded the incumbent with respect to

performance standards and therefore will receive LMM rebates going forward. If the challenger is unsuccessful but nevertheless contributed significantly to market quality during the challenge period, it is reasonable for it to receive rebates that are higher than rebates payable to other market participants but nevertheless lower than the LMM rebates. Moreover, the Exchange believes that this aspect of the proposal is consistent with an equitable allocation of fees and not unreasonably discriminatory because it encourages challengers to attempt to exceed the market quality performance of incumbents, thereby benefitting all market participants that trade the Qualified Security in question, and because the higher rebates paid to the challenger are consistent with its performance at a level above or near the level of the incumbent.

- The proposed rebate of $0.0028 per share executed payable to XLPs is reasonable because it provides an incentive for member organizations that are not LMMs for particular securities to provide higher volumes of liquidity and meet market quality standards with respect to securities in which they are active. Thus, the proposal will reduce trading costs for such member organizations. Moreover, the proposed rebate is consistent with an equitable allocation of fees because the rebate is provided to member organizations that benefit other market participants through high levels of liquidity provision and consistent quoting at the NBBO. Moreover, the rebate is payable with respect to a wide range of securities only when the XLP makes notable market quality contributions across 500 securities; otherwise, the rebate is limited to those securities in which the XLP achieves the program's security-specific requirements. Finally, the proposal is not unreasonably discriminatory because the rebate is consistent with the benefits provided by market participants receiving it, and because the Exchange offers alternative means to receive the same rebate.

The proposed change with respect to the volume-based tiers for accessing and providing liquidity is reasonable because the reduction in the liquidity-provision criterion for achieving the tier – from 0.10% of Consolidated Volume to an average daily volume of 10,000 or more shares for the take fee discount, or 100,000 or more shares for the higher rebate[14] – will make it easier for a broader range of market participants to achieve the tier, thereby resulting in price reductions for PSX participants who may not qualify for the tier at present. In addition, the applicable fee for accessing liquidity in securities not listed on NASDAQ or NYSE will be reduced from $0.0028 to $0.0025 per share executed. The cost of enhancing the tier in this manner will be offset by reducing the rebate for liquidity provision from $0.0028 to $0.0026 per share executed, but the Exchange believes that this change is reasonable in light of the significant broadening of the tier. The Exchange further believes that these changes reflect an equitable allocation of fees and are not unreasonably discriminatory, because they are consistent with pricing at many other national securities exchanges under which discounts are provided to members that achieve specified volumes of liquidity provision. In addition, the changes should make the applicable discount available to a wider range of market participant, and the Exchange offers other means by which a member organization may achieve comparable or higher discounts.

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14 By contrast, on a trading day with a Consolidated Volume of 6 billion shares, the current tier would require a member to provide 6 million shares of liquidity.

The proposed changes with respect to the basic rebate to which no other pricing applies from $0.0026 to $0.0020 per share executed is reasonable because it is accompanied by the significant broadening of the volume-based tiers discussed above, as well as the LMM and XLP programs, which are designed to benefit all market participants by increasing the depth of liquidity available on PSX. In addition, the proposed base rebate of $0.0020 per share executed is comparable to the base rebate payable on several other national securities exchanges, including NASDAQ ($0.0020), NYSEArca ($0.0021), and the EDGX Exchange ($0.0021). The changes are consistent with an equitable allocation of fees and not unreasonably discriminatory because they are consistent with providing a rebate to all liquidity providers, regardless of volume or other factors, while paying higher rebates to members organizations that do more to support the Exchange through higher volumes and/or contributions to market quality.

The elimination of the rebate tier that requires participation in both PSX and the Exchange's Options Market is reasonable, consistent with an equitable allocation of fees, and not unreasonably discriminatory because any PSX Participant that qualifies for the tier at present would be required to have a volume of liquidity provision of at least 0.05% of Consolidated Volume. Following the implementation of the proposed change, any such market participant would also qualify for the proposed new rebate tier requiring an average daily volume of liquidity provision of at least 100,000 shares, and receive the same rebate of $0.0028 per share executed. Accordingly, the change will not alter the rebate for which such participants qualify.

The changes with respect to rebates payable for non-displayed orders is reasonable because the rebate will remain unchanged for midpoint orders that provide liquidity, and therefore will be reduced only for other forms of non-displayed orders, which are expected to constitute only a small percentage of liquidity-providing orders. The fees reflect an equitable allocation of fees and are not unreasonably discriminatory because they reflect the Exchange's belief that all market participants benefit from pricing that encourages the use of displayed orders, which promote active price discovery. Accordingly, as is the case with other national securities exchanges, such as NASDAQ, the Exchange pays a lower rebate with respect to non-displayed orders than displayed orders. However, the change adopts a distinction between midpoint orders, which provide price improvement by executing at the midpoint between the national best bid and national best offer, and other forms of non-displayed orders, which do not provide such a benefit.

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

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Phlx notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, Phlx must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, Phlx believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, Phlx is introducing new pricing programs to accompany changes to PSX's market structure. These changes were necessitated by the failure of PSX's former price/size execution algorithm to garner significant market share, and therefore reflect an effort to increase PSX's competitiveness. If the changes are unattractive to market participants, it is likely that PSX will fail to increase its share of executions. Conversely, because certain of the proposed changes introduce new incentive programs and reflect overall reductions in fees, if they are successful in attracting additional order flow, they will reduce costs to market participants and possibly encouraging competitive responses from other trading venues. Accordingly, Phlx believes that the proposed changes will promote greater competition, but will not impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and paragraph (f) of Rule 19b-4 thereunder.[16] 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.

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[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b-4(f).

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-2013-47 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-2013-47. 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-2013-47 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.[17]

Kevin M O'Neill
Deputy Secretary

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[17] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

The text of the proposed rule change is below. Proposed new language is underlined; deletions are bracketed.

NASDAQ OMX PHLX LLC[1] PRICING SCHEDULE

ALL BILLING DISPUTES MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ALL DISPUTES MUST BE SUBMITTED NO LATER THAN SIXTY (60) DAYS AFTER RECEIPT OF A BILLING INVOICE, EXCEPT FOR DISPUTES CONCERNING NASDAQ OMX PSX FEES, PROPRIETARY DATA FEED FEES AND CO-LOCATION SERVICES FEES. AS OF JANUARY 3, 2011, THE EXCHANGE WILL CALCULATE FEES ON A TRADE DATE BASIS.

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[1] PHLX® is a registered trademark of The NASDAQ OMX Group, Inc.

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VIII. NASDAQ OMX PSX FEES

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Order Execution and Routing

(a) The following charges and credits shall apply to the use of the order execution and routing services of the NASDAQ OMX PSX System by member organizations for all securities that it trades priced at $1 or more per share:

(1) Fees for Execution of Quotes/Orders in Nasdaq-Listed Securities

Charge to member organization entering order that executes in NASDAQ OMX PSX:	$0.0028 per share executed for orders entered through a NASDAQ OMX PSX market participant identifier[s] ("MPID") through which the member organization provides an average daily volume of 10,000 or more shares of liquidity during the month [that represent more than 0.10% of the total consolidated volume reported to all consolidated transactions reporting plans by all exchanges and trade reporting facilities ("Consolidated Volume") during the month] $0.0028 per share executed for an order that is

	designated as eligible for routing $0.0030 per share executed for other orders
Credit to member organization providing liquidity through the NASDAQ OMX PSX System:	
Displayed Quote/O[o]rder:	[$0.0028 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides shares of liquidity that represent more than 0.10% of Consolidated Volume during the month] $0.0032 per share executed for a Quote/Order in an LMM Tier 1 Security entered by its Lead Market Maker $0.0038 per share executed for a Quote/Order in an LMM Tier 2 Security entered by its Lead Market Maker $0.0042 per share executed for a Quote/Order in an LMM Tier 3 Security entered by its Lead Market Maker $0.0048 per share executed for a Quote/Order in an LMM Tier 4 Security entered by its Lead Market Maker [$0.0028 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides shares of liquidity that represent more than 0.05% of Consolidated Volume during the month; provided that the member organization and any affiliated member organizations* also have an average daily volume during the month of 1,000 or more electronically-delivered and executed customer contracts that add liquidity on Phlx's Options Market] $0.0028 per share executed for Quotes/Orders

	entered by a member organization in a security in which it is qualified as a PSX Supplemental Liquidity Provider (an "XLP") $0.0026 per share executed for Quotes/Orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 100,000 or more shares of liquidity during the month [$0.0026] $0.0020 per share executed for other Quotes/O[o]rders
Non-Displayed Order:	$0.0010 per share executed for a midpoint pegged order or a midpoint peg post-only order (a "midpoint order") [$0.0010]$0.0005 per share executed for other non-displayed orders

(2) Fees for Execution of Quotes/Orders in Securities Listed on the New York Stock Exchange ("NYSE")

Charge to member organization entering order that executes in NASDAQ OMX PSX:	$0.0028 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 10,000 or more shares of liquidity during the month $0.0028 per share executed for an order that is designated as eligible for routing $0.0030 per share executed for other orders
Credit to member organization providing liquidity through the NASDAQ OMX PSX System:	
Displayed Quote/Order:	$0.0028 per share executed for Quotes/Orders entered by a member organization in a security in

	<u>which it is qualified as an XLP</u> <u>$0.0026 per share executed for Quotes/Orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 100,000 or more shares of liquidity during the month</u> <u>$0.0020 per share executed for other Quotes/Orders</u>
<u>Non-Displayed Order:</u>	<u>$0.0010 per share executed for midpoint orders</u> <u>$0.0005 per share executed for other non-displayed orders</u>

<u>(3) Fees for Execution of Orders in Securities Listed on Exchanges other than Nasdaq and NYSE</u>

<u>Charge to member organization entering order that executes in NASDAQ OMX PSX:</u>	<u>$0.0025 per share executed for orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 10,000 or more shares of liquidity during the month</u> <u>$0.0025 per share executed for an order that is designated as eligible for routing</u> <u>$0.0030 per share executed for other orders</u>
<u>Credit to member organization providing liquidity through the NASDAQ OMX PSX System:</u>	
<u>Displayed Quote/Order:</u>	<u>$0.0032 per share executed for a Quote/Order in an LMM Tier 1 Security entered by its Lead Market Maker</u> <u>$0.0038 per share executed for a Quote/Order in an LMM Tier 2 Security entered by its Lead Market</u>

	Maker $0.0042 per share executed for a Quote/Order in an LMM Tier 3 Security entered by its Lead Market Maker $0.0048 per share executed for a Quote/Order in an LMM Tier 4 Security entered by its Lead Market Maker $0.0028 per share executed for Quotes/Orders entered by a member organization in a security in which it is qualified as an XLP $0.0026 per share executed for Quotes/Orders entered through a NASDAQ OMX PSX MPID through which the member organization provides an average daily volume of 100,000 or more shares of liquidity during the month $0.0020 per share executed for other Quotes/Orders
Non-Displayed Order:	$0.0010 per share executed for midpoint orders $0.0005 per share executed for other non-displayed orders

(4) Fees for Routing of Orders in All Securities

Charge to member organization entering PSTG or PSCN order that executes in a venue other than the NASDAQ OMX PSX System:	$0.0025 per share executed at NYSE Credit of $0.0014 per share executed at NASDAQ OMX BX $0.0028 per share executed in other venues
Charge to member organization entering PMOP order that executes in a venue other than the NASDAQ OMX PSX System:	$0.0027 per share executed at NYSE $0.0031 per share executed at venues other than NYSE

Charge to member organization entering PTFY order that executes in a venue other than the NASDAQ OMX PSX System:	$0.0024 per share executed at NYSE $0.0005 per share executed at venues other than NYSE, NASDAQ or NASDAQ OMX BX $0.0028 per share executed at NASDAQ Credit of $0.0014 per share executed at NASDAQ OMX BX
Charge to member organization entering PCRT order that executes in a venue other than the NASDAQ OMX PSX System:	$0.0028 per share executed at NASDAQ Credit of $0.0014 per share executed at NASDAQ OMX BX
Charge or credit to member organization entering XDRK order:	None
Charge or credit to member organization entering XCST order:	Credit of $0.0014 per share executed at NASDAQ OMX BX For shares executed at a venue other than NASDAQ OMX BX, none

For purposes of determining average daily volume hereunder, any day that the market is not open for the entire trading day will be excluded from such calculation.

[* For purposes of this provision, member organizations shall be deemed affiliates if there is at least 75% common ownership of the member organizations.]

(b) No change.

<u>(c) Lead Market Makers</u>

<u>(1) Definitions</u>

<u>(A) A “Qualified Security” means any NMS stock (as defined in SEC Rule 600 under Regulation NMS) that has been selected by the Exchange as a security for which it wishes to designate a Lead Market Maker.</u>

(B) An “LMM Tier 1 Security” means, with respect to a particular month, a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 50 million shares per day.

(C) An “LMM Tier 2 Security” means, with respect to a particular month, a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 5 million but less than 50 million shares per day.

(D) An “LMM Tier 3 Security” means, with respect to a particular month, a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of at least 1 million but less than 5 million shares per day.

(E) An “LMM Tier 4 Security” means, with respect to a particular month, a Qualified Security with an average daily volume on all exchanges and trade reporting facilities during the prior three months of less than 1 million shares per day.

(F) A “Lead Market Maker” or “LMM” is a registered PSX Market Maker for a Qualified Security that has been designated by the Exchange and has committed to maintain minimum performance standards.

(G) “Regular marker hours” means 9:30 a.m. through 4:00 p.m. Eastern Time, or such shorter period as may be designated by the Exchange on a day when PSX closes early.

(H) “Consolidated Volume” means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities.

(I) “NBBO” means the national best bid and national best offer.

(J) “Group” means one or more Qualified Securities designated from time to time by the Exchange for purposes of being assigned to an LMM.

(2) Requirements for LMM Pricing

(A) In order to qualify for the pricing for LMMs set forth in paragraph (a) for any Qualified Security to which it has been assigned, an LMM must, through the MPID in which is registered as a PSX Market Maker, adhere to the following performance standards with respect to that Qualified Security:

(i) The LMM must at all times during regular market hours maintain a displayed quote/order on each side of the market that is within at least 5% of the NBBO and that has a size of at least 500 shares; and

(ii) The LMM must maintain a displayed bid quotation and/or displayed offer quotation of at least 100 shares at the national best bid and/or the national best offer at least 25% of the time during regular market hours.

(iii) For a period of six months following initial designation as an LMM for a Group, the LMM must adhere to such additional commitments with respect to size and/or percentage time at the national best bid and national best offer as to which the LMM has agreed pursuant to paragraph (c)(3), measured as an average across all Qualified Securities in the Group.

In addition, an LMM will not qualify for the pricing for LMMs for any Qualified Security unless the LMM, through the MPID in which it is registered as a PSX Market Maker (i) provides an average daily volume of 5 million or more shares of liquidity in all securities during the month and (ii) adheres to the performance standards described in paragraph (c)(2)(A)(i) – (iii) with respect to at least 90% of the Qualified Securities for which it is the LMM.

(B) Any period of time for which an LMM has received an excused withdrawal under Rule 3219 will not be considered in determining an LMM's compliance with performance standards.

(3) Designation of Lead Market Makers

(A) LMMs shall be designated by the Exchange using the following competitive bidding process:

(i) The Exchange will select Qualified Securities and assign them into a Group based on factors that include, but may not be limited to, historical trading patterns and the interest expressed by member organizations in making a market in particular securities.

(ii) Upon the selection of a Group by the Exchange, member organizations that are registered PSX Market Makers may submit a bid, within the time frame specified by the Exchange, to become the LMM for all of the Qualified Securities in such Group. Each bidder must agree to adhere to the minimum performance standards described above, and may, in addition, offer to adhere to heightened standards as follows:

A. Percentage of time at which the LMM's bid quotation and/or offer quotation is at the national best bid and/or national best offer during regular market hours, in increments of 5% of the trading day above the base percentage of 25% of the trading day; and

B. Size of bid quotation at the national best bid and offer quotation at the national best offer, in increments of 100 shares on each side above the base size of 100 shares on each side.

(B) The LMM for a Group of Qualified Securities will be designated on the basis of submitted bids, as follows:

(i) The bidder with the highest commitment to percentage of time at the national best bid and national best offer will be designated as the LMM. In the event of a tie, the bidder with the highest commitment to size at the national best bid and national best offer will be designated as the LMM. In the event of a tie with respect to both criteria, the bidder with the highest total volume on PSX during the prior twelve calendar months will be designated. The designation will be effective on the first day of the month following the completion of the bidding process.

(ii) If the Exchange is unable to allocate one or more Qualified Securities through a bidding process because no member organizations submit bids for it, the Exchange will assign the Qualified Security to the first registered market maker that expresses in interest in becoming the LMM. The Exchange will publish on its website a list of Qualified Securities that have not been assigned an LMM.

(C) After serving as an LMM for a particular group of Qualified Securities for a period of six months, an LMM may withdraw from serving as LMM for any or all such Qualified Securities, by providing the Exchange three months' notice (or such shorter notice period as to which the Exchange may consent). In the event of an LMM withdrawal, the affected Qualified Securities will be reassigned as provided in paragraph (c)(3)(B).

(D) In the event an LMM fails to meet the performance standards specified in paragraph (c)(2)(A)(i) – (iii) with respect to a Qualified Security during a particular month, the Exchange will notify the LMM of such deficiency. If the LMM fails to meet the performance standards specified in paragraph (c)(2)(A)(i) – (iii) with respect to the same Qualified Security during a second consecutive month, the Exchange may reassign such Qualified Security to another LMM using the method provided for in paragraph (c)(3)(B).

(E) If a registered market maker for a Qualified Security that is not the LMM for such Qualified Security wishes to become the LMM for such Qualified Security, it may initiate a challenge by notifying the Exchange of its intention to initiate a challenge. If this occurs, the incumbent LMM will be notified of the challenge, and the performance of the incumbent LMM and the challenger will be evaluated over the course of the following two calendar months with respect to both percentage of time and size at the NBBO. More than one member organization may challenge an LMM at one time.

(F) If, during the two-month period of the challenge, a challenger (i) satisfies the requirements for LMM pricing in paragraph (c)(2) with respect to average daily volume and performance standards for the Qualified Security that is the subject of the challenge, and (ii) exceeds the incumbent LMM's time at the NBBO by a daily average of at least 5%; or equals or exceed the incumbent LMM's time at the NBBO by a daily average of less than 5% but exceeds the LMM's size at the NBBO by a daily average of at least 100 shares, the Qualified Security will be reassigned to the challenger on the first day of the following month. If there is more than one challenger and both satisfy the foregoing requirements, the Qualified Security will be assigned to the challenger with the highest time at the NBBO (or the highest size at the NBBO in the event of a tie). In addition, during the challenge months, a challenger will be eligible to receive credits with respect to providing liquidity through displayed orders in the Qualified Security that is the subject of the challenge at the rates provided for in paragraph (a) with respect to an LMM, provided that it satisfied the volume requirements and performance standards provided for in paragraph (c)(2) with respect to the Qualified Security.

(G) If a challenger does not exceed the incumbent LMM with respect to average time at the NBBO and average size at the NBBO over the course of the two challenge months, the Qualified Security will be retained by the incumbent LMM. If the challenger did, however, exceed the average time at the NBBO and average size at the NBBO of the incumbent LMM during the month immediately prior to the challenge months, and the challenger satisfied all the volume requirements and performance standards provided for in paragraph (c)(2) with respect to the Qualified Security, the challenger will receive, for the months of the challenge, the following credits with respect to providing liquidity through displayed orders in the Qualified Security that is the subject of the challenge: $0.0031 per share executed with respect to an LMM Tier 1 Security; $0.0034 per share executed with respect to an LMM Tier 2 Security; $0.0036 per share executed with respect to an LMM Tier 3 Security; and $0.0039 per share executed with respect to an LMM Tier 4 Security.

(H) If a challenger does not exceed the incumbent LMM with respect to average time at the NBBO and average size at the NBBO over the course of the two challenge months, and did not exceed the average time at the NBBO and average size at the NBBO of the incumbent LMM during the month immediately prior to the challenge months, the Qualified Security will be retained by the incumbent LMM, the challenger will receive the credits otherwise applicable to its provision of liquidity under paragraph (a), and the challenger may not attempt to challenge with respect to that Qualified Security again for a period of six months.

(I) No challenge may be initiated for the first six months after a Qualified Security has been assigned to a particular LMM.

(d) PSX Supplemental Liquidity Provider Program. A member organization that provides an average daily volume of at least 2 million shares of liquidity during a month shall be entitled to receive credits associated with being a PSX Supplemental Liquidity Provider (an “XLP”) with respect to displayed orders entered through a NASDAQ OMX PSX MPID in any security for which the MPID displays 100 shares or more at the national best bid and/or national best offer at least 25% of the time during regular market hours on average over the course of the month. If the member organization satisfies this requirement for 500 or more securities during the month, it will receive credits associated with being an XLP for all securities.

[(c)] (d) Excess Order Fee

(1) – (4) No change.

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