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Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2016 - * 21
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 *).

Related to SPY PIXL Pricing

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Angela Last Name * Dunn
Title * Associate General Counsel
E-mail * angela.dunn@nasdaq.com
Telephone * (215) 496-5692 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 02/05/2016
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.knight@nasdaq.com

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 the Proposed Rule Change

(a) NASDAQ PHLX LLC ("Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("Commission") a proposal to amend the Phlx Pricing Schedule at Section I, entitled "Rebates and Fees for Adding and Removing Liquidity in SPY," specifically related to PIXL[3] executions in options overlying SPY.[4]

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1. The text of the proposed rule change is at Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management of the Exchange approved the proposed rule change under authority delegated by the Exchange's Board of Directors ("Board") on July 1, 2015. The Exchange's staff will advise the Board of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change. Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, Nasdaq, Inc. at (215) 496-5692.

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1 15 U.S.C. § 78s(b)(1).

2 17 C.F.R. §240.19b-4.

3 PIXL[SM] is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. See Rule 1080(n).

4 Options overlying Standard and Poor's Depositary Receipts/SPDRs ("SPY") are based on the SPDR exchange-traded fund, which is designed to track the performance of the S&P 500 Index.

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

a. Purpose

The Exchange proposes to amend language in the Pricing Schedule at Section I, entitled "Rebates and Fees for Adding and Removing Liquidity in SPY, " related to PIXL executions in SPY. The current rule text provides, "When the PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the order is a Customer, in which case the Customer will receive a rebate of $0.38 per contract. All other Non-Customer contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.42 per contract or will receive the Rebate for Adding Liquidity." The Exchange proposes to remove the reference to "Non-Customers" in the second sentence, which would effectively result in Customers, as well as all other market participants, paying a $0.42 per contract Fee to Remove Liquidity.

The Exchange previously filed a rule change to amend SPY PIXL pricing.[5] In that filing, the Exchange proposed to amend the following rule text, "All other contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.38 per contract or will receive the Rebate for Adding Liquidity"[6] to add the term "Non-Customer" to the sentence and increase the Fee for Removing Liquidity from $0.38 to $0.42 per contract. The term Non-Customer was

5 See Securities Exchange Act Release No. 74531 (March 19, 2015), 80 FR 15850 (March 25, 2015) (SR-Phlx-2015-25).

6 The quoted text is the original text which was amended by SR-Phlx-2015-25.

being introduced in this rule change into the Pricing Schedule.[7] The Exchange at that time stated in the purpose section to SR-Phlx-2015-25,

> The Exchange also proposes to amend PIXL fees in SPY in Section I of the Pricing Schedule. Today, when a PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the order is a Customer, in which case the Customer will receive a rebate of $0.38 per contract. All other contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.38 per contract or will receive the Rebate for Adding Liquidity. **The Exchange is proposing to increase the amount that all other contra parties to the PIXL Order, other than the Initiating Order, will be assessed to remove liquidity from $0.38 to $0.42 per contract.** These contra parties will continue to be entitled to receive the Rebate for Adding Liquidity, as is the case today [emphasis added].

The Exchange's current rule text does not state the amount a Customer would be assessed if the Customer was a contra-party to the PIXL Order, other than the Initiating Order. The Exchange has continued to assess the Customer the prior fee of $0.38 per contract Fee for Removing Liquidity when the Customer is a contra-party to the PIXL Order, other than the Initiating Order.[8]

At this time, the Exchange proposes to remove the words "Non-Customer" from the sentence at issue so that it would state, "All other contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.42 per contract or will receive the Rebate for Adding Liquidity." The Exchange's proposal would increase the Customer Fee for Removing Liquidity, when the Customer is a contra-party to the PIXL Order, other than the

[7] The term "Non-Customer" applies to transactions for the accounts of Specialists, Market Makers, Firms, Professionals, Broker-Dealers and JBOs.

[8] The Customer Fee for Removing Liquidity was never amended by SR-Phlx-2015-25 only the Non-Customer Fee for Removing Liquidity in SPY PIXL.

Initiating Order, to $0.42 per contract, the same as all other Non-Customer Market Participants with the removal of the word "Non-Customer."

The Exchange also proposes to correct a typographical error in this section to capitalize "non-Customer" to state "Non-Customer" to properly refer to the defined term.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act[10] 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 the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market data because national market system regulation "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[11] Likewise, in NetCoalition v. Securities and Exchange Commission[12]

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9 15 U.S.C. § 78f(b).

10 15 U.S.C. § 78f(b)(4) and (5).

11 Securities Exchange Act Release No. 51808 at 37499 (June 9, 2005) ("Regulation NMS Adopting Release").

12 NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[13] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."[14]

Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[15] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposal to increase the amount that Customer contra parties to the PIXL Order, other than the Initiating Order, will be assessed to remove liquidity from $0.38 to $0.42 per contract is reasonable because despite the increase in the fee, the Exchange believes this pricing will continue to incentivize market participants to transact a greater number of SPY options. The Exchange will continue to assess no fee when a PIXL Order is contra to other than an Initiating Order in SPY. Customers will continue

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13 See NetCoalition, at 534.

14 Id. at 537.

15 Id. at 539 (quoting ArcaBook Order, 73 FR at 74782-74783).

to receive a rebate of $0.38 per contract when the PIXL Order is contra to other than the Initiating Order. The Exchange's proposal to increase the Fee for Removing Liquidity for Customer contra-parties to the PIXL Order in SPY, other than the Initiating Order, to $0.42 per contract, is lower than the $0.44 per contract Simple Order Fee for Removing Liquidity that is assessed for Simple Orders in SPY.[16] SPY options are currently the most actively traded options class and therefore the Exchange believes that incentivizing Customers to remove liquidity in SPY options by offering a lower rate as compared to the $0.44 per contract Simple Order Fee for Removing Liquidity in SPY will benefit all market participants by providing incentives for price improvement, such as this reduction in the Fee for Removing Liquidity. This rule change corrects a discrepancy in the rule text, which does not currently address fees for Customer responders.

The Exchange's proposal to increase the amount that Customer contra parties to the PIXL Order, other than the Initiating Order, will be assessed to remove liquidity from $0.38 to $0.42 per contract is equitable and not unfairly discriminatory because the Exchange will be assessing the same Fees for Removing Liquidity for SPY PIXL options to all market participants that are contra-parties to the PIXL Order in SPY, other than the Initiating Order. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. Creating incentives for market participants to remove Customer liquidity benefits all market participants

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16 See Section I of the Pricing Schedule. Customers are assessed a $0.44 per contract Simple Order Fee for Removing Liquidity in SPY while Non-Customers are assessed a $0.49 per contract Simple Order Fee for Removing Liquidity in SPY.

through increased liquidity at the Exchange. A higher percentage of SPY Orders in PIXL leads to increased auctions and better opportunities for price improvement.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to correct the typographical error to properly refer to a defined term.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange 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, the Exchange 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, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the charges assessed and credits available to member firms for execution of securities in securities of all three Tapes do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed increase to a Customer fee to remove liquidity in PIXL related to SPY does not impose a burden on inter-market competition, because the Exchange is competing with other options markets which offer price improvement mechanisms. A higher percentage of SPY Orders in PIXL leads to increased auctions and better opportunities for price improvement for all market participants. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

The Exchange's proposal to amend Fee for Removing Liquidity applicable to Customers that are contra to a SPY PIXL Order, other than the Initiating Order, does not impose any undue burden on intra-market competition as all market participants will be assessed the same fee of $0.42 per contract to remove liquidity. Customer orders bring valuable liquidity to the market, which liquidity benefits all market participants. This proposal also corrects a discrepancy in the rule text which does not currently address fees for Customer responders.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[17] The Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-

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[17] 15 U.S.C. § 78s(b)(3)(A)(ii).

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.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

1. Notice of proposed rule 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-2016-21)

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Related to SPY PIXL Pricing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on February 5, 2016, NASDAQ PHLX LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Phlx Pricing Schedule at Section I, entitled "Rebates and Fees for Adding and Removing Liquidity in SPY," specifically related to PIXL[3] executions in options overlying SPY.[4]

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

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1 15 U.S.C. § 78s(b)(1).

2 17 C.F.R. § 240.19b-4.

3 PIXL[SM] is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. See Rule 1080(n).

4 Options overlying Standard and Poor's Depositary Receipts/SPDRs ("SPY") are based on the SPDR exchange-traded fund, which is designed to track the performance of the S&P 500 Index.

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

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

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

1. Purpose

The Exchange proposes to amend language in the Pricing Schedule at Section I, entitled "Rebates and Fees for Adding and Removing Liquidity in SPY, " related to PIXL executions in SPY. The current rule text provides, "When the PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the order is a Customer, in which case the Customer will receive a rebate of $0.38 per contract. All other Non-Customer contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.42 per contract or will receive the Rebate for Adding Liquidity." The Exchange proposes to remove the reference to "Non-Customers" in the second sentence, which would effectively result in Customers, as well as all other market participants, paying a $0.42 per contract Fee to Remove Liquidity.

The Exchange previously filed a rule change to amend SPY PIXL pricing.[5] In that filing, the Exchange proposed to amend the following rule text, "All other contra

[5] See Securities Exchange Act Release No. 74531 (March 19, 2015), 80 FR 15850 (March 25, 2015) (SR-Phlx-2015-25).

parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.38 per contract or will receive the Rebate for Adding Liquidity"[6] to add the term "Non-Customer" to the sentence and increase the Fee for Removing Liquidity from $0.38 to $0.42 per contract. The term Non-Customer was being introduced in this rule change into the Pricing Schedule.[7] The Exchange at that time stated in the purpose section to SR-Phlx-2015-25,

> The Exchange also proposes to amend PIXL fees in SPY in Section I of the Pricing Schedule. Today, when a PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the order is a Customer, in which case the Customer will receive a rebate of $0.38 per contract. All other contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.38 per contract or will receive the Rebate for Adding Liquidity. **The Exchange is proposing to increase the amount that all other contra parties to the PIXL Order, other than the Initiating Order, will be assessed to remove liquidity from $0.38 to $0.42 per contract.** These contra parties will continue to be entitled to receive the Rebate for Adding Liquidity, as is the case today [emphasis added].

The Exchange's current rule text does not state the amount a Customer would be assessed if the Customer was a contra-party to the PIXL Order, other than the Initiating Order. The Exchange has continued to assess the Customer the prior fee of $0.38 per contract Fee for Removing Liquidity when the Customer is a contra-party to the PIXL Order, other than the Initiating Order.[8]

At this time, the Exchange proposes to remove the words "Non-Customer" from the sentence at issue so that it would state, "All other contra parties to the

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6 The quoted text is the original text which was amended by SR-Phlx-2015-25.

7 The term "Non-Customer" applies to transactions for the accounts of Specialists, Market Makers, Firms, Professionals, Broker-Dealers and JBOs.

8 The Customer Fee for Removing Liquidity was never amended by SR-Phlx-2015-25 only the Non-Customer Fee for Removing Liquidity in SPY PIXL.

PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.42 per contract or will receive the Rebate for Adding Liquidity." The Exchange's proposal would increase the Customer Fee for Removing Liquidity, when the Customer is a contra-party to the PIXL Order, other than the Initiating Order, to $0.42 per contract, the same as all other Non-Customer Market Participants with the removal of the word "Non-Customer."

The Exchange also proposes to correct a typographical error in this section to capitalize "non-Customer" to state "Non-Customer" to properly refer to the defined term.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act[10] 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 the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market data because national market system regulation "has been remarkably successful in promoting market

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[9] 15 U.S.C. § 78f(b).

[10] 15 U.S.C. § 78f(b)(4) and (5).

competition in its broader forms that are most important to investors and listed companies."[11] Likewise, in NetCoalition v. Securities and Exchange Commission[12] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[13] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."[14]

Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[15] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposal to increase the amount that Customer contra parties to the PIXL Order, other than the Initiating Order, will be assessed to remove liquidity from

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11 Securities Exchange Act Release No. 51808 at 37499 (June 9, 2005) ("Regulation NMS Adopting Release").

12 NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

13 See NetCoalition, at 534.

14 Id. at 537.

15 Id. at 539 (quoting ArcaBook Order, 73 FR at 74782-74783).

$0.38 to $0.42 per contract is reasonable because despite the increase in the fee, the Exchange believes this pricing will continue to incentivize market participants to transact a greater number of SPY options. The Exchange will continue to assess no fee when a PIXL Order is contra to other than an Initiating Order in SPY. Customers will continue to receive a rebate of $0.38 per contract when the PIXL Order is contra to other than the Initiating Order. The Exchange's proposal to increase the Fee for Removing Liquidity for Customer contra-parties to the PIXL Order in SPY, other than the Initiating Order, to $0.42 per contract, is lower than the $0.44 per contract Simple Order Fee for Removing Liquidity that is assessed for Simple Orders in SPY.[16] SPY options are currently the most actively traded options class and therefore the Exchange believes that incentivizing Customers to remove liquidity in SPY options by offering a lower rate as compared to the $0.44 per contract Simple Order Fee for Removing Liquidity in SPY will benefit all market participants by providing incentives for price improvement, such as this reduction in the Fee for Removing Liquidity. This rule change corrects a discrepancy in the rule text, which does not currently address fees for Customer responders.

The Exchange's proposal to increase the amount that Customer contra parties to the PIXL Order, other than the Initiating Order, will be assessed to remove liquidity from $0.38 to $0.42 per contract is equitable and not unfairly discriminatory because the Exchange will be assessing the same Fees for Removing Liquidity for SPY PIXL options to all market participants that are contra-parties to the PIXL Order in SPY, other than the

[16] See Section I of the Pricing Schedule. Customers are assessed a $0.44 per contract Simple Order Fee for Removing Liquidity in SPY while Non-Customers are assessed a $0.49 per contract Simple Order Fee for Removing Liquidity in SPY.

Initiating Order. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. Creating incentives for market participants to remove Customer liquidity benefits all market participants through increased liquidity at the Exchange. A higher percentage of SPY Orders in PIXL leads to increased auctions and better opportunities for price improvement.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to correct the typographical error to properly refer to a defined term.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange 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, the Exchange 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, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the charges assessed and credits available to member firms for execution of securities in securities of all three Tapes do not impose a burden on competition because the Exchange’s execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed increase to a Customer fee to remove liquidity in PIXL related to SPY does not impose a burden on inter-market competition, because the Exchange is competing with other options markets which offer price improvement mechanisms. A higher percentage of SPY Orders in PIXL leads to increased auctions and better opportunities for price improvement for all market participants. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

The Exchange's proposal to amend Fee for Removing Liquidity applicable to Customers that are contra to a SPY PIXL Order, other than the Initiating Order, does not impose any undue burden on intra-market competition as all market participants will be assessed the same fee of $0.42 per contract to remove liquidity. Customer orders bring valuable liquidity to the market, which liquidity benefits all market participants. This proposal also corrects a discrepancy in the rule text which does not currently address fees for Customer responders.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2016-21 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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17 15 U.S.C. § 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-Phlx-2016-21. 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-2016-21 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.[18]

Robert W. Errett
Deputy Secretary

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[18] 17 C.F.R. § 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

NASDAQ OMX PHLX LLC[1] PRICING SCHEDULE
THE EXCHANGE CALCULATES FEES ON A TRADE DATE BASIS.

POLICY FOR AMENDING BILLING INFORMATION: CORRECTIONS SUBMITTED AFTER TRADE DATE AND PRIOR TO THE ISSUANCE OF AN INVOICE BY THE EXCHANGE MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ONLY MEMBERS MAY SUBMIT TRADE CORRECTIONS.

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. THE EXCHANGE CALCULATES FEES ON A TRADE DATE BASIS. ONLY MEMBERS MAY SUBMIT BILLING DISPUTES.

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[1]PHLX® is a registered trademark of The Nasdaq, Inc.

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I. Rebates and Fees for Adding and Removing Liquidity in SPY
With respect to Section C of this Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity, except with respect to orders that trigger an order exposure alert. Customer volume attributable to this section will be included in the calculation of Customer volume in Multiply Listed Options that are electronically-delivered and executed for purposes of the Customer Rebate Program in Section B. However, the rebates defined in Section B will not apply to electronic executions in SPY.

Part A. Simple Order

	Customer	Specialist	Market Maker	Firm	Broker-Dealer	Professional
Rebate for Adding Liquidity	$0.00	$0.20	$0.20	$0.00	$0.00	$0.00

Fee for Removing Liquidity	$0.44	$0.49	$0.49	$0.49	$0.49	$0.49

Part B. Complex Order

	Customer	Specialist	Market Maker	Firm	Broker-Dealer	Professional
Fee for Adding Liquidity	$0.00	$0.10	$0.10	$0.10	$0.10	$0.10
Fee for Removing Liquidity	$0.00	$0.40	$0.40	$0.50	$0.50	$0.50

- Complex Order Fees for Removing Liquidity, applicable to Specialists and Market Makers, will be decreased by $0.02 per contract when the Specialist or Market Maker transacts against a Customer Order directed to that Specialist or Market Maker for execution.

- Simple Orders that are executed against the individual components of Complex Orders will be assessed the fees and rebates in Part A. However, the individual components of such a Complex Order will be assessed the fees in Part B.

- Customers will be assessed $0.00 per contract and all other market participants will be assessed $0.15 per contract for executions against an order for which the Exchange broadcasts an order exposure alert in SPY.

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

- The Monthly Market Maker Cap on transaction fees that are currently applicable to Market Makers and Specialists transacting Multiply Listed Options will not be applicable to electronic transactions in the SPY, except for QCC Transaction Fees.

- The Monthly Firm Fee Cap will apply to floor transactions and QCC electronic and QCC floor transactions in SPY.

- Payment for Order Flow fees defined in Section II will not be collected on transactions in SPY.

- The Cancellation Fee for each cancelled electronically delivered Professional AON order will continue to apply to the SPY. The Cancellation Fee will not apply for each cancelled electronically delivered Customer order in SPY.

- Transactions in SPY originating on the Exchange floor will be subject to the Multiply Listed Options Fees (see Multiply Listed Options Fees in Section II). However, if one side of the transaction originates on the Exchange floor and any other side of the trade was the result of an electronically submitted order or a quote, then these fees will apply to the transactions which originated on the Exchange floor and contracts that are executed electronically on all sides of the transaction.

- A non-Complex electronic auction includes the Quote Exhaust auction and, for purposes of these fees, the opening process. A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA").

  - Customer executions that occur as part of a Complex electronic auction will be assessed $0.00 per contract.

  - Customer executions that occur as part of a non-Complex electronic auction will be assessed $0.00 per contract.

  - Professional, Firm, Broker-Dealer, Specialist and Market Maker executions that occur as part of a Complex electronic auction will be assessed the Fees for Removing Liquidity in Part B. Professional, Firm, Broker-Dealer, Specialist and Market Maker executions that occur as part of a non-Complex electronic auction will be assessed the Fees for Adding Liquidity in Part B.

- The QCC Transaction fees and rebates, defined in Section II, are applicable to this Section C.

PIXL Executions in SPY:

- Initiating Order: $0.05 per contract. The Initiating Order Fee for Professional, Firm, Broker-Dealer, Specialist and Market Maker orders that are contra to a Customer PIXL Order will be reduced to $0.00 if the Customer PIXL Order is greater than 399 contracts.

- When the PIXL Order is contra to the Initiating Order, a Customer PIXL Order will be assessed $0.00 per contract and all other [n]<u>N</u>on-Customer market participants will be assessed a $0.38 per contract fee when contra to an Initiating Order.

- When the PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the order is a Customer, in which case the Customer will receive a rebate of $0.38 per contract. All other [Non-Customer] contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.42 per contract or will receive the Rebate for Adding Liquidity.

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