

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="30"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2016"/> - * <input type="text" value="42"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by **NASDAQ PHLX LLC**
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description

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

Proposal to amend Exchange Qualified Contingent Cross rebates and certain floor Options Transaction Charges in Pricing Schedule.

Contact Information

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

First Name * <input type="text" value="Angela"/>	Last Name * <input type="text" value="Dunn"/>
Title * <input type="text" value="Associate General Counsel"/>	
E-mail * <input type="text" value="Angela.Dunn@nasdaq.com"/>	
Telephone * <input type="text" value="(215) 496-5692"/>	Fax <input type="text"/>

Signature

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

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

(Title *)

Date <input type="text" value="03/28/2016"/>	<input type="text" value="Executive Vice President and General Counsel"/>
By <input type="text" value="Edward S. Knight"/>	<input type="text" value="edward.knight@nasdaq.com"/>

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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 (“Phlx” or “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 (“SEC” or “Commission”) a proposal to amend the Exchange’s Pricing Schedule at Section II, entitled “Multiply Listed Options Fees.” Specifically, the Exchange is proposing to amend the Qualified Contingent Cross (“QCC”) rebates and certain floor Options Transaction Charges.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on April 1, 2016.

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1 and the text of the amended Exchange Rule is at Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on July 1, 2015. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action 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.
215-496-5692.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Section II, entitled "Multiply Listed Options Fees." Specifically, the Exchange is proposing to amend QCC rebates and certain floor Options Transaction Charges. Each change will be described below in more detail.

Section II – QCC Rebates

Today, the Exchange assesses a QCC Transaction Fee of \$0.20 per contract to a Specialist,³ Market Maker,⁴ Professional,⁵ Firm⁶ and Broker-Dealer.⁷ The Exchange

³ A "Specialist" is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

⁴ The term "Market Maker" includes Registered Options Traders ("ROT"). See Exchange Rule 1014 (b)(i) and (ii). A ROT includes a Streaming Quote Trader or "SQT," a Remote Streaming Quote Trader or "RSQT" and a Non-SQT, which by definition is neither a SQT nor a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. An SQT is a ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned. See Rule 1014(b)(11)(A). An RSQT is an ROT that is a member affiliated with and Remote Streaming Quote Organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. See Rule 1014(ii)(B).

⁵ The term "Professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

⁶ The term "Firm" applies to any transaction that is identified by a member or

also pays rebates on QCC Orders based on the following five tier rebate schedule:

QCC Rebate Schedule

Tier	Threshold	Rebate per Contract
Tier 1	0 to 299,999 contracts in a month	\$0.00
Tier 2	300,000 to 499,999 contracts in a month	\$0.07
Tier 3	500,000 to 699,999 contracts in a month	\$0.08
Tier 4	700,000 to 999,999 contracts in a month	\$0.09
Tier 5	Over 1,000,000 contracts in a month	\$0.11

Rebates are paid for all qualifying executed QCC Orders, as defined in Rule 1080(o)⁸ and Floor QCC Orders, as defined in Rule 1064(e),⁹ except where the

member organization for clearing in the Firm range at The Options Clearing Corporation.

⁷ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

⁸ A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. See Rule 1080(o). See also Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR-Phlx-2011-47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (“QCTs”) that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of Regulation NMS).

⁹ A Floor QCC Order must: (i) be for at least 1,000 contracts; (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption; (iii) be executed at a price at or between the National Best Bid and Offer (“NBBO”); and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. See Rule 1064(e). See also Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR-Phlx-

transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger, short stock interest or reversal or conversion strategy execution.¹⁰ The maximum QCC Rebate to be paid in a given month will not exceed \$450,000.¹¹

The Exchange proposes to amend the QCC rebate schedule to add a new tier to create a six tier rebate schedule and amend the existing tiers. The proposed QCC rebate schedule would be as follows:

QCC Rebate Schedule

Tier	Threshold	Rebate per Contract
Tier 1	0 to 99,999 contracts in a month	\$0.00
Tier 2	100,000 to 299,999 contracts in a month	\$0.05
Tier 3	300,000 to 499,999 contracts in a month	\$0.07
Tier 4	500,000 to 699,999 contracts in a month	\$0.08
Tier 5	700,000 to 999,999 contracts in a month	\$0.09
Tier 6	Over 1,000,000 contracts in a month	\$0.11

Tier 1 does not currently pay a QCC rebate between 0 and 299,999 contracts in a month. The Exchange will continue to pay no rebate for Tier 1, however the Exchange proposes to lower the volume threshold to between 0 and 99,999 contracts in month. The Exchange proposes a new Tier 2 QCC rebate which would pay a QCC rebate of \$0.05 per contract for volume between 100,000 and 299,999 contracts in a month. The remainder of the QCC rebate tiers would be renumbered. Current Tier 2 would be renumbered as Tier 3 and would continue to pay a rebate of \$0.07 per contract for volume between

2011-56).

¹⁰ See Section II of the Pricing Schedule.

¹¹ Id.

300,000 and 499,999 contracts in a month. Current Tier 3 would be renumbered to Tier 4 and would continue to pay a QCC rebate of \$0.08 per contract for volume between 500,000 and 699,999. Current Tier 4 would be renumbered as Tier 5 and would continue to pay a \$0.09 per contract rebate for volume between 700,000 and 999,999 contracts in a month. Finally, current Tier 5 would be renumbered as Tier 6 and would continue to pay a QCC rebate of \$0.11 per contract for volume over 1,000,000 contracts in a month.

The Exchange believes that its proposed amendments to the QCC rebates will provide an opportunity for additional members to receive the rebate. The Exchange's proposal permits volume over 99,999 to receive a rebate.

Section II – Multiply Listed Options Fees

The Exchange proposes to amend the current Floor Options Transaction Charges in Section II of the Exchange's Pricing Schedule in both Penny Pilot and non-Penny Pilot Options from \$0.30 to \$0.35 per contract for Specialists and Market Makers. The Exchange believes that these fees remain competitive with fees currently assessed today on Phlx.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of 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 the Exchange operates or controls, and is not designed to permit unfair

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

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, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁴

Likewise, in NetCoalition v. Securities and Exchange Commission (“NetCoalition”)¹⁵ 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.¹⁶ 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.”¹⁷

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

¹⁴ Securities Exchange Act Release No. 51808 at 37499 (June 9, 2005) (“Regulation NMS Adopting Release”).

¹⁵ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

¹⁶ See NetCoalition, at 534.

¹⁷ Id. at 537.

share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'"¹⁸ 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.

Section II – QCC Rebates

The Exchange believes that it is reasonable to add a new QCC rebate tier and amend the current rebate tiers to lower the Tier 1 volume threshold and start paying a rebate of \$0.05 per contract for volume between 100,000 to 299,999 contracts per month. The Exchange believes that paying a QCC rebate starting at 100,000 contracts per month will attract additional QCC volume on the Exchange. While the other rebate tiers are not being amended and simply renumbered (current Tiers 2-6), the Exchange believes these rebate tiers will continue to attract QCC volume on the Exchange.

The Exchange believes that adding a new QCC rebate tier and amending the current rebate tiers to lower the Tier 1 volume threshold and start paying a rebate of \$0.05 per contract for volume between 100,000 to 299,999 contracts per month is equitable and not unfairly discriminatory because all market participants are eligible to transact QCC Orders and receive the rebates.

Section II – Multiply Listed Options Fees

The Exchange's proposal to amend its Floor Options Transaction Charges to increase Penny and non-Penny Pilot Options Transaction Charges for Specialists and Market Makers is reasonable because the proposed fees are within the range of other fees

¹⁸ Id. at 539 (quoting ArcaBook Order, 73 FR at 74782-74783).

in Section II of the Pricing Schedule.¹⁹ Also, Specialists and Market Makers pay a Marketing Fee²⁰ on electronic orders but do not pay a Marketing Fee when transacting non-electronic orders, which is why the floor transaction charges are higher as compared to electronic options transaction charges for Specialists and Market Makers.

The Exchange's proposal to amend its Floor Options Transaction Charges to increase Penny Options and non-Penny Pilot Options Transaction Charges for Specialists and Market Makers is equitable and not unfairly discriminatory because Specialists and Market Makers have a time and place advantage on the trading floor with respect to orders, unlike other market participants. A Professional, Broker-Dealer, or a Firm would necessarily require a floor broker to represent their trading interest on the trading floor as compared to a Specialist or Market Maker that could directly transact such orders on the trading floor. Further, the Exchange believes that to attract orders from a Professional, Broker-Dealer or a Firm, via a floor broker, the rates must be competitive with rates at other trading floors.

Therefore, the Exchange would continue to assess a Professional, Broker-Dealer

¹⁹ Section II Options Transaction Charges for Penny Pilot and non-Penny Pilot Options range from \$0.22 to \$0.75 per contract for Non-Customers.

²⁰ The Marketing Fee is assessed on Specialists and Market Makers when they elect to participate in the Marketing program. The fees are assessed on electronically-delivered Customer orders. The fees are available to be disbursed by the Exchange according to the instructions of the Specialist or Market Maker to order flow providers who are members or member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those customer orders. Any excess funds billed but not utilized by the Specialist or Market Maker are carried forward unless the Specialist or Market Maker elects to have those funds rebated on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange calculates the amount of excess funds from the previous quarter and subsequently rebates excess funds on a pro-rata basis to the applicable Specialist or Market Maker who paid into that pool of funds. See Section II of the Pricing Schedule.

and a Firm a Floor Options Transaction Charge for Penny Pilot Options and Non-Penny Pilot Options of \$0.25 per contract. Customers are not assessed an Options Transaction Charge because Customer order flow is unique. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. 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 Exchange believes that its proposed amendments to the QCC rebate tiers and increase to the Specialist and Market Maker floor options transaction charges do not impose an undue burden on inter-market competition because the QCC rebates and Specialist and Market Maker fees remain competitive with rebates and fees offered on other options markets.²¹ 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 believes that adding a new QCC rebate tier and amending the current rebate tiers to lower the Tier 1 volume threshold and start paying a rebate of \$0.05 per contract for volume between 100,000 to 299,999 contracts per month does not impose an undue burden on intra-market competition because all market participants are eligible to transact QCC Orders and receive a rebate.

The Exchange's proposal to amend its Floor Options Transaction Charges to increase Penny Options and non-Penny Pilot Options Transaction Charges for Specialists and Market Makers does not impose an undue burden on intra-market competition because Specialists and Market Makers have a time and place advantage on the trading floor with respect to orders, unlike other market participants. Unlike other market

²¹ The International Securities Exchange LLC ("ISE") pays QCC rebates ranging from \$0.00 to \$0.011 per contract. See ISE's Schedule of Fees. Also, the Chicago Board Options Exchange, Incorporated ("CBOE") assess market-makers, DPMs and LLMs manual fees based on a sliding scale which range from \$0.03 to \$0.23 per contract depending on certain volume thresholds. See CBOE's Fees Schedule.

participants, a Specialist or Market Maker may directly transact orders on the trading floor. Further, unlike Specialist or Market Maker electronic orders, which are subject to a Marketing Fee, Specialist or Market Maker floor orders are not subject to a Marketing Fee.

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,²² The Exchange 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.

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.

²² 15 U.S.C. 78s(b)(3)(A)(ii).

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 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-2016-42)

March __, 2016

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Qualified Contingent Cross rebates and certain floor Options Transaction Charges

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 March 28, 2016, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange’s Pricing Schedule at Section II, entitled “Multiply Listed Options Fees.” Specifically, the Exchange is proposing to amend the Qualified Contingent Cross (“QCC”) rebates and certain floor Options Transaction Charges.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Section II, entitled "Multiply Listed Options Fees." Specifically, the Exchange is proposing to amend QCC rebates and certain floor Options Transaction Charges. Each change will be described below in more detail.

Section II – QCC Rebates

Today, the Exchange assesses a QCC Transaction Fee of \$0.20 per contract to a Specialist,³ Market Maker,⁴ Professional,⁵ Firm⁶ and Broker-Dealer.⁷ The Exchange

³ A "Specialist" is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

⁴ The term "Market Maker" includes Registered Options Traders ("ROT"). See Exchange Rule 1014 (b)(i) and (ii). A ROT includes a Streaming Quote Trader or "SQT," a Remote Streaming Quote Trader or "RSQT" and a Non-SQT, which by definition is neither a SQT nor a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. An SQT is a ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned. See Rule

also pays rebates on QCC Orders based on the following five tier rebate schedule:

QCC Rebate Schedule

Tier	Threshold	Rebate per Contract
Tier 1	0 to 299,999 contracts in a month	\$0.00
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Rebates are paid for all qualifying executed QCC Orders, as defined in Rule 1080(o)⁸ and Floor QCC Orders, as defined in Rule 1064(e),⁹ except where the

1014(b)(11)(A). An RSQT is an ROT that is a member affiliated with and Remote Streaming Quote Organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. See Rule 1014(ii)(B).

⁵ The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Rule 1000(b)(14).

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⁸ A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. See Rule 1080(o). See also Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR

transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger, short stock interest or reversal or conversion strategy execution.¹⁰ The maximum QCC Rebate to be paid in a given month will not exceed \$450,000.¹¹

The Exchange proposes to amend the QCC rebate schedule to add a new tier to create a six tier rebate schedule and amend the existing tiers. The proposed QCC rebate schedule would be as follows:

QCC Rebate Schedule

Tier	Threshold	Rebate per Contract
Tier 1	0 to 99,999 contracts in a month	\$0.00
Tier 2	100,000 to 299,999 contracts in a month	\$0.05
Tier 3	300,000 to 499,999 contracts in a month	\$0.07
Tier 4	500,000 to 699,999 contracts in a month	\$0.08
Tier 5	700,000 to 999,999 contracts in a month	\$0.09
Tier 6	Over 1,000,000 contracts in a month	\$0.11

20773 (April 13, 2011) (SR-Phlx-2011-47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (“QCTs”) that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of Regulation NMS).

⁹ A Floor QCC Order must: (i) be for at least 1,000 contracts; (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption; (iii) be executed at a price at or between the National Best Bid and Offer (“NBBO”); and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. See Rule 1064(e). See also Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR-Phlx-2011-56).

¹⁰ See Section II of the Pricing Schedule.

¹¹ Id.

Tier 1 does not currently pay a QCC rebate between 0 and 299,999 contracts in a month. The Exchange will continue to pay no rebate for Tier 1, however the Exchange proposes to lower the volume threshold to between 0 and 99,999 contracts in month. The Exchange proposes a new Tier 2 QCC rebate which would pay a QCC rebate of \$0.05 per contract for volume between 100,000 and 299,999 contracts in a month. The remainder of the QCC rebate tiers would be renumbered. Current Tier 2 would be renumbered as Tier 3 and would continue to pay a rebate of \$0.07 per contract for volume between 300,000 and 499,999 contracts in a month. Current Tier 3 would be renumbered to Tier 4 and would continue to pay a QCC rebate of \$0.08 per contract for volume between 500,000 and 699,999. Current Tier 4 would be renumbered as Tier 5 and would continue to pay a \$0.09 per contract rebate for volume between 700,000 and 999,999 contracts in a month. Finally, current Tier 5 would be renumbered as Tier 6 and would continue to pay a QCC rebate of \$0.11 per contract for volume over 1,000,000 contracts in a month.

The Exchange believes that its proposed amendments to the QCC rebates will provide an opportunity for additional members to receive the rebate. The Exchange's proposal permits volume over 99,999 to receive a rebate.

Section II – Multiply Listed Options Fees

The Exchange proposes to amend the current Floor Options Transaction Charges in Section II of the Exchange's Pricing Schedule in both Penny Pilot and non-Penny Pilot Options from \$0.30 to \$0.35 per contract for Specialists and Market Makers. The Exchange believes that these fees remain competitive with fees currently assessed today on Phlx.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the

Act,¹² in general, and furthers the objectives of 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 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, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁴

Likewise, in NetCoalition v. Securities and Exchange Commission (“NetCoalition”)¹⁵ 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.¹⁶ 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

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ Securities Exchange Act Release No. 51808 at 37499 (June 9, 2005) (“Regulation NMS Adopting Release”).

¹⁵ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

¹⁶ See NetCoalition, at 534.

what cost.”¹⁷

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’”¹⁸ 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.

Section II – QCC Rebates

The Exchange believes that it is reasonable to add a new QCC rebate tier and amend the current rebate tiers to lower the Tier 1 volume threshold and start paying a rebate of \$0.05 per contract for volume between 100,000 to 299,999 contracts per month. The Exchange believes that paying a QCC rebate starting at 100,000 contracts per month will attract additional QCC volume on the Exchange. While the other rebate tiers are not being amended and simply renumbered (current Tiers 2-6), the Exchange believes these rebate tiers will continue to attract QCC volume on the Exchange.

The Exchange believes that adding a new QCC rebate tier and amending the current rebate tiers to lower the Tier 1 volume threshold and start paying a rebate of \$0.05 per contract for volume between 100,000 to 299,999 contracts per month is equitable and not unfairly discriminatory because all market participants are eligible to

¹⁷ Id. at 537.

¹⁸ Id. at 539 (quoting ArcaBook Order, 73 FR at 74782-74783).

transact QCC Orders and receive the rebates.

Section II – Multiply Listed Options Fees

The Exchange's proposal to amend its Floor Options Transaction Charges to increase Penny and non-Penny Pilot Options Transaction Charges for Specialists and Market Makers is reasonable because the proposed fees are within the range of other fees in Section II of the Pricing Schedule.¹⁹ Also, Specialists and Market Makers pay a Marketing Fee²⁰ on electronic orders but do not pay a Marketing Fee when transacting non-electronic orders, which is why the floor transaction charges are higher as compared to electronic options transaction charges for Specialists and Market Makers.

The Exchange's proposal to amend its Floor Options Transaction Charges to increase Penny Options and non-Penny Pilot Options Transaction Charges for Specialists and Market Makers is equitable and not unfairly discriminatory because Specialists and Market Makers have a time and place advantage on the trading floor with respect to orders, unlike other market participants. A Professional, Broker-Dealer, or a Firm would necessarily require a floor broker to represent their trading interest on the trading floor as

¹⁹ Section II Options Transaction Charges for Penny Pilot and non-Penny Pilot Options range from \$0.22 to \$0.75 per contract for Non-Customers.

²⁰ The Marketing Fee is assessed on Specialists and Market Makers when they elect to participate in the Marketing program. The fees are assessed on electronically-delivered Customer orders. The fees are available to be disbursed by the Exchange according to the instructions of the Specialist or Market Maker to order flow providers who are members or member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those customer orders. Any excess funds billed but not utilized by the Specialist or Market Maker are carried forward unless the Specialist or Market Maker elects to have those funds rebated on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange calculates the amount of excess funds from the previous quarter and subsequently rebates excess funds on a pro-rata basis to the applicable Specialist or Market Maker who paid into that pool of funds. See Section II of the Pricing Schedule.

compared to a Specialist or Market Maker that could directly transact such orders on the trading floor. Further, the Exchange believes that to attract orders from a Professional, Broker-Dealer or a Firm, via a floor broker, the rates must be competitive with rates at other trading floors.

Therefore, the Exchange would continue to assess a Professional, Broker-Dealer and a Firm a Floor Options Transaction Charge for Penny Pilot Options and Non-Penny Pilot Options of \$0.25 per contract. Customers are not assessed an Options Transaction Charge because Customer order flow is unique. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

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 Exchange believes that its proposed amendments to the QCC rebate tiers and increase to the Specialist and Market Maker floor options transaction charges do not impose an undue burden on inter-market competition because the QCC rebates and Specialist and Market Maker fees remain competitive with rebates and fees offered on other options markets.²¹ 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 believes that adding a new QCC rebate tier and amending the current rebate tiers to lower the Tier 1 volume threshold and start paying a rebate of \$0.05 per contract for volume between 100,000 to 299,999 contracts per month does not impose an undue burden on intra-market competition because all market participants are eligible to transact QCC Orders and receive a rebate.

²¹ The International Securities Exchange LLC ("ISE") pays QCC rebates ranging from \$0.00 to \$0.011 per contract. See ISE's Schedule of Fees. Also, the Chicago Board Options Exchange, Incorporated ("CBOE") assess market-makers, DPMs and LLMs manual fees based on a sliding scale which range from \$0.03 to \$0.23 per contract depending on certain volume thresholds. See CBOE's Fees Schedule.

The Exchange's proposal to amend its Floor Options Transaction Charges to increase Penny Options and non-Penny Pilot Options Transaction Charges for Specialists and Market Makers does not impose an undue burden on intra-market competition because Specialists and Market Makers have a time and place advantage on the trading floor with respect to orders, unlike other market participants. Unlike other market participants, a Specialist or Market Maker may directly transact orders on the trading floor. Further, unlike Specialist or Market Maker electronic orders, which are subject to a Marketing Fee, Specialist or Market Maker floor orders are not subject to a Marketing Fee.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²²

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.

²² 15 U.S.C. 78s(b)(3)(A)(ii).

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-2016-42 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.

All submissions should refer to File Number SR-Phlx-2016-42. 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-2016-42 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.²³

Robert W. Errett
Deputy Secretary

²³ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is bracketed.

**NASDAQ PHLX LLC 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 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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II. Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed)

	Customer Professional		Specialist and Market Maker		Broker-Dealer		Firm		
	Electronic Floor		Electronic Floor		Electronic Floor		Electronic Floor		
Options Transaction Charge (Penny Pilot)	\$0.00	\$0.48 ²	\$0.25	\$0.22	\$0.3[0]5	\$0.48 ²	\$0.25	\$0.48 ^{1, 2}	\$0.25
Options Transaction Charge (non-	\$0.00	\$0.75 ^{2, 3}	\$0.25	\$0.25 ⁴	\$0.3[0]5	\$0.75 ^{2, 3}	\$0.25	\$0.75 ^{1, 2, 3}	\$0.25

Penny Pilot)**Options Surcharge in MNX and NDX**

N/A	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25
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Options Surcharge in BKX

N/A	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10
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Cabinet Options

\$0.00	N/A	\$0.10	N/A	\$0.10	N/A	\$0.10	N/A	\$0.10	\$0.10
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- These fees are per contract.

¹Firm electronic simple orders in AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF will be assessed \$0.37.

²Electronic Complex Orders will be assessed \$0.35 per contract.

³Any member or member organization under Common Ownership with another member or member organization that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed \$0.60 per contract.

⁴Any member or member organization under Common Ownership with another member or member organization that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed \$0.23 per contract.

- The Cabinet Fees above are not in addition to the Options Transaction Charges.

- QCC Transaction Fees for a Specialist, Market Maker, Professional, Firm and Broker-Dealer are \$0.20 per contract. QCC Transaction Fees apply to QCC Orders, as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e). A rebate, as specified in the below QCC Rebate Schedule, will be paid for all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger, short stock interest or reversal or conversion strategy execution (as defined in Section II).

QCC Rebate Schedule

Tier	Threshold	Rebate per Contract
Tier 1	0 to [2]99,999 contracts in a month	\$0.00
<u>Tier 2</u>	<u>100,000 to 299,999 contracts in a month</u>	<u>\$0.05</u>
Tier [2] <u>3</u>	300,000 to 499,999 contracts in a month	\$0.07
Tier [3] <u>4</u>	500,000 to 699,999 contracts in a month	\$0.08
Tier [4] <u>5</u>	700,000 to 999,999 contracts in a month	\$0.09
Tier [5] <u>6</u>	Over 1,000,000 contracts in a month	\$0.11

The maximum QCC Rebate to be paid in a given month will not exceed \$450,000.

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