

Required fields are shown with yellow backgrounds and asterisks.

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 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"/>
--	--

Description

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

Proposal to amend the Phlx Pricing Schedule, at Sections I and II, to further reduce costs of SPY and Complex Order Transactions.

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 * Principal 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.

(Title *)

Date 05/10/2018
 By Edward S. Knight
 (Name *)

Executive Vice President and General Counsel

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 Phlx’s Pricing Schedule at Section I, entitled “Rebates and Fees for Adding and Removing Liquidity in SPY,” and Section II, entitled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).”

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on September 19, 2017. 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
Principal 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 Exchange proposes to amend Phlx’s Pricing Schedule at Section I, entitled “Rebates and Fees for Adding and Removing Liquidity in SPY,” and Section II, entitled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).” Specifically, the Exchange proposes to amend a surcharge in Section I, Part B, which applies to options overlying SPY as well as a surcharge in Section II related to Complex Orders in order to further reduce the costs to the Exchange of such transactions. Each surcharge amendment is described below in more detail.

Section I, Part B

The Exchange proposes to amend Section I, Part B to amend Complex Order³ fees for SPY. The Exchange proposes to increase a surcharge of \$0.05 per contract, which is currently assessed to Customers⁴ when executing the individual components of their Complex Orders in SPY against Market Maker⁵ or Specialist⁶ quotes that are resting

³ A Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. See Phlx Rule 1098.

⁴ The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Rule 1000(b)(14)).

⁵ The term “ROT, SQT and RSQT” applies to transactions for the accounts of Registered Option Traders (“ROTs”), Streaming Quote Traders (“SQTs”), and Remote Streaming Quote Traders (“RSQTs”). For purposes of the Pricing Schedule, the term “Market Maker” will be utilized to describe fees and rebates

on the Simple Order Book. Today, Customers submit Complex Orders to the Exchange because often, Customers are able to execute such Complex Orders immediately by executing the individual components thereof through interactions with Market Maker and Specialist quotes that rest on the Exchange's Simple Order Book. These Customers benefit from not having to wait for counterparties that are willing to execute against their Complex Orders in the Complex Order Book. The Exchange proposes to increase the surcharge from \$0.05 to \$0.15 per contract for Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book.⁷ The Exchange proposes this surcharge increase to reduce further the Exchange's costs for these transactions. Not only does the Exchange receive no fees from Customers for engaging in these transactions,⁸ but the Exchange also pays rebates to the Market Makers and Specialists whose quotes execute against the Customers' Complex Orders.⁹ Pursuant to Section I, Part A of the Exchange's Pricing Schedule, these rebates range from \$0.15 to \$0.35 per contact.

applicable to ROTs, SQTs and RSQTs. RSQTs may also be referred to as Remote Market Markers ("RMMs"). See Preface to Phlx's Pricing Schedule.

⁶ The term "Specialist" applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)). A Specialist is an Exchange member registered as an options specialist pursuant to Rule 1020(a). An options Specialist includes a Remote Specialist, which is defined as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.

⁷ A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

⁸ Non-Customer market participants pay fees for adding and removing liquidity in Complex Orders as noted in Section I, Part B of the Pricing Schedule, although Customers pay no such fees.

⁹ See rebates in Section I, Part A of the Pricing Schedule.

Section II

The Exchange proposes to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity¹⁰ from the Complex Order Book and auctions, excluding PIXL,¹¹ in Non-Penny Pilot Options (excluding NDX and NDXP).¹² The Exchange proposes to increase this surcharge for electronically-delivered Complex Orders from \$0.10 to \$0.12 per contract to reduce further the Exchange's costs for these transactions. Today, Customers pay no Options Transaction Charges in Non-Penny Pilot Options.¹³ The Exchange pays Customer rebates for Complex Orders in Section B of the Pricing Schedule. The Exchange desires to continue to incentivize Customers to interact with Complex Order liquidity by offering those rebates in Section B of the Pricing Schedule. The Exchange believes that while the surcharge is being increased for the Options Transaction Charge in Non-Penny Pilot Options excluding NDX and NDXP, the fees remain competitive as the Exchange does not assess Customers a fee but offers

¹⁰ The Exchange notes that an 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.

¹¹ PIXLSM is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. See Phlx Rule 1087.

¹² Today, this surcharge is not subject to the Monthly Market Maker Cap. Phlx Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$500,000 for: (i) electronic Option Transaction Charges, excluding surcharges and excluding options overlying NDX and NDXP; and (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)).

¹³ Non-Customer market participants pay a \$0.75 per contract Options Transaction Charge in Non-Penny Pilot Options excluding NDX and NDXP.

Customers rebates. The surcharge is assessed to Non-Customers.¹⁴ The Exchange is proposing to add “Non-Customers” to footnote 7 of Section II of the Pricing Schedule to make clear that today, Customers do not get assessed a surcharge. The Exchange assesses surcharges to market participants that pay Options Transaction Charges. In this case, only Non-Customer market participants pay an Options Transaction Charge for Non-Penny Pilot Options. Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term “Non-Customer” into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customer.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Section I, Part B

The Exchange’s proposal to amend Section I, Part B related to Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book is reasonable because the surcharge would reduce the Exchange’s

¹⁴ The term “Non-Customer” applies to transactions for the accounts of Specialists, Market Makers, Firms, Professionals, Broker-Dealers and JBOs.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

costs associated with these transactions. Each such transaction costs the Exchange between \$0.15 and \$0.35 per contract in rebates to Market Makers and Specialists. Moreover, it is reasonable to impose this surcharge on Customers because Customers benefit the most from being able to achieve immediate executions of their Complex Orders in the relevant scenario. The Exchange believes that the surcharge is minimal and will not be substantial enough to eliminate or even significantly diminish the benefits to Customers of being able to achieve immediate executions in this manner. Finally, the Exchange notes that all other account categories, Professionals,¹⁷ Firms,¹⁸ Broker-Dealers,¹⁹ Specialists, and Market Makers, pay higher fees when the Complex Order removes liquidity from the Complex Order Book or the Simple Order Book²⁰ than Customers would pay under the proposal when they execute their Complex Orders against Simple Orders of Market Makers and Specialists that are resting on the Simple Order Book.²¹

The Exchange's proposal to amend Section I, Part B to amend Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers

¹⁷ The term "Professional" applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) as 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).

¹⁸ The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

¹⁹ The term "Broker-Dealer" applies to any transaction, which is not subject to any of the other transaction fees applicable within a particular category.

²⁰ A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

²¹ See Section I, Part B of the Pricing Schedule.

that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book is equitable and not unfairly discriminatory because the Exchange will uniformly apply the fee to all similarly-situated Customers. Even with this increased surcharge, Customers are assessed the least amount per contract for executions in SPY. As noted herein, Customers are not assessed fees for adding and removing liquidity for SPY Complex Orders. With respect to the Simple Market, a Customer is assessed the lowest fee for removing liquidity.²² The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no fees or lower fees because Customer orders bring valuable liquidity to the market, which benefits other market participants. 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.

Section II

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract is reasonable because it will further offset the cost of paying rebates as provided for in Section I, Part A to Specialists and Market Makers. The Exchange believes that it is reasonable to only assess this surcharge to those orders which remove liquidity from the market because the Exchange wants to continue to encourage market participation and price improvement for those participants that seek to add

²² A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

liquidity on Phlx. The Exchange believes that not assessing the surcharge on PIXL and SPY orders is reasonable. PIXL has its own pricing,²³ and the Exchange wants to continue to encourage price improvement within PIXL. SPY has its own rebate program separate and apart from Section B.²⁴ Limiting the surcharges to electronically-delivered transactions is reasonable because the Section B rebates apply only to electronically-delivered Customer orders. Further, limiting the surcharge to orders entered electronically is equitable and not unfairly discriminatory because the Exchange has expended considerable resources to develop its electronic trading platforms and seeks to recoup the costs of such expenditures. Finally, excluding NDX and NDXP is reasonable because these symbols are currently subject to a surcharge.²⁵ The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule is reasonable because today Customers do not get assessed a surcharge. The surcharge is assessed to Non-Customer market participants who pay an Options Transaction Charge for Non-Penny Pilot Options. Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customer.

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP)

²³ See Section IV, Part A of the Pricing Schedule.

²⁴ See Section I of the Pricing Schedule. SPY Pricing is only in Section I. Section II pricing applies to Multiply-Listed Options excluding SPY options.

²⁵ See Section II of the Pricing Schedule.

from \$0.10 to \$0.12 per contract is equitable and not unfairly discriminatory because the Exchange will uniformly apply this surcharge to all Non-Customer or market participants that pay an Options Transaction Charge. The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule is equitable and not unfairly discriminatory because Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customers. The Exchange believes that it is equitable and not unfairly discriminatory to assess no Options Transaction Charge for Non-Penny Pilot Options or surcharge fee because 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.

Section I, Part B

The Exchange's proposal to amend Section I, Part B to amend Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book does not impose an undue burden on competition because the Exchange will uniformly apply the fee to all similarly-situated Customers. Even with this increased surcharge, Customers are assessed the least amount per contract for executions in SPY. As noted herein, Customers are not assessed fees for adding and removing liquidity for SPY Complex Orders. With respect to the Simple Market, a Customer is assessed the lowest fee for removing liquidity.²⁶ The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no fees or lower fees because Customer orders bring valuable liquidity to the market, which benefits other market participants. 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.

Section II

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and

²⁶ A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract does not impose an undue burden on competition because the Exchange will uniformly apply this surcharge to all Non-Customer or market participants that pay an Options Transaction Charge. The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule does not impose an undue burden on competition because Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customers. The Exchange believes that assessing no Options Transaction Charge for Non-Penny Pilot Options and not assessing a surcharge fee does not impose an undue burden on competition because 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.

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,²⁷ 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.

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.

²⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2018-39)

May __, 2018

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Sections I and II of the Pricing Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 2018, 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 Phlx’s Pricing Schedule at Section I, entitled “Rebates and Fees for Adding and Removing Liquidity in SPY,” and Section II, entitled “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).”

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqphlx.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 Exchange proposes to amend Phlx's Pricing Schedule at Section I, entitled "Rebates and Fees for Adding and Removing Liquidity in SPY," and Section II, entitled "Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed)." Specifically, the Exchange proposes to amend a surcharge in Section I, Part B, which applies to options overlying SPY as well as a surcharge in Section II related to Complex Orders in order to further reduce the costs to the Exchange of such transactions. Each surcharge amendment is described below in more detail.

Section I, Part B

The Exchange proposes to amend Section I, Part B to amend Complex Order³ fees for SPY. The Exchange proposes to increase a surcharge of \$0.05 per contract,

³ A Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. See Phlx Rule 1098.

which is currently assessed to Customers⁴ when executing the individual components of their Complex Orders in SPY against Market Maker⁵ or Specialist⁶ quotes that are resting on the Simple Order Book. Today, Customers submit Complex Orders to the Exchange because often, Customers are able to execute such Complex Orders immediately by executing the individual components thereof through interactions with Market Maker and Specialist quotes that rest on the Exchange's Simple Order Book. These Customers benefit from not having to wait for counterparties that are willing to execute against their Complex Orders in the Complex Order Book. The Exchange proposes to increase the surcharge from \$0.05 to \$0.15 per contract for Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book.⁷ The Exchange proposes this surcharge increase to reduce further the Exchange's costs for these transactions. Not only does the Exchange receive no fees from Customers for

⁴ The term "Customer" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a "Professional" (as that term is defined in Rule 1000(b)(14)).

⁵ The term "ROT, SQT and RSQT" applies to transactions for the accounts of Registered Option Traders ("ROTs"), Streaming Quote Traders ("SQTs"), and Remote Streaming Quote Traders ("RSQTs"). For purposes of the Pricing Schedule, the term "Market Maker" will be utilized to describe fees and rebates applicable to ROTs, SQTs and RSQTs. RSQTs may also be referred to as Remote Market Markers ("RMMs"). See Preface to Phlx's Pricing Schedule.

⁶ The term "Specialist" applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)). A Specialist is an Exchange member registered as an options specialist pursuant to Rule 1020(a). An options Specialist includes a Remote Specialist, which is defined as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.

⁷ A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

engaging in these transactions,⁸ but the Exchange also pays rebates to the Market Makers and Specialists whose quotes execute against the Customers' Complex Orders.⁹ Pursuant to Section I, Part A of the Exchange's Pricing Schedule, these rebates range from \$0.15 to \$0.35 per contract.

Section II

The Exchange proposes to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity¹⁰ from the Complex Order Book and auctions, excluding PIXL,¹¹ in Non-Penny Pilot Options (excluding NDX and NDXP).¹² The Exchange proposes to increase this surcharge for electronically-delivered Complex Orders from \$0.10 to \$0.12 per contract to reduce further the Exchange's costs for these transactions. Today, Customers pay no Options Transaction Charges in Non-Penny Pilot Options.¹³ The Exchange pays Customer rebates for Complex Orders in Section B of the

⁸ Non-Customer market participants pay fees for adding and removing liquidity in Complex Orders as noted in Section I, Part B of the Pricing Schedule, although Customers pay no such fees.

⁹ See rebates in Section I, Part A of the Pricing Schedule.

¹⁰ The Exchange notes that an 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.

¹¹ PIXLSM is the Exchange's price improvement mechanism known as Price Improvement XL or PIXL. See Phlx Rule 1087.

¹² Today, this surcharge is not subject to the Monthly Market Maker Cap. Phlx Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of \$500,000 for: (i) electronic Option Transaction Charges, excluding surcharges and excluding options overlying NDX and NDXP; and (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)).

¹³ Non-Customer market participants pay a \$0.75 per contract Options Transaction Charge in Non-Penny Pilot Options excluding NDX and NDXP.

Pricing Schedule. The Exchange desires to continue to incentivize Customers to interact with Complex Order liquidity by offering those rebates in Section B of the Pricing Schedule. The Exchange believes that while the surcharge is being increased for the Options Transaction Charge in Non-Penny Pilot Options excluding NDX and NDXP, the fees remain competitive as the Exchange does not assess Customers a fee but offers Customers rebates. The surcharge is assessed to Non-Customers.¹⁴ The Exchange is proposing to add “Non-Customers” to footnote 7 of Section II of the Pricing Schedule to make clear that today, Customers do not get assessed a surcharge. The Exchange assesses surcharges to market participants that pay Options Transaction Charges. In this case, only Non-Customer market participants pay an Options Transaction Charge for Non-Penny Pilot Options. Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term “Non-Customer” into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customer.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹⁴ The term “Non-Customer” applies to transactions for the accounts of Specialists, Market Makers, Firms, Professionals, Broker-Dealers and JBOs.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

Section I, Part B

The Exchange's proposal to amend Section I, Part B related to Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book is reasonable because the surcharge would reduce the Exchange's costs associated with these transactions. Each such transaction costs the Exchange between \$0.15 and \$0.35 per contract in rebates to Market Makers and Specialists. Moreover, it is reasonable to impose this surcharge on Customers because Customers benefit the most from being able to achieve immediate executions of their Complex Orders in the relevant scenario. The Exchange believes that the surcharge is minimal and will not be substantial enough to eliminate or even significantly diminish the benefits to Customers of being able to achieve immediate executions in this manner. Finally, the Exchange notes that all other account categories, Professionals,¹⁷ Firms,¹⁸ Broker-Dealers,¹⁹ Specialists, and Market Makers, pay higher fees when the Complex Order removes liquidity from the Complex Order Book or the Simple Order Book²⁰ than Customers would pay under the proposal when they execute their Complex Orders

¹⁷ The term "Professional" applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) as 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).

¹⁸ The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

¹⁹ The term "Broker-Dealer" applies to any transaction, which is not subject to any of the other transaction fees applicable within a particular category.

²⁰ A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

against Simple Orders of Market Makers and Specialists that are resting on the Simple Order Book.²¹

The Exchange's proposal to amend Section I, Part B to amend Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book is equitable and not unfairly discriminatory because the Exchange will uniformly apply the fee to all similarly-situated Customers. Even with this increased surcharge, Customers are assessed the least amount per contract for executions in SPY. As noted herein, Customers are not assessed fees for adding and removing liquidity for SPY Complex Orders. With respect to the Simple Market, a Customer is assessed the lowest fee for removing liquidity.²² The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no fees or lower fees because Customer orders bring valuable liquidity to the market, which benefits other market participants. 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.

Section II

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP)

²¹ See Section I, Part B of the Pricing Schedule.

²² A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

from \$0.10 to \$0.12 per contract is reasonable because it will further offset the cost of paying rebates as provided for in Section I, Part A to Specialists and Market Makers. The Exchange believes that it is reasonable to only assess this surcharge to those orders which remove liquidity from the market because the Exchange wants to continue to encourage market participation and price improvement for those participants that seek to add liquidity on Phlx. The Exchange believes that not assessing the surcharge on PIXL and SPY orders is reasonable. PIXL has its own pricing,²³ and the Exchange wants to continue to encourage price improvement within PIXL. SPY has its own rebate program separate and apart from Section B.²⁴ Limiting the surcharges to electronically-delivered transactions is reasonable because the Section B rebates apply only to electronically-delivered Customer orders. Further, limiting the surcharge to orders entered electronically is equitable and not unfairly discriminatory because the Exchange has expended considerable resources to develop its electronic trading platforms and seeks to recoup the costs of such expenditures. Finally, excluding NDX and NDXP is reasonable because these symbols are currently subject to a surcharge.²⁵ The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule is reasonable because today Customers do not get assessed a surcharge. The surcharge is assessed to Non-Customer market participants who pay an Options Transaction Charge for Non-Penny Pilot Options. Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term "Non-Customer" into this provision

²³ See Section IV, Part A of the Pricing Schedule.

²⁴ See Section I of the Pricing Schedule. SPY Pricing is only in Section I. Section II pricing applies to Multiply-Listed Options excluding SPY options.

²⁵ See Section II of the Pricing Schedule.

will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customer.

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract is equitable and not unfairly discriminatory because the Exchange will uniformly apply this surcharge to all Non-Customer or market participants that pay an Options Transaction Charge. The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule is equitable and not unfairly discriminatory because Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customers. The Exchange believes that it is equitable and not unfairly discriminatory to assess no Options Transaction Charge for Non-Penny Pilot Options or surcharge fee because 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.

Section I, Part B

The Exchange's proposal to amend Section I, Part B to amend Complex Order fees for SPY to increase the surcharge from \$0.05 to \$0.15 per contract on Customers that execute Complex Orders against Market Maker or Specialist quotes resting on the Simple Order Book does not impose an undue burden on competition because the Exchange will uniformly apply the fee to all similarly-situated Customers. Even with this increased surcharge, Customers are assessed the least amount per contract for executions in SPY. As noted herein, Customers are not assessed fees for adding and removing liquidity for SPY Complex Orders. With respect to the Simple Market, a Customer is assessed the lowest fee for removing liquidity.²⁶ The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no fees or lower fees because Customer orders bring valuable liquidity to the market, which benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in

²⁶ A component of a Complex Order may "leg" against a resting order in the Simple Order Book.

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.

Section II

The Exchange's proposal to amend Section II to increase a surcharge assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP) from \$0.10 to \$0.12 per contract does not impose an undue burden on competition because the Exchange will uniformly apply this surcharge to all Non-Customer or market participants that pay an Options Transaction Charge. The Exchange's proposal to add "Non-Customers" to footnote 7 of Section II of the Pricing Schedule does not impose an undue burden on competition because Customers are not assessed a surcharge today because they pay no Options Transaction Charge. By adding the term "Non-Customer" into this provision will amend the sentence to make clear that the surcharge is only being assessed to a Non-Customers. The Exchange believes that assessing no Options Transaction Charge for Non-Penny Pilot Options and not assessing a surcharge fee does not impose an undue burden on competition because 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.

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.²⁷

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-2018-39 on the subject line.

Paper comments:

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

²⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-Phlx-2018-39. 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-2018-39 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.²⁸

Eduardo A. Aleman
Assistant Secretary

²⁸ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined>; deleted text is in brackets.

NASDAQ PHLX LLC PRICING SCHEDULE

* * * * *

I. Rebates and Fees for Adding and Removing Liquidity in SPY

With respect to Section I of this Pricing Schedule, the order that is received by the trading system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity, except with respect to orders that trigger an order exposure alert. 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 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	\$0.43	\$0.43	\$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.

- Customers will be assessed a \$0.[05]15 per contract surcharge to the extent that they execute the individual components of their Complex Orders in SPY against Market Maker or Specialist quotes that are resting on the Simple Order Book.

* * * * *

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	Electronic	Floor	Electronic	Floor		
Options Transaction Charge (Penny Pilot)⁶	\$0.00	\$0.48 ₂	\$0.25 ⁸	\$0.22	\$0.35 ₈	\$0.48 ²	\$0.25 ₈	\$0.48 ^{1, 2}	\$0.25 ₈
Options Transaction Charge (non-Penny Pilot)⁷, excluding NDX and NDXP	\$0.00	\$0.75 ₃	\$0.25 ⁸	\$0.25 ⁴	\$0.35 ₈	\$0.75 ³	\$0.25 ₈	\$0.75 ^{1, 3}	\$0.25 ₈
Options Transaction Charge NDX and NDXP⁵	\$0.00	\$0.75	\$0.75 ⁸	\$0.75	\$0.75 ₈	\$0.75	\$0.75 ₈	\$0.75	\$0.75 ₈
Options Surcharge in BXX	N/A	\$0.10	\$0.10 ⁸	\$0.10	\$0.10 ₈	\$0.10	\$0.10 ₈	\$0.10	\$0.10 ₈
Cabinet Options	\$0.00	N/A	\$0.10 ⁸	N/A	\$0.10 ₈	N/A	\$0.10 ₈	N/A	\$0.10 ₈

- These fees are per contract.

¹Firm electronic simple orders in AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF will be assessed \$0.45.

²Electronic Complex Orders will be assessed \$0.40 per contract.

³Any member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed \$0.65 per contract.

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

⁵For transactions in NDX and NDXP, a surcharge of \$0.25 per contract will be assessed to Non-Customers.

⁶A \$0.03 per contract surcharge will be assessed to electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Penny Pilot Options (excluding SPY). An 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.

⁷A \$0.[10]12 per contract surcharge will be assessed to Non-Customer electronic Complex Orders that remove liquidity from the Complex Order Book and auctions, excluding PIXL, in Non-Penny Pilot Options (excluding NDX and NDXP). An 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.

* * * * *