SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74460; File No. SR-Phlx-2015-21)

March 10, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Customer Rebate Program, Multiply Listed Options, PIXL Pricing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on February 26, 2015, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to modify the Phlx Pricing Schedule ("Pricing Schedule"). Specifically, the Exchange proposes to amend pricing in Section B, entitled "Customer Rebate Program," Section II, entitled "Multiply Listed Options Fees,"[3] and Section IV, Part A, entitled "PIXL Pricing,"[4] of the Pricing Schedule. The Exchange proposes these amendments in order to: (i) establish a cap on rebates specifically for electronic Simple PIXL and Complex[5] PIXL

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

2 17 CFR 240.19b-4.

3 This includes options overlying equities, exchange traded funds ("ETFs"), exchange traded notes ("ETNs") and indexes which are Multiply Listed.

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

5 A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at 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. Furthermore, a Complex Order

Orders and not pay rebates when electronic[6] Customer[7] Complex PIXL Orders execute against electronic Complex PIXL Initiating Orders; (ii) increase the assessment of fees for electronic Firm[8] Simple Orders underlying options in AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF;[9] (iii) increase the assessment of fees for electronic Complex Orders for Professionals,[10] Firms and Broker-Dealers;[11] (iv) increase the assessment of fees for adding

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can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or ETF coupled with the purchase or sale of options contract(s). See Exchange Rule 1080, Commentary .08(a)(i) [sic].

6 A transaction resulting from an order that was electronically delivered utilizes Phlx XL. See Exchange Rules 1014 and 1080. Electronically delivered orders do not include orders transacted on the Exchange floor. A transaction resulting from an order that is non-electronically-delivered is represented on the trading floor by a floor broker. See Exchange Rule 1063. All orders will be either electronically or non-electronically delivered.

7 The term "Customer" defines a person or entity that is neither a broker-dealer nor a direct or indirect affiliate of a broker-dealer, and includes a "Professional" as defined in Rule 1000(b)(14). See Securities Exchange Act Release Nos. 66755 (April 6, 2012), 77 FR 22037 (April 12, 2012) (SR-Phlx-2012-42) (notice of filing and immediate effectiveness).

8 The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation.

9 AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF are currently Penny Pilot options (together "certain Penny Options"). The $ 0.27 per contract pricing proposed herein is symbol-specific and will continue to apply to these symbols whether or not they are deleted from or added to the Penny Pilot.

10 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).

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

liquidity in Penny Pilot Options[12] for Specialists[13] and Market Makers;[14] (v) clarify that the fee for Specialists and Market Makers that have reached their Monthly Market Maker Cap[15] in a non-complex electronic auction will include transactions which execute against an order for which the Exchange broadcast an order exposure alert; (vi) amend the Initiating Order Fee for Simple PIXL and Complex PIXL Initiating Orders; and (vii) amend the requirements to receive the PIXL Initiating Order Fee discount to require a member or member organization under Common Ownership[16] to qualify for a Tier 4 or Tier 5 Customer Rebate in Section B of the Pricing Schedule.

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12 The Penny Pilot was established in January 2007 and was last extended in 2014. See Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR-Phlx-2006-74) (notice of filing and approval order establishing Penny Pilot); and 73688 (November 25, 2014), 79 FR 71484 (December 2, 2014)(SR-Phlx-2014-77)(notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2015). All Penny Pilot Options listed on the Exchange can be found at http://www.nasdaqtrader.com/Micro.aspx?id=phlx.

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

14 A "Market Maker" includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (see Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (see Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

15 Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of $500,000 for: (i) electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction [sic]. The trading activity of separate Specialist and Market Maker member organizations is aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in Section II) are excluded from the Monthly Market Maker Cap.

16 The term "Common Ownership" shall mean members or member organizations under 75% common ownership or control.

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.

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

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

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

1. Purpose

The purpose of this filing is to modify the Pricing Schedule to specifically amend fees in Section B, entitled "Customer Rebate Program," Section II, entitled "Multiply Listed Options Fees," and Section IV, Part A, entitled "PIXL Pricing." The Exchange proposes various amendments to the Pricing Schedule as described below.

Section B – Customer Rebate Program

Currently, the Exchange has a Customer Rebate Program consisting of five tiers that pays Customer rebates on two categories, A and B,[17] of transactions. A Phlx member qualifies for a certain rebate tier based on the percentage of total national customer volume in Multiply Listed equity and ETFs options classes, excluding SPY Options that it transacts monthly on Phlx. The Exchange calculates Customer volume in Multiply Listed Options (including SPY options) by

[17] Category A and Category B rebates are described below.

totaling electronically-delivered and executed volume, excluding volume associated with electronic Qualified Contingent Cross Orders,[18] as defined in Exchange Rule 1080(o).[19] The Exchange proposes, as discussed below, to establish a cap for Simple PIXL Orders (Category A) and Complex PIXL Orders (Category B) rebates. Also, the Exchange is proposing to not offer rebates when Customer Complex PIXL Orders execute against Complex PIXL Initiating Orders for Category B rebates.

Currently, a Category A Customer rebate is paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Section II symbols. Rebates are paid on Customer PIXL Orders in Section II symbols that execute against non-Initiating Order interest. In the instance where member organizations qualify for Tier 4 or higher in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order are paid a rebate of $0.14 per contract. Today there is no rebate cap. The Exchange proposes to establish a cap for Category A rebates as follows: rebates on Customer PIXL Orders will be capped at 4,000 contracts per order for Simple PIXL Orders. The Exchange believes that the Category A rebates will continue to

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18 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 the Regulation NMS).

19 Members and member organizations under common ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Common ownership means members or member organizations under 75% common ownership or control.

encourage members to send Customer liquidity to Phlx despite the cap on PIXL Simple Order rebates at the proposed 4,000 contracts.

Currently, a Category B rebate is paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options and Non-Penny Pilot Options in Section II symbols. Rebates are paid on Customer PIXL Complex Orders in Section II symbols that execute against non-Initiating Order interest. In the instance where member organizations qualify for Tier 4 or higher in the Customer Rebate Program, Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are paid a rebate of $0.17 per contract. The Category B rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order. Today there is no rebate cap. The Exchange proposes to establish a cap for Category B Customer Complex Order rebates as follows: rebates on Customer PIXL Orders will be capped at 4,000 contracts per order leg for Complex PIXL Orders. The Exchange believes that the Category B rebates will continue to encourage members to send Customer liquidity to Phlx despite the cap on PIXL Complex Order rebates at the proposed 4,000 contracts per order leg.

The Exchange also proposes to amend the rule change to specify that Category B Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order will not be paid a rebate. As noted above, the Category B rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order, which includes a Complex PIXL Initiating Order.

<u>Section II – Multiply Listed Options</u>

The Exchange proposes to amend the discounted amount that is currently assessed to a Firm for electronic orders in certain Penny Options. Today, the Exchange assesses a Firm a $0.48 per contract Options Transaction Charge for electronic transactions in Penny Pilot Options and a $0.70 per contract Options Transaction Charge for Non-Penny Pilot Options. The Exchange also offers a discount to Firms transacting electronic Simple Orders in certain Penny Options of $0.25 per contract. The Exchange is proposing to increase the discount fee from $0.25 to $0.27 per contract,[20] resulting in a higher effective fee. Despite the increase in the discount fee, the Exchange believes that Firms will continue to be incentivized to transact volume in these symbols.

The Exchange proposes to increase the discount fee for electronic Complex Orders to Professionals, Broker-Dealers and Firms in Penny and Non-Penny Pilot Options regarding electronic Complex Orders. Today, Professionals, Broker-Dealers and Firms are offered the opportunity to reduce Options Transaction Charges in Penny Pilot Complex Orders from $0.48 to $0.30 per contract and to reduce Options Transaction Charges in Non-Penny Pilot Complex Orders from $0.70 to $0.30 per contract. The Exchange is proposing to increase the discount fee for Professionals, Firms and Broker-Dealers from $0.30 to $0.35 per contract when transacting electronic Complex Orders, resulting in a higher effective fee. Despite the increase in the discount fee, the Exchange believes that this discount will continue to incentivize Professionals, Firms and Broker-Dealers to transact electronic Complex Order volume. The Exchange believes that the proposed discount fee, although higher, will continue to incentivize Professionals, Broker-Dealers and Firms to send order flow to the Exchange.

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20 The fee reduction today is only applicable to Penny Pilot Options as all of the symbols, AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF, are Penny Pilot symbols.

Currently, Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of $500,000 for: (i) electronic and floor Option Transaction Charges; and (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)). The trading activity of separate Specialist and Market Maker member organizations are aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions[21] are excluded from the Monthly Market Maker Cap. Specialists or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction; and (ii) have reached the Monthly Market Maker Cap are currently assessed fees per contract as follows: $0.00 per contract Fee for Adding Liquidity in Penny Pilot Options; $0.17 per contract Fee for Removing Liquidity in Penny Pilot Options; $0.17 per contract in Non-Penny Pilot Options; and $0.17 per contract in a non-Complex electronic auction, including the Quote Exhaust auction and, for purposes of this fee, the opening process. A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA").

The Exchange proposes to increase the Fee for Adding Liquidity in Penny Pilot Options, when a Specialist or Market Maker is on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction, and has reached the Monthly Market Maker Cap, from $0.00 to $0.05 per contract. The Exchange also proposes to make it clear that transactions which execute against an order for which the Exchange broadcast an order exposure alert will be subject to the existing fee of $0.17 per contract in a non-Complex

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21 See descriptions of these strategies in Section II of the Pricing Schedule.

electronic auction.[22] This rule change should add greater clarity to the Pricing Schedule.[23]

Section IV, Part A – PIXL Pricing

Currently, PIXL pricing for Initiating Orders is located in subsection IV, Part A (Other Transaction Fees) of the Pricing Schedule. Today, the Initiating Order Fee is $0.07 per contract or $0.05 per contract if Customer Rebate Program Threshold Volume defined in Section B is greater than 100,000 contracts per day in a month. The Exchange proposes, as discussed below, to continue to assess the $0.07 Initiating Order Fee. The Exchange proposes, where the member or member organization qualifies for the Tier 4 or 5 Customer Rebate in Section B, to asses [sic] a $0.05 Simple PIXL Order Fee; and to indicate that where the member or member organization qualifies for the Tier 4 or 5 Customer Rebate in Section B it will assess a $0.03 Complex PIXL Order Fee. The Exchange also proposes to amend the qualifier for the discounted fees.

With respect to the qualifier, today, for an Initiating Order there is a fee of $0.07 per contract or $0.05 per contract if the Customer Rebate Program Threshold Volume defined in Section B is greater than 100,000 contracts per day in a month.[24] The Initiating Order Fee for non-Customers, including Professionals, Firms, Broker-Dealers, Specialists and Market Makers,

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22 The $0.17 per contract fee that exists today is not changed, and the proposal in respect of the fee is only for electronic auction.

23 The Exchange broadcasts orders on the Phlx Book by issuing order exposure alerts to all Phlx XL II participants and market participants that subscribe to certain data feeds. See Securities Exchange Act Release Nos. 68517 (December 21, 2012), 77 FR 77134 (December 31, 2012) (SR-Phlx-2012-136) (notice of filing and immediate effectiveness relating to distribution of auction messages); and 68593 [sic] (January 31, 2013), 78 FR 8633 (February 6, 2013) (SR-Phlx-2013-06) (notice of filing and immediate effectiveness to clarify when an order is adding or removing liquidity and discussing order alerts). The Exchange notes that there is currently an exposure alert provision in the Pricing Schedule, albeit for fees and rebates regarding SPY (Section I).

24 Any member or member organization under Common Ownership with another member or member organization that qualifies for a Customer Rebate Tier discount in Section B receives the PIXL Initiating Order discount of $0.05 per contract.

that have orders contra to a Customer PIXL Order is reduced to $0.00 if the Customer PIXL Order is greater than 399 contracts. The Exchange proposes to continue to assess an Initiating Order Fee of $0.07 per contract, but proposes, where the member or member organization qualifies for the Tier 4 or 5 Customer Rebate in Section B, to instead assess an Initiating Order Fee of $0.05 per contract for Simple PIXL Orders and a new lower Initiating Order Fee of $0.03 per contract for Complex PIXL Orders. The Exchange also proposes to amend the qualifier to receive the $0.07 [sic] per contract Initiating Order Fee to require a member to qualify for the Tier 4 or 5 Customer Rebate in Section B of the Pricing Schedule, instead of today's requirement that a member's Customer Rebate Program Threshold Volume, as defined in Section B of the Pricing Schedule, must be greater than 100,000 contracts per day in a month.[25] Tier 4 and 5 of the Customer Rebate Schedule in Section B provides the highest relative rebates in the five tier Customer Rebate Program, in particular where the percentage thresholds of national customer volume in multiply-listed equity and ETF Options classes, excluding SPY Options (monthly), are also the highest. In making these proposals, the Exchange continues to incentivize members to execute Customer liquidity on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal to amend the Pricing Schedule is consistent with Section 6(b) of the Act[26] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act[27] in particular, in that it provides for the equitable allocation of reasonable dues, fees and

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25 Moreover, any member or member organization under Common Ownership with another member or member organization that qualifies for a Customer Rebate Tier 4 or 5 rebate in Section B will receive the PIXL Initiating Order discount as described in Section IV of the Pricing Schedule.

26 15 U.S.C. 78f(b).

27 15 U.S.C. 78f(b)(4), (5).

other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between market participants to whom the Exchange's fees and rebates are applicable.

Section B – Customer Rebates

The Exchange believes that capping rebates on electronic Customer PIXL Simple Orders at 4,000 contracts per order for Category A or 4,000 contracts per order leg for Customer Complex PIXL Orders for Category B is reasonable because it will, with the cap, allow the Exchange to continue to attract Customer liquidity to the Exchange. Customer orders bring valuable liquidity to the market which liquidity 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. Additionally, the Chicago Board Options Exchange Incorporated ("CBOE") similarly caps AIM transactions at 1,000 contracts.[28]

The Exchange believes that capping rebates on electronic Customer PIXL Simple Orders at 4,000 contracts per order for Category A or 4,000 contracts per order leg for Complex PIXL Orders for Category B is equitable and not unfairly discriminatory because these amendments to Category A and Category B apply uniformly to all market participants to whom Category A and Category B apply.

The Exchange believes also that it is reasonable to no longer offer a $0.17 per contract rebate for Customer Complex PIXL Orders that execute against a Complex PIXL Initiating

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[28] See CBOE's Fees Schedule. Credits on Customer orders executed electronically in AIM are capped at 1,000 contracts per order for simple executions and 1,000 contracts per leg for complex executions.

Order because the Exchange believes this rebate incentive is no longer necessary for this particular service to increase order flow to the Exchange.

The Exchange's proposal to no longer offer a $0.17 per contract rebate for Customer Complex PIXL Orders that execute against a Complex PIXL Initiating is equitable and not unfairly discriminatory because the Exchange will not pay such a rebate to any market participant.

Section II – Multiply Listed Options

The Exchange believes that increasing the assessment for Firms executing electronic Simple Orders in certain Penny Options from $0.25 to $0.27 per contract is reasonable because the Exchange would continue to offer a discount to Firms which will continue to attract liquidity. This 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. In addition, this fee is consistent with fees associated with Miami International Securities Exchange LLC ("MIAX").[29] Despite the increase from $0.25 to $0.27 per contract, the Exchange believes that Firms will continue to be incentivized to send volume to the Exchange.

The Exchange believes that increasing the assessment for Firms executing electronic Simple Orders, and thereby offering a smaller discount, in certain Penny Options[30] from $0.25 to $0.27 per contract is equitable and not unfairly discriminatory because it applies uniformly to all

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29 See MIAX's Fee Schedule. MIAX assesses firms a $0.27 per contract fee for transactions in Penny classes. This fee is assessed to an EEM that enters an order that is executed for an account identified by the EEM for clearing in the OCC "Firm" range.

30 All of the symbols, AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF, are currently Penny Pilot Options. This fee discount is only available on these symbols and therefore not available for Non-Penny Pilot Options.

Firms. Further, the proposed amendment will continue to allow the Exchange to incentivize Firms to send electronic Simple Orders in these symbols to the Exchange and because pricing by symbol is a common practice on many U.S. options exchanges[31] as a means to incentive order flow to be sent to an exchange for execution. The Exchange believes it is reasonable to continue to use a pricing reduction to provide additional opportunities for members to increase their participation in the market. The Exchange's fees will be competitive with fees at other options markets. Although the Exchange will still be assessing Firms more than Customers (which do not pay the Option Transaction Charge in Penny Pilot or in non-Penny Pilot options), Customer order flow enhances liquidity on the Exchange for the benefit of all market participants and 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. Although Firms will still be charged more for Penny Pilot Options than Specialists and Market Makers who are charged $0.22, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[32] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. Finally, as proposed, Firms will be charged only $0.27 in these particular Penny Pilot Option symbols, which is less than the Professional and Broker-Dealer charge of $0.48 (for Penny Pilot Options). Moreover, the proposed differential does not misalign pricing, in that

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[31] See, e.g., the International Securities Exchange LLC ("ISE") Schedule of Fees.

[32] See Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

Firms already benefit from certain pricing advantages that Broker-Dealers do not also enjoy (for example, the Firm Monthly Fee Cap).[33] The proposed fee reduction that will apply to Firms but not to Broker-Dealers is equitable and not unfairly discriminatory for the same reasons that the Firm Monthly Fee Cap which applies to Firms and not to Broker-Dealers is equitable and not unfairly discriminatory. The fee reduction proposed herein, like the Monthly Firm Fee Cap, provides an incentive for Firms to transact order flow on the Exchange, which order flow brings increased liquidity to the Exchange for the benefit of all Exchange participants. To the extent the purpose of the proposed Firm fee reduction is achieved, all the Exchange's market participants, including Broker-Dealers, should benefit from the improved market liquidity. Further, competitive forces are influencing the price reduction in these symbols for Firm orders.

The Exchange believes it is reasonable to increase the assessment applicable to Professionals, Broker-Dealers and Firms that transact Electronic Complex Orders from $0.30 to $0.35 per contract, thereby reducing the discount, because this discount will continue to attract liquidity and benefit all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. The Exchange's fees will continue to remain competitive with fees at other options markets.[34] Today, a Professional, Firm and Broker-Dealer are assessed the highest electronic Options Transaction Charges in Penny Pilot Options of $0.48

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[33] Firms are subject to a maximum fee of $75,000 ("Monthly Firm Fee Cap"). Firm Floor Option Transaction Charges and QCC Transaction Fees, in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in Section II of the Pricing Schedule) are excluded from the Monthly Firm Fee Cap. Reversal and conversion, jelly roll and box spread strategy executions (as defined in Section II) are included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. See Section II of the Pricing Schedule.

[34] See the NASDAQ Options Market LLC's ("NOM") pricing at Chapter XV of NOM's Rulebook.

per contract, as compared to other market participants. Despite the fee increase, the proposal will allow the Exchange to incentivize these market participants by offering the opportunity to lower Options Transaction Charges as described herein.

The Exchange believes it is equitable and not unfairly discriminatory to increase the assessment applicable to Professionals, Broker-Dealers and Firms that transact Electronic Complex Orders from $0.30 to $0.35 per contract because the Exchange will assess Professionals, Broker-Dealers and Firms the same electronic Options Transaction Charges in Penny Pilot Options. The Exchange does not assess Customers an electronic Options Transaction Charge in Penny Pilot Options because Customer order flow enhances liquidity on the Exchange for the benefit of all 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. Specialists and Market Makers are assessed lower electronic Options Transaction Charges in Penny Pilot Options as compared to Professionals, Broker-Dealers and Firms because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[35] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The proposed differentiation as between Customers, Specialists and Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

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[35] See Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

The Exchange believes that increasing the assessment from $0.00 to $0.05 per contract rebate for Adding Liquidity in Penny Pilot Options is reasonable when Specialists or Market Makers are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction; and have reached the Monthly Market Maker Cap. This is because Specialists and Market Makers will continue to pay a lower fee as compared to other market participants and should be incentivized to continue to add liquidity.

The Exchange believes that increasing the assessment from $0.00 to $0.05 per contract rebate for Adding Liquidity in Penny Pilot Options is equitable and not unfairly discriminatory when Specialists or Market Makers are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction; and have reached the Monthly Market Maker Cap. This is because Specialists and Market Makers are assessed lower electronic order fees as compared to Professionals, Broker-Dealers and Firms because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[36]

The Exchange believes that clarifying that transactions which execute against an order for which the Exchange broadcast an order exposure alert in an electronic auction is also subject to the $0.17 per contract fee is reasonable, equitable and not unfairly discriminatory because the Exchange is not proposing to amend the manner in which the fee is applied, but rather provide additional clarity to market participants that responses to an order exposure alert shall be treated by the Exchange in a similar manner as other auctions for purposes of applying this fee.

<u>Section IV, Part A – PIXL Pricing</u>

Today, the Exchange assesses an Initiating Order Fee of $0.07 per contract or $0.05 per

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[36] <u>Id.</u>

contract for Simple PIXL Orders. The Exchange believes that its proposal to adopt an alternative of $0.03 per contract for Complex PIXL Orders (with the qualifier that a Customer must qualify for the Tier 4 or 5 Customer Rebate in Section B of the Pricing Schedule) is reasonable. This is because the Exchange believes this additional incentive will further incentivize members to send price improving seeking orders to PIXL as well as bring additional liquidity to the Exchange in an effort to earn the Initiating Order discount. Amending the qualifier from 100,000 contracts to qualifying for a Tier 4 and Tier 5 Customer rebate is reasonable because this simply establishes a different metric that requires members that desire to earn the discounted PIXL pricing to send additional Customer order flow to the Exchange with the new qualifier. The Exchange notes that in order to remain competitive, the Exchange must implement fees and rebates that are competitive with pricing at other options exchanges that offer a similar auction opportunity. The PIXL electronic auction represents an increasingly important and crucial segment of options trading. The goal is creating and increasing incentives to attract orders to the Exchange that will, in turn, benefit all market participants through increased liquidity at the Exchange. The proposal is designed to continue to incentivize market participants to send liquidity to the Exchange. The Exchange believes that in addition to currently assessing an Initiating Order of $0.07 per contractor [sic] today, its proposal to adopt an alternative fee of $0.03 per contract for Complex PIXL Orders (with the qualifier that a Customer must qualify for the Tier 4 or 5 Customer Rebate in Section B of the Pricing Schedule), and a $0.05 per contract for Simple PIXL Orders (with the qualifier that a Customer must qualify for the Tier 4 or 5 Customer Rebate in Section B of the Pricing Schedule), is equitable and not unfairly discriminatory. The volume discount will be applied uniformly to all according to liquidity brought to the Exchange by non-Customers. The Exchange would offer all market participants, other than Customers who are not assessed an

Initiating Order Fee, an incentive to transact large sized orders in PIXL. The Exchange believes that the proposal will continue to attract liquidity, which benefits market participants and provides the opportunity for increased order interaction on the Exchange.

The Exchange desires to incentivize members and member organizations, through the Exchange's rebate and fee structure, to select Phlx as a venue for bringing liquidity and trading by offering competitive pricing. Such competitive, differentiated pricing exists today on other options exchanges. The Exchange's goal is creating and increasing incentives to attract orders to the Exchange that will, in turn, benefit all market participants through increased liquidity at the Exchange.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Customer Rebate Program amendments in Section B of the Pricing Schedule do not create an undue burden on competition because the caps applicable to PIXL Orders will apply uniformly to all market participants. The Exchange's proposal to increase the assessment for Firms executing electronic Simple Orders in certain Penny Options from $0.25 to $0.27 per contract does not place an undue burden on competition, rather this reduction will continue to attract liquidity which benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. In addition, this fee is consistent with fees assessed by MIAX.[37]

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[37] See MIAX's Fee Schedule. MIAX assesses firms a $0.27 per contract fee for transactions in Penny classes. This fee is assessed to an EEM that enters an order that is executed for an account identified by the EEM for clearing in the OCC "Firm" range.

The Exchange believes it is reasonable to increase the assessment applicable to Professionals, Broker-Dealers and Firms that transact Electronic Complex Orders from $0.30 to $0.35 per contract, thereby reducing the discount, because this discount will continue to attract liquidity and benefit all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. The Exchange's fees will continue to remain competitive with fees at other options markets.[38] Today, a Professional, Firm and Broker-Dealer are assessed the highest electronic Options Transaction Charges in Penny Pilot Options of $0.48 per contract, as compared to other market participants. Despite the fee increase, the proposal will allow the Exchange to incentivize market participants by offering the opportunity to lower Options Transaction Charges as described herein.

The Exchange believes its proposal to increase the assessment applicable to Professionals, Broker-Dealers and Firms that transact Electronic Complex Orders from $0.30 to $0.35 per contract does not create an undue burden on competition because the Exchange will continue to offer a discount to these market participants that pay the highest Penny Pilot Options transaction fees. The Exchange does not assess Customers an electronic Options Transaction Charge in Penny Pilot Options because Customer order flow enhances liquidity on the Exchange for the benefit of all 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. Specialists and Market Makers are assessed lower electronic Options Transaction Charges in Penny Pilot Options as compared to Professionals, Broker-Dealers and Firms because they have obligations

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[38] See the NOM pricing at Chapter XV of NOM's Rulebook.

to the market and regulatory requirements, which normally do not apply to other market participants.[39]

The Exchange's proposal to increase the fee assessment from $0.00 to $0.05 per contract rebate for Adding Liquidity in Penny Pilot Options when Specialists or Market Makers are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction, and have reached the Monthly Market Maker Cap, is reasonable. This is because Specialists and Market Makers do not create an undue burden on competition because market makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[40]

The Exchange's proposal to clarify that transactions which execute against an order for which the Exchange broadcast an order exposure alert in an electronic auction does not create an undue burden on competition. This amendment will bring additional clarity to the fees.

The Exchange believes that the proposed new volume discount for PIXL Fees creates additional opportunity for incentivizing Professionals, Firms, Broker-Dealers, Specialists and Market Makers to bring additional liquidity to the market. The Exchange believes that effectively assessing lower fees or paying rebates when a market participant brings a certain amount of Customer orders creates competition among market participants to remove liquidity from the Phlx Book. This competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of the pricing when transacting options. Also, providing an ability to earn greater discounts incentivizes order flow into the auction.

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39 See Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

40 Id.

The Exchange operates in a highly competitive market, comprised of twelve exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange, as described in the proposal, are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

The proposed fees are designed to ensure a fair and reasonable use of Exchange resources by allowing the Exchange to recoup costs while continuing to attract liquidity and offer connectivity at competitive rates to Exchange members and member organizations.

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.[41] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[41] 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-2015-21 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2015-21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (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, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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-2015-21, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Brent J. Fields
Secretary

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[42] 17 CFR 200.30-3(a)(12).