

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85654; File No. SR-PHLX-2019-15)

April 16, 2019

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend 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 April 10, 2019, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Pricing Schedule at Section 1, B, “Customer Rebate Program,” Section 3, “Rebates and Fees for Adding and Removing Liquidity in SPY” and Section 6, E, “Market Access and Routing Subsidy (“MARS”).”³

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.

³ The Commission notes that the Exchange initially filed the proposed Pricing Schedule amendment on April 1, 2019 (SR-PHLX-2019-10). On April 10, 2019, the Exchange withdrew that filing and submitted this filing.

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 the Pricing Schedule at (i) Section 1, B, “Customer Rebate Program,” to decrease certain Customer Rebates; (ii) Section 3, “Rebates and Fees for Adding and Removing Liquidity in SPY” to decrease a Simple Order Customer Fee for Removing Liquidity and decrease all rebate tiers; an [sic] (iii) Section 6, E, “Market Access and Routing Subsidy (“MARS”)” to add a new rebate tier. Each change will be described below in more detail.

Customer Rebate

The Exchange proposes to amend the Pricing Schedule at Section 1, B, “Customer Rebate Program” to lower certain rebates. Today, the Exchange pays rebates to members who transacted a certain amount of Customer volume. Specifically, Phlx totals Customer volume in Multiply Listed Options (including SPY) that is electronically-delivered and executed, except volume associated with electronic QCC Orders, as defined in Exchange Rule 1080(o). Rebates are paid on Customer Rebate Tiers according to the below:⁴

⁴ Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving

Customer Rebate Tiers	Percentage Thresholds of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (Monthly)	Category A	Category B	Category C	Category D
Tier 1	0.00% - 0.60%	\$0.00	\$0.00	\$0.00	\$0.00
Tier 2	Above 0.60% - 1.10%	\$0.10 *	\$0.10 *	\$0.16 *#	\$0.21 *#
Tier 3	Above 1.10% - 1.60%	\$0.15	\$0.12 *	\$0.18 *#	\$0.22 *#
Tier 4	Above 1.60% - 2.50%	\$0.20	\$0.16	\$0.22 #	\$0.26 #
Tier 5	Above 2.50%	\$0.21	\$0.17	\$0.22 #	\$0.27 #

The Exchange pays a Category A Rebate to members who execute electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Options 7, Section 4 symbols.⁵ The Exchange pays a Category B Rebate on Customer PIXL Orders in Options 7, Section 4 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 is paid a rebate of \$0.14 per contract. Rebates on Customer PIXL Orders are capped at 4,000 contracts per order for Simple PIXL Orders. The Exchange pays a Category C Rebate to members who execute electronically-delivered Customer Complex Orders in Penny Pilot Options in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a

rebates. Affiliated Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates.

⁵ Options 7, Section 4 describes pricing for Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed).

rebate under any circumstance. The Category C Rebate is not paid when an electronically-delivered Customer Complex Order, including a Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order. Finally, the Exchange pays a Category D Rebate to members who execute electronically-delivered Customer Complex Orders in Non-Penny Pilot Options in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstance. The Category D Rebate are not paid when an electronically-delivered Customer Complex Order, including a Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order. Rebates are not paid on NDX or NDXP contracts in any Category, however NDX and NDXP contracts will count toward the volume requirement to qualify for a Customer Rebate Tier.

Today, the Exchange pays a \$0.05 per contract Category C and D rebate in addition to the applicable Tier 2, 3, 4 and 5 rebates to members or member organizations or member or member organization affiliated under Common Ownership provided the member or member organization qualified for any MARS Payments in Options 7, Section 6, E. The Exchange proposes to decrease the Category C and D rebates applicable Tier 2, 3, 4 and 5 rebates to members or member organizations or member or member organization affiliated under Common Ownership provided the member or member organization qualified for any MARS Payments in Options 7, Section 6, E. The Exchange proposes to decrease the Category C Rebate from \$0.05 to \$0.04 per contract. The Exchange proposes to decrease the Category D Rebate from \$0.05 to \$0.02 per contract. While these rebates are decreasing, the Exchange believes that the Customer Rebates will continue to incentivize member organizations to execute against Customer orders.

Rebates and Fees for SPY

The Exchange proposes to amend the Pricing Schedule at Section 3, “Rebates and Fees for Adding and Removing Liquidity in SPY” to decrease the Simple Order Customer Fee for Removing Liquidity and decrease all rebate tiers. Today, the Exchange assesses a Customer Fee for Removing Liquidity in SPY of \$0.45 per contract. All other market participants, Specialists,⁶ Market Makers,⁷ Firms,⁸ Broker-Dealers⁹ and Professionals,¹⁰ are assessed a Fee for Removing

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 who is 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 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 Makers (“RMMs”). The term ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. A ROT includes SQTs and RSQTs as well as on and off-floor ROTs. The term SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term RSQT is defined in Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or “RSQTO,” which may also be referred to as a Remote Market Making Organization (“RMO”), is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

⁸ The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

⁹ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

¹⁰ The term “Professional” applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) 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).

Liquidity in SPY of \$0.48 per contract. The Exchange proposes to lower the Customer Fee for Removing Liquidity in SPY from \$0.45 to \$0.42 per contract. The Exchange’s proposal to lower the Customer Fee for Removing Liquidity in SPY from \$0.45 to \$0.42 per contract will encourage a greater amount of Customer orders, even if submitted by other market participants, to remove volume from the Exchange.

Today, a Simple Order Rebate for Adding Liquidity is paid to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY.¹¹ Today the Exchange pays the following rebates:

Tiers	Average Daily Volume “ADV”	Rebate for Adding Liquidity
1	1 to 2,499	\$0.15
2	2,500 to 4,999	\$0.18
3	5,000 to 19,999	\$0.21
4	20,000 to 34,999	\$0.27
5	35,000 to 49,999	\$0.30
6	greater than 49,999	\$0.35

The Exchange proposes to lower each rebate tier by \$0.03 per contract so the proposed rebates would be:

¹¹ The Exchange notes that the Customer Rebates offered in Section 1, B do not apply to electronic executions in SPY.

Tiers	Average Daily Volume “ADV”	Rebate for Adding Liquidity
1	1 to 2,499	\$0.12
2	2,500 to 4,999	\$0.15
3	5,000 to 19,999	\$0.18
4	20,000 to 34,999	\$0.24
5	35,000 to 49,999	\$0.27
6	greater than 49,999	\$0.32

While the Exchange is lowering the amount of rebates¹² it would pay to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, the Exchange believes the proposed rebates will continue to incentivize Market Makers to add liquidity on Phlx.

MARS

Today, MARS, [sic] pays a subsidy to Phlx members that provide certain order routing functionalities to other Phlx members and/or use such functionalities themselves. Generally, under MARS, Phlx pays participating Phlx members to subsidize their costs of providing routing services to route orders to Phlx. To qualify for MARS, a Phlx member’s order routing functionality is required to meet certain criteria.¹³ Any Phlx member may apply for MARS,

¹² The Exchange would lower Tier 1 (1 to 2,499) from \$0.15 to \$0.12 per contract; Tier 2 (2,500 to 4,999) would be lowered from \$0.18 to \$0.15 per contract; Tier 3 (5,000 to 19,999) would be lowered from \$0.21 to \$0.18 per contract; Tier 4 (20,000 to 34,999) would be lowered from \$0.27 to \$0.24 per contract; Tier 5 (35,000 to 49,999) would be lowered from \$0.30 to \$0.27 per contract; and Tier 6 (greater than 49,999) would be lowered from \$0.35 to \$0.32 per contract.

¹³ Specifically, a Phlx member’s routing system (“hereinafter System”) is required to: (1) enable the electronic routing of orders to all of the U.S. options exchanges, including Phlx; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with Phlx’s API to access current Phlx match engine

provided the requirements are met, including a robust and reliable System. The member is solely responsible for implementing and operating its System. The Exchange is not proposing to amend eligibility standards.

Today, a MARS Payment would be made to Phlx members that have System Eligibility and have routed the requisite number of Eligible Contracts daily in a month, which were executed on Phlx. For the purpose of qualifying for the MARS Payment, Eligible Contracts include Firm, Broker-Dealer, Joint Back Office or “JBO”¹⁴ or Professional equity option orders that are electronically delivered and executed. Eligible Contracts do not include floor-based

functionality. Further, the member’s System needs to cause Phlx to be the one of the top five default destination exchanges for individually executed marketable orders if Phlx is at the national best bid or offer (“NBBO”), regardless of size or time, but allow any user to manually override Phlx as a default destination on an order-by-order basis. Notwithstanding the above, with respect to Complex Orders a Phlx member’s routing system is not required to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges. Any Phlx member is permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and satisfies Phlx that it appears to be robust and reliable. The member remains solely responsible for implementing and operating its system. The Exchange does not require Complex Orders to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges.

¹⁴ The term “Joint Back Office” or “JBO” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer. A JBO participant is a member, member organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer (“JBO Broker”) subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed at Exchange Rule 703.

orders, qualified contingent cross or “QCC” orders,¹⁵ price improvement or “PIXL” orders,¹⁶ Mini-Option orders¹⁷ or Singly-Listed Options¹⁸ orders. The Eligible Contracts requirements are not being amended.

Today, Phlx members that have System Eligibility and have executed the requisite number of Eligible Contracts in a month are paid the following per contract rebates:¹⁹

¹⁵ 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 NBBO 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 Exchange’s match engine. See Rule 1080(o).

¹⁶ PIXL is the Exchange’s price improvement mechanism known as Price Improvement XL or (PIXLSM). See Rule 1087.

¹⁷ Mini Options are further specified in Phlx Rule 1012, Commentary .13.

¹⁸ Singly Listed Options are options overlying currencies, equities, ETFs, ETNs treasury securities and indexes not listed on another exchange.

¹⁹ The specified MARS Payment are paid on all executed Eligible Contracts which are routed to Phlx through a participating Phlx member’s System and meet the requisite Eligible Contracts ADV. No payment are [sic] made with respect to orders that are routed to Phlx, but not executed. A Phlx member is not entitled to receive any other revenue for the use of its System specifically with respect to orders routed to Phlx with the exception of the Marketing Fee.

Tiers	Average Daily Volume (“ADV”)	MARS Payment	
		Non-SPY	SPY
1	1,000	\$0.01	\$0.01
2	30,000	\$0.10	\$0.10
3	40,000	\$0.12	\$0.12
4	52,500	\$0.14	\$0.12
5	65,000	\$0.18	\$0.12
6	75,000	\$0.20	\$0.12

The Exchange proposes to adopt a new Tier 2 rebate for members that have System Eligibility and have executed the requisite number of Eligible Contracts in a month. The new Tier 2 rebate would require average daily volume (“ADV”) of 20,000 contracts and pay a Non-SPY and SPY MARS Payment of \$0.05. The Exchange proposes to renumber each subsequent tier.²⁰ The Exchange believes that with this proposal MARS will continue to attract higher volumes of electronic equity and ETF options volume to the Exchange from non-Phlx market participants as well as Phlx members with the proposed amendments.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²¹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,²² in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among

²⁰ Current Tier 2 would be renumbered as Tier 3, current Tier 3 would be renumbered as Tier 4, current Tier 4 would be renumbered as Tier 5, current Tier 5 would be renumbered as Tier 6, and current Tier 6 would be renumbered as Tier 7.

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(4) and (5).

members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Customer Rebate Program

The Exchange's proposal to decrease the Category C Rebate from \$0.05 to \$0.04 and decrease the Category D Rebate from \$0.05 to \$0.02 per contract is reasonable because the Exchange will continue to pay a rebate to incentivize members to execute Customer Complex Orders in Penny Pilot Options, as well as Customer Complex Orders in Non-Penny Pilot Options, despite the lower rebate.

The Exchange's proposal to decrease the Category C Rebate from \$0.05 to \$0.04 and decrease the Category D Rebate from \$0.05 to \$0.02 per contract is equitable and not unfairly discriminatory because the Exchange will uniformly pay Category C and D rebates to all qualifying market participants. Any market participant may qualify for a Customer Rebate.

Rebates and Fees for SPY

The Exchange's proposal to lower the Customer Fee for Removing Liquidity in SPY from \$0.45 to \$0.42 per contract is reasonable because it will encourage a greater amount of Customer orders, even if submitted by other market participants, to remove volume from the Exchange. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers.

The Exchange's proposal to lower the Customer Fee for Removing Liquidity in SPY from \$0.45 to \$0.42 per contract is equitable and not unfairly discriminatory because Customer orders will continue to be assessed the lowest Fees for Removing Liquidity in SPY Simple Orders. 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.

The Exchange's proposal to lower the amount of rebates paid to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY by \$0.03 per contract for each tier²³ is reasonable because although the Exchange is lowering the amount of rebates it would pay to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, the Exchange believes the proposed rebates will continue to incentivize Market Makers to add liquidity on Phlx.

The Exchange's proposal to lower the amount of rebates paid to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY by \$0.03 per contract for each tier is equitable and not unfairly discriminatory because the Exchange is uniformly reducing each tier of the 6 tier rebate it pays to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY. Every Specialist and Market Maker will be equally impacted. Also, the Exchange notes that every Specialist and Market Maker may earn a rebate on each contract as the tier schedule starts with 1 contract.

²³ The Exchange would lower Tier 1 (1 to 2,499) from \$0.15 to \$0.12 per contract; Tier 2 (2,500 to 4,999) would be lowered from \$0.18 to \$0.15 per contract; Tier 3 (5,000 to 19,999) would be lowered from \$0.21 to \$0.18 per contract; Tier 4 (20,000 to 34,999) would be lowered from \$0.27 to \$0.24 per contract; Tier 5 (35,000 to 49,999) would be lowered from \$0.30 to \$0.27 per contract; and Tier 6 (greater than 49,999) would be lowered from \$0.35 to \$0.32 per contract.

MARS

The Exchange believes that adopting a new Tier 2 with an ADV of 20,000 contracts which pays a MARS Payment of \$0.05 for Non-Penny and Penny is reasonable because all Phlx members may qualify for another tier that allows contracts below 30,000 (Tier 2) but higher than 1,000 contracts (Tier 1) and in return receive the higher rebate of \$0.05 as compared to the \$0.01 rebate for Tier 1. The proposed tier should attract higher volumes of electronic equity and ETF options volume to the Exchange, which will benefit all Phlx members by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. The expanded MARS Payments should enhance the competitiveness of the Exchange, particularly with respect to those exchanges that offer their own front-end order entry system or one they subsidize in some manner. The adoption of a new Tier 2 will incentivize Phlx members to achieve an even higher rebate, provided the Phlx member is eligible for MARS. Further, the tier structure will allow Phlx members to price their services at a level that will enable them to attract order flow from market participants who would otherwise utilize an existing front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and money to develop their own internal systems to be able to deliver orders directly to the Exchange's System.

The Exchange believes that adopting a new Tier 2 with an ADV of 20,000 contracts which pays a MARS Payment of \$0.05 for Non-Penny and Penny is equitable and not unfairly discriminatory because the Exchange will uniformly pay all Phlx members the rebates specified in the proposed MARS Payment tiers provided the Phlx member has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any

qualifying Phlx member that offers market access and connectivity to the Exchange and/or utilize such functionality themselves may earn the MARS Payment for all Eligible Contracts.

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.

Customer Rebate Program

The Exchange's proposal to decrease the Category C Rebate from \$0.05 to \$0.04 and decrease the Category D Rebate from \$0.05 to \$0.02 per contract does not impose an undue burden on competition because the Exchange will uniformly pay Category C and D rebates to all qualifying market participants. Any market participant may qualify for a Customer Rebate.

Rebates and Fees for SPY

The Exchange's proposal to lower the Customer Fee for Removing Liquidity in SPY from \$0.45 to \$0.42 per contract does not create an undue burden on competition because Customers will continue to be assessed the lowest Fees for Removing Liquidity in SPY Simple Orders. 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.

The Exchange's proposal to lower the amount of rebates paid to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY by \$0.03 per contract for each tier does not impose an undue burden on competition because the Exchange is uniformly reducing each tier of the 6 tier rebate it pays to Specialists and Market Makers who add the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY. Every Specialist and Market Maker will be equally impacted. Also, the Exchange notes that every Specialist and Market Maker may earn a rebate on each contract as the tier schedule starts with 1 contract.

MARS

The Exchange believes that adopting a new Tier 2 with an ADV of 20,000 contracts which pays a MARS Payment of \$0.05 for Non-Penny and Penny does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all Phlx members the rebates specified in the proposed MARS Payment tiers provided the Phlx member has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any qualifying Phlx member that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts.

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.²⁴

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-2019-15 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.

²⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-PHLX-2019-15. 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, 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-PHLX-2019-15 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.²⁵

Jill M. Peterson
Assistant Secretary

²⁵ 17 CFR 200.30-3(a)(12).