

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 Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A), to amend (1) Qualified Contingent Cross (“QCC”) Rebates; and (2) the Floor Transaction (Open Outcry) Floor Broker Incentive Program. The Exchange proposes to decrease certain criteria to qualify for QCC Rebates. Additionally, the Exchange proposes to amend Floor Transaction (Open Outcry) Floor Broker Incentive Program to expand the qualifying volume criteria, Qualifying Contract tiers, and rebates.³

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the applicable portion of the Pricing Schedule is attached hereto 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”). Exchange staff

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Phlx filed SR-Phlx-2025-12 on March 3, 2025. On March 10, 2025, the Exchange withdrew SR-Phlx-2025-12 and filed this rule proposal.

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:

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

a. Purpose

Phlx proposes to amend Phlx's Pricing Schedule at Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A), to amend (1) Qualified Contingent Cross ("QCC") Rebates; and (2) the Floor Transaction (Open Outcry) Floor Broker Incentive Program. The Exchange proposes to decrease certain criteria to qualify for QCC Rebates. Additionally, the Exchange proposes to amend Floor Transaction (Open Outcry) Floor Broker Incentive Program to expand the qualifying volume criteria, Qualifying Contract tiers, and rebates.

QCC Transaction Fees

Today, the Exchange assesses a \$0.20 per contract QCC Transaction Fee for a Lead Market Maker,⁴ Market Maker,⁵ Firm⁶ and Broker-Dealer.⁷ Customers⁸ and Professionals⁹ are not assessed a QCC Transaction Fee. QCC Transaction Fees apply to electronic QCC Orders¹⁰ and Floor QCC Orders.¹¹

QCC Rebates

Today, Options 7, Section 4 describes QCC Rebates that are offered by Phlx. Today, Phlx pays a QCC Rebate of \$0.12 per contract on electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section

⁴ The term “Lead Market Maker” applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c). The term “Floor Lead Market Maker” is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange’s trading floor. See Options 8, Section 2(a)(3).

⁵ The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a Streaming Quote Trader or a Remote Streaming Quote Trader who enters quotations for his own account electronically into the System. A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c). The term “Floor Market Maker” is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Options 8, Section 2(a)(4).

⁶ 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. See Options 7, Section 1(c).

⁷ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(c).

⁸ 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 (“OCC”) which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

⁹ The term “Professional” applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) 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 Options 7, Section 1(c).

¹⁰ Electronic QCC Orders are described in Options 3, Section 12.

¹¹ Floor QCC Orders are described in Options 8, Section 30(e).

30(e), when a QCC Order is comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. This rebate is \$0.17 per contract in the event that a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month. Additionally, Phlx pays a rebate of \$0.22 per contract in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions¹² in excess of 2,500,000 contracts in a given month, **and** (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

Today, Phlx also pays a QCC Rebate of \$0.14 per contract on electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. This rebate is \$0.19 per contract in the event that a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month. Additionally, Phlx pays a rebate of \$0.27 per contract in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 2,500,000 contracts in a given month, **and** (3) at least 40% of the

¹² Floor Originated Strategy Executions are defined as a dividend, merger, short stock interest, reversal and conversion, jelly roll or box spread strategy as described in Options 7, Section 4.

member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

Today, these QCC rebates are paid on all qualifying executed electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), except where the transaction is either: (i) Customer-to-Customer; (ii) Customer-to-Professional; (iii) Professional-to-Professional or (iv) a dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions (as defined in Options 7, Section 4). Further, today, volume resulting from all executed electronic QCC Orders and Floor QCC Orders, including Customer-to-Customer, Customer-to-Professional, and Professional-to-Professional transactions and excluding dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions, will be aggregated in determining the applicable member or member organization qualifying QCC contract volume in a given month.

At this time, the Exchange proposes to amend the qualifications on two of the QCC Rebates to lower the second qualification for Floor Originated Strategy Executions from "in excess of 2,500,000 contracts" to "in excess of 1,250,000."

Therefore, the Exchange proposes to continue to pay a rebate of \$0.22 per contract, when a QCC Order is comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, in the event that a member or member organization executes (1) greater than 750,000 qualifying QCC contracts in a given month; (2) Floor Originated Strategy Executions in excess of **1,250,000** contracts in a given month; and (3) at least 40% of the

member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

Additionally, the Exchange proposes to continue to pay a rebate of \$0.27 per contract, when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month; (2) Floor Originated Strategy Executions in excess of **1,250,000** contracts in a given month and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

The Exchange would continue to pay QCC Rebates on all qualifying executed electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), except where the transaction is either: (i) Customer-to-Customer; (ii) Customer-to-Professional; (iii) Professional-to-Professional; or (iv) a dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions (as defined in Options 7, Section 4). Also, the Exchange would continue to aggregate volume resulting from all executed electronic QCC Orders and Floor QCC Orders, including Customer-to-Customer, Customer-to-Professional, and Professional-to-Professional transactions and excluding dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions, in

determining the applicable member or member organization qualifying QCC contract volume in a given month.

The Exchange believes that the proposed amendments to decrease certain qualifications will encourage Phlx members and member organizations to continue to transact qualifying QCC contracts and Floor Originated Strategy Executions on Phlx. By lowering the number of Floor Originated Strategy Executions as part of the qualifications, Phlx believes additional members and member organizations may achieve these QCC rebates.

Floor Transaction (Open Outcry) Floor Broker Incentive Program

The Exchange proposes to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program at Options 7, Section 4. This incentive program for Floor Brokers¹³ is designed to attract order flow to Phlx's trading floor for execution in open outcry. Currently, the Exchange pays Floor Broker certain rebates for transaction they execute on Phlx's trading floor in open outcry. Today, the following floor transactions are excluded from the rebates offered within the Floor Transaction (Open Outcry) Floor Broker Incentive Program: (1) Floor QCC Orders, as defined in Options 8, Section 30(e)¹⁴; (2) dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions as defined in this Options 7, Section 4; (3) Firm Floor Options Transactions Charges for members executing facilitation orders pursuant to

¹³ The term "Floor Broker" means an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders. See Phlx Options 7, Section 1(c).

¹⁴ Today, Floor QCC Orders are not transacted in open outcry. The Exchange proposes to include Floor QCC Orders in the list of exclusions to remind members and member organizations that Floor QCC Orders will not be paid the Floor Transaction (Open Outcry) Floor Broker Incentive Program rebate.

Options 8, Section 30 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges); and (4) Customer-to-Customer transactions.

Today, the Exchange pays Floor Transaction (Open Outcry) Floor Broker Incentive Program rebates on qualifying volume at each of 3 threshold levels per the below schedule.

Qualifying Contracts	Per Contract Rebate
0 -5,000,000	\$0.05
5,000,001-10,000,000	\$0.08
Greater than 10,000,000	\$0.11

By way of example, today, a Floor Broker that executes floor transactions in a given month totaling 10,500,000 contracts will be paid \$0.05 for the first 5,000,000 floor transaction contracts (\$250,000), \$0.08 for the next 5,000,000 floor transaction contracts (\$400,000), and \$0.11 for the final 500,000 floor transaction contracts (\$55,000) for a total rebate of \$705,000 for that month. Further, as an additional clarifying example, if a Floor Broker executes a floor transaction in the amount of 1,000,000 contracts, represents both sides of the floor transaction, and executes the floor transaction as a crossing transaction pursuant to Options 8, Section 30(a) for 700,000 of the 1,000,000 contracts, then trades the remaining 300,000 contracts with the trading crowd, the Floor Transaction (Open Outcry) Floor Broker Incentive Program rebate for this transaction will be paid on the qualifying floor transaction volume of 1,000,000 contracts.

Finally, today, rebates for the Floor Transaction (Open Outcry) Floor Broker Incentive Program are capped at \$1,000,000 per member or member organization in a given month.

At this time, the Exchange proposes to amend the Floor Transaction (Open Outcry) Floor Broker Incentive Program in several ways. First, with respect to qualifying volume, the Exchange proposes to amend the current rule text in Options 7, Section 4, concerning the incentive program to provide, “Floor Brokers will be paid the below rebates for transactions executed on the trading floor in open outcry. The below transactions are considered qualifying volume:”.¹⁵ This proposed new rule text does not substantively amend the current rule text, rather it breaks the current rule text into two sentences and notes more clearly that the list contains exclusions to qualifying volume.

Next, the Exchange proposes to remove Floor QCC Orders from the list of qualifying volume and renumber the subsequent excluded volume descriptions. The Exchange proposes to add a new sentence to note that as proposed, Floor QCC Orders, as defined in Options 8, Section 30(e), will be considered qualifying volume but would not be paid rebates based on the below schedule, rather Floor QCC Order would be paid the QCC Rebates noted in Options 7, Section 4 above. This proposed change would allow Phlx members and member organizations to count Floor QCC Orders toward their qualifying volume to achieve the Qualifying Contracts necessary to be paid a rebate.

The Exchange proposes to amend the current rebate schedule which consists of 3 tiers. The Exchange proposes to expand the rebate schedule to 4 tiers and add a column numbering each tier. In expanding the tiers, the Exchange proposes to also amend existing rebate tiers. The Exchange proposes to amend the current Tier 1 Qualifying Contracts criteria from “0 – 5,000,000” to “0 – 500,000.” The Exchange proposes to

¹⁵ The current rule text at Options 7, Section 4 provides, “Floor Brokers will be paid the below rebates for transactions executed on the trading floor, in open outcry, excluding the following transactions:”.

lower the current Tier 2 Qualifying Contracts criteria from “5,000,001-10,000,000” to “500,001-5,000,000.” The Exchange proposes to add a new Tier 3 Qualifying Contracts criteria of “5,000,001-10,000,000.” Finally, the current 3rd tier will be Tier 4 and continue to require Qualifying Contracts criteria of “Greater than 10,000,000.”

The Exchange proposes to amend the current per contract rebate for floor transactions to require a Customer on one side of the transaction. Today, there is no criteria describing the type of market participant required to participate on either side of the Floor Transaction. As amended the proposal requires one side of the Floor Transaction to be a Public Customer. For the per contract Rebate with a Customer on one side of the transaction, the Exchange would decrease the Tier 1 rebate with the proposed lower Qualifying Contracts (0-500,000) from \$0.05 to \$0.02 per contract. For the per contract Rebate with a Customer on one side of the transaction, the Exchange would decrease the Tier 2 rebate with the proposed lower Qualifying Contracts (500,000 – 5,000,000) from \$0.08 to \$0.05 per contract. For the new Tier 3 per contract Rebate with a Customer on one side of the transaction, the Exchange would pay \$0.07 per contract for the proposed lower Qualifying Contracts (5,000,001-10,000,000), which contracts currently qualify for a Tier 2 rebate of \$0.08 per contract. Finally, for the per contract Rebate with a Customer on one side of the transaction, the Exchange would decrease the Tier 4 rebate with the proposed lower Qualifying Contracts (Greater than 10,000,000) from \$0.11 to \$0.08 per contract.

Further, the Exchange will create an additional per contract rebate that will require both sides of the Floor Transaction to be Non-Customers.¹⁶ The Exchange proposes to pay a Tier 1 rebate of \$0.08 per contract for proposed Qualifying Contracts (0-500,000), provided both sides of the Floor Transaction are Non-Customers. The Exchange proposes to pay a Tier 2 rebate of \$0.12 per contract for the proposed Qualifying Contracts (500,000 – 5,000,000), provided both sides of the Floor Transaction are Non-Customers. The Exchange proposes to pay a Tier 3 rebate of \$0.16 per contract for the proposed Qualifying Contracts of (5,000,001-10,000,000), provided both sides of the Floor Transaction are Non-Customers. Finally, the Exchange proposes to pay a Tier 4 rebate of \$0.20 per contract for the proposed Qualifying Contracts (Greater than 10,000,000), provided both sides of the Floor Transaction are Non-Customers.

The Exchange believes that the Floor Transaction (Open Outcry) Floor Broker Incentive Program will attract greater order flow to Phlx's trading floor. The Exchange would remove the current example in Options 7, Section 4 that would not apply with the proposed changes to the Floor Transaction (Open Outcry) Floor Broker Incentive Program.¹⁷ The Exchange proposes to add a few new examples to the rule text at Options 7, Section 4 that explain how the rebate is paid, as shown below.

- **Example 1:** A Floor Broker that executes a total of 2,000,000 qualified contracts in a month comprised of (1) Floor QCC Order volume of 600,000 contracts; (2) Floor Transaction Open Outcry Customer volume of 400,000 contracts; and (3) Floor Transaction Open Outcry volume with Non-Customers on both sides of 1,000,000 contracts, will be paid \$0.05 per contract for the 400,000 or \$20,000 for

¹⁶ The term "Non-Customer" applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. See Options 7, Section 1(c).

¹⁷ The current example at Options 7, Section 4, states, A Floor Broker that executes floor transactions in a given month totaling 10,500,000 contracts will be paid \$0.05 for the first 5,000,000 floor transaction contracts (\$250,000), \$0.08 for the next 5,000,000 floor transaction contracts (\$400,000), and \$0.11 for the final 500,000 floor transaction contracts (\$55,000) for a total rebate of \$705,000 for that month.

the Floor Transaction Open Outcry Customer volume and \$0.12 per contract for the 1,000,000 contracts or \$120,000 for the Floor Transaction Open Outcry volume with Non-Customers on both sides, equaling a total Floor Broker Incentive Program Rebate of \$140,000 for that month. The 600,000 contracts of executed Floor QCC Orders would be paid the applicable QCC Rebate as described in Options 7, Section 4 above.

▪ **Example 2:** A Floor Broker that executes floor transactions with a mix of Customer on one side and Non-Customer on both sides in a given month totaling 2,000,000 contracts (with no Floor QCC volume) will be paid a rebate tied to the requisite rebate schedule based on timestamp of the execution. Utilizing Example 1, assume: (1) 100,000 contracts had a Customer on one side, those transactions would be paid at \$0.02 per contract (\$2,000); (2) 400,000 contracts had a Non-Customer on both sides, those transactions would be paid at \$0.08 per contract (\$32,000); (3) 400,000 contracts had a Customer on one-side, those transactions would be paid at \$0.05 per contract (\$20,000); and (4) 1,100,000 contracts had a Non-Customer on both sides, those transaction would be paid at \$0.12 per contract (\$132,000), for a total rebate of \$186,000 for that month.

▪ **Example 3:** A Floor Broker that executes floor transactions with a Customer on one side in a given month totaling 10,500,000 contracts (with no Floor QCC volume) will be paid \$0.02 per contract for the first 500,000 contracts (\$10,000), \$0.05 per contract for the next 4,500,000 floor transaction contracts (\$225,000), \$0.07 per contract for the next 5,000,000 floor transaction contracts (\$350,000), and \$0.08 per contract for the final 500,000 floor transaction contracts (\$40,000), for a total rebate of \$625,000 for that month.

▪ **Example 4:** A Floor Broker that executes floor transactions with Non-Customer on both sides in a given month totaling 10,500,000 contracts (with no Floor QCC volume) will be paid \$0.08 per contract for the first 500,000 contracts (\$40,000), \$0.12 per contract for the next 4,500,000 floor transaction contracts (\$540,000), \$0.16 per contract for the next 5,000,000 floor transaction contracts (\$800,000), and \$0.20 per contract for the final 500,000 floor transaction contracts (\$100,000) for a total rebate of \$1,480,000 for that month.

The Exchange proposes to add these examples to the rule text at Options 7, Section 4 and label them with example numbers, including the remaining current example. The Exchange proposes these examples to make clear how the proposed rebates will be paid. Where rebates are paid across multiple tiers and include transactions with a Customer on one side and Non-Customers on both sides of the transaction, the rebates paid would be based on timestamp of the execution as explained in Example 2 above.

Finally, the Exchange will amend the current cap for Floor Transaction (Open Outcry) Floor Broker Incentive Program rebates from \$1,000,000 to \$2,000,000 per member or member organization in a given month.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁹ 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.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁰

Likewise, in NetCoalition v. Securities and Exchange Commission²¹ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4) and (5).

²⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

²¹ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

Congress mandated a cost-based approach.²² As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”²³

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”²⁴ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

QCC Rebates

The Exchange’s proposal to amend the qualifications for two QCC Rebates in Options 7, Section 4²⁵ by lowering the second qualification for Floor Originated Strategy

²² See NetCoalition, at 534 - 535.

²³ Id. at 537.

²⁴ Id. at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²⁵ The Exchange proposes to amend the qualification where it is currently paying a rebate of \$0.22 per contract, when a QCC Order is comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, in the event that a member or member organization both executes: (1) greater than 750,000 qualifying QCC contracts in a given month; (2) Floor Originated Strategy Executions in excess of 3,500,000 contracts in a given month, and (3) at least at least 40% of the member or member organization’s QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. Additionally, the Exchange proposes to amend the qualification where it is currently paying a \$0.27 per contract, when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, in the event that a member

Executions “in excess of 2,500,000 contracts” to “in excess of 1,250,000” in a given month is reasonable because the proposed amendments to the qualifications will encourage Phlx members and member organizations to continue to transact qualifying QCC contracts and Floor Originated Strategy Executions on Phlx. By lowering the number of Floor Originated Strategy Executions as part of the qualifications, Phlx believes additional members and member organizations may achieve the QCC rebates. Floor Originated Strategy Executions are defined as a dividend, merger, short stock interest, reversal and conversion, jelly roll or box spread strategy as described in Options 7, Section 4.

The Exchange’s proposal to amend the qualifications for two QCC Rebates in Options 7, Section 4 by lowering the second qualification for Floor Originated Strategy Executions “in excess of 2,500,000 contracts” to “in excess of 1,250,000” in a given month is equitable and not unfairly discriminatory because all members and member organizations may qualify for QCC Rebates, provided they transact the requisite volume.

Floor Transaction (Open Outcry) Floor Broker Incentive Program

The Exchange’s proposal to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program to permit Floor QCC Orders, as defined in Options 8, Section 30(e), to be considered qualifying volume for purposes of the program and not pay rebates for transactions executed on the trading floor pursuant to the incentive program is

or member organization both executes (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 3,500,000 contracts in a given month, and (3) at least 40% of the member or member organization’s QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

reasonable because, as is the case today, Floor QCC Orders are paid rebates based on the schedule in Options 7, Section 4 for QCC Rebates.²⁶

The Exchange's proposal to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program to permit Floor QCC Orders, as defined in Options 8, Section 30(e), to be considered qualifying volume for purposes of the program and not pay rebates for transactions executed on the trading floor pursuant to the incentive program is equitable and not unfairly discriminatory as all Phlx Floor Broker Floor QCC Order flow entered on Phlx will be counted as qualifying volume for the Floor Transaction (Open Outcry) Floor Broker Incentive Program and those Floor QCC Order will uniformly be paid rebates based on the schedule in Options 7, Section 4 for QCC Rebates.

The Exchange's proposal to amend the current rebate schedule which consists of 3 tiers to expand it to 4 tiers, amend the existing tiers, and amend the current rebates is reasonable. While the Exchange is lowering the current Tier 1 rebate for Qualifying

²⁶ Pursuant to Options 7, Section 4, a QCC Rebate of \$0.12 per contract will be paid on electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), when a QCC Order is comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. This rebate will be \$0.17 per contract in the event that a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month. This rebate will be \$0.22 per contract in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 2,500,000 contracts in a given month, and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. A QCC Rebate of \$0.14 per contract will be paid on electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. This rebate will be \$0.19 per contract in the event that a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month. This rebate will be \$0.27 per contract in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 2,500,000 contracts in a given month, and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

Contracts up to 500,000 contracts from \$0.05 to \$0.02 per contract, and requiring that there be a Customer on side, the Exchange would continue to permit Phlx Floor Brokers a rebate starting with the first Floor Qualifying Contract, provided now that a Customer is one side of the floor transaction. The Exchange's proposal retains the current Tier 2 rebate of \$0.05 per contract for current Tier Qualifying Contracts from 500,001 to 5,000,000, provided that a Customer is one side of the floor transaction. The Exchange is proposing a new Tier 3 that would pay \$0.07 per contract for Qualifying Contracts from 5,000,001 – 10,000,000, provided that a Customer is one side of the floor transaction. Today, a Floor Broker would have received the higher rebate of \$0.08 rebate per contract. New Tier 4 is the same as today's tier 3, Qualifying Contracts greater than 10,000,000, and would pay a decreased rebate of \$0.08 per contract (as compared to the current \$0.11 per contract rebate), provided that a Customer is one side of the floor transaction. The Exchange's proposal is reasonable as the Exchange continues to believe that the revised incentive program will continue to attract order flow to Phlx's trading floor for execution in open outcry. While the Exchange is requiring that one side of the transaction be a Customer, the Exchange notes that other Phlx floor members²⁷ may interact with the orders exposed in open outcry on the Exchange's trading floor.

The Exchange's proposal to commence paying rebates on Qualifying Contracts for floor transactions provided there is a Non-Customer on both sides is reasonable because this proposal continues to pay a rebate where there is a Customer on one side of the transaction. Rebates will continue to be paid on all qualifying volume however the rebates are different depending on whether a Customer is on one side of the trade or both

²⁷ Floor members include all members who have acquired a permit to trade on Phlx's trading floor.

sides of the trade are Non-Customers. Specifically, the Exchange proposes to pay higher rebates for Qualifying Contracts with Non-Customers on both sides as compared to the rebates for floor transactions where there is a Customer on one side. The Exchange would pay a Tier 1 rebate of \$0.02 per contract where there is a Customer on one side vs. \$0.08 per contract where there are Non-Customers on both sides. The Exchange would pay a Tier 2 rebate of \$0.05 per contract where there is a Customer on one side vs. \$0.12 per contract where there are Non-Customers on both sides. The Exchange would pay a Tier 3 rebate of \$0.07 per contract where there is a Customer on one side vs. \$0.16 per contract where there are Non-Customers on both sides. Finally, the Exchange would pay a Tier 4 of \$0.08 per contract where there is a Customer on one side vs. \$0.20 per contract where there are Non-Customers on both sides. The proposed rebates are intended to attract order flow to Phlx's open outcry. Other Phlx floor members may interact with the orders exposed in open outcry on the Exchange's trading floor.

The Exchange's proposal to amend the current rebate schedule which consists of 3 tiers to expand it to 4 tiers, amend the existing tiers, and amend the current rebates is equitable and not unfairly discriminatory as all Floor Brokers would be subject to the revised tier structure and rebates and would be uniformly paid a rebate based on their Qualifying Contracts provided the transactions had a Customer on one side. The Exchange's proposal to pay the rebate provided one side of the transaction is Customer or both sides are Non-Customer is equitable and not unfairly discriminatory because the Exchange would uniformly calculate all qualifying volume and uniformly pay rebates associated with the Floor Transaction (Open Outcry) Floor Broker Incentive Program. The Exchange believes its proposed floor transaction rebates for Customer on one side

and Non-Customer on both sides are equitable and not unfairly discriminatory because, today, Customers are not assessed a Floor Options Transaction Charge for Penny and Non-Penny Symbols. In contrast, the Exchange notes that Non-Customers, except Professionals,²⁸ are assessed Floor Options Transaction Charges in Penny and Non-Penny Symbols.²⁹ The Exchange proposes to pay higher rebates where there is a Non-Customer on both sides of a trade because a Floor Broker attracting Customer order flow can more easily attract Customer orders which are not assessed a floor transaction fee as compared to attracting a Non-Customer order which would pay a transaction fee to execute on Phlx's trading floor.

The Exchange believes that it is reasonable to pay rebates on qualifying volume for transactions executed on the trading floor, because it is necessary from a competitive standpoint to offer this rebate to the executing Floor Broker to attract order flow to the trading floor. The rebate is meant to assist Floor Brokers to recruit business on an agency basis. The Floor Broker may use all or part of the rebate to offset its fees. The Exchange expects that the rebate offered to executing Floor Brokers will allow them to price their services at a level that will enable them to attract order flow from market participants who would otherwise enter these orders electronically from off the floor. To the extent that Floor Brokers are able to attract these qualifying volume, other floor participants may interact with this order flow in open outcry. The Exchange believes that it is

²⁸ The term "Professional" applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) 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 Options 1, Section 1(c).

²⁹ See Options 7, Section 4. Lead Market Makers and Market Makers are assessed a \$0.50 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols. Broker -Dealers and Firms are assessed a \$0.25 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols.

equitable and not unfairly discriminatory to pay rebates on qualifying volume for transactions executed on the trading floor, because Floor Brokers would be uniformly paid the rebates based on qualifying volume and the parties to the transaction.

The Exchange's proposal to amend the monthly Floor Transaction (Open Outcry) Floor Broker Incentive Program cap from \$1,000,000 to \$2,000,000 is reasonable because the Exchange is permitting Floor Brokers to achieve a higher amount of rebates by raising the cap. The Exchange's proposal to amend the monthly Floor Transaction (Open Outcry) Floor Broker Incentive Program cap from \$1,000,000 to \$2,000,000 is equitable and not unfairly discriminatory because the Exchange will uniformly apply the cap to all Floor Brokers.

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.

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. 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. 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.

Intra-market Competition

QCC Rebates

The Exchange's proposal to amend the qualifications for two QCC Rebates in Options 7, Section 4 by lowering the second qualification for Floor Originated Strategy Executions "in excess of 2,500,000 contracts" to "in excess of 1,250,000" in a given month does not impose an undue burden on competition because all members and member organizations may qualify for QCC Rebates, provided they transact the requisite volume.

Floor Transaction (Open Outcry) Floor Broker Incentive Program

The Exchange's proposal to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program to permit Floor QCC Orders, as defined in Options 8, Section 30(e), to be considered qualifying volume for purposes of the program and not pay rebates for transactions executed on the trading floor pursuant to the incentive program does not impose an undue burden on competition as all Phlx Floor Broker Floor QCC Order flow entered on Phlx will be counted as qualifying volume for the Floor Transaction (Open Outcry) Floor Broker Incentive Program and those Floor QCC Order will uniformly be paid rebates based on the schedule in Options 7, Section 4 for QCC Rebates.

The Exchange's proposal to amend the current rebate schedule which consists of 3 tiers to expand it to 4 tiers, amend the existing tiers, and amend the current rebates does

not impose an undue burden on competition as all Floor Brokers would be subject to the revised tier structure and rebates and would be uniformly paid a rebate based on their Qualifying Contracts provided the transactions had a Customer on one side. The Exchange's proposal to pay the rebate provided one side of the transaction is Customer or both sides are Non-Customer does not impose an undue burden on competition because the Exchange would uniformly calculate all qualifying volume and uniformly pay rebates associated with the Floor Transaction (Open Outcry) Floor Broker Incentive Program. The Exchange believes its proposed floor transaction rebates for Customer on one side and Non-Customer on both sides does not impose an undue burden on competition because, today, Customers are not assessed a Floor Options Transaction Charge for Penny and Non-Penny Symbols. In contrast, the Exchange notes that Non-Customers, except Professionals,³⁰ are assessed Floor Options Transaction Charges in Penny and Non-Penny Symbols.³¹ A Floor Broker attracting Customer order flow can more easily attract Customer orders which are not assessed a floor transaction fee as compared to attracting a Non-Customer order which would pay a transaction fee to execute on Phlx's trading floor.

Paying rebates on qualifying volume for transactions executed on the trading floor, does not impose an undue burden on competition because Floor Brokers would be uniformly paid the rebates based on qualifying volume and the parties to the transaction.

³⁰ The term "Professional" applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) 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 Options 1, Section 1(c).

³¹ See Options 7, Section 4. Lead Market Makers and Market Makers are assessed a \$0.50 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols. Broker -Dealers and Firms are assessed a \$0.25 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols.

The Exchange's proposal to amend the monthly Floor Transaction (Open Outcry) Floor Broker Incentive Program cap from \$1,000,000 to \$2,000,000 does not impose an undue burden on competition because the Exchange will uniformly apply the cap to all Floor Brokers.

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,³² the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed 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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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

³² 15 U.S.C. 78s(b)(3)(A)(ii).

Not applicable.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.
5. Applicable portion of the Exchange's Pricing Schedule.