

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103754; File No. SR-Phlx-2025-37]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Options 7, Sections 2 and 4

August 20, 2025.

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 August 11, 2025, 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 Customer³ Rebate Program in Options 7, Section 2 and the strategy caps in Options 7, Section 4.⁴

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, 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 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).

⁴ On August 1, 2025, the Exchange filed SR-Phlx-2025-33. On August 11, 2025, the Exchange withdrew SR-Phlx-2025-33 and filed this proposal.

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

Phlx proposes to: (1) amend its tier thresholds within Options 7, Section 2 with respect to the Customer Rebate Program; and (2) amend strategy caps in Options 7, Section 4.

Customer Rebates

Today, the Exchange pays Customer rebates based on five tier according to four categories. The Customer Rebate Tiers shown below are calculated by totaling Customer volume in Multiply Listed Options (including SPY) that are electronically-delivered and executed, except volume associated with electronic Qualified Contingent Cross Orders, as defined in Options 3, Section 12.⁵

⁵ Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. See Options 7, Section 2.

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 Symbols and Customer Simple Orders in Non-Penny Symbols in Options 7, Section 4 symbols.⁶ The Exchange pays a Category B Rebate on Customer PIXL Orders⁷ 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 are 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 executing electronically-delivered Customer Complex Orders⁸ in Penny Symbols 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 circumstances. The Category C Rebate is not paid when an electronically-delivered

⁶ Options 7, Section 4 describes pricing for 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).

⁷ PIXL Orders are entered into the Exchange's Price Improvement XL ("PIXL") Mechanism as described in Options 3, Section 13.

⁸ Complex Orders are described in Options 3, Section 14.

Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order. The Exchange pays a Category D Rebate to members executing electronically-delivered Customer Complex Orders in Non-Penny Symbols 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 circumstances. The Category D Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.⁹

At this time, the Exchange proposes to amend the Tier 2, 4 [*sic*] and 4 thresholds. The Exchange proposes to amend the current Tier 2 threshold of “above 0.60% to 1.10%” to “above 0.60% to 1.30%.” The Exchange also proposes to amend the current Tier 3 threshold of “above 1.10% - 1.60%” to “above 1.30% to 1.80%”. Finally, the Exchange proposes to amend the Tier 4 threshold from “above 1.60% -2.50%” to “above 1.80% -2.50%.”

With this proposed amendments, the Exchange believes that certain members and member organizations that qualified for the Tier 3 Customer Rebate may now qualify for the Tier 2 Customer Rebate and certain members and member organizations that qualified for the Tier 4 Customer Rebate may now qualify for the Tier 3 Customer Rebate. The Exchange also notes that some members and member organizations may continue to qualify for their current tiers despite the change. The Exchange seeks to incentivize members and member organizations to bring a greater amount of Customer volume to qualify for these tier rebates. The Exchange

⁹ Rebates are not paid on broad-based index options symbols listed within Options 7, Section 5.A. in any Category, however broad-based index options symbols listed within Options 7, Section 5.A. will count toward the volume requirement to qualify for a Customer Rebate Tier. See Options 7, Section 2.

notes that other market participants may transact with the additional Customer order flow the Exchange seeks to attract as a result of this fee change.

Strategy Caps

Today, the Exchange permits the following of strategy executions: (1) dividend strategy,¹⁰ merger strategy,¹¹ short stock interest strategy,¹² reversal and conversion strategies,¹³ jelly roll strategy,¹⁴ and a box spread strategy.¹⁵ To qualify for a strategy cap,¹⁶ the buy and sell side of a transaction must originate either from the Exchange Trading Floor or as a Floor Qualified Contingent Cross Order.¹⁷ The Exchange offers certain daily and month caps as well.

¹⁰ A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. See Options 7, Section 4.

¹¹ A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. See Options 7, Section 4.

¹² A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. See Options 7, Section 4.

¹³ Reversal and conversion strategies are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration. See Options 7, Section 4.

¹⁴ A jelly roll strategy is defined as transactions created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position. See Options 7, Section 4.

¹⁵ A box spread strategy is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively. See Options 7, Section 4.

¹⁶ Of note, NDX, NDXP, and XND Options Transactions are excluded from strategy cap pricing.

¹⁷ See Phlx's Pricing Schedule at Options 7, Section 4. A Floor Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order or orders totaling an equal number of contracts. The term "qualified contingent trade" shall have the same meaning set forth in Options 3, Section 12(a)(3). See Options 8, Section 30(e).

For a dividend strategy, a Lead Market Maker,¹⁸ Market Maker,¹⁹ Professional,²⁰ Firm²¹ and Broker-Dealer²² that executed on the same trading day in the same class of options when such members are trading: (1) in their own proprietary accounts; or (2) on an agency basis is subject to a daily cap of \$1,100.²³ For a merger, short stock interest and box spread strategy, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer that executed on the same trading day for all classes of options in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis is subject to a daily cap of \$1,000 if more than one class of options, or a daily cap of \$700 if only in a single class of options.²⁴ Finally, for

¹⁸ 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).

¹⁹ The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. The term “Streaming Quote Trader” or “SQT” is defined in Options 1, Section 1(b)(55) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term “Remote Streaming Quote Trader” or “RSQT” is defined in Options 1, Section 1(b)(49) as a Market Maker 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 Options 2, Section 1(a). See Options 7, Section 1(c).

²⁰ 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).

²¹ 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).

²² 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).

²³ If transacted on an agency basis, the daily cap will apply per beneficial account.

²⁴ See id. For example, if a Lead Market Maker executed reversal and conversion strategies only in AAPL options, and otherwise met the qualifications for a reversal and conversion cap, the proposed \$700 daily cap would apply. If the Lead Market Maker executed reversal and conversion strategies in AAPL and SPY options, and otherwise met the qualifications for a reversal and conversion cap, the proposed \$1,000 daily cap would apply.

reversal and conversion and jelly roll strategies, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer that executed on the same trading day for all classes of options in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis is subject to a daily cap of \$200.²⁵ Finally, today, the Exchange offers a \$65,000 monthly cap per member organization for combined executions of dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategies when trading in its own proprietary accounts (“Monthly Strategy Cap”).

At this time, the Exchange is proposing to reduce all daily caps to \$0.00 so that no transaction charge would be paid on any permissible strategy execution defined in Options 7, Section 4 that meet the qualifications noted above. The Exchange would reduce the daily cap amounts to \$0.00 in Options 7, Section 4. The Exchange also proposes to eliminate the Monthly Strategy Cap because no cap is needed if there are no transaction fees being assessed for qualifying strategy transactions. The Exchange’s proposal to no longer assess fees on strategy transactions will incentivize Lead Market Makers, Market Makers, Professionals, Firms and Broker-Dealers to transact a greater number of strategies on Phlx. Today, Customers pay no fees on strategy transactions. The Exchange notes that Customers were not subject to the strategy cap because Customers are not assessed Options Transaction Charges within Options 7, Section 4.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁶ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,²⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among

²⁵ See id.

²⁶ 15 U.S.C. 78f(b).

²⁷ 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.

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.”²⁸

Likewise, in NetCoalition v. Securities and Exchange Commission²⁹ (“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 Congress mandated a cost-based approach.³⁰ 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.”³¹

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

²⁸ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

²⁹ NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

³⁰ See NetCoalition, at 534 - 535.

³¹ Id. at 537.

of order flow from broker dealers'"³² 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.

Customer Rebates

The Exchange's proposal to amend the Tier 2, 3 and 4 thresholds is reasonable because it is designed to bring a greater amount of Customer volume to Phlx to qualify for these tier rebates. The Exchange notes that other market participants may transact with the additional Customer order flow the Exchange seeks to attract as a result of this fee change. As a result of the fee change, certain members and member organizations that qualified for the Tier 3 Customer Rebate may now qualify for the Tier 2 Customer Rebate and certain members and member organizations that qualified for the Tier 4 Customer Rebate may now qualify for the Tier 3 Customer Rebate. The Exchange also notes that some members and member organizations may continue to qualify for their current tiers despite the change.

The Exchange's proposal to amend the Tier 2, 3 and 4 thresholds is equitable and not unfairly discriminatory because any Phlx member or member organization may qualify for a Customer rebate provided they meet the qualifications. Also, the percentage tier threshold qualifications will be applied uniformly to all Phlx members and member organizations. Finally, paying rebates only to Customers is equitable and not unfairly discriminatory because Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response

³² 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)).

to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants.

Strategy Caps

The Exchange's proposal to reduce all daily caps to \$0.00 is reasonable because no cap is needed if there are no transaction fees being assessed for qualifying strategy transactions. The Exchange's proposal to no longer assess fees on strategy transactions will incentivize Lead Market Makers, Market Makers, Professionals, Firms and Broker-Dealers to transact a greater number of strategies on Phlx.

The Exchange's proposal to reduce all daily caps to \$0.00 is equitable and not unfairly discriminatory as no Phlx member or member organization would pay a fee on a qualifying strategy transaction. Today, Customers are not assessed a strategy transaction fee. The Exchange's proposal to no longer offer a monthly cap is equitable and not unfairly discriminatory because no member would be subject to fee for a qualifying strategy transaction.

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.

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

In terms of intra-market competition, the Exchange's proposal to amend the Tier 2, 3 and 4 thresholds does not impose an undue burden on competition because any Phlx member or member organization may qualify for a Customer rebate provided they meet the qualifications. Also, the percentage tier threshold qualifications will be applied uniformly to all Phlx members and member organizations. Finally, paying rebates only to Customers does not impose an undue burden on competition because Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to reduce all daily caps to \$0.00 does not impose an undue burden on competition as no Phlx member or member organization would pay a fee on a qualifying strategy transaction. Today, Customers are not assessed a strategy transaction fee. The Exchange's proposal to no longer offer a monthly cap does not impose an undue burden on competition because no member would be subject to fee for a qualifying strategy transaction.

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.³³

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2025-37 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.

³³ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to file number SR-Phlx-2025-37. This file number should be included on the subject line if email 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2025-37 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁴

Sherry R. Haywood,

Assistant Secretary.

³⁴ 17 CFR 200.30-3(a)(12).