SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105640; File No. SR-Phlx-2026-34]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 7, Sections 2, 5 and 9B

June 9, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 27, 2026, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Phlx's Pricing Schedule at Options 7, Sections 2, 5 and 9B related to Customer Rebates, Index Options and Port Fees, respectively.[3]

The text of the proposed rule change is available on the Exchange's Website at https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings, and at the principal office of the Exchange.

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

2 17 CFR 240.19b-4.

3 On April 30, 2026, the Exchange filed SR-Phlx-2026-27. On May 12, 2026, the Exchange withdrew SR-Phlx-2026-27 and filed this proposal. On May 27, 2026, the Exchange withdrew SR-Phlx-2026-30 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 modify its Pricing Schedule at Options 7, Section 2, Customer Rebate Program, to amend certain tier qualifications. The Exchange also proposes to amend the current surcharge applicable to Nasdaq-100® Index ("NDX") options and the P.M.-Settled NDX Options ("NDXP") at Options 7, Section 5, Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange). Finally, the Exchange proposes to amend Options 7, Section 9B, Port Fees, to delete text related to a migration. Each change will be described below.

Options 7, Section 2

The Exchange proposes to amend the Pricing Schedule at Options 7, Section 2, Customer Rebate Program.

Currently, the Exchange pays rebates on five Customer[4] Rebate Tiers according to four categories. The Customer Rebate Tiers below are calculated by totaling Customer volume in

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

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. Rebates are paid on Customer Rebate Tiers according to the below categories.[5]

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% - 1.50%**	**\$0.10**	**\$0.10**	**\$0.16**	**\$0.21**
Tier 3	**Above 1.50% - 2.00%**	**\$0.15**	**\$0.12**	**\$0.18**	**\$0.22**
Tier 4	**Above 2.00% - 2.75%**	**\$0.20**	**\$0.16**	**\$0.22**	**\$0.26**
Tier 5	**Above 2.75%**	**\$0.21**	**\$0.17**	**\$0.22**	**\$0.27**

The Exchange pays a Category A Rebate to members executing 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 Orders[7] in Options 7, Section 4 symbols that execute against non-Initiating Order interest. In the instance where member organizations qualify for Tier 4 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order will be paid a rebate of \$0.13 per contract. In the instance where member organizations qualify for Tier 5 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order

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. 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. count toward the volume requirement to qualify for a Customer Rebate Tier.

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.

will be paid a rebate of $0.14 per contract. All rebates on Customer PIXL Orders will be 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 Orders[8] 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 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 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 a Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.

Proposal

At this time, the Exchange proposes to amend the Customer Rebate Program at Options 7, Section 2, to modify the Percentage Thresholds of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (Monthly) ("Percentage Thresholds") to qualify for the Tier 4 and Tier 5 Customer Rebates.

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

Specifically, the Exchange proposes to decrease the Tier 4 Percentage Thresholds from above 2.00% - 2.75% to above 2.00% - 2.50%. Additionally, the Exchange proposes to decrease the Tier 5 Percentage Thresholds from above 2.75% to above 2.50%.

The Exchange believes that the proposed amendments to the Customer Rebate Program to lower the Tier 4 and 5 qualifications will encourage members and member organizations to send a greater amount of order flow to Phlx to earn additional rebates. All members and member organizations would have the opportunity to interact with such increased order flow.

Options 7, Section 5

Phlx proposes to amend the current surcharge applicable to NDX options at Options 7, Section 5, Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange). Currently, note 3 of Options 7, Section 5, Index and Singly Listed Options (Includes options overlying FX Options, equities, ETFs, ETNs, and indexes not listed on another exchange), imposes a surcharge of $1.50 per contract for NDX and NDXP electronic simple Non-Customer[9] orders that remove liquidity 3. This surcharge is in addition to the Options Transaction Charges in NDX and NDXP for Non-Customer orders of $0.75 per contract. Today, Customer orders pay an Options Transaction Charge of $0.50 per contract in NDX and NDXP.[10]

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

10 A surcharge for NDX and NDXP of $0.25 per contract is assessed to Non-Customers. See note 1 of Options 7, Section 5. Additionally, a surcharge for XND of $0.10 per contract will be assessed to Non-Customers. See note 2 of Options 7, Section 5.

Proposal

At this time, the Exchange proposes to amend the surcharge at note 3 of Options 7, Section 5 to instead assess a surcharge on NDX and NDXP electronic simple Non-Customer orders that remove liquidity according to the following premium schedule:

Less than $3.00	$1.00
Greater than or equal to $3.00 and less than $10.00	$1.50
Greater than or equal to $10.00 and less than $25.00	$2.00
Greater than or equal to $25.00 and less than $50.00	$2.50
Greater than or equal to $50.00	$3.00

The Exchange believes its proposed scaled surcharge reflects meaningful differences in risk and market impact across premium levels. Higher-premium options signal greater implied volatility, carry larger notional exposure, exhibit heightened sensitivity to index movements, embed more consequential leverage, and approximate or exceed the economic exposure of comparable futures contracts. Each of these factors independently supports imposing a higher surcharge on higher-premium transactions.

An option's premium is driven in substantial part by the market's expectation of future movement in the underlying index (implied volatility).[11] Accordingly, a higher premium generally signals that the market perceives the Nasdaq-100 Index as presenting greater risk at that point in time. Trades executed in higher-volatility environments carry a greater potential to disrupt orderly market functioning: each transaction can exert more pronounced price pressure, and liquidity providers face commensurately higher hedging costs. A surcharge tied to premium price functions as a self-correcting mechanism — when market conditions are riskier and

11 When market participants expect larger swings in the Nasdaq-100 Index, option premiums rise; when they expect less volatility, premiums fall.

premiums rise, the surcharge rises proportionally; when conditions normalize and premiums decline, the surcharge declines accordingly. This design ensures the pricing remains aligned with prevailing market risk without requiring constant manual recalibration. The Nasdaq-100 Index is particularly susceptible to these dynamics given its heavy concentration in large-capitalization technology companies, which can experience sharp and sudden price dislocations that cause option premiums to escalate rapidly.

The notional value[12] of NDX options further supports the proposed tiered surcharge. With a contract multiplier of $100, a $1.00 premium option represents $100 of premium value per contract, while a $50.00 premium option represents $5,000 per contract — fifty times the economic stake. A trade in a higher-premium option transfers more capital and more risk between counterparties, requires Market Makers to commit greater resources to hedge the resulting position, and consumes a larger share of available liquidity on the order book. A flat surcharge — identical regardless of premium price — would treat a $100 trade and a $5,000 trade as though they imposed equivalent market impact. The tiered schedule, by contrast, scales the fee with the magnitude of economic exposure, ensuring that participants trading higher-value options bear a modestly higher surcharge commensurate with the greater significance of their transactions. The proposed pricing is reasonable because the scaled surcharge reflects these differences in the economic characteristics of the underlying transactions.

Transactions in the Nasdaq-100 Index involving greater effective leverage warrant proportionally higher fees. Leverage permits a trader to gain exposure to a large notional amount in the underlying index for a relatively small upfront payment; however, the significance of that leverage varies materially with the premium price. A $1.00 premium NDX option offers the

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12 Notional value refers to the total dollar amount of economic exposure that an option contract represents.

potential for control of a large notional position but is typically far out-of-the-money, meaning the probability that it will deliver meaningful economic value at expiration is low. By contrast, a $50.00 premium NDX option is likely in-the-money or near-the-money, carrying a high probability of delivering a real economic payoff. In this case, the market participant pays a fraction of the cost of an equivalent direct position in the Nasdaq-100 Index while retaining a strong likelihood of participating in the index's movement. This combination of leverage and high probability of economic delivery makes higher-premium options powerful instruments capable of shifting substantial risk. The proposed tiered surcharge recognizes that higher-premium options carry more consequential leverage and should therefore bear a commensurately higher fee.

Finally, as the premium of NDX or NDXP options increases, the option's economic behavior converges with that of a futures contract. A CME-listed Nasdaq-100 future provides direct, linear one-for-one exposure to the Nasdaq-100 Index. When an NDX option carries a high premium and a delta approaching 1.0, it behaves substantially like a futures contract: with a $100 multiplier and a delta near 1.0, each one-point move in the index produces approximately $100 of profit or loss per contract — the economic equivalent of roughly five E-mini Nasdaq-100 futures contracts. Moreover, options introduce risk dimensions absent from futures, including sensitivity to changes in volatility (vega risk) and accelerating sensitivity to index movements (gamma risk). These additional risk dimensions give high-premium options a risk profile that can exceed that of a comparable futures position, further supporting a higher surcharge at elevated premium levels.

With this proposal, the lowest tier ($1.00) reduces the existing surcharge for low-premium contracts, conferring a benefit on participants trading less expensive series. The middle tier ($1.50) preserves the status quo for the band that historically reflects a substantial portion of activity in NDX and NDXP. The upper tiers ($2.00, $2.50, and $3.00) modestly increase the surcharge for high-premium contracts, where the participant's economic exposure—and the Exchange's correlative cost burden—is materially greater. The graduated structure thereby ties the magnitude of the fee to an objective, transaction-specific measure of value, which the Commission has long recognized as a reasonable basis for differentiated pricing in the listed options markets.

The Exchange believes that the proposed schedule of fees will continue to attract NDX and NDXP order flow to the Exchange.

Options 7, Section 9B

In 2025, Phlx underwent a technology migration[13] wherein member organizations maintained both legacy FIX Ports that were connected to the legacy Phlx platform and new FIX Ports that were connected to the new Phlx platform that was introduced as part of the migration. The migration was completed in December 2025 and legacy FIX Ports were sunset on February 27, 2026. The Exchange proposes to remove the obsolete rule text that states, "Phlx will sunset legacy FIX Ports on February 27, 2026. The below FIX Port Fees apply to new and legacy FIX Ports."

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among

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13 See https://www.nasdaqtrader.com/MicroNews.aspx?id=OTU2025-6.

14 15 U.S.C. 78f(b).

15 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."[16]

Likewise, in NetCoalition v. Securities and Exchange Commission[17] ("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.[18] 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."[19]

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

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

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

18 See NetCoalition, at 534 - 535.

19 Id. at 537.

of order flow from broker dealers'….”[20] 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.

Options 7, Section 2

The Exchange's proposal to decrease the Tier 4 and 5 percentage thresholds for the Customer Rebate Program is reasonable because the lower tier qualifications would enable members to qualify for Customer rebates, thereby attracting more Customer order flow.

The Exchange's proposal to decrease the Tier 4 and 5 percentage thresholds for the Customer Rebate Program is equitable and not unfairly discriminatory because the proposed tier qualifications would uniformly apply to all members for purposes of qualifying for Customer rebates. Further, paying these 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 market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Options 7, Section 5

The Exchange's proposal to replace the current flat surcharge of $1.50 per contract for regular Non-Public Customer orders that remove liquidity with a tiered structure[21] scaled to the premium value of each contract is reasonable because scaling the surcharge to the premium value

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20 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)).

21 The Exchange proposes a premium schedule as follows: $1.00 per contract for premiums less than $3.00; $1.50 per contract for premiums greater than or equal to $3.00 and less than $10.00; $2.00 per contract for premiums greater than or equal to $10.00 and less than $25.00; $2.50 per contract for premiums greater than or equal to $25.00 and less than $50.00; and $3.00 per contract for premiums greater than or equal to $50.00.

of the contract more accurately calibrates the fee to the economic value that the liquidity-removing participant derives from the transaction and to the corresponding costs and risks borne by the Exchange and by the liquidity providers whose quotations support the market in NDX and NDXP.[22] These index options are proprietary products for which the Exchange incurs licensing, market-data, and other costs that scale, in significant part, with the notional and premium value executed on the Exchange. A premium-based tier therefore allocates a larger share of those costs to transactions that consume a proportionally greater amount of Exchange resources and confer a proportionally greater economic benefit on the participant, while reducing the relative burden on lower-premium transactions, which are often associated with lower-delta or hedging-oriented strategies.

The Exchange believes its proposed scaled surcharge reflects meaningful differences in risk and market impact across premium levels. Higher option premiums reflect elevated implied volatility in the Nasdaq-100 Index, signaling greater market risk. A premium-based surcharge operates as a self-correcting mechanism that scales fees with prevailing volatility, ensuring alignment with actual market conditions — particularly given the Nasdaq-100's concentration in technology stocks prone to sharp price dislocations. Differences in premium translate into significant differences in notional value and market impact. A tiered surcharge ensures that participants whose trades transfer greater capital and consume more liquidity bear fees

[22] With respect to NDX, the two lowest tiers ($1.00 for premiums less than $3.00 and $1.50 for premiums of $3.00 to less than $10.00) introduce a modest surcharge on lower-premium executions that today bear no surcharge, in amounts commensurate with the limited economic value of those contracts. The middle tier ($2.00 for premiums of $10.00 to less than $25.00) likewise applies a measured surcharge to a band that is currently exempt. The upper tiers ($2.50 for premiums of $25.00 to less than $50.00 and $3.00 for premiums of $50.00 or greater) replace the existing $0.25 surcharge with charges that more accurately reflect the materially greater economic exposure of high-premium contracts and the correspondingly greater cost burden borne by the Exchange and its liquidity providers. The graduated structure thereby ties the magnitude of the fee to an objective, transaction-specific measure of value across the entire premium spectrum, which the Commission has long recognized as a reasonable basis for differentiated pricing in the listed options markets.

proportionate to the economic magnitude of their transactions, whereas a flat surcharge would ignore these disparities. The economic significance of an option's embedded leverage depends on whether the option is likely to deliver a real payoff. Low-premium, far out-of-the-money options carry leverage largely in theory, while higher-premium options near or in the money combine meaningful leverage with a high probability of economic delivery, justifying a commensurately higher surcharge. As NDX or NDXP option premiums rise and delta approaches 1.0, the option's risk profile converges with — and can exceed — that of a comparable Nasdaq-100 futures contract, because options also carry vega and gamma risk. This functional equivalence (and additional complexity) at higher premium levels further supports a scaled surcharge.

Today, market participants are offered different ways to gain exposure to the Nasdaq-100 Index, whether through the Exchange's proprietary products like options overlying NDX or NDXP or separately through multi-listed options overlying Invesco QQQ Trust ("QQQ"). Offering NDX Options provides market participants with a variety of choices in selecting the product they desire to utilize in order to gain exposure to the Nasdaq-100 Index. Both NDX index options and QQQ options derive their value from the same underlying economic exposure: the Nasdaq-100 index constituents. A participant seeking to hedge or speculate on the performance of the Nasdaq-100 can achieve comparable economic outcomes through either product. While the two products differ in settlement mechanics (NDX settles in cash; QQQ settles in shares of the ETF) and multiplier conventions, they serve as functional substitutes for the same core market exposure. In terms of price comparisons, Non-Public Customers are assessed a $0.45 or $0.46 per contract Penny Symbol Taker Fees[23] to execute (remove liquidity)

[23] See Options 7, Section 3.

in an option on QQQ. To measure the notional equivalent of an option on QQQ as compared to NDX options, the fees should be multiplied by the ratio of the settlement price of NDX divided by QQQ. For example, on May 8, 2026, the ratio of settlement prices was 41.10 (29235.00 (NDXP settlement price) / 711.23 (QQQ settlement price)). To create an equivalence in fees, a Taker Fee of $0.45 per contract for QQQ would equal $18.50 for NDX. The proposed NDX and NDXP fees are significantly lower than QQQ options by comparison. A single NDX options contract carries a notional value approximately 41 times greater than a single QQQ options contract. A market participant would need to execute roughly 41 QQQ options to replicate the economic exposure of a single NDX contract. The Exchange therefore believes that a higher per-contract surcharge on NDX is reasonable on a cost-per-unit-of-notional-value basis.

Finally, competing in a regulated capital markets environment imposes several incremental costs on a less mature product. NDX and NDXP compete against other broad-based indexes such as the S&P 500 Index ("SPX"), which is a mature index in comparison to NDX and NDXP. As a result, NDX and NDXP incur significant marketing expenditures aimed at funding educational content for NDX and NDXP indexes to build awareness.

The Exchange's proposal to replace the current flat surcharge of $1.50 per contract for regular Non-Public Customer orders that remove liquidity with a tiered structure scaled to the premium value of each contract is not unfairly discriminatory because the surcharge applies uniformly to all electronic simple Non-Public Customer orders that remove liquidity in NDX and NDXP. Every Non-Public Customer (Professionals, Broker-Dealers, Firms, and Market Makers) will be subject to the same tier table, and the applicable tier for any given execution will be determined solely by the objective premium value of the contract executed. While the proposed surcharge does not apply to Customer orders, the Exchange notes that Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Such developments would benefit all market participants.

Options 7, Section 9B

The Exchange's proposal to remove rule text in Options 7, Section 9B related to a prior migration is reasonable because the migration is complete and the Exchange has sunset all legacy FIX Ports as of February 27, 2026. Further, the proposal is equitable and not unfairly discriminatory because no Phlx member organization has access to a legacy FIX Port.

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.

Options 7, Section 2

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 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 accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to decrease the Tier 4 and 5 percentage thresholds for the Customer Rebate Program does not impose an undue burden on competition because the Exchange would uniformly apply to all members for purposes of qualifying for Customer rebates. Further, paying these 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 market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Finally, market participants are offered an opportunity to transact in NDX or NDXP, or separately execute options overlying QQQ. Offering these products provides market participants with a variety of choices in selecting the product they desire to use to gain exposure to the Nasdaq-100 Index.

Options 7, Section 5

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. NDX and NDXP are proprietary options contracts while options on QQQ are multi-listed. Other options exchanges may price options on QQQ in a manner so as to compete directly with options on

NDX and NDXP. Further, options exchanges may offer competing broad-based indexes such as Cboe Exchange, Inc.'s SPX Options to compete with NDX and NDXP. The manner in which options exchanges elect to price substitute or competing products may cause order flow to be diverted to another exchange.

<u>Intra-market Competition</u>

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to replace the current flat surcharge of $1.50 per contract for regular Non-Public Customer orders that remove liquidity with a tiered structure scaled to the premium value of each contract does not impose an undue burden on competition because the surcharge applies uniformly to all electronic simple Non-Public Customer orders that remove liquidity in NDX and NDXP. Every Non-Public Customer (Professionals, Broker-Dealers, Firms, and Market Makers) will be subject to the same tier table, and the applicable tier for any given execution will be determined solely by the objective premium value of the contract executed. While the proposed surcharge does not apply to Public Customer orders, the Exchange notes that Public Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Such developments would benefit all market participants.

Further, today, market participants have the opportunity to transact in NDX or NDXP options, or separately execute options overlying QQQ. The NDX and NDXP products provide market participants with an additional means to gain exposure to the Nasdaq-100 Index. NDX and NDXP products compete with options on QQQ directly, and SPX products indirectly and that competition is driven in part through the pricing of these products. Finally, the proposed pricing differentiates among transactions — not among market participants — and does so on the basis of an objective, market-determined variable (premium price) that directly correlates with the costs imposed on the Exchange. For these reasons noted above, the Exchange believes that the proposed pricing is pro-competitive.

Options 7, Section 9B

The Exchange's proposal to remove rule text in Options 7, Section 9B related to a prior migration does not impose an undue burden on competition because no Phlx member organization has access to a legacy FIX Port.

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.

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (https://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2026-34 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.

All submissions should refer to file number SR-Phlx-2026-34. 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-2026-34 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.[25]

Sherry R. Haywood,

Assistant Secretary.

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25 17 CFR 200.30-3(a)(12).