

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104515; File No. SR-Phlx-2025-77]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning the Exchange's Options Regulatory Fee (ORF) Methodology until July 1, 2026

December 29, 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 December 19, 2025, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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, Section 6, D, Options Regulatory Fee, to delay the implementation of the new Options Regulatory Fee (“ORF”) and methodology proposed in SR-Phlx-2025-30.³ Specifically, the Exchange proposes to delay Phlx's new ORF and methodology therein, which was to be implemented on January 2, 2026, until July 1, 2026 and remove the sunset provision. Additionally, effective January 2,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 103620 (August 1, 2025), 90 FR 37918 (August 6, 2025) (SR-Phlx-2025-030) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Methodology for Its Options Regulatory Fee (ORF) as of January 2, 2026).

2026, the Exchange proposes to maintain its current ORF methodology at a rate of \$0.0022 per contract side while the industry transitions to the new model.

While the changes proposed herein are effective upon filing, the Exchange has designated the proposed rule change to be operative on January 2, 2026.

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.

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 previously filed a proposed amendment to its ORF, effective as of January 2, 2026,⁴ to amend its methodology of collection to continue to assess ORF for options transactions cleared by OCC in the Customer range, however ORF would be assessed to each Phlx member organization for executions that occur on Phlx. At this time, Phlx proposes to: (1) delay the implementation of SR-Phlx-2025-30, with respect to the new ORF and methodology therein to be effective on January 2, 2026, so that it would now be implemented on July 1, 2026; and (2)

⁴ See id.

maintain its current ORF methodology at a rate of \$0.0022 per contract side effective January 2, 2026.

Delay of Implementation

In light of industry feedback from Clearing Members regarding readiness to implement changes to accommodate the new ORF model and its methodology of collection, the Exchange proposes to delay the implementation of SR-Phlx-2025-30, with respect to the new ORF and methodology therein, until July 1, 2026. This delay would provide market participants additional time to implement the new ORF model and to design, test and implement changes to the ORF. Additionally, the Exchange proposes to remove the February 1, 2026 sunset date that would have allowed the Exchange to revert back to the prior ORF methodology and rate of \$0.0024 per contract side. The Exchange has issued an Options Trader Alert to notify Participants of the delay at least 30 calendar days prior to the anticipated change.⁵

Amended ORF

In light of the unanticipated delay of implementation of its January 2, 2026 amendments to its ORF and methodology in SR-Phlx-2025-30 to accommodate the industry's timeline, Phlx proposes to maintain its current ORF methodology and temporarily increase ORF from \$0.0003 to \$0.0022 per contract side, effective January 2, 2026, while the industry transitions to the new model. The Exchange has issued an Options Trader Alert to notify Participants of the modification to the current ORF at least 30 calendar days prior to the anticipated change.⁶

⁵ See Options Trader Alert # 2025-03.

⁶ See id.

Phlx reduced the amount of ORF collected on October 1, 2025 from \$0.0024 to \$0.0003 per contract side in SR-Phlx-2025-043.⁷ This reduction accounted for certain fines. By lowering its ORF, Phlx was able to ensure that revenue collected from the ORF, in combination with its other regulatory fees and fines, did not exceed Options Regulatory Costs.⁸ Phlx presumed it would be adopting its new ORF and methodology in SR-Phlx-2025-30 on January 2, 2026, which would have implemented a new ORF rate. Phlx notes that it announced its new ORF and methodology on July 22, 2025⁹ to provide the industry ample time to implement changes to accommodate the new ORF and its methodology. Despite announcing in July 2025, industry participants did not prepare for the implementation. At this time, Phlx proposes to temporarily increase its current ORF from \$0.0003 to \$0.0022 per contract side effective January 2, 2026. The Exchange notes that the proposed new rate of \$0.0022 is not the rate that was in effect prior to SR-Phlx-2025-043, that rate was \$0.0024 per contract side. Rather than reverting to the prior rate, the Exchange is considering current options volume and only modestly reverting its pre-fine rate.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the

⁷ See Securities Exchange Act Release No. 103994 (September 17, 2025), 90 FR 45423 (September 22, 2025) (SR-Phlx-2025-43) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Lower the Options Regulatory Fee (ORF)).

⁸ The regulatory costs for options comprise a subset of the Exchange’s regulatory budget that is specifically related to options regulatory expenses and encompasses the cost to regulate all Participants’ options activity (“Options Regulatory Cost”).

⁹ See Options Trader Alert #2025 – 33.

¹⁰ 15 U.S.C. 78f(b).

Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act¹¹, which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its members, and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Delay of Implementation

The Exchange's proposal to delay the implementation of SR-Phlx-2025-30, with respect to the new ORF and methodology, to be effective on January 2, 2026, until July 1, 2026 and to remove the February 1, 2026 sunset date that would have allowed the Exchange to revert back to the prior ORF methodology and rate is consistent with the Act because it will provide market participants additional time to design, test and implement the new ORF and its methodology. The proposal to remove the sunset date is also consistent with the Act given the delay and anticipated industry commitment to implement the changes.

Amended ORF

The Exchange's proposal to maintain its current ORF methodology at a rate of \$0.0022 per contract side effective January 2, 2026, is consistent with the Act because it will allow Phlx to collect rates under its current ORF with an adjusted rate given the Exchange is unable to proceed with the implementation of its new ORF and its methodology until July 1, 2026, which will allow Phlx to offset a material portion of its Regulatory Cost under its existing methodology until the new ORF is implemented on July 1, 2026. As noted herein, SR-Phlx-2025-043 reduced

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

the amount of ORF collected by the Exchange from \$0.0024 to \$0.0003 per contract side effective October 1, 2025, to account for certain fines. By lowering its ORF, Phlx was able to ensure that revenue collected from the ORF, in combination with its other regulatory fees and fines, did not exceed Options Regulatory Costs. On January 2, 2026, Phlx's ORF would have been amended once again as noted in SR-Phlx-2025-30 implementing a new rate. The Exchange did not plan to delay the implementation and would otherwise have been collecting under the January 2, 2026 ORF rate if it were not for the delay. The Exchange notes that the proposed new rate of \$0.0022 is not the rate that was in effect prior to SR-Phlx-2025-043, that rate was \$0.0024. Rather than reverting to the prior rate in effect on October 1, 2025, the Exchange is considering current options volume and only modestly reverting its pre-fine rate.

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 intra-market competition not necessary or appropriate in furtherance of the purposes of the Act. Rather than reverting to its October 1, 2025 rate, the Exchange would assess an ORF rate that represents a temporary modest increase to its current rate in light of current options volumes until it is able to implement the new ORF and methodology on July 1, 2026. No Participant would be subject to the new ORF and methodology until July 1, 2026. The Exchange is not substantively amending the proposed ORF by delaying its implementation.

The Exchange does not believe that the proposed modified rate reversion will impose any burden on intra-market competition not necessary or appropriate in furtherance of the purposes of the Act as the modified ORF rate for January 2, 2026 is intended to approximate a rate equivalent to its October 1, 2025 given current options volumes. The Exchange does not believe that the proposed rate reversion will impose any burden on inter-market competition not necessary or appropriate in furtherance of the purposes of the Act as other options markets may

amend their respective ORFs.

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) of the Act¹³ and paragraph (f) of Rule 19b-4¹⁴ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change 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-2025-77 on the subject line.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f).

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-2025-77. 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-2025-77 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.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).