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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2023 - * 09

Amendment No. (req. for Amendments *)

Filing by Nasdaq PHLX LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * **Section 806(e)(2) ***

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Permit the Listing and Trading of Options on the Nasdaq 100 ESG Index

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Angela **Last Name *** Dunn

Title * Principal Associate General Counsel

E-mail * Angela.dunn@nasdaq.com

Telephone * (215) 496-5692 **Fax**

Signature


Pursuant to the requirements of the Securities Exchange of 1934, Nasdaq PHLX LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 03/28/2023 **(Title *)**

By John Zecca **EVP and Chief Legal Officer**

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 **Date: 2023.03.28 16:25:46 -04'00'**

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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SR-Phlx-2023-09 19b4.doc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-Phlx-2023-09 Exhibit 1.doc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-Phlx-2023-09 Exhibit 5.doc

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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 permit the listing and trading of options on the Nasdaq-100 ESG Index.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on February 1, 2023. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn
Principal Associate General Counsel
Nasdaq, Inc.
(215) 496-5692

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes to permit the listing and trading of options on the Nasdaq-100 ESG Index or “NDXESG”.³ The Nasdaq-100 ESG Index is a broad based, modified ESG Risk Rating Score-adjusted market-capitalization-weighted index that is designed to measure the performance of the companies in the Nasdaq-100 Index (“NDX”) that meet specific environmental, social and governance (“ESG”) criteria.⁴ The Nasdaq-100 ESG Index at all times consists of a selection of securities in NDX.⁵ In order to be selected for the Nasdaq-100 ESG Index, a Nasdaq-100 Index company must: (1) not be involved in specific business activities, as defined in the methodology⁶ and determined by Sustainalytics;⁷ (2) not be deemed non-compliant with the principles of the United Nations Global Compact, as determined by Sustainalytics; (3) not have a controversy level higher than four (4), as defined by Sustainalytics; and (4) have a Sustainalytics ESG Risk Rating Score lower than 40. There are various stages in the constituent weighting process which are outlined in the methodology.⁸

³ These options would trade under the symbol “EXGN.”

⁴ Companies are evaluated and weighted on the basis of their business activities, controversies and ESG Risk Ratings.

⁵ See https://indexes.nasdaqomx.com/docs/methodology_NDXESG.pdf.

⁶ See supra note 5.

⁷ Sustainalytics is a company that rates the sustainability of listed companies based on their ESG performance.

⁸ See supra note 5.

Initial and Maintenance Listing Criteria

The Nasdaq-100 ESG Index meets the definition of a broad-based index as set forth in Options 4A, Section 2(a)(13)⁹ (i.e., an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries).

Additionally, the Nasdaq-100 ESG Index satisfies the initial listing criteria of a broad-based index, as set forth in Options 4A, Section 3(d):

- (1) The index is broad-based, as defined in Options 4A, Section 2(a)(13);
- (2) Options on the index are designated as A.M.-settled index options;
- (3) The index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted;
- (4) The index consists of 50 or more component securities;
- (5) Component securities that account for at least ninety-five percent (95%) of the weight of the index have a market capitalization of at least \$ 75 million, except that component securities that account for at least sixty-five percent (65%) of the weight of the index have a market capitalization of at least \$ 100 million;
- (6) Component securities that account for at least eighty percent (80%) of the weight of the index satisfy the requirements of Options 4, Section 3 applicable to individual underlying securities;
- (7) Each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period;
- (8) No single component security accounts for more than ten percent (10%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than thirty-three percent (33%) of the weight of the index;
- (9) Each component security must be an “NMS Stock” as defined in rule 600 of Regulation NMS under the Exchange Act;

⁹ The Exchange proposes to amend Options 4A, Section 3(d)(1) to correct a citation to the definition of a broad-based index from Section 2(a)(11) to Section 2(a)(13).

- (10) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the index;
- (11) The current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors during the time options on the index are traded on the Exchange;
- (12) The Exchange reasonably believes it has adequate System capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index;
- (13) An equal dollar-weighted index is rebalanced at least once every calendar quarter;
- (14) If an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index;
- (15) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

The Nasdaq-100 ESG Index will also be subject to the maintenance listing standards set forth in Options 4A, Section 3(e):

- (1) The conditions set forth in subparagraphs (d)(1), (2), (3), (9), (10), (11), (12), (13), (14) and (15) must continue to be satisfied. The conditions set forth in subparagraphs (d)(5), (6), (7) and (8) must be satisfied only as of the first day of January and July in each year;
- (2) The total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing.¹⁰

¹⁰ As is the case with other index options authorized for listing and trading on Phlx, in the event the Nasdaq-100 ESG Index fails to satisfy the maintenance listing standards, the Exchange will not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.

Expiration Months, Settlement, and Exercise Style

Consistent with existing rules for certain index options, the Exchange will allow up to twelve near-term expiration months for the Nasdaq-100 ESG Index options (“NDXESG options”)¹¹ as well as LEAPS.¹² Options on NDX may list up to twelve near-term expiration months pursuant to Phlx Options 4A, Section 12(a)(4). The Nasdaq-100 ESG Index consists of components that are also included in NDX, as discussed above. Because of the relationship between the Nasdaq-100 ESG Index and NDX, which will likely result in market participants’ investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to permit the same number of monthly expirations for the Nasdaq-100 ESG Index and NDX. Strike price intervals would be at no less than \$2.50 intervals.¹³

The NDXESG options will be a.m.-settled¹⁴ and cash-settled contracts with European-style exercise.¹⁵ A.M.-settlement is consistent with the generic listing criteria for broad-based indexes,¹⁶ and thus it is common for index options to be a.m.-settled. The Exchange proposes to amend Phlx Options 4A, Section 12(e)(II) to add the Nasdaq-100 ESG Index options to the list of other a.m.-settled options. European-style exercise is consistent with many index options, as set forth in Options 4A, Section 12(a)(5). The Exchange proposes to amend Options 4A, Section 12(a)(5) to add the NDXESG options to the list of European-style index options. Standard third-Friday NDX options are a.m.-

¹¹ See Phlx Options 4A, Section 12(a)(4).

¹² See Phlx Options 4A, Section 12(b)(2).

¹³ See proposed Phlx Options 4A, Section 12(a)(2).

¹⁴ See proposed Phlx Options 4A, Section 12(e)(II).

¹⁵ See proposed Phlx Options 4A, Section 12(a)(5).

¹⁶ See Phlx Options 4A, Section 3(d).

settled with European-style exercise. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the NDXESG options with the same settlement and exercise style as the other NDX options.

Minimum Trading Increment

The Exchange proposes the minimum trading increment for NDXESG options would be \$0.05 for options trading below \$3.00 and \$0.10 for all other options.¹⁷

Reporting Authority

The Nasdaq Stock Market LLC would be the Reporting Authority for the Nasdaq-100 ESG Index.¹⁸

Position Limit and Exercise Limits

The position limits for options on the Nasdaq-100 ESG Index would be 25,000 contracts on the same side of the market in accordance with Phlx Options 4A, Section 6(a). The exercise limits for options on the Nasdaq-100 ESG Index shall be equivalent to the position limits pursuant to Options 4A, Section 10. Each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts for its own account or for the account of a customer in NDXESG options must file a report with the Exchange pursuant to proposed Phlx Options 4A, Section 6(c).¹⁹

¹⁷ See Phlx Options 3, Section 3.

¹⁸ See proposed Phlx Supplementary Material .02 to Options 4A, Section 2.

¹⁹ The report would include, but would not be limited to, data related to the option positions, whether such positions are hedged and if applicable, a description of the hedge and information concerning collateral used to carry the positions. Market Makers are exempt from this reporting requirement. See proposed Phlx Options 4A, Section 6(c).

The Exchange also proposes to make a technical correction to Phlx Options 4A, Section 6(c) to add an “or” within that paragraph.

Likewise, the position and exercise limits for FLEX options on the Nasdaq-100 ESG Index would be 25,000 contracts on the same side of the market. In amending Phlx Options 8, Section 34(e), regarding position limits for FLEX options, the Exchange proposes to align the position limits for FLEX options within Phlx Options 8, Section 34, with the position limits for standard options within Phlx Options 4A, Section 6, which are specifically related to index options. Today, FLEX index options are subject to the same position limits governing standard index options as provided for within Options 4A, Section 6, unless otherwise noted within Options 8, Section 34. At this time, Phlx proposes to amend Options 8, Section 34(e) to add a sentence that provides that the position limits are the same for FLEX index options as with standard index options, unless otherwise noted. This amendment is intended to be non-substantive and would not change any position limits. Rather, the amendment would simply cross-reference the position limits in Options 4A, Section 6 as opposed to restating each position limit.²⁰ Today, the position limits for standard index options are identical to the FLEX index options on the same index. With this proposal those position limits would continue to be identical.

Trading Hours

NDXESG options will be available for trading during the Exchange’s standard trading hours for index options, i.e., from 9:30 a.m. to 4:15 p.m. New York time.²¹

²⁰ In light of this proposal, the Exchange proposes to remove the remainder of the rule text related to index options within Options 8, Section 34(e).

²¹ See proposed Phlx Supplementary .01 to Options 4A, Section 12.

Margin and Sales Practice

The margin requirements for NDXESG options would be subject to Phlx Options 6C, Section 3, Proper and Adequate Margin. Phlx General 9, Section 10, Recommendations to Customers (Suitability), and Phlx Options 10, Section 8, Suitability, would also apply to NDXESG options.

Surveillance and Capacity

Finally, the Exchange represents that it has sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of NDXESG options. Further, the Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any additional traffic associated with the listing of NDXESG options.

Index options are integrated into the Exchange’s existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange represents that it has adequate surveillance procedures to monitor trading in NDXESG options thereby aiding in the maintenance of a fair and orderly market.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(5) of the Act,²³ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to

²² 15 U.S.C. 78f(b)

²³ 15 U.S.C. 78f(b)(5).

remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange. The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act²⁴ in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the introduction of NDXESG options will attract order flow to the Exchange, increase the variety of listed options to investors, and provide a valuable hedge tool to investors.

In particular, the Exchange believes that the proposal to list and trade options on the Nasdaq-100 ESG Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, because the Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Additionally, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, as the Exchange believes there is unmet market demand for exchange-listed security options listed on this new ESG index. NDXESG options are designed to provide different and additional opportunities for investors who have a desire to invest in companies that meet certain environmental, social and governance criteria to hedge on the market risk associated with this index by

²⁴ 15 U.S.C. 78(f)(b)(8).

listing an option directly on this index . Further, the Exchange believes that this new product will provide market participant with an additional investment opportunity.

The Exchange believes that the introduction of the Nasdaq-100 ESG Index will likely result in market participants' investment and hedging strategies consisting of options over both the Nasdaq-100 ESG Index and NDX. The Exchange notes that the Nasdaq-100 ESG Index consists of companies within NDX that meet specific ESG criteria. Because of this relationship between the Nasdaq-100 ESG Index and NDX, the Exchange believes the proposed rule change will benefit investors, as it will provide market participants with additional investment and hedging strategies consisting of options over each of these indexes.

The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as protect investors and the public interest, because the proposed rule change is consistent with current rules already applicable to the listing and trading of options on Phlx, which were previously filed with and approved as consistent with the Act by the Commission. Particularly, the NDXESG options satisfy the initial listing standards for a broad-based index in Phlx's rules, which the Commission previously deemed consistent with the Act.²⁵

With this proposal NDXESG options would be permitted to list up to twelve near-term expiration months and LEAPS. The Exchange believes that its proposal is consistent with the Act and promotes just and equitable principles of trade because the

²⁵ See Securities Exchange Act Release No. 54158 (July 17, 2006), 71 FR 41853 (July 24, 2006) (SR-Phlx-2006-17) (Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Listing Standards for Broad-Based Index Options).

listings of these options is consistent with existing rules for certain index options, including options on NDX which may list up to twelve near-term expiration months pursuant to Phlx Options 4A, Section 12(a)(4), as well as LEAPs pursuant to Options 4A, Section 12(b)(2). As noted herein, the Nasdaq-100 ESG Index consists of components that are also included in NDX, as discussed above. Because of the relationship between the Nasdaq-100 ESG Index and NDX, the Exchange believes it is appropriate to permit the same number of monthly expirations for the Nasdaq-100 ESG Index and NDX. Further, the Exchange's proposal for strike price intervals to be at no less than \$2.50 intervals is consistent with the Act and promotes just and equitable principles of trade because the proposed strike prices align with NDX options strike price intervals.²⁶

The NDXESG options will be a.m.-settled²⁷ and cash-settled contracts with European-style exercise.²⁸ The Exchange believes that it is consistent with the Act for NDXESG options to be a.m.-settled as this is consistent with the generic listing criteria for broad-based indexes,²⁹ and thus it is common for index options to be a.m.-settled. Additionally, standard third-Friday NDX options are a.m.-settled. Further, the Exchange believes that it is consistent with the Act for NDXESG options to be European-style as standard third-Friday NDX options have European-style exercises. Further, European-style exercise is consistent with many index options, as set forth in Options 4A, Section 12(a)(5) including NDX options. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants' investment and

²⁶ See Phlx Options 4A, Section 12(a)(2).

²⁷ See proposed Phlx Options 4A, Section 12(e)(II).

²⁸ See proposed Phlx Options 4A, Section 12(a)(5).

²⁹ See Phlx Options 4A, Section 3(d).

hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the NDXESG options with the same settlement and exercise style as the other NDX options. Additionally, the Reporting Authority shall be the same for NDXESG as it is for NDX.

The Exchange's proposal to utilize \$0.05 for options trading below \$3.00 and \$0.10 for all other options for the minimum trading increment for NDXESG options is consistent with the Act as this is consistent with the minimum trading increments for a majority of index options including NDX options.

Setting position and exercise limits for options on the Nasdaq-100 ESG Index at 25,000 contracts on the same side of the market for both standard and FLEX options will promote just and equitable principles of trade and protect investors and the public interest because these position limits should serve to reduce potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options.

The amendments to Phlx Options 8, Section 34(e) to include a cross-cite to the standard options within Phlx Options 4A, Section 6 is consistent with the Act because this amendment will reflect that the position limits for standard index options are identical to the FLEX index options on the same index. This amendment is non-substantive.

Proposing standard trading hours for NDXESG options is consistent with the Act and serves to remove impediments to and perfects the mechanism of a free and open market because these trading hours align with trading hours in other index options including NDX options.

Subjecting NDXESG options to the same margin and suitability rules that apply to other index options serves to remove impediments to and perfects the mechanism of a free and open market.

Finally, the Exchange represents that it has the necessary systems capacity to support the new option series given these proposed specifications. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on the Nasdaq-100 ESG Index. The Exchange further notes that current Exchange rules that apply to the trading of other index options traded on the Exchange, such as options on the NDX, would also apply to the trading of options on the Nasdaq-100 ESG Index, such as, for example, Exchange Rules governing customer accounts, margin requirements and trading halt procedures.

Finally, this proposal is not novel as Cboe Exchange, Inc. (“Cboe”) lists options on the S&P 500 ESG Index.

4. Self-Regulatory Organization’s Statement on Burden on Competition

This proposed rule change does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Any member or member organization may transact NDXESG options. Further, the Nasdaq-100 ESG Index satisfies initial listing standards set forth in the rules, and the proposed number of expirations, settlement, and exercise style are consistent with current rules applicable to index options, including standard third-Friday NDX options. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants’ investment and hedging strategies consisting of options over

each of these indexes, the Exchange believes it is appropriate to have the same number of expirations, settlement, and exercise style for options on each index. The NDXESG options will provide investors with different and additional opportunities to hedge or speculate on the market associated with this index.

This proposed rule change does not impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because this proposal will facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. Today, Cboe lists options on the S&P 500 ESG Index. Also, other options exchanges may develop similar products.

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

The Exchange does not consent to an extension of the time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

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

NDX options have similar listing standards to NDXESG options, except that NDX options have no position limits. Additionally, Cboe offer options on the S&P 500 ESG Index with similar listing standards as the proposed NDXESG options.

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

Not Applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2023-09)

March __, 2023

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change to Permit the Listing and Trading of Options on the Nasdaq-100 ESG Index.

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 March 28, 2023, 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 permit the listing and trading of options on the Nasdaq-100 ESG Index.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to permit the listing and trading of options on the Nasdaq-100 ESG Index or “NDXESG”.³ The Nasdaq-100 ESG Index is a broad based, modified ESG Risk Rating Score-adjusted market-capitalization-weighted index that is designed to measure the performance of the companies in the Nasdaq-100 Index (“NDX”) that meet specific environmental, social and governance (“ESG”) criteria.⁴ The Nasdaq-100 ESG Index at all times consists of a selection of securities in NDX.⁵ In order to be selected for the Nasdaq-100 ESG Index, a Nasdaq-100 Index company must: (1) not be involved in specific business activities, as defined in the methodology⁶ and determined by Sustainalytics;⁷ (2) not be deemed non-compliant with the principles of the United Nations Global Compact, as determined by Sustainalytics; (3) not have a controversy level higher than four (4), as defined by Sustainalytics; and (4) have a Sustainalytics ESG Risk Rating Score lower than 40. There are various stages in the constituent weighting process which are outlined in the methodology.⁸

³ These options would trade under the symbol “EXGN.”

⁴ Companies are evaluated and weighted on the basis of their business activities, controversies and ESG Risk Ratings.

⁵ See https://indexes.nasdaqomx.com/docs/methodology_NDXESG.pdf.

⁶ See supra note 5.

⁷ Sustainalytics is a company that rates the sustainability of listed companies based on their ESG performance.

⁸ See supra note 5.

Initial and Maintenance Listing Criteria

The Nasdaq-100 ESG Index meets the definition of a broad-based index as set forth in Options 4A, Section 2(a)(13)⁹ (i.e., an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries).

Additionally, the Nasdaq-100 ESG Index satisfies the initial listing criteria of a broad-based index, as set forth in Options 4A, Section 3(d):

- (1) The index is broad-based, as defined in Options 4A, Section 2(a)(13);
- (2) Options on the index are designated as A.M.-settled index options;
- (3) The index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted;
- (4) The index consists of 50 or more component securities;
- (5) Component securities that account for at least ninety-five percent (95%) of the weight of the index have a market capitalization of at least \$ 75 million, except that component securities that account for at least sixty-five percent (65%) of the weight of the index have a market capitalization of at least \$ 100 million;
- (6) Component securities that account for at least eighty percent (80%) of the weight of the index satisfy the requirements of Options 4, Section 3 applicable to individual underlying securities;
- (7) Each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period;
- (8) No single component security accounts for more than ten percent (10%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than thirty-three percent (33%) of the weight of the index;
- (9) Each component security must be an “NMS Stock” as defined in rule 600 of Regulation NMS under the Exchange Act;

⁹ The Exchange proposes to amend Options 4A, Section 3(d)(1) to correct a citation to the definition of a broad-based index from Section 2(a)(11) to Section 2(a)(13).

- (10) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the index;
- (11) The current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors during the time options on the index are traded on the Exchange;
- (12) The Exchange reasonably believes it has adequate System capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index;
- (13) An equal dollar-weighted index is rebalanced at least once every calendar quarter;
- (14) If an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index;
- (15) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

The Nasdaq-100 ESG Index will also be subject to the maintenance listing standards set forth in Options 4A, Section 3(e):

- (1) The conditions set forth in subparagraphs (d)(1), (2), (3), (9), (10), (11), (12), (13), (14) and (15) must continue to be satisfied. The conditions set forth in subparagraphs (d)(5), (6), (7) and (8) must be satisfied only as of the first day of January and July in each year;
- (2) The total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing.¹⁰

Expiration Months, Settlement, and Exercise Style

¹⁰ As is the case with other index options authorized for listing and trading on Phlx, in the event the Nasdaq-100 ESG Index fails to satisfy the maintenance listing standards, the Exchange will not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.

Consistent with existing rules for certain index options, the Exchange will allow up to twelve near-term expiration months for the Nasdaq-100 ESG Index options (“NDXESG options”)¹¹ as well as LEAPS.¹² Options on NDX may list up to twelve near-term expiration months pursuant to Phlx Options 4A, Section 12(a)(4). The Nasdaq-100 ESG Index consists of components that are also included in NDX, as discussed above. Because of the relationship between the Nasdaq-100 ESG Index and NDX, which will likely result in market participants’ investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to permit the same number of monthly expirations for the Nasdaq-100 ESG Index and NDX. Strike price intervals would be at no less than \$2.50 intervals.¹³

The NDXESG options will be a.m.-settled¹⁴ and cash-settled contracts with European-style exercise.¹⁵ A.M.-settlement is consistent with the generic listing criteria for broad-based indexes,¹⁶ and thus it is common for index options to be a.m.-settled. The Exchange proposes to amend Phlx Options 4A, Section 12(e)(II) to add the Nasdaq-100 ESG Index options to the list of other a.m.-settled options. European-style exercise is consistent with many index options, as set forth in Options 4A, Section 12(a)(5). The Exchange proposes to amend Options 4A, Section 12(a)(5) to add the NDXESG options to the list of European-style index options. Standard third-Friday NDX options are a.m.-settled with European-style exercise. Because of the relationship between the Nasdaq-

¹¹ See Phlx Options 4A, Section 12(a)(4).

¹² See Phlx Options 4A, Section 12(b)(2).

¹³ See proposed Phlx Options 4A, Section 12(a)(2).

¹⁴ See proposed Phlx Options 4A, Section 12(e)(II).

¹⁵ See proposed Phlx Options 4A, Section 12(a)(5).

¹⁶ See Phlx Options 4A, Section 3(d).

100 ESG Index and the NDX, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the NDXESG options with the same settlement and exercise style as the other NDX options.

Minimum Trading Increment

The Exchange proposes the minimum trading increment for NDXESG options would be \$0.05 for options trading below \$3.00 and \$0.10 for all other options.¹⁷

Reporting Authority

The Nasdaq Stock Market LLC would be the Reporting Authority for the Nasdaq-100 ESG Index.¹⁸

Position Limit and Exercise Limits

The position limits for options on the Nasdaq-100 ESG Index would be 25,000 contracts on the same side of the market in accordance with Phlx Options 4A, Section 6(a). The exercise limits for options on the Nasdaq-100 ESG Index shall be equivalent to the position limits pursuant to Options 4A, Section 10. Each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts for its own account or for the account of a customer in NDXESG options must file a report with the Exchange pursuant to proposed Phlx Options 4A, Section 6(c).¹⁹

The Exchange also proposes to make a technical correction to Phlx Options 4A, Section

¹⁷ See Phlx Options 3, Section 3.

¹⁸ See proposed Phlx Supplementary Material .02 to Options 4A, Section 2.

¹⁹ The report would include, but would not be limited to, data related to the option positions, whether such positions are hedged and if applicable, a description of the hedge and information concerning collateral used to carry the positions. Market Makers are exempt from this reporting requirement. See proposed Phlx Options 4A, Section 6(c).

6(c) to add an “or” within that paragraph.

Likewise, the position and exercise limits for FLEX options on the Nasdaq-100 ESG Index would be 25,000 contracts on the same side of the market. In amending Phlx Options 8, Section 34(e), regarding position limits for FLEX options, the Exchange proposes to align the position limits for FLEX options within Phlx Options 8, Section 34, with the position limits for standard options within Phlx Options 4A, Section 6, which are specifically related to index options. Today, FLEX index options are subject to the same position limits governing standard index options as provided for within Options 4A, Section 6, unless otherwise noted within Options 8, Section 34. At this time, Phlx proposes to amend Options 8, Section 34(e) to add a sentence that provides that the position limits are the same for FLEX index options as with standard index options, unless otherwise noted. This amendment is intended to be non-substantive and would not change any position limits. Rather, the amendment would simply cross-reference the position limits in Options 4A, Section 6 as opposed to restating each position limit.²⁰ Today, the position limits for standard index options are identical to the FLEX index options on the same index. With this proposal those position limits would continue to be identical.

Trading Hours

NDXESG options will be available for trading during the Exchange’s standard trading hours for index options, i.e., from 9:30 a.m. to 4:15 p.m. New York time.²¹

Margin and Sales Practice

²⁰ In light of this proposal, the Exchange proposes to remove the remainder of the rule text related to index options within Options 8, Section 34(e).

²¹ See proposed Phlx Supplementary .01 to Options 4A, Section 12.

The margin requirements for NDXESG options would be subject to Phlx Options 6C, Section 3, Proper and Adequate Margin. Phlx General 9, Section 10, Recommendations to Customers (Suitability), and Phlx Options 10, Section 8, Suitability, would also apply to NDXESG options.

Surveillance and Capacity

Finally, the Exchange represents that it has sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of NDXESG options. Further, the Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any additional traffic associated with the listing of NDXESG options.

Index options are integrated into the Exchange’s existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange represents that it has adequate surveillance procedures to monitor trading in NDXESG options thereby aiding in the maintenance of a fair and orderly market.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(5) of the Act,²³ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a

²² 15 U.S.C. 78f(b)

²³ 15 U.S.C. 78f(b)(5).

national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange. The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act²⁴ in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the introduction of NDXESG options will attract order flow to the Exchange, increase the variety of listed options to investors, and provide a valuable hedge tool to investors.

In particular, the Exchange believes that the proposal to list and trade options on the Nasdaq-100 ESG Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, because the Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Additionally, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, as the Exchange believes there is unmet market demand for exchange-listed security options listed on this new ESG index. NDXESG options are designed to provide different and additional opportunities for investors who have a desire to invest in companies that meet certain environmental, social and governance criteria to hedge on the market risk associated with this index by listing an option directly on this index. Further, the Exchange believes that this new product will provide market participant with an additional investment opportunity.

²⁴ 15 U.S.C. 78(f)(b)(8).

The Exchange believes that the introduction of the Nasdaq-100 ESG Index will likely result in market participants' investment and hedging strategies consisting of options over both the Nasdaq-100 ESG Index and NDX. The Exchange notes that the Nasdaq-100 ESG Index consists of companies within NDX that meet specific ESG criteria. Because of this relationship between the Nasdaq-100 ESG Index and NDX, the Exchange believes the proposed rule change will benefit investors, as it will provide market participants with additional investment and hedging strategies consisting of options over each of these indexes.

The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as protect investors and the public interest, because the proposed rule change is consistent with current rules already applicable to the listing and trading of options on Phlx, which were previously filed with and approved as consistent with the Act by the Commission. Particularly, the NDXESG options satisfy the initial listing standards for a broad-based index in Phlx's rules, which the Commission previously deemed consistent with the Act.²⁵

With this proposal NDXESG options would be permitted to list up to twelve near-term expiration months and LEAPS. The Exchange believes that its proposal is consistent with the Act and promotes just and equitable principles of trade because the listings of these options is consistent with existing rules for certain index options, including options on NDX which may list up to twelve near-term expiration months

²⁵ See Securities Exchange Act Release No. 54158 (July 17, 2006), 71 FR 41853 (July 24, 2006) (SR-Phlx-2006-17) (Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Listing Standards for Broad-Based Index Options).

pursuant to Phlx Options 4A, Section 12(a)(4), as well as LEAPs pursuant to Options 4A, Section 12(b)(2). As noted herein, the Nasdaq-100 ESG Index consists of components that are also included in NDX, as discussed above. Because of the relationship between the Nasdaq-100 ESG Index and NDX, the Exchange believes it is appropriate to permit the same number of monthly expirations for the Nasdaq-100 ESG Index and NDX. Further, the Exchange's proposal for strike price intervals to be at no less than \$2.50 intervals is consistent with the Act and promotes just and equitable principles of trade because the proposed strike prices align with NDX options strike price intervals.²⁶

The NDXESG options will be a.m.-settled²⁷ and cash-settled contracts with European-style exercise.²⁸ The Exchange believes that it is consistent with the Act for NDXESG options to be a.m.-settled as this is consistent with the generic listing criteria for broad-based indexes,²⁹ and thus it is common for index options to be a.m.-settled. Additionally, standard third-Friday NDX options are a.m.-settled. Further, the Exchange believes that it is consistent with the Act for NDXESG options to be European-style as standard third-Friday NDX options have European-style exercises. Further, European-style exercise is consistent with many index options, as set forth in Options 4A, Section 12(a)(5) including NDX options. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the NDXESG options with the same settlement and exercise style as the other

²⁶ See Phlx Options 4A, Section 12(a)(2).

²⁷ See proposed Phlx Options 4A, Section 12(e)(II).

²⁸ See proposed Phlx Options 4A, Section 12(a)(5).

²⁹ See Phlx Options 4A, Section 3(d).

NDX options. Additionally, the Reporting Authority shall be the same for NDXESG as it is for NDX.

The Exchange's proposal to utilize \$0.05 for options trading below \$3.00 and \$0.10 for all other options for the minimum trading increment for NDXESG options is consistent with the Act as this is consistent with the minimum trading increments for a majority of index options including NDX options.

Setting position and exercise limits for options on the Nasdaq-100 ESG Index at 25,000 contracts on the same side of the market for both standard and FLEX options will promote just and equitable principles of trade and protect investors and the public interest because these position limits should serve to reduce potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options.

The amendments to Phlx Options 8, Section 34(e) to include a cross-cite to the standard options within Phlx Options 4A, Section 6 is consistent with the Act because this amendment will reflect that the position limits for standard index options are identical to the FLEX index options on the same index. This amendment is non-substantive.

Proposing standard trading hours for NDXESG options is consistent with the Act and serves to remove impediments to and perfects the mechanism of a free and open market because these trading hours align with trading hours in other index options including NDX options.

Subjecting NDXESG options to the same margin and suitability rules that apply to other index options serves to remove impediments to and perfects the mechanism of a free and open market.

Finally, the Exchange represents that it has the necessary systems capacity to support the new option series given these proposed specifications. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on the Nasdaq-100 ESG Index. The Exchange further notes that current Exchange rules that apply to the trading of other index options traded on the Exchange, such as options on the NDX, would also apply to the trading of options on the Nasdaq-100 ESG Index, such as, for example, Exchange Rules governing customer accounts, margin requirements and trading halt procedures.

Finally, this proposal is not novel as Cboe Exchange, Inc. (“Cboe”) lists options on the S&P 500 ESG Index.

B. Self-Regulatory Organization’s Statement on Burden on Competition

This proposed rule change does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Any member or member organization may transact NDXESG options. Further, the Nasdaq-100 ESG Index satisfies initial listing standards set forth in the rules, and the proposed number of expirations, settlement, and exercise style are consistent with current rules applicable to index options, including standard third-Friday NDX options. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants’ investment and hedging strategies consisting of options over each of these indexes, the Exchange believes it is appropriate to have the same number of

expirations, settlement, and exercise style for options on each index. The NDXESG options will provide investors with different and additional opportunities to hedge or speculate on the market associated with this index.

This proposed rule change does not impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because this proposal will facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. Today, Cboe lists options on the S&P 500 ESG Index. Also, other options exchanges may develop similar products.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2023-09 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-2023-09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-Phlx-2023-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

J. Matthew DeLesDernier
Assistant Secretary

³⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq PHLX LLC Rules

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Options Rules

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Options 4A Options Index Rules

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Section 2. Definitions.

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Supplementary Material to Options 4A, Section 2

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.02 The reporting authorities designated by the Exchange in respect of each index underlying an index options contract traded on the Exchange are as provided in the chart below.

Underlying Index	Reporting Authority
Full Value Nasdaq 100 Index	The Nasdaq Stock Market
Reduced Value Nasdaq 100 Index	The Nasdaq Stock Market
Nasdaq-100 Micro Index	The Nasdaq Stock Market
<u>Nasdaq-100 ESG Index</u>	<u>The Nasdaq Stock Market</u>
PHLX Oil Service Sector Index	The Nasdaq Stock Market
PHLX Semiconductor Sector Index	The Nasdaq Stock Market
PHLX Utility Sector Index	The Nasdaq Stock Market
PHLX Gold/Silver Sector Index	The Nasdaq Stock Market
PHLX Housing Sector Index	The Nasdaq Stock Market
KBW Bank Index	Keefe, Bruyette & Woods, Inc.
Nasdaq-100® Volatility Index	The Nasdaq Stock Market

Section 3. Designation of the Index

* * * * *

(d) Notwithstanding paragraph (a) above, the Exchange may trade options on a broad-based (market) index pursuant to Rule 19b-4(e) of the Exchange Act, if each of the following conditions is satisfied:

(1) The index is broad-based, as defined in Options 4A, Section 2([b]a)([11]13);

* * * * *

Section 6. Position Limits

* * * * *

(c) *Reporting Requirements for Options on Market Indexes.*—Each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts for its own account or for the account of a customer in the Full Value Russell 2000® Options, RUT; or in excess of 100,000 contracts for its own account or for the account of a customer in Full Value Nasdaq-100® Options, NDX; or in excess of 100,000 contracts for its own account or for the account of a customer in Nasdaq-100 ESG Index Options; or in excess of 100,000 contracts or for its own account for the account of a customer in Nasdaq-100® Volatility Index options, must file a report with the Exchange that includes, but is not limited to, data related to the option positions, whether such positions are hedged and if applicable, a description of the hedge and information concerning collateral used to carry the positions. Market Makers are exempt from this reporting requirement. For positions exceeding the position limit in paragraph (a), Supplementary Material .01 contains the requirements for qualifying for the Index Hedge Exemption under this Rule.

* * * * *

Section 12. Terms of Index Options Contracts

(a) *General.*

* * * * *

(2) *Exercise Prices.* The Exchange shall determine fixed point intervals of exercise prices for index options (options on indexes). Generally, except as provided in Supplementary Material .04 below, the exercise (strike) price intervals will be no less than \$5, provided that the Exchange may determine to list strike prices at no less than \$2.50 intervals for options on the following indexes (which may also be known as sector indexes):

* * * * *

(YY) Nasdaq 100 Micro Index Options, if the strike price is less than \$200;

(ZZ) Nasdaq-100 ESG Index, if the strike price is less than \$200; and

(aa) Nasdaq-100 Index, if the strike price is less than \$200.

* * * * *

(4) *Expiration Months and Weeks.* Index options contracts may expire at three (3)-month intervals or in consecutive weeks or months. The Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options, Nasdaq-100 ESG Index Options, and XND options.

(5) *"European-Style Exercise."* European-style index options, some of which may be A.M.-settled as provided in subparagraph (e) or P.M.-settled as provided for in paragraph (f), are approved for trading on the Exchange on the following indexes:

- (i) Full-size Nasdaq 100 Index;
- (ii) PHLX Oil Service Sector Index;
- (iii) PHLX Housing Sector Index;
- (iv) PHLX Gold/Silver Sector Index;
- (v) PHLX Utility Sector Index;
- (vi) KBW Bank Index; [and]
- (vii) Nasdaq-100® Volatility Index[.]; and
- (viii) Nasdaq-100 ESG Index.

* * * * *

(e) *A.M.-Settled Index Options.* The last day of trading for A.M.-settled index options shall be the business day preceding the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the business day preceding the last day of trading in the underlying securities prior to the expiration date. The current index value at the expiration of an A.M.-settled index option shall be determined, for all purposes under these Rules and the Rules of The Options Clearing Corporation, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, except that:

(I) In the event that the primary market for an underlying security does not open for trading on that day, the price of that security shall be determined, for the purposes of calculating the current index value at expiration, as set forth in Options 4A, Section 12(g), unless the current index value at expiration is fixed in accordance with the Rules and By-Laws of The Options Clearing Corporation; and

(II) in the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security. The following A.M.-settled index options are approved for trading on the Exchange on the following indexes:

- (i) PHLX Semiconductor Sector Index;
- (ii) PHLX Housing Sector Index;
- (iii) PHLX Oil Service Sector Index;
- (iv) KBW Bank Index;
- (v) Full Value Nasdaq-100[®] Index;
- (vi) Reduced Value Nasdaq-100[®] Index;
- (vii) Nasdaq 100 Micro Index;
- (viii) PHLX Utility Sector Index;
- (ix) PHLX Gold/Silver Sector Index; [and]
- (x) Nasdaq-100[®] Volatility Index[.]; and
- (xi) Nasdaq-100 ESG Index.

* * * * *

Supplementary Material to Options 4A, Section 12

.01 Transactions in broad-based (market) index options traded on the Exchange, including Full Value Russell 2000[®] Options and Reduced Value Russell 2000[®] Options, Full and Reduced Value Russell 3000[®] Index, Full and Reduced Value Russell 3000[®] Value Index, Full and Reduced Value Russell 3000[®] Growth Index, Full and Reduced Value Russell 2500[™] Index, Full and Reduced Value Russell 2500[™] Value Index, Full and Reduced Value Russell 2500[™] Growth Index, Full and Reduced Value Russell 2000[®] Value Index, Full and Reduced Value Russell 2000[®] Growth Index, Full and Reduced Value Russell 1000[®] Index, Full and Reduced Value Russell 1000[®] Value Index, Full and Reduced Value Russell 1000[®] Growth Index, Full and Reduced Value Russell Top 200[®] Index, Full and Reduced Value Russell Top 200[®] Value Index, Full and Reduced Value Russell Top 200[®] Growth Index, Full and Reduced Value Russell MidCap[®] Index, Full and Reduced Value Russell MidCap[®] Value Index, Full and Reduced Value Russell MidCap[®] Growth Index, Full and Reduced Value Russell Small Cap Completeness[®] Index, Full and Reduced Value Russell Small Cap Completeness[®] Value Index, and Full and Reduced Value Russell Small Cap Completeness[®] Growth Index and Full Value

Nasdaq-100[®] Options, Reduced Value Nasdaq-100[®] Options, [and] Nasdaq 100 Micro Index Options, and Nasdaq-100 ESG Index Options may be effected on the Exchange until 4:15 P.M. each business day, through the expiration date. Transactions in Nasdaq-100[®] Volatility Index Options may be effected on the Exchange until 4:00 P.M. each business day, through the expiration date. Transactions in Alpha Index options may also be effected on the Exchange until 4:15 P.M. each business day, through the expiration date.

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Options 8 Floor Trading

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Section 34. FLEX Index, Equity, and Currency Options

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(e) Position Limits.

(1) FLEX index options shall be subject to a separate position limit of 200,000 contracts on the same side of the market respecting market index options; 36,000, 48,000, or 60,000 contracts respecting industry index options, depending on the position limit tier determined pursuant to Options 4A, Section 6(b)(i). FLEX index options shall otherwise be subject to the same position limits governing index options as provided for within Options 4A, Section 6.; the same number of contracts respecting Alpha Index options that would apply to such Alpha Index options if they were not FLEX; the same number of contracts respecting MSCI EM Index options that would apply to such MSCI EM Index options if they were not FLEX; and the same number of contracts respecting MSCI EAFE Index options that would apply to such MSCI EAFE Index options if they were not FLEX. Reduced value or mini-size FLEX index option contracts shall be aggregated with full value or full-size FLEX index option contracts and counted by the amount by which they equal a full value contract (e.g. ten (10) one tenth (1/10th) value contracts equal one (1) full value contract). Positions in P.M.-settled FLEX index options shall be aggregated with positions in quarterly expiring options listed pursuant to Options 4A, Section 6(b)(iv) on the same underlying index, if the FLEX index option expires at the close of trading on or within two business days of the last day of trading in each calendar quarter. However, except as provided in subsection (4) of this section (d), positions in FLEX index options shall otherwise not be taken into account when calculating position limits for non-FLEX index options. There shall be no position limits for full value options on the Russell 2000[®] Index ("Full Value Russell 2000[®] Options") and for one tenth (1/10th) value options on the Russell 2000[®] Index ("Reduced Value Russell 2000[®] Options"). There shall be no position limits for full value options on the Nasdaq100 Index ("Full Value Nasdaq 100 Options"), [and] for the reduced value options on the Nasdaq 100 Index ("Reduced Value Nasdaq 100 Options"). Options on the Full Value and Reduced Value Russell Indexes for the following products (collectively "Russell U.S. Indexes"): Russell 3000[®] Index, Russell 3000[®] Value Index, Russell 3000[®] Growth Index, Russell 2500[™] Index, Russell 2500[™] Value Index, Russell 2500[™] Growth Index, Russell 2000[®] Value Index, Russell 2000[®] Growth Index, Russell 1000[®]

Index, Russell 1000® Value Index, Russell 1000® Growth Index, Russell Top 200® Index, Russell Top 200® Value Index, Russell Top 200® Growth Index, Russell MidCap® Index, Russell MidCap® Value Index, Russell MidCap® Growth Index, Russell Small Cap Completeness® Index, Russell Small Cap Completeness® Value Index and Russell Small Cap Completeness® Growth Index, are subject to an aggregate position limit of 50,000 contracts on the same side of the market, provided that no more than 30,000 of such contracts are in the nearest expiration month series.]

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