SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103759; File No. SR–Phlx–2025–38]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Electronic FLEX Options Rules

August 21, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2025, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to adopt rules that will govern the listing and trading of electronic flexible exchange options (''FLEX Options'').

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

The Exchange proposes to adopt rules in new Options 3A that will govern the listing and trading of FLEX Options on the Exchange's electronic market.[3]

Summary

The Exchange is proposing this new functionality be implemented in connection with a technology migration to enhanced Nasdaq, Inc. (''Nasdaq'') functionality that will result in higher performance, scalability, and more robust architecture.[4] The Exchange intends to begin implementation of the proposed rule change on November 3, 2025.[5] Phlx will migrate to the new platform on a symbol-by-symbol basis over 5 week period. The delayed implementation of the proposed FLEX rules will ensure that the Exchange will have the necessary functionality in place to trade FLEX. The Exchange will issue a public notice to Exchange Phlx members[6] and members organizations[7] (collectively ''Members'')[8] to highlight the features for FLEX proposed hereunder.

As proposed, FLEX Options will be customized options contracts that will allow investors to tailor contract terms for exchange-listed equity and index options. FLEX Options will be designed to meet the needs of investors for greater flexibility in selecting the terms of options within the parameters of the Exchange's proposed rules. FLEX Options will not be preestablished for trading and will not be listed individually for trading on the Exchange. Rather, investors will select FLEX Option terms and will be limited by the parameters detailed below in their selection of those terms. As a result, FLEX Options would allow investors to specify more specific, individualized investment objectives than may be available to them in the standardized options market.

Today, Phlx permits members located on Phlx's trading floor to transact FLEX Options pursuant to its FLEX rules at Options 8, Section 34. FLEX trading on the trading floor takes place in open outcry subject to the Options 8 Rules which are specific to the trading floor.[9] Today, only Phlx members who are approved for trading on the trading floor may transaction FLEX Options. The proposed FLEX electronic rules would permit electronic Phlx members and member organizations to transact options pursuant to the proposed Options 3A rules similar to the electronic rules of other options exchanges.[10] Finally, the Exchange notes that while ISE does not transact FLEX Currency Options, these products are currently traded on Phlx's trading floor today and will continue to be offered on Phlx's trading floor.

Some key features of the new electronic FLEX Options functionality are as follows:

- *System Availability:* The Exchange will not conduct an Opening Process pursuant to Options 3, Section 8 in FLEX Options.[11] Orders in FLEX Options may only be submitted through an electronic FLEX Auction, a FLEX Price Improvement XL (''FLEX PIXL''),

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

[2] 17 CFR 240.19b–4.

[3] FLEX Options include both single-leg and Complex Order options. If a particular rule only applies to a Complex Order, the Exchange has noted that distinction in the rule text. *See* infra notes 71–73.

[4] The Exchange separately proposed a number of rule filings in connection with this technology migration. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration. *See also* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration. *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions).

[5] *See https://www.nasdaqtrader.com/MicroNews.aspx?id=OTA2024-17.*

[6] The term ''member'' means a permit holder which has not been terminated in accordance with the By-Laws and these Rules of the Exchange. A member is a natural person and must be a person associated with a member organization. Any references in the rules of the Exchange to the rights or obligations of an associated person or person associated with a member organization also includes a member. *See* Options 1, Section 1(16).

[7] The term ''member organization'' means a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a member organization by virtue of (i) admission to membership given to it by the Membership Department pursuant to the provisions of General 3, Sections 5 and 10 or the By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 6–4 of the By-Laws. References herein to officer or partner, when used in the context of a member organization, shall include any person holding a similar position in any organization other than a corporation or partnership that has the status of a member organization. *See* Options 1, Section 1(17).

[8] The Exchange will utilize the terms ''member'' and ''member organization'' for purposes of the rule text. For ease of reference, the Exchange proposes to use the word ''Member'' to signify members and member organization in this proposal.

[9] *See infra* note 22.

[10] *See infra* note 23.

[11] *See* proposed Options 3A, Section 8(a). Rather, Members may begin submitting orders in FLEX Options into one of the proposed auction mechanisms (*i.e.,* electronic FLEX Auction, FLEX PIXL, and FLEX Solicited Order Mechanism) once the underlying security is open for trading. *See* proposed Options 3A, Section 8(b).

or a FLEX Solicited Order Mechanism (''FLEX SOM''), each as discussed in detail below.[12] Accordingly, the Exchange's simple and complex order books will not be available for transactions in FLEX Options.[13]

- *Terms:* FLEX Options will be a type of put or call, and will allow investors the flexibility to choose an exercise style of American or European, an expiration date, a settlement type, and an exercise price, all within the parameters specified in the proposed rules.[14] As discussed further below, FLEX Options will not be permitted with identical terms as an existing non-FLEX Option series listed on the Exchange.[15]
- *Priority:* As discussed in detail below within the respective sections for FLEX Auctions, FLEX PIXL, and FLEX SOM, the Exchange will apply the same priority order for FLEX Options as it applies today in its standard non-FLEX market, particularly in its standard auction mechanisms such as its standard Solicited Order Mechanism and standard PIXL. Specifically, the System [16] shall execute trading interest at the best price level within the System before executing at the next best price. Public Customers shall have priority over non-Public Customer interest at the same price with time priority meaning that priority shall be afforded to Public Customer orders in the sequence in which they are received by the System. As set out in Options 1, Section 1(b)(46), the term ''Public Customer'' means a person or entity that is not a broker or dealer in securities and is not a Professional as defined within Options 1, Section (b)(45).[17]

Because of their composition, the Exchange believes that FLEX Options may allow investors to more closely meet their individual investment and hedging objectives by customizing options contracts for the purpose of satisfying particular investment objectives that could not be met by the standardized markets.

Background

The Commission approved the trading of FLEX Options in 1993.[18] At the time, the Chicago Board Options Exchange, Inc., now Cboe Exchange, Inc. (''Cboe''), proposed FLEX Options based on the Standard and Poor's Corporation 500 and 100 Stock Indexes.[19] These FLEX Options were offered as an alternative to an over-the-counter (''OTC'') market in customized equity options.[20] Several years after the initial approval, the Commission approved the trading of additional FLEX Options on specified equity securities.[21] In its order, the Commission provided: ''The benefits of the Exchanges' options markets include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of the OCC [Options Clearing Corporation] for all contracts traded on the Exchange.'' [22]

The Exchange notes that FLEX Options are currently traded on Cboe, NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), Nasdaq PHLX LLC (''Phlx''), Nasdaq ISE, LLC (''ISE''), and FLEX Equity Options on BOX Exchange LLC (''BOX'').[23] The Exchange further notes that Cboe and ISE offer electronic FLEX trading while Cboe, NYSE American, NYSE Arca, Phlx and BOX offer only open outcry trading of FLEX Options on their respective trading floors.[24] The Exchange now proposes to allow for the trading of FLEX Options on its electronic market [25] in a manner that is identical to ISE's electronic FLEX Options, with two exceptions. First, Phlx will retain its allocation methodology [26] as provided in Options 3, Section 10(a)(1)(A), (E), and (F) with respect to allocation for Public Customers, Market Makers and all other interest. Phlx's allocation methodology differs from ISE's allocation methodology at Options 3, Section 10.[27] Phlx proposes to align to its current System behavior with respect to its allocation methodology to provide increased consistency for Members

[12] *See* proposed Options 3A, Section 11(a).

[13] *See* proposed Options 3A, Section 10(a).

[14] As discussed later in this filing, proposed Options 3A, Section 3(c) will govern FLEX Options terms.

[15] At least one of the following terms must differ between FLEX Options and non-FLEX Options on the same underlying security: exercise date, exercise price, or exercise style. *See* proposed Options 3A, Section 3(b)(1).

[16] The term ''System'' shall mean the automated system for order execution and trade reporting owned and operated by the Exchange which comprises: (i) an order execution service that enables members to automatically execute transactions in option series; and provides members with sufficient monitoring and updating capability to participate in an automated execution environment; (ii) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority (''OPRA'') for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (iii) the data feeds described at Options 3, Section 23. *See* Options 1, Section 1(b)(57).

[17] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Member organizations must indicate whether orders are for Professionals. *See* Option 1, Section 1(b)(45).

[18] *See* Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (SR–CBOE–92–17) (Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1, 2, 3, and 4 to Proposed Rule Changes by the Chicago Board Options Exchange, Inc., Relating to FLEX Options).

[19] *See id.*

[20] *See id.*

[21] *See* Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996) (SR–CBOE–95–43) (SR–PSE–95–24) (Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments by the Chicago Board Options Exchange, Inc. and the Pacific Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Options on Specified Equity Securities).

[22] *See id.* The Exchange notes that the Commission found pursuant to Rule 9b–1 under the Act, that FLEX Options, including FLEX Equity Options, are standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act.

[23] *See* Cboe Rules 4.20–4.22 and 5.70–5.75, NYSE American Rules 900G–910G, NYSE Arca Rules 5.30–O–5.41–O, Phlx Options 8, Section 34, and BOX Rules 5055 and 7605. The Exchange also notes that BOX recently received approval from the Commission to allow for the trading of FLEX equity options on the BOX trading floor. *See* Securities Exchange Act Release No. 100156 (May 15, 2024), 89 FR 44721 (May 21, 2024) (SR–BOX–2023–20). ISE received approval to trade FLEX on November 22, 2024. *See also* Securities Exchange Release Act No. 101720 (November 22, 2024), 89 FR 94986 (November 29, 2024) (SR–ISE–2024–12).

[24] *See supra* notes 18–21.

[25] Today, Phlx offers open outcry FLEX Options as described in Options 8, Section 34. Phlx has filed two rule changes to amend its FLEX Rules at Options 8, Section 34, which rule changes are effective but will not be operative until the Phlx migration. *See* Securities Exchange Act Release Nos. 97658 (June 7, 2023), 88 FR 38562 (June 13, 2023) (SR–Phlx–2023–22); and 102977 (May 2, 2025), 90 FR 19546 (May 8, 2025) (SR–Phlx–2025–20). This proposed rule change will be operative at the same time as these aforementioned rule changes when Phlx conducts its technology migration in November 2025.

[26] Phlx's allocation model is different than ISE in that Phlx allocates to Market Makers before allocating to all other non-Public Customer market participants pursuant to Phlx Options 3, Section 10 while ISE does not have an additional allocation to Market Makers before all other market participants pursuant to ISE Options 3, Section 10. The Exchange notes that Public Customers on Phlx, similar to Priority Customers on ISE, will continue to have priority over other market participants.

[27] Phlx filed rule proposals to adopt order types in Options 3, Section 7 that are identical to ISE Options 3, Section 7 order types. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration. Also, Phlx adopted a SOM at Options 3, Section 11(d) and (e) that is nearly identical to ISE's SOM at Options 3, Section 11, but for the allocation model which is identical to Phlx's allocation methodology at Options 3, Section 10. In contrast, ISE utilizes its allocation methodology at ISE Options 3, Section 10. *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions).

trading FLEX Options and non-FLEX Options on Phlx, as discussed in detail below. Second, Phlx offers FLEX Currency Options unlike ISE. Today, Phlx offer FLEX Currency Options on its trading floor [28] subject to Options 8 Rules. Phlx proposes to likewise offer FLEX Currency Options electronically. The proposed rule text related to FLEX Currency Options is identical to Phlx Options 8, Section 34(f)(1)(C), (f)(4)(A), (f)(5)(A), (i)(4), and (j)(a).

Proposal

Transactions in FLEX Options traded on the Exchange will generally be subject to the same rules that apply to the trading of equity options and index options. In order, however, to provide investors with the flexibility to designate certain of the terms of the options, and to accommodate other special features of FLEX Options and the way in which they are traded, the Exchange proposes new rules applicable to FLEX Options in new Options 3A, Sections 1–19.

A. General Provisions (Section 1)

Proposed Section 1(a) will set forth the applicability of Exchange Rules, and will provide that Options 3A Rules will apply only to FLEX Options and that trading of FLEX Options will be subject to all other Rules applicable to the trading of options on the Exchange, unless otherwise provided in Options 3A. The Exchange has conducted a thorough review of its existing trading rules to ensure that the proposed Rules in Options 3A accurately reflects the application of the Exchange's non-FLEX Option trading rules to FLEX Options,[29] as well as those non-FLEX Option trading rules that would not apply to FLEX Options.[30]

Proposed Section 1(b) will set forth the definitions used specifically in Options 3A, namely that the term ''FLEX Option'' means a flexible exchange option. A FLEX Option on an equity security may be referred to as a ''FLEX Equity Option,'' a FLEX Option on an index may be referred to as a ''FLEX Index Option,'' and a FLEX Option on any foreign currency, which is options-eligible pursuant to Options 4, Section 3 and which underlies non-FLEX U.S. dollar-settled foreign currency options that are trading on the Exchange, may be referred to as a ''FLEX Currency Option.'' Further, the term ''FLEX Order'' means an order submitted in a FLEX Option pursuant to Options 3A.

The Exchange also proposes to add the definition of ''FLEX Order'' in Options 3, Section 7 (Order Types) in new paragraph (z). While FLEX Orders will also be defined in (and governed by) Options 3A, the Exchange believes that it will be useful to market participants to have the order types available on Phlx centralized within one rule.

B. Hours of Business (Section 2)

Proposed Section 2(a) will provide that the trading hours for FLEX Options will be the same as the trading hours for corresponding non-FLEX Options as set forth in Options 3, Section 1, except the Exchange may determine to narrow or otherwise restrict the trading hours for FLEX Options.[31] Therefore, the trading hours for FLEX Options will generally be 9:30 a.m. to 4:00 p.m. Eastern time, except for certain options products that trade until 4:15 p.m. Eastern time.[32] This would align the proposed trading hours for FLEX Options with the current trading hours for corresponding non-FLEX Options.

As it relates to the Exchange's proposed discretion relating to the trading hours for FLEX Options, this is consistent with ISE's FLEX Options rules as noted above. The Exchange believes that given the unique nature of FLEX, in contrast to the non-FLEX market, it is reasonable to permit the Exchange, in its discretion, to narrow or otherwise restrict the trading hours for FLEX Options, so long as such trading hours occur within the normal options trading hours of the Exchange described above. The Exchange would provide adequate advance notification to its Members of such changes in FLEX trading hours.

C. FLEX Option Classes and Permissible Series (Section 3(a) and (b))

Pursuant to proposed Section 3(a), the Exchange may authorize for trading a FLEX Option class on any equity security (except the Fidelity Wise Origin Bitcoin Fund; the ARK21Shares Bitcoin ETF, VanEck Bitcoin ETF the iShares Ethereum Trust ETF, the Fidelity Ethereum Fund, the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust (collectively ''Spot Crypto ETPs'')) or index if it may authorize for trading a non-FLEX Option class on that equity security or index pursuant to Options 4, Section 3 and Options 4A, Section 3,[33] respectively, even if the Exchange does not list that non-FLEX Option class for trading.[34] The Exchange proposes to exclude Spot Crypto ETPs from being eligible for trading as a FLEX Option on Phlx consistent with ISE Options 3A, Section 3(a). As discussed in the position limits section below, there will generally be no position limits for FLEX Equity Options.[35] The Exchange therefore proposes to exclude options on Spot Crypto ETPs from being eligible

[28] Today, Phlx permits members located on Phlx's trading floor to transact FLEX Options pursuant to its FLEX rules at Options 8, Section 34. FLEX trading on the trading floor take place in open outcry subject to the Options 8 Rules which are specific to the trading floor. Today, only Phlx members who are approved for trading on the trading floor may transaction FLEX Options. The proposed FLEX electronic rules would permit electronic Phlx members and member organizations to transact options pursuant to the proposed Options 3A rules similar to the electronic rules of other options exchanges. The Exchange notes that the rules for FLEX on the trading floor differ than the rules for FLEX electronic in some respects as it relates to the manner in which an order is entered, responsibilities that are specific to floor trading and outlined in the Options 8 Rules and some position limit requirements for FLEX trading.

[29] For example, Options 3, Section 1 (Hours of Business) will apply to FLEX and non-FLEX Options, except the Exchange may determine to narrow or otherwise restrict the trading hours for FLEX Options. *See* proposed Options 3A, Section 2. As another example, Options 3, Section 9 (Trading Halts) will apply to FLEX and non-FLEX Options. The Exchange notes that pursuant to proposed Options 3A, Section 9, it will always halt trading in a FLEX Option class when trading in a non-FLEX Option class with the same underlying equity security or index is halted on the Exchange. Furthermore, the System does not accept a FLEX Order for a FLEX Option series while trading in a FLEX Option class is halted.

[30] For example, the Exchange's simple and complex order books will not be available for transactions in FLEX Options. *See* proposed Options 3A, Section 10. In addition, FLEX Options may not trade via the Block Order Mechanism (Options 3, Section 11(a)), simple and complex Facilitation Mechanism (Options 3, Section 11(b) and (c)), or as simple and complex Customer Cross Orders (Options 3, Section 12(a) and (b)), simple and complex Qualified Contingent Cross (''QCC'') Orders (Options 3, Section 12(c) and (d)), and simple and complex QCC with Stock Orders (Options 3, Section 12(e) and (f))). *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions). If the Exchange intends to allow FLEX Options to trade via any of the foregoing auction mechanisms or as any of the foregoing crossing orders, the Exchange would be required to file a proposed rule change with the Commission to amend its FLEX rules to allow for the use of the foregoing trading functionality for FLEX Options.

[31] *See* ISE Options 3A, Section 2 for identical provisions.

[32] *See* Options 3, Section 1(b)–(e). These products are currently options on Exchange-Traded Fund Shares (as defined in Options 4, Section 3(h), options on Index-Linked Securities (as defined in Options 4, Section 3(k)(1)), and options on certain broad-based indexes, as designated by the Exchange.

[33] Options 4, Section 3 provides the criteria for the listing of options on several different underlying types of securities, including, for example, securities registered with the SEC under Regulation NMS of the Act (''NMS stock'') and exchange-traded funds (''ETFs''). Options 4A, Section provides the criteria for the listing of options on indexes.

[34] *See* ISE, Options 3A, Section 3(a) for identical provisions.

[35] *See* proposed Options 3A, Section 18(b)(1)(A).

to trade as a FLEX Option (namely, a FLEX ETF option) to continue to limit the position limits for these options. For clarity, this exclusion will apply to both physically-settled and cash-settled FLEX ETF options (as further described in this filing), such that options on Spot Crypto ETPs will be excluded from being eligible to trade as a physically-settled or a cash-settled FLEX ETF option. If the Exchange determines to allow FLEX trading on all or any of the options on Spot Crypto ETPs later date, it will do so by submitting a 19b–4 rule filing with the Commission.

Proposed Section 3(b) will provide that the Exchange may approve a FLEX Option series for trading in any FLEX Option class it may authorize for trading pursuant to proposed Section 3(a). FLEX Option series are not pre-established. A FLEX Option series is eligible for trading on the Exchange upon submission to the System of a FLEX Order for that series pursuant to proposed Sections 11 through 13,[36] subject to the following stipulations.[37] First, the Exchange will only permit trading in a put or call FLEX Option series that does not have the same exercise style, same expiration date, and same exercise price as a non-FLEX Option series on the same underlying security or index that is already available for trading. This would include permitting trading in a FLEX Option series before a series with identical terms is listed for trading as a non-FLEX Option series. If the Exchange lists for trading a non-FLEX Option series with identical terms as a FLEX Option series, the FLEX Option series will become fungible with the non-FLEX Option series pursuant to proposed paragraph (d) of Section 3. The System would not accept a FLEX Order for a put or call FLEX Option series if a non-FLEX Option series on the same underlying security or index with the same expiration date, exercise price, and exercise style is already listed for trading.[38] Second, a FLEX Order for a FLEX Option series may be submitted on any trading day prior to the expiration date.[39] For proposed Section 3(b)(2), on the expiration date a FLEX Order for the expiring FLEX Option series may only be submitted to close out a position in such expiring FLEX Option series.[40]

Third, in the event the relevant expiration is a holiday pursuant to General 3 (which incorporates Nasdaq General 3, Rule 1030 by reference),[41] proposed Section 3(d) will apply to options with an expiration date that is the business day immediately preceding the holiday, except for Monday-expiring Weekly Expirations (as defined in Options 4A, Section 3), in which case proposed Section 3(d) will apply to options with an expiration date that is a business day immediately following the holiday.[42]

D. FLEX Options Terms (Section 3(c))

Proposed Section 3(c) will specify the terms that must be included in a FLEX Order.[43] Specifically, when submitting a FLEX Order for a FLEX Option series to the System, the submitting Member must include one of each of the terms detailed in proposed subparagraphs (1)–(6) of Section 3(c) in the FLEX Order (all other terms of a FLEX Option series are the same as those that apply to non-FLEX Options), provided that a FLEX Equity Option overlying an ETF (cash- or physically-settled) may not be the same type (put or call) and may not have the same exercise style, expiration date, and exercise price as a non-FLEX Equity Option overlying the same ETF,[44] which terms constitute the FLEX Option series.

As noted in proposed Options 3A, Section 3(b)(1), the Exchange only permits trading in a put or call FLEX Option series that does not have the same exercise style, same expiration date, and same exercise price as a non-FLEX Option series on the same underlying security or index that is already available for trading. Pursuant to proposed Options 3A, Section 3(c)(5)(A)(ii), certain FLEX Equity Options where the underlying security is an Exchange-Traded Fund are permitted to be settled by delivery in cash if the underlying security meets prescribed criteria. For FLEX ETF Options that qualify for cash-settlement pursuant to proposed Options 3A, Section 3(c)(5)(A)(ii), at least one of the following terms—exercise style, expiration date and exercise price—must differ from standard options in the non-FLEX market. FLEX Equity Options, which are not FLEX ETF Options that qualify for cash-settlement pursuant to proposed Options 3A, Section 3(c)(5)(A)(ii), are always settled with physical delivery of the underlying security pursuant to proposed Options 3A, Section 3(c)(5)(A)(i). FLEX Index Options are always cash-settled pursuant to proposed Options 3A, Section 3(c)(5)(B).

As proposed, the submitting Member must specify the following terms in the FLEX Order: (1) underlying equity security or index, as applicable (the index multiplier for FLEX Index Options is 100);[45] (2) type of option (*i.e.,* put or call);[46] (3) exercise style, which may be American-style or European-style, except that for a FLEX Currency Option the exercise style shall be European style;[47] (4) expiration date, which may be any business day (specified to the day, month, and year) no more than 15 years from the date on which a Member submits a FLEX Equity Option or FLEX Index Option to the System, and no more than 3 years from the date on which an executed FLEX Currency Option is submitted to the System with exercise settlement value on the expiration date determined by reference to the reported level of the index as derived from the opening prices of the component securities (''a.m. settlement'') or closing prices (''p.m. settlement'');[48] (5) settlement type for the FLEX Equity Option, FLEX

[36] Proposed Sections 11 through 13 of Options 3A will govern the electronic FLEX Auction, FLEX PIXL, and FLEX SOM, respectively. As discussed later in this filing, FLEX Orders may only be submitted through an electronic FLEX Auction, FLEX PIXL, or FLEX SOM.

[37] *See* proposed Options 3A, Section 3(b), which is identical to ISE Options 3A, Section 3(b).

[38] *See* proposed Options 3A, Section 3(b)(1), which is identical to ISE Options 3A, Section 3(b)(1).

[39] *See* proposed Options 3A, Section 3(b)(2), which is identical to ISE Options 3A, Section 3(b)(2) The Exchange notes that it will System enforce which options are eligible to be submitted as FLEX Options. As such, the System will reject at the outset a FLEX Option transaction that does not conform to the terms of the FLEX rules.

[40] The Exchange will System enforce this provision such that it will reject an opening position in an expiring FLEX Option series on the day of expiration.

[41] Phlx General 3 incorporates by reference Series 1000 in General 3 of the Rules of The Nasdaq Stock Market, LLC (''Nasdaq'') (including Nasdaq Rule 1030).

[42] *See* proposed Options 3A, Section 3(b)(3), which identical to ISE Options 3A, Section 3(b)(3).

[43] *See* ISE Options 3A, Section 3(c) for identical provisions.

[44] The Exchange will discuss cash-settled FLEX Equity Options overlying an ETF (''cash-settled FLEX ETFs'') later in this filing. As discussed below, the Commission previously approved a rule filing by NYSE American to permit the listing and trading of this product, and Cboe recently filed an immediately effective rule change based on NYSE American's filing. *See infra* notes 251 and 252. ISE also received approval to list cash-settled FLEX ETFs. *See also* Securities Exchange Release Act No. 101720 (November 22, 2024), 89 FR 94986 (November 29, 2024) (SR–ISE–2024–12).

[45] *See* proposed Options 3A, Section 3(c)(1), which is identical to ISE Options 3A, Section 3(c)(1).

[46] *See* proposed Options 3A, Section 3(c)(2), which is identical to ISE Options 3A, Section 3(c)(2).

[47] *See* proposed Options 3A, Section 3(c)(3), which is identical to ISE Options 3A, Section 3(c)(3) and Phlx Options 8, Section 34(f)(A) (FLEX Currency Options).

[48] *See* proposed Options 3A, Section 3(c)(4), which is identical to ISE Options 3A, Section 3(c)(4) and Phlx Options 8, Section 34(f)(5)(A) (FLEX Currency Options). All FLEX Currency Options will expire at 11:59 p.m. eastern time on their designated expiration date

Index Option, or FLEX Currency Option, as applicable;[49] and (6) exercise price, which may be in increments no smaller than $0.01.[50] Further, the Exchange may determine the smallest increment for exercise prices of FLEX Options on a class-by-class basis without going lower than $0.01.[51] The Exchange notes that the exercise price of the FLEX Option would generally be dependent on the price of the underlying security.

As it relates to the settlement type for FLEX Equity Options, the Exchange proposes in subparagraph (c)(5)(A)(i) of Options 3A, Section 3 that FLEX Equity Options, other than as permitted in proposed subparagraphs (c)(5)(A)(ii) and (iii), are settled with physical delivery of the underlying security. Proposed subparagraph (c)(5)(A)(ii) will allow for the cash-settlement of certain qualifying FLEX Equity Options with an underlying security that is an ETF.[52] Proposed subparagraph (c)(5)(A)(iii) will provide that FLEX Equity Options are subject to the exercise by exception provisions of OCC Rule 805.

As it relates to the settlement type for FLEX Index Options, the Exchange proposes in subparagraphs (c)(5)(B)(i) and (ii) of Options 3A, Section 3 that FLEX Index Options are settled in U.S. dollars, and may be either a.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported opening prices of the component securities) or p.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported closing prices of the component securities). The Exchange notes that Cboe received approval of its pilot program that permitted it to list p.m.-settled FLEX Index Options whose exercise settlement value is derived from closing prices on the last trading day prior to expiration that expire on or within two business days of a third Friday-of-the-month expiration day for a non-FLEX Option (''FLEX PM Third Friday Options'').[53] Consistent with the Commission's approval of Cboe's and ISE's proposal, the Exchange is proposing to allow the listing of FLEX PM Third Friday Options on Phlx as well, and will align proposed Section 3(c)(5)(B)(ii) with ISE Options 3A, Section 3(c)(5)(B)(ii).[54]

As it relates to the settlement type for FLEX Currency Options, the Exchange proposes in subparagraphs (c)(5)(C) of Options 3A, Section 3 that the settlement value for FLEX Currency Options on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on expiration day, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. FLEX Currency Options are settled in U.S. dollars. FLEX Currency Options will cease trading at 10:15 a.m. eastern time on their designated expiration date. Phlx offers FLEX Currency Options at Options 4C both electronically and on its trading floor. The proposed rule text is identical to Phlx Options 8, Section 34(f)(6)(C).[55]

E. FLEX Fungibility (Section 3(d))

Proposed Section 3(d)(1)(A) will provide that if the Exchange lists for trading a non-FLEX Option series with identical terms as a FLEX Option series, all existing open positions established under the FLEX trading procedures will become fully fungible with transactions in the identical non-FLEX Option series.[56] In addition, proposed Section 3(d)(1)(B) will provide that any further trading in the series would be as non-FLEX Options subject to non-FLEX trading procedures and Rules.[57] The foregoing provisions are identical to ISE Options 3A, Section 3(d)(1)(A).

Notwithstanding the above, if a non-FLEX Option series[58] is added intraday, for the balance of that trading day, a position established under the FLEX trading procedures may be closed using the FLEX trading procedures in Options 3A against another closing only FLEX position. No FLEX Orders may be submitted into an electronic auction pursuant to Sections 11(b), 12, or 13 below for a FLEX Option series with the same terms as the non-FLEX Option series, unless the FLEX Order is a closing order, and it is the day on which the non-FLEX Option series was added intraday. Members may only submit responses that close out existing FLEX positions.[59] In the event the non-FLEX Option series is added on a trading day after the position is established, the holder or writer of a FLEX Option position established under the FLEX trading procedures would be permitted to close such position as a non-FLEX transaction consistent with the

[49] *See* proposed Options 3A, Section 3(c)(5), which is identical to ISE Options 3A, Section 3(c)(5).

[50] *See* proposed Options 3A, Section 3(c)(6), which is identical to ISE Options 3A, Section 3(c)(6).

[51] *See* proposed Options 3A, Section 3(c), which is identical to ISE Options 3A, Section 3(c). As noted above, the Exchange does not offer these capabilities today for non-FLEX index options. The Exchange will also clarify that it would not go lower than $0.01 when determining the smallest increment for exercise prices of FLEX Options to make clear that it would stay within the stated confines of this Rule.

[52] As discussed later in this filing, the Exchange is proposing to list and trade cash-settled FLEX ETFs in the same manner as ISE.

[53] *See* Securities Exchange Act Release No. 99222 (December 21, 2023), 88 FR 89771 (December 28, 2023) (SR–CBOE–2023–018) (''FLEX Settlement Pilot Approval''). In support of making the pilot a permanent program, Cboe cited to its own review of pilot data during the course of the pilot program and a study by the Commission's Division of Economic and Risk Analysis (''DERA'') staff. *See* FLEX Settlement Pilot Approval, notes 18 and 35. ISE also received approval to list FLEX PM Third Friday Options. *See also* Securities Exchange Release Act No. 101720 (November 22, 2024), 89 FR 94986 (November 29, 2024) (SR–ISE–2024–12).

[54] The only broad-based indexes option that would be able to list as a FLEX PM Third Friday Option is the Nasdaq-100 Index option (''NDX'' or ''NDX options'') and options based on 1/100 the value of the Nasdaq-100 (''XND'' or ''XND options''). The Exchange notes that Cboe lists both NDX and XND electronic FLEX options today pursuant to a license agreement with Nasdaq. Phlx received approval to permit the listing of a third-Friday-of-the-month p.m. expiration on NDX and XND options its standardized market. *See* Securities Exchange Act Release No. 98950 (November 15, 2023), 88 FR 81172 (November 21, 2023) (SR–Phlx–2023–45) (Order Approving a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Nasdaq-100 Index Options With a Third-Friday-of-the-Month Expiration).

[55] Phlx amended Options 8, Section 34 in SR–Phlx–2025–20. *See* Securities Exchange Act Release Nos. 97658 (June 7, 2023), 88 FR 38562 (June 13, 2023) (SR–Phlx–2023–22); and 102977 (May 2, 2025), 90 FR 19546 (May 8, 2025) (SR–Phlx–2025–20). This proposed rule change will be operative at the same time as these aforementioned rule changes when Phlx conducts its technology migration in November 2025.

[56] An open position resulting from a transaction on the Exchange becomes fungible post-trade and is separate from the execution occurring on the Exchange. For example, assume a Member buys one (1) American style AAPL call option expiring on October 9, 2024, with a strike price of 150, which is a FLEX series because there is no standard option listed with those same terms. Now assume, while holding this position, a standard option with the same terms is listed (American style AAPL call option expiring on October 9, 2024, with a strike price of 150). After this standard option is listed, the Member purchases one (1) contract in this non-FLEX option series. After this second transaction, the Participant will have an open position of two (2) contracts in the standard AAPL call expiring on October 9, 2024, with a 150 strike price.

[57] This includes all priority and trade-through provisions on the Exchange. *See, e.g.,* Options 3, Section 10 and Options 5, Section 2.

[58] Similar to ISE, the Exchange would apply the closing-only provisions to *all* non-FLEX Option series (*i.e.,* American-style and European-style FLEX Option series). As such, the Exchange's proposed language in Options 3A, Section 3(d)(2)(A) will provide that the Exchange's closing-only provisions would apply ''if a non-FLEX Option is added intraday.'' This is identical to ISE Options 3A, Section 3(d)(2)(A).

[59] *See* proposed Options 3A, Section 3(d)(2)(A), which is identical to ISE Options 3A, Section 3(d)(2)(A).

requirements of subsection (d)(1) of this rule.[60] The Exchange will notify Members when a FLEX Option series is restricted to closing only transactions. The System will reject a transaction in such a restricted series that does not conform to the requirements specified in proposed Options 3A, Section 3(d).[61]

F. Units of Trading; Minimum Trading Increments (Sections 4 and 5)

Proposed Section 4(a) of Options 3A will provide that bids and offers for FLEX Options must be expressed in U.S. dollars and decimals in the minimum increments as set forth in proposed Section 5.[62] Proposed Section 5(a) will provide that the Exchange would determine the minimum increment for bids and offers on FLEX Options on a class-by-class basis, which may not be smaller than $0.01 for the options leg of a FLEX Option.[63] Proposed Section 5(b) will provide that for the stock leg of a FLEX Option, the minimum increments are set forth in Options 3A, Section 11(b)(1)(G), Section 12(a)(5), and Section 13(a)(5). As discussed later in this filing, the foregoing rules specify how minimum increments for complex FLEX Orders (including complex FLEX Orders with a stock component) would be handled. The Exchange is adding these cross cites in the minimum increments rule in proposed Options 3A, Section 5(b) for transparency and clarity.

G. Types of Orders; Order and Quote Protocols (Section 6)

Pursuant to proposed Section 6(a), the Exchange may determine to make only the Limit Order and Cancel and Replace Order types [64] and Immediate-or-Cancel times-in-force,[65] respectively, in Options 3, Section 7 available on a class or System basis for FLEX Orders.[66] The Exchange notes that it currently has the authority to make certain order types and TIFs available on a class or System basis for non-FLEX Options pursuant to Options 3, Section 7, and therefore proposes to have similar authority with respect to FLEX Options.

Proposed Section 6(b) will provide that only the following order and quote protocols in Supplementary Material .03 to Options 3, Section 7 will be available for FLEX Orders, FLEX auction notifications, and FLEX auction responses: [67]

- *FIX:* [68] FLEX Orders and FLEX auction responses
- *OTTO:* [69] FLEX Orders, FLEX auction notifications, and FLEX auction responses
- *SQF:* [70] FLEX auction notifications and FLEX auction responses

H. Complex Orders (Section 7)

Pursuant to proposed Section 7(a), the Exchange may make complex orders, including a Complex Options Order,[71] Stock-Options Order,[72] and Stock-Complex Order [73] available for FLEX

[60] *See* proposed Options 3A, Section 3(d)(2)(B), which is identical to ISE Options 3A, Section 3(d)(2)(B). The Exchange is adding this language to clarify how it would handle open FLEX positions if an identical non-FLEX Option series is added on the day after.

[61] *See* proposed Options 3A, Section 3(d)(2), which is identical to ISE Options 3A, Section 3(d)(2). The Exchange's System will enforce the rejection of FLEX Options that are fully fungible with a non-FLEX Option.

[62] *See* identical rule text at ISE Options 3A, Section 4(a).

[63] *See* identical rule text at ISE Options 3A, Section 5(a).

[64] *See* Options 3, Sections 7(b) and 7(f) for a description of Limit Orders and Cancel and Replace Orders, respectively. All of the other order types listed in Options 3, Section 7 (such as Customer Cross Orders, Qualified Contingent Cross Orders, QCC with Stock Orders, Block Orders, and Facilitation Orders) do not apply to FLEX. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71) which is effective but not yet operative. SR–Phlx–2024–71 will be operative at the same time as this rule change.

[65] *See* Supplementary Material .02(d) to Options 3, Section 7 for a description of Immediate-or-Cancel. All of the other TIFs in Supplementary Material .02 to Options 3, Section 7 will not apply to FLEX. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71) which is effective but not yet operative. SR–Phlx–2024–71 will be operative at the same time as this rule change.

[66] *See* Options 3, Section 7 for descriptions of these order types and times-in-force. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71) which is effective but not yet operative. SR–Phlx–2024–71 will be operative at the same time as this rule change.

[67] Notes 63–65 below describe what features are available on these protocols today for non-FLEX Options. The Exchange is proposing to specify that some of these features (*i.e.,* sending/receiving FLEX Orders, FLEX notifications and FLEX responses) will be available for FLEX Options through the specified protocols as described above. While other basic features will be available for FLEX Options (for example, the options symbol directory will be available for FLEX Options), the Exchange is proposing to specify the particular features in proposed Options 3A, Section 6(b) to highlight the most important features that would be available through these protocols for FLEX trading.

[68] ''Financial Information eXchange'' or ''FIX'' is an interface that allows members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications; and (4) post trade allocation messages. *See* Supplementary Material .03(a) to Options 3, Section 7.

[69] ''Ouch to Trade Options'' or ''OTTO'' is an interface that allows member organizations and their Sponsored Customers to connect, send, and receive messages related to orders, auction orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages. *See* Supplementary Material .03(b) to Options 3, Section 7.

[70] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Lead Market Makers, Streaming Quote Traders (''SQTs'') and Remote Streaming Quote Traders (''RSQTs'') to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2) and (b)(2), respectively. *See* Supplementary Material .03(c) to Options 3, Section 7.

[71] A Complex Options Order is an order for a Complex Options Strategy, which is the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. *See* Options 3, Section 14(a)(1) which was amended in SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[72] A Stock-Option Order is an order for a Stock-Option Strategy, which is the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg to the total number of units of the underlying stock or convertible security in the stock leg. *See* Options 3, Section 14(a)(2) which was amended in SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[73] A Stock-Complex Order is an order for a Stock-Complex Strategy, which is the purchase or sale of a stated number of units of an underlying stock or

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trading. Complex FLEX Orders may have up to the maximum number of legs determined by the Exchange.[74] Each leg of a complex FLEX Order: (1) must be for a FLEX Option series authorized for FLEX trading with the same underlying equity security or index; (2) must have the same exercise style (American or European); and (3) for a FLEX Index Option, may have a different settlement type (a.m.-settled or p.m.-settled).[75] The Exchange notes that a non-FLEX complex order can have both a.m.-settled and p.m.-settled legs today. The Exchange received approval to permit the listing and trading of p.m.-settled NDX and XND options pursuant to Supplementary Material .07[sic] to Options 4A, Section 12.[76] Specifically, the Exchange is permitted to list p.m.-settled NDX and XND options that expire (1) on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month or days that coincide with an end-of-month expiration) [77] or (2) on the last day of the trading month.[78] In addition, NDX and XND options are also currently allowed to be listed as p.m.-settled with a standard expiration (*i.e.,* the third-Friday-of-the-month) in addition to a.m.-settled.[79] Therefore, Phlx may currently list NDX and XND options that are both a.m.-settled and p.m.-settled for its non-FLEX market. As such, the Exchange's FLEX proposal for complex orders in this respect will align with ISE's current FLEX complex order functionality as noted above,[80] but will also align with its own current non-FLEX complex order functionality.

Pursuant to proposed Section 7(b), complex FLEX Orders will not have to adhere to the ratio requirements in Options 3, Sections 14(a)(1)–(3). Options 3, Sections 14(a)(1)–(3) currently includes the complex ratio requirements for Complex Options Strategies, Stock-Options Strategies, and Stock-Complex Strategies.[81] The Exchange is not changing the complex ratio requirements for non-FLEX complex orders under this proposal. Instead, it is proposing to offer this feature only for complex FLEX Orders so that Members may submit complex FLEX Orders with any ratio.[82]

I. Opening of FLEX Trading (Section 8)

Proposed Section 8(a) will specify that there will be no Opening Process [83] pursuant to Options 3, Section 8 in FLEX Options. Instead, as specified in proposed Section 8(b), Members may begin submitting FLEX Orders into an electronic FLEX Auction pursuant to proposed Section 11(b), a FLEX PIXL pursuant to proposed Section 12, or a FLEX SOM pursuant to proposed Section 13 when the underlying security is open for trading.[84] The Exchange will also make clear in proposed Section 8(b) that for FLEX Index Options, the term ''underlying security'' will have the same meaning as defined in Options 4A, Section 2(a)(19).[85]

Because market participants incorporate transaction prices of underlying securities or the values of underlying indexes when pricing options (including FLEX Options), the Exchange believes that it will benefit investors for FLEX Options trading to not be available until that information has begun to be disseminated in the market (*i.e.,* when the security opens for trading).

Additionally, the Exchange's Opening Process is used to open or reopen a series of options on Phlx at a single opening price.[86] There is a period of time before an options series opens during which orders placed on the Exchange's order book do not generate trade executions but may participate in the Opening Process.[87] As noted above, FLEX Options will not be placed on the Exchange's simple and complex order books and therefore will not have an Opening Process.[88] FLEX Options are created with terms unique to individual investment objectives. As such, each investor may require FLEX Options with slightly different terms than those already created. These individually defined FLEX Options are customized for each investor, so the Opening Process may not be useful for investors who may create their own FLEX Options because the Opening Process is designed, in part, to determine a single opening, or reopening, price based on orders and quotes from multiple Members. With the bespoke nature of FLEX Options, there is not the opportunity, nor the need, to bring together multiple orders and quotes as part of an Opening Process.

J. Trading Halts (Section 9)

Proposed Section 9 will provide that the Exchange may halt trading in a FLEX Option class pursuant to Options 3, Section 9, and always halts trading in a FLEX Option class when trading in a non-FLEX Options class with the same underlying equity security or index is halted on the Exchange. The System will not accept a FLEX Order for a FLEX

a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of a Complex Options Strategy on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option legs to the total number of units of the underlying stock or convertible security in the stock leg. *See* Options 3, Section 14(a)(3) which was amended in SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[74] The Exchange will initially permit a maximum of 10 legs.

[75] *See* identical rule text at ISE Options 3A, Section 7(a).

[76] *See* Securities Exchange Act Release No. 98950 (November 15, 2023), 88 FR 81172 (November 21, 2023) (SR–Phlx–2023–45) (Order Approving a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Nasdaq-100 Index Options With a Third-Friday-of-the-Month Expiration).

[77] *See* Options 4A, Section 12(b)(6)(A).

[78] *See* Options 4A, Section 12(b)(6)(B).

[79] *See* Options 4A, Section 12(a)(5).

[80] *See* identical rule text at ISE Options 3A, Section 7(a).

[81] *See supra* notes 71–73.

[82] For instance, the Exchange may permit Complex Options Strategies with a ratio on the options legs less than one-to-three (.333) or greater than three-to-one (3.00), and Stock-Option Strategies with a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg(s) to the total number of units of the underlying stock or convertible security in the stock leg. *See* Options 3, Section 14 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[83] As described in Options 3, Section 8(d)(i), Phlx's ''Opening Process'' for an option series will be conducted pursuant to paragraphs (f)–(k) below on or after 9:30 a.m. Eastern Time if: the ABBO, if any, is not crossed; and the System has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) of the opening trade or quote on the market for the underlying security, a Valid Width Quote. The System will accept a Lead Market Maker's Valid Width Quote or the Valid Width Quote of at least one Competitive Market Maker. The term ''Away Best Bid or Offer'' or ''ABBO'' means the displayed National Best Bid or Offer not including the Exchange's Best Bid or Offer. *See* Options 1, Section 1(b)(5).

[84] *See* proposed Options 3A, Section 8(a) and (b), which is identical to ISE Options 3A, Section 8(a) and (b).

[85] Options 4A, Section 2(a)(19) states that the term ''underlying security'' or ''underlying securities'' with respect to an index options contract means any of the securities that are the basis for the calculation of the index.

[86] *See* Options 3, Section 8(i) and (k).

[87] *See* Options 3, Section 8(d).

[88] *See* proposed Options 3A, Section 10(a). Instead, Members will be required to submit FLEX Orders into an electronic FLEX Auction, FLEX PIXL, or FLEX SOM. *See* proposed Options 3A, Section 11(a).

Option series while trading in a FLEX Option class is halted.[89]

K. Exchange Order Books (Section 10)

Proposed Section 10 will provide that the Exchange's simple and complex order books will not be available for transactions in FLEX Options. Accordingly, FLEX Options may only be traded on the Exchange by submitting FLEX Orders into a FLEX Electronic Auction pursuant to proposed Options[sic] 11(b), FLEX PIXL pursuant to proposed Options[sic] 12, and FLEX SOM pursuant to proposed Options[sic] 13, each as discussed further below. The Exchange notes that its proposal is in line with other options exchanges' FLEX rules that do not contemplate the interaction of their respective order books with FLEX transactions.[90]

L. FLEX Options Trading (Section 11)

Proposed Section 11 will describe the procedures for FLEX trading on the Exchange. Specifically, a FLEX Option series will only be eligible for trading if a Member submits a FLEX Order for that series into an electronic FLEX Auction pursuant to proposed paragraph (b) of Options[sic] 11, or submits the FLEX Order to a FLEX PIXL or FLEX SOM Auction pursuant to proposed Section 12 or Section 13, respectively.[91]

Proposed Section 11(a)(1) and (2) will specify the requirements for both simple and complex FLEX Orders.

- For a simple FLEX Order, a FLEX Order for a FLEX Option series submitted to the System must include all terms for a FLEX Option series set forth in proposed Section 3 as described above, size, side of the market, and a bid or offer price.[92] The Exchange also proposes that the System will not accept a FLEX Order with identical terms as a non-FLEX Option series that is already listed for trading to signify that this requirement is System-enforced.
- For a complex FLEX Order, a FLEX Order for a FLEX Option complex strategy submitted to the System must satisfy the criteria for a complex FLEX Order set forth in proposed Section 7(a) as described above, and include size, side of the market, and a net debit or credit price. Additionally, each leg of the FLEX Option complex strategy must include all terms for a FLEX Option series set forth in proposed Section 3.[93] Similar to simple FLEX Orders, the Exchange proposes to System enforce the stipulation that it will not accept a FLEX Option complex strategy if a leg in the order has identical terms as a non-FLEX Option series that is already listed for trading.[94] The Exchange also proposes to add similar language as ISE to describe what would happen if there is a complex FLEX Order and subsequently, a non-FLEX Option series is introduced for the component leg(s). Specifically, proposed Section 11(a)(2)(A)(i) and (ii) will provide that if a non-FLEX Option series is added intra-day for a component leg(s) of a complex FLEX Order, the holder or writer of a FLEX Option position in the component leg(s) resulting from such complex FLEX Order would be permitted to close its position(s) under the FLEX trading procedures against another closing only FLEX Option position for the balance of the trading day on which the non-FLEX Option series is added. If a non-FLEX Option series is added for a component leg(s) of a complex FLEX Order on a trading day after the complex FLEX Order position is established, the holder or writer of a FLEX Option position in the component leg(s) resulting from such complex FLEX Order would be required to execute separate FLEX Option and non-FLEX Option transactions to close its position(s), such that FLEX Option component leg(s) would trade under the FLEX trading procedures and non-FLEX Option component leg(s) would trade subject to the non-FLEX trading procedures and rules.[95] Additionally, a complex FLEX Order submitted into the System for an electronic FLEX Auction pursuant to proposed Section 11(b), a FLEX PIXL pursuant to Section 12, or a FLEX SOM pursuant to Section 13 must include a bid or offer price for each leg, which leg prices when combined must equal the net price of the complex FLEX Order.[96]

Proposed Section 11(b) will describe the electronic FLEX Auction. The proposed FLEX Auction will be identical to ISE Options 3A, Section 11(b) except that Phlx's allocation methodology at proposed Options 3A, Section 11(b)(3)(A)(i) will be identical to its allocation methodology in Options 3, Section 10 whereas ISE's allocation methodology is identical to ISE Options 3, Section 10. Specifically, a Member may electronically submit a FLEX Order (simple or complex) into an electronic FLEX Auction for execution pursuant to this paragraph (b). Pursuant to proposed subparagraph (b)(1), a FLEX Auction may be initiated if all of the below conditions in proposed subparagraph (b)(1)(A)–(G) are met; otherwise, the System rejects or cancels a FLEX Order that does not meet the conditions in this subparagraph (b)(1).[97]

- *Class:* The FLEX Order is in a class of options the Exchange is authorized to list for trading on the Exchange.
- *Size:* There is no minimum size for FLEX Orders.
- *Terms:* A simple or complex FLEX Order must comply with proposed Section 11(a).
- *Price:* The bid or offer price, or the net debit or credit price, as applicable, of the FLEX Order is the ''auction price.''
- *Time:* A FLEX Order may only be submitted for electronic execution in a FLEX Auction after FLEX trading has opened pursuant to proposed Section 8.
- *Exposure Interval:* The submitting Member must designate the length of the ''exposure interval,'' which must be between three seconds and five minutes.[98] The Exchange would provide that the designated time may not go beyond the market close pursuant to proposed Section 11(b).[99]
- *Minimum Increment:* The price of a simple FLEX Order must be in an increment the Exchange determines on a class basis (which may not be smaller than the amounts set forth in proposed Section 5 (*i.e.,* $0.01)). If the FLEX Order is a complex order, the price must be a net price for the complex strategy.[100]

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[89] *See* ISE Options 3A, Section 9 for identical rule text.

[90] *See e.g.,* ISE Options 3A, Section 10 and NYSE Arca Rule 5.30–O(c). *See also* Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR–CBOE–2019–084) (among other changes, eliminating the availability of an electronic book for FLEX Options).

[91] *See* proposed Options 3A, Section 11(a), which is identical to ISE Options 3A, Section 11(a).

[92] *See* ISE Options 3A, Section 11(a)(1) for identical rule text.

[93] *See* ISE Options 3A, Section 11(a)(2) for identical rule text.

[94] *See* proposed Options 3A, Section 11(a)(2)(A).

[95] *See* proposed Options 3A, Section 11(a)(2)(A)(i) and (ii), which is identical to ISE Options 3A, Section 11(a)(2)(A)(i) and (ii).

[96] *See* proposed Options 3A, Section 11(a)(2)(B), which is identical to ISE Options 3A, Section 11(a)(2)(B).

[97] Proposed paragraph (b)(1) is identical to ISE Options 3A, Section 11(b)(1).

[98] There will be no default setting to the FLEX Auction exposure interval. As such, Members will be required to specify the exposure interval; otherwise, their FLEX Order will be rejected by the System.

[99] ISE Options 3A, Section 11(b)(1) is identical.

[100] *See* proposed subparagraph (G) of Section 11(b)(1). This provision is identical to ISE Options 3A, subparagraph (G) of Section 11(b)(1). Phlx will allow exercise prices to be expressed as percentages. As discussed above, the Exchange is also incorporating within proposed subparagraph (G) the minimum increment provisions for non-FLEX complex orders that are stock-tied from Options 3, Section 14(c)(1) which was amended by SR–Phlx–2025–17. *See* Options 3, Section 14 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

The Exchange would align the minimum increment requirements for stock-tied FLEX complex strategies with the existing requirements for stock-tied non-FLEX complex strategies as set forth in Options 3, Section 14(c)(1). As such, proposed Options 3A, Section 11(b)(1)(G) will further provide that the prices of Complex Options Strategies (as defined in Options 3, Section 14) may be expressed in no smaller than one cent ($0.01) increments, and the options leg of Complex Options Strategies may be executed in no smaller than one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Prices of Stock-Option Strategies or Stock-Complex Strategies (each as defined in Options 3, Section 14) may be expressed in any decimal price determined by the Exchange,[101] and the stock leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in any decimal price permitted in the equity market. The options leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in no smaller than one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Similar to stock-tied complex orders today, the Exchange believes that smaller minimum increments are appropriate for complex FLEX Orders that contain a stock component as the stock component can trade at finer decimal increments permitted by the equity market.

Proposed subparagraph (b)(2) of Options[sic] 11 will describe the FLEX Auction process, and will provide that upon receipt of a FLEX Order that meets the conditions in subparagraph (a) as described above, the FLEX Auction commences. Proposed subparagraph (b)(2)(A) will describe the contents of the FLEX Auction message, and will provide that the System initiates a FLEX Auction by sending a FLEX Auction notification message to Members detailing the FLEX Option series or complex strategy (as applicable), side, size, auction ID,[102] capacity, and exposure interval. Similar to all other auction notifications, FLEX Auction notification messages are not disseminated to OPRA.[103] Identical to ISE, the FLEX Auction message will not include the price of the auctioned FLEX Order. The Exchange believes not including the auction price in the notification message will encourage Members to respond with the best prices at which they are willing to trade against the auctioned FLEX Order. If the message included the price, Members may only respond to trade at that price; without the price, Members may respond at better prices, which may result in price improvement opportunities for the auctioned FLEX Order.

Proposed subparagraph (b)(2)(B) will provide that one or more FLEX Auctions in the same FLEX Option series or complex strategy (as applicable) may occur at the same time. To the extent there is more than one FLEX Auction in a FLEX Option series or complex strategy (as applicable) underway at the same time, the FLEX Auctions conclude sequentially based on the times at which each FLEX Auction's exposure interval concludes. At the time each FLEX Auction concludes, the System allocates the FLEX Order pursuant to proposed subparagraph (3) and takes into account all FLEX responses submitted during the exposure interval.[104] Generally, if a Member attempts to initiate an electronic FLEX Auction in a FLEX Option series while another auction in that series is ongoing, the Exchange believes it will provide that second FLEX Order with an opportunity for execution in a timely manner by initiating another FLEX Auction, rather than having the Member wait for the first auction to conclude. The second Member may not be able to submit a response to trade in the ongoing FLEX Auction, because the terms may not be consistent with that Member's order (for example, there may not be sufficient size, and the Member may only receive a share of the auctioned order depending on other responses). Therefore, the Exchange believes providing this proposed functionality may encourage Members to use electronic FLEX Auctions to execute their FLEX Orders.

Proposed subparagraph (b)(2)(C) will provide that the submitting Member may cancel a FLEX Auction prior to the end of the exposure interval.[105] Proposed subparagraph (b)(2)(D) will specify the conditions for submitting responses to a FLEX Auction. Any Member (including the submitting Member) may submit responses to a FLEX Auction that are properly marked specifying the FLEX Option series or complex strategy (as applicable), bid or offer price or net price (respectively), size, side of the market, and the auction ID for the FLEX Auction to which the Member is submitting the response. A FLEX response may only participate in the FLEX Auction with the auction ID specified in the response, which is why the auction notification message described above will include an auction ID and responses must identify the applicable auction ID.[106] If there are concurrent FLEX Auctions occurring, a Member may submit responses to all ongoing auctions, and thus concurrent auctions will not hinder a Member's ability to participate in any FLEX Auction.

A Member using the same badge/[107] mnemonic[108] may only submit a single FLEX response per auction ID to a FLEX Auction.[109] If an additional FLEX response is submitted for the same auction ID from the same badge/mnemonic, then that FLEX response will automatically replace the previous FLEX response.[110] The System caps the size of a FLEX response for the same badge/mnemonic at the size of the FLEX

[101] The minimum increment for individual options leg of a FLEX Order may not be smaller than $0.01, as required under proposed Options 3A, Section 5. However, when a stock leg is included in a complex strategy (*i.e.,* Stock-Option Strategy or Stock-Complex Strategy) for the FLEX Option, then the price for FLEX Stock-Option Strategies and FLEX Stock-Complex Strategies can be expressed to four decimal places in order to trade at finer decimal increments permitted by the equity market. However, the options leg will not be permitted to execute in increments smaller than one cent ($0.01). This is identical to how a non-FLEX Stock-Option Strategy and a non-FLEX Stock-Complex Strategy can be priced today. *See* Options 3, Section 14(c)(1) for identical provisions. Options 3, Section 14 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[102] As discussed below, this information on the proposed auction message will permit responses to only execute at the conclusion of the auction into which the responses were submitted.

[103] *See* ISE Options 3A, Section 11(b)(2)(D)(iv) for identical rule text.

[104] *See* ISE Options 3A, Section 11(b)(2)(B) for identical rule text,

[105] *See* ISE Options 3A, Section 11(b)(2)(C) for identical rule text.

[106] *See* ISE Options 3A, Section 11(b)(2)(D) for identical rule text.

[107] A ''badge'' means an account number, which may contain letters and/or numbers, assigned to Lead Market Makers and Market Makers. A Lead Market Maker or Market Maker account may be associated with multiple badges. *See* Options 1, Section 1(b)(6).

[108] A ''mnemonic'' means an acronym comprised of letters and/or numbers assigned to member organizations. A member organization account may be associated with multiple mnemonics. *See* Options 1, Section 1(b)(29).

[109] A badge and mnemonic are essentially Member identifiers. Every order that comes into the System is tied to a badge or mnemonic.

[110] In other words, the Member does not have to cancel the previous FLEX response before submitting an additional one as the previous response is *automatically* replaced. *See* proposed Options 3A, Section 11(b)(2)(D)(i), which is identical to ISE Options 3A, Section 11(b)(2)(D)(i). While not specified in the Exchange's current rules, this is consistent with current auction behavior, including current PIXL and SOM behavior.

Order (*i.e.,* the System ignores the size in excess of the size of the FLEX Order when processing the FLEX Auction).[111] Given that the Exchange is proposing below to apply a pro-rata allocation methodology to executions at the conclusion of the FLEX Auction, this provision is intended to prevent a Member from submitting a response with an extremely large size into the electronic FLEX Auction in order to obtain a larger pro-rata share of the FLEX Order.

Further, FLEX responses must be on the opposite side of the market as the FLEX Order. The System rejects a FLEX response on the same side of the market as the FLEX Order.[112] FLEX responses are not visible to Members or disseminated to OPRA.[113] This is consistent with how ISE treats FLEX responses pursuant to ISE Options 3A, Section 11(b)(2)(D)(iv). The proposed rule change is also consistent with the Exchange's existing auctions, in which responses are not visible to the market.[114] Responses to electronic auctions are not firm prior to the conclusion of the auction, at which time their price and size are firm. For the same reason as the Exchange is proposing not to disseminate the auction price on the auction notification message as discussed above, the Exchange believes it will encourage Members to submit responses at their best possible price if they do not know the prices at which other Members are willing to trade.[115]

A Member may modify or cancel its FLEX Responses during the exposure interval.[116] The minimum price increment for FLEX responses is the same as the one the Exchange determines for a class pursuant to proposed subparagraph (b)(1)(G) above. A response to a FLEX Auction of a complex order must have a net price. The System rejects a FLEX response that is not in the applicable minimum increment.[117] Complex FLEX responses must be entered in the increments provided in Options 3, Section 14(c)(1) at the proposed execution net price or at a price that is at least one cent better for the Agency Order.[118]

Pursuant to proposed subparagraph (b)(3) of Section 11, the FLEX Auction concludes at the end of the exposure interval, unless the Exchange halts trading in the affected underlying or the submitting Member cancels the FLEX Auction before the end of the exposure interval, in which case the FLEX Auction concludes without execution.[119] At the conclusion of the FLEX Auction:

- Pursuant to proposed subparagraph (b)(3)(A), the System executes the FLEX Order against the FLEX responses at the best price(s), to the price at which the balance of the FLEX Order or the FLEX responses can be fully executed (the ''final auction price''). For purposes of ranking FLEX responses when determining how to allocate a FLEX Order, the term ''price'' refers to the dollar and decimal amount of the response bid or offer.[120]
- Pursuant to proposed subparagraph (b)(3)(A)(i), if there are multiple FLEX responses at the same price level, then the contracts in those FLEX responses are allocated proportionally according to Size Pro-Rata Priority[121] with Public Customer[122] overlay[123] (as described in Options 3, 10(a)(1)(A) and non-Public Customer interest allocation described in 10(a)(1)(E) and (F)). The Exchange notes that this is similar to ISE utilizes its allocation methodology in Options 3, Section 10 with respect to FLEX Options. Today, Phlx utilizes its allocation methodology in Options 3, Section 10 in its SOM and PIXL for non-FLEX Options where the Public Customer gets priority treatment over non-Public Customers pursuant to Options 3, Section 10(a)(1)(A).[124] After Public Customers responses are allocated, non-Public Customer responses would be allocated pursuant to Options 3, Section 10(a)(1)(E) and (F).[125]
- Pursuant to proposed subparagraph (b)(3)(A)(ii), the executable quantity is allocated to the nearest whole number, with fractions rounded up for the FLEX

[111] *See* proposed Options 3A, Section 11(b)(2)(D)(ii), which identical to ISE Options 3A, Section 11(b)(2)(D)(ii).

[112] *See* proposed Options 3A, Section 11(b)(2)(D)(iii), which is identical to ISE Options 3A, Section 11(b)(2)(D)(iii).

[113] *See* proposed Options 3A, Section 11(b)(2)(D)(iv), which is identical to ISE Options 3A, Section 11(b)(2)(D)(iv).

[114] *See* Supplementary Material .02 to Options 3, Section 11; and Options 3, Section 13(c)(4).

[115] For example, if during a FLEX Auction of a buy FLEX Order, a Member submitted a response to sell at $1.05, if another Member saw that response, it may merely respond to sell at $1.05, or maybe $1.04, even though it may ultimately be willing to sell at $1.03. Without seeing the other responses, the second Member may instead submit a response to sell at $1.03, which could result in price improvement for the auctioned order.

[116] *See* proposed Options 3A, Section 11(b)(2)(D)(v), which is identical to ISE Section 11(b)(2)(D)(v).

[117] *See* proposed Options 3A, Section 11(b)(2)(D)(vi) which is identical to ISE Options 3A, Section 11(b)(2)(D)(vi).

[118] ISE does not currently have this rule text at Options 3A. ISE will file to add identical rule text in a separate rule change. The Exchange believes that this additional language will provide members with additional information as all Complex Orders trade in the increments described in Options 3, Section 14(c)(1) which states that bids and offers for Complex Options Strategies may be expressed in one cent ($0.01) increments, and the options leg of Complex Options Strategies may be executed in one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Bids and offers for Stock-Option Strategies or Stock-Complex Strategies may be expressed in any decimal price determined by the Exchange, and the stock leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in any decimal price permitted in the equity market. The options leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Options 3, Section 14 was amended by SR–Phlx–2024–71. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71) which is effective but not yet operative. SR–Phlx–2024–71 will be operative at the same time as this rule change.

[119] *See* ISE Options 3A, Section 11(b)(3) for identical rule text.

[120] *See* ISE Options 3A, Section 11(b)(3)(A) for identical rule text.

[121] Size Pro-Rata Priority shall mean that if there are two or more resting orders or quotes at the same price, the System allocates contracts from an incoming order or quote to resting orders and quotes beginning with the resting order or quote displaying the largest size proportionally according to displayed size, based on the total number of contracts displayed at that price. *See* Options 3, Section 10(a). Phlx filed rule proposals to amend Options 3, Section 10. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration.

[122] The term ''Public Customer'' means a person or entity that is not a broker or dealer in securities and is not a Professional as defined within Options 1, Section (b)(45). *See* Option 1, Section 1(b)(46). The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Member organizations must indicate whether orders are for Professionals. *See* Option 1, Section 1(b)(45).

[123] Public Customer Priority: the highest bid and lowest offer shall have priority except that Public Customer orders shall have priority over non-Public Customer orders at the same price. If there are two or more Public Customer orders for the same options series at the same price, priority shall be afforded to such Public Customer orders in the sequence in which they are received by the System. Public Customer Priority is always in effect when the Price/Time execution algorithm is in effect. *See* Options 3, Section 10(a)(1)(C)(1)(a).

[124] *See, e.g.,* Options 3, Section 11(d)(3)(C) (SOM allocation methodology) and Options 3, Section 13(b)(5)(B) (PIXL allocation methodology).

[125] This is a distinction between ISE and Phlx. ISE allocates pursuant to its allocation methodology in Options 3, Section 10 and Phlx allocated pursuant to its Options 3, Section 10 methodology which also is utilized in Phlx's SOM allocation methodology at Options 3, Section 11(d)(3)(C) and PIXL allocation methodology at Options 3, Section 13(b)(5)(B). Phlx's allocation model is different than ISE in that Phlx allocates to Market Makers before allocating to all other non-Public Customer market participants pursuant to Phlx Options 3, Section 10 while ISE does not have an additional allocation to Market Makers before all other market participants pursuant to ISE Options 3, Section 10. The Exchange notes that Public Customers on Phlx and Priority Customers on ISE will continue to have priority over other market participants.

response with the higher quantity. Further, proposed subparagraph (b)(3)(A)(iii) will provide that if an allocation would result in less than one contract, then one contract will be allocated. The Exchange is adopting language that is consistent with its current rounding and allocation methodology as the Exchange does not allocate fractional contracts and instead rounds up to the nearest whole number.[126]

Pursuant to proposed subparagraph (b)(3)(B), the System cancels an unexecuted FLEX Order (or unexecuted portion).[127] Further, proposed subparagraph (b)(3)(C) will provide that the System cancels any unexecuted responses (or unexecuted portions).[128]

M. FLEX PIXL (Section 12)

The Exchange proposes to establish PIXL auction functionality for FLEX Options in Options 3A, Section 12. The proposed FLEX PIXL auction will be substantially similar to ISE Options 3A, Section 12, except for a difference related to the allocation methodology for all non-Public Customers. Pursuant to proposed Section 12, a Member (the ''Initiating Member'') may electronically submit for execution an order (which may be a simple or complex order) it represents as agent (''Agency Order'') against principal interest or a solicited order(s) (except for an order for the account of any FLEX Market Maker with an appointment in the applicable FLEX Option class on the Exchange) (an ''Initiating Order''), provided it submits the Agency Order for electronic execution into a FLEX PIXL auction pursuant to this Rule.[129]

Proposed Section 12(a)(1)–(5) will set forth the FLEX PIXL auction eligibility requirements. Specifically, the Initiating Member may initiate a FLEX PIXL auction if all of the following conditions are met:

- *Class.* An Agency Order must in a FLEX Option class the Exchange designates as eligible for FLEX PIXL auctions.
- *FLEX Option Series.* The Agency Order and Initiating Order must each be a FLEX Order that complies with proposed Section 11(a) in a permissible FLEX Option series that complies with proposed Section 3 above. For a complex FLEX Order, each leg must be in a permissible FLEX option series that complies with proposed Section 3 above.[130]
- *Marking.* The Initiating Member must mark an Agency Order for FLEX PIXL auction processing.
- *Size.* There will be no minimum size for Agency Orders. The Initiating Order must be for the same size as the Agency Order.
- *Minimum Increment.* The price of the Agency Order and Initiating Order for simple FLEX Orders must be in an increment the Exchange determines on a class basis (which may not be smaller than the amounts set forth in Section 5 above). If the Agency Order and Initiating Order are complex orders, the price must be a net price for the complex strategy.[131] The Exchange will align the minimum increment requirements for stock-tied FLEX complex strategies with the existing requirements for stock-tied non-FLEX complex strategies as set forth in Options 3, Section 14(c)(1). As such, proposed Options 3A, Section 12(a)(5) will further provide that the prices of Complex Options Strategies (as defined in Options 3, Section 14) may be expressed in one cent ($0.01) increments, and the options leg of Complex Options Strategies may be executed in no smaller than one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Prices of Stock-Option Strategies or Stock-Complex Strategies (each as defined in Options 3, Section 14) may be expressed in any decimal price determined by the Exchange,[132] and the stock leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in any decimal price permitted in the equity market. The options leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in no smaller than one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Similar to stock-tied complex orders today, the Exchange believes that smaller minimum increments are appropriate for complex FLEX Orders that contain a stock component as the stock component can trade at finer decimal increments permitted by the equity market.
- *Time.* An Initiating Member may only submit an Agency Order to a FLEX PIXL auction after trading in FLEX Options is open pursuant to proposed Section 8.

The System will reject or cancel both an Agency Order and Initiating Order submitted to a FLEX PIXL auction that do not meet the conditions in proposed paragraph (a) as described above. The proposed FLEX PIXL eligibility requirements in proposed Section 12(a) are identical to ISE Options 3A, Section 12(a).

Pursuant to proposed Section 12(b), the Initiating Order must stop the entire Agency Order at a specified price. If the Agency Order and Initiating Order are Complex Orders, the price must be a net price for the complex strategy.[133] In particular, the Initiating Member must specify either of the below; otherwise, the System will reject or cancel both an Agency Order and Initiating Order submitted to a FLEX PIXL auction that do not meet the conditions in this proposed paragraph (b).

- Pursuant to proposed subparagraph (b)(1), a single price at which it seeks to execute the Agency Order against the Initiating Order (a ''single-price submission''), including whether it elects to have less than its guaranteed allocation (as described in proposed Section 12(e)(4) below). This is identical to ISE Options 3A, Section 12(b)(1).[134]

[126] *See* Options 3, Section 10(a), Supplementary Material .09 to Options 3, Section 11, and Supplementary Material .10 to Options 3, Section 13. *See* Securities Exchange Act Release Nos. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions). ISE has identical rule text in Options 3, Section 10(c), Supplementary Material .09 to Options 3, Section 11, and Supplementary Material .10 to Options 3, Section 13.

[127] *See* ISE Options 3A, Section 11(b)(3)(B) for identical rule text.

[128] *See* ISE Options 3A, Section 11(b)(3)(C) for identical rule text.

[129] *See* ISE Options 3A, Section 12 which has identical rule text except for this phrase, ''if the Agency Order is a simple order.'' The Exchange is not including this phrase because the FLEX PIXL rule specifically states that any solicited contra-side orders entered by member organizations to trade against Agency Orders may not be for the account of an Exchange Market Maker that is assigned to the options class. *See* Supplementary Material ..02 to Options 3A, Section 12. ISE will separately file a rule change to amend this language.

[130] *See* ISE Options 3A, Section 11(a)(2) which has identical rule text.

[131] *See* ISE Option 3A, Section 12(a)(5) which has identical rule text.

[132] The prices of the FLEX Stock-Option Strategies and FLEX Stock-Complex Strategies can be expressed to four decimal places, which is identical to how the stock portion of a non-FLEX Stock-Option Strategy and a non-FLEX Stock-Complex Strategy can be priced today. However, the options leg will not be permitted to execute in increments smaller than one cent ($0.01). *See* Options 3, Section 14 which was amended by SR–Phlx–2025–17. Phlx's Complex Order functionality was amended in SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration. *See also supra* note 101.

[133] *See* ISE Options 3A, Section 12(b) for identical rule text.

[134] The Exchange will allow the Initiating Member to customize their guaranteed allocation

As further discussed below, the proposed guaranteed allocation process will be based on the guaranteed allocation process available in non-FLEX PIXL auctions, and therefore the proposed rule change will provide further consistency across the Exchange's auction mechanism processes.[135]

• Pursuant to subparagraph (b)(2), an initial stop price and instruction to automatically match the price and size of all FLEX PIXL responses (''auto-match'') at each price, up to a designated limit price, better than the price at which the balance of the Agency Order can be fully executed (the ''final auction price''). This is identical to ISE Options 3A, Section 12(b)(2).

Proposed Section 12(c) will govern the FLEX PIXL auction process. Specifically, upon receipt of an Agency Order that meets the conditions in paragraphs (a) and (b) as described above, the FLEX PIXL auction process commences. Proposed subparagraphs (c)(1)(A) and (B) will describe concurrent FLEX PIXL auctions for simple Agency Orders and complex Agency Orders, respectively. One or more FLEX PIXL auctions in the same FLEX Option series or same complex strategy (as applicable) may occur at the same time.[136] To the extent there is more than one FLEX PIXL auction in a FLEX Option series or complex strategy (as applicable) underway at the same time, the FLEX PIXL auctions will conclude sequentially based on the times at which the FLEX PIXL auction periods end. At the time each FLEX PIXL auction concludes, the System allocates the Agency Order pursuant to proposed paragraph (e) as described below, and takes into account all FLEX PIXL responses received during the FLEX PIXL auction period. The concurrent FLEX PIXL auction feature in proposed Section 12(c)(1)(A) and (B) is identical to ISE Options 3A, Section 12(c)(1)(A) and (B), and is also consistent with the concurrent auction feature proposed above for FLEX Auctions. Similar to FLEX Auctions as proposed above, if a Member attempts to initiate a FLEX PIXL Auction in a FLEX Option series while another auction in that series in ongoing, the Exchange believes it will provide that second FLEX Order with an opportunity for execution in a timely manner by initiating another FLEX PIXL Auction, rather than requiring the Member to wait for the first auction to conclude. The second Member may not be able to submit a response to trade in the ongoing FLEX PIXL Auction because the terms may not be consistent with that Member's order (for example, there may not be sufficient size, and the Member may only receive a share of the auctioned order depending on other responses). Therefore, the Exchange believes that providing this functionality for FLEX PIXL may provide additional opportunities for execution of FLEX Orders by encouraging Members to use FLEX PIXL.

Pursuant to proposed Section 12(c)(2), the System initiates the FLEX PIXL auction process by sending a FLEX PIXL auction notification message detailing the side, size, auction ID, the length of the FLEX PIXL auction period, and FLEX Option series or complex strategy, as applicable, of the Agency Order to all Members that elect to receive FLEX PIXL auction notification messages. The Exchange may also determine to include the stop price in FLEX PIXL auction notification messages, which will apply to all FLEX PIXL auctions. Similar to all other auction notifications, FLEX PIXL auction notification messages will not be disseminated to OPRA.[137]

Proposed Section 12(c)(3) will describe the ''FLEX PIXL Auction period,'' and is identical to ISE Options 3A, Section 12(c)(3). The FLEX PIXL Auction period will be defined as a period of time that must be designated by the Initiating Member, which may be no less than three seconds and no more than five minutes. Similar to the exposure interval for electronic FLEX Auctions in Section 11(b) discussed above, the Initiating Member will be required to identify a length of time within the specified parameters for FLEX PIXL as there will be no default for the FLEX PIXL Auction period. Otherwise, their FLEX Order will be rejected by the System. The designated time may not go beyond the market close, if an execution is permitted by this Section 12. The Exchange's non-FLEX auctions currently allow executions (as permitted by their respective rules) to occur in such scenarios, so the Exchange proposes to be consistent with current System functionality in this regard.[138] In doing so, the Exchange's proposal will promote executions in FLEX PIXL to the extent possible (instead of cancelling the FLEX Order) and also prevent executions from occurring after the market close.

Proposed Section 12(c)(4) will provide that an Initiating Member may not modify or cancel an Agency Order or Initiating Order after submission to a FLEX PIXL auction, except to improve the price of the Initiating Order. This will be identical to ISE Options 3A, Section 12(c)(4); the Exchange will allow a limited exception by allowing Initiating Members to improve the price of their Initiating Orders. The Exchange notes that this will align to current non-FLEX PIXL behavior, which allows entering Members to modify their PIXL Orders [139] upon entry into the PIXL by improving upon the initial price of the PIXL Orders.[140] Similar to allowing the initiating Member of a non-FLEX PIXL to improve the initial price of its PIXL Orders, the Exchange believes that it is appropriate to allow the Initiating Member of the FLEX PIXL to improve the price of its Initiating Order (*i.e.,* contra-side to the Agency Order) because it would also improve the stop price of the Agency Order that came in together with the Initiating Order.[141]

percentage of the Initiating Order anywhere from 0% up to 50% of the Agency Order (if there is a response(s) from *one* other Member at the same price) or up to 40% of the Agency Order (if there are responses from *two or more* Members at the same price). For example, an Agency Order is entered into FLEX PIXL for 100 contracts. If the Initiating Member only wants to have a guaranteed allocation of 10% on the Initiating Order that was entered with the Agency Order, the Initiating Member can stipulate 10% on the Initiating Order. If there are 4 FLEX PIXL responses for a total of 200 contracts at the end of the auction, then the Initiating Member will only get 10 contracts allocated on its Initiating Order (*i.e.,* the guaranteed 10% of 100 contracts). The Exchange notes that the proposed guaranteed allocation percentages of 50% (if there is a response(s) from one other Member) and 40% (if there are responses from two or more Members) for FLEX PIXL will differ from the current guaranteed allocation percentage of 40% for standard PIXL. Phlx has a consistent guaranteed allocation percentage for its non-FLEX price improvement auctions at Options 3, Section 13(b)(5)(B).

[135] *See id.*

[136] Further, for complex Agency Orders, PIXL auctions in different complex strategies may be ongoing at any given time, even if the complex strategies have overlapping components. A FLEX PIXL auction in a complex strategy may be ongoing at the same time as a FLEX PIXL auction in any component of the complex strategy. *See* proposed subparagraph (c)(1)(B)(i) of Options 3A, Section 12 which is identical to ISE subparagraph (c)(1)(B)(i) of Options 3A, Section 12.

[137] *See* ISE Options 3A, Section 12(c)(3) for identical rule text.

[138] While this behavior is not explicitly stated in the current Rules, the Exchange's proposal will be consistent with current non-FLEX auction behavior, including current PIXL and SOM behavior.

[139] PIXL Orders (*i.e.,* contra-side to the Agency Order) for PIXL are functionally equivalent to Initiating Orders (*i.e.,* contra-side order to the Agency Order) for FLEX PIXL. *See* Options 3, Section 13 for a description of PIXL Orders.

[140] *See* Options 3, Section 13(b)(1)(A) (providing that a PIXL Order may not be canceled or modified, but the stop price of the PIXL Order may be improved during the exposure period).

[141] As proposed, the Initiating Member enters a paired FLEX Order into FLEX PIXL consisting of an Agency Order and an Initiating Order (which is the contra-side of the Agency Order). This is identical to how standard non-FLEX PIXL works today in that the Initiating Member enters a paired order into

Continued

Proposed Section 12(c)(5) will govern the requirements for FLEX PIXL responses. Specifically:

- Any Member other than the Initiating Member (the System rejects a response with the same badge/mnemonic as the Initiating Order) may submit responses to a FLEX PIXL auction that are properly marked specifying price, size, side, and the auction ID for the FLEX PIXL auction to which the Member is submitting the response. A FLEX PIXL response may only participate in the FLEX PIXL auction with the auction ID specified in the response.[142]

- The minimum price increment for FLEX PIXL responses is the same as the one the Exchange determines for a class pursuant to proposed Section 12(a)(5) above. A response to a FLEX PIXL auction of a complex Agency Order must have a net price. The System will reject a FLEX PIXL response that is not in the applicable minimum increment.[143]

- A Member using the same badge/mnemonic may only submit a single FLEX PIXL response per auction ID for a given auction. If an additional FLEX PIXL response is submitted for the same auction ID from the same badge/mnemonic, then that FLEX PIXL response will automatically replace the previous FLEX PIXL response.[144]

- The System will cap the size of a FLEX PIXL response at the size of the Agency Order (*i.e.,* the System will ignore size in excess of the size of the Agency Order when processing the FLEX PIXL auction).[145]

- FLEX PIXL responses must be on the opposite side of the market as the Agency Order. The System rejects a FLEX PIXL response on the same side of the market as the Agency Order.[146]

- FLEX PIXL responses will not be visible to PIXL auction participants or disseminated to OPRA.[147]
- A Member may modify or cancel its FLEX PIXL responses during the FLEX PIXL auction.[148]
- Finally, FLEX PIXL responses in a complex strategy with a stock component that are through the Stop Price must improve such Stop Price by at least one cent.[149]

Pursuant to proposed Section 12(d), a FLEX PIXL auction concludes at the earliest to occur of the following times: (1) the end of the FLEX PIXL auction period; and (2) any time the Exchange halts trading in the affected underlying, provided, however, that in such instance the FLEX PIXL auction concludes without execution.[150]

Proposed Section 12(e) will govern how executions will occur in FLEX PIXL. In particular, at the end of the FLEX PIXL auction, the System allocates the Initiating Order or FLEX PIXL responses against the Agency Order at the best price(s), to the price at which the balance of the Agency Order can be fully executed (the ''final auction price''), as follows. For purposes of ranking the Initiating Order and FLEX PIXL responses when determining how to allocate the Agency Order against the Initiating Order and those responses, the term ''price'' refers to the dollar and decimal amount of the order or response bid or offer.[151] Proposed subparagraphs (e)(1)–(4) details the FLEX PIXL allocation methodology for the following scenarios:

- *No Price Improvement:* If the FLEX PIXL auction results in no price improvement, the System executes the Agency Order at the stop price in the following order:
  - Public Customer responses (in time priority);[152]
  - The Initiating Order for the greater of (1) one contract or (2) up to 50% of the Agency Order if there is a response(s) from one other Member at the same price or 40% of the Agency Order if there are responses from two or more other Members at the same price (which percentages are based on the original size of the Agency Order).[153] Members may elect for the Initiating Order to have less than their guaranteed allocation as described in subparagraph (e)(4) below.[154] Unless there are remaining contracts after including all PIXL responses, under no circumstances does the Initiating Member receive an allocation percentage at the final auction price of more than 50% of the initial Agency Order in the event there is a response(s) from one other Member or 40% of the initial Agency Order in the event there are responses from two or more other Members, except when rounding up. The Exchange is specifying two limited scenarios in this Rule where the Initiating Member may receive an allocation percentage greater than its guaranteed allocation percentage, which is either when there are remaining contracts after including all PIXL responses or when rounding up.[155] As an example of the first scenario, assume an Initiating Member submitted a FLEX Order for 20 contracts into FLEX PIXL and there are 2 PIXL responses (one for 3 contracts and one for 4 contracts). After the 7 PIXL responses are allocated, the Initiating Member would then receive the remaining 13 contracts (which is more than their 40% allocation percentage) because there are remaining contracts after all PIXL responses are included.
  - All other FLEX PIXL responses, allocated on a Size Pro-Rata basis ((as defined in Options 3, Section 10(a)(1)(E) and (F))[156] and
  - The Initiating Order to the extent there are any remaining contracts.[157]
- *Price Improvement with Single-Price Submission:* If the FLEX PIXL auction results in price improvement for the Agency Order and the Initiating

standard PIXL consisting of a Public Customer, broker-dealer, or any other entity (''PIXL Order'') that would be contra an agency order (''Initiating Order'') (*i.e.,* the PIXL Agency Order's contra-side, and the functional equivalent to an Initiating Order on FLEX PIXL).

[142] *See* proposed Options 3A, Section 12(c)(5), which is identical to ISE Options 3A, Section 12(c)(5).

[143] *See* proposed Options 3A, Section 12(c)(5)(A), which identical to ISE Options 3A, Section 12(c)(5)(A).

[144] *See* proposed Options 3A, Section 12(c)(5)(B), which is identical to ISE Options 3A, Section 12(c)(5)(B).

[145] *See* proposed Options 3A, Section 12(c)(5)(C), which is identical to ISE Options 3A, Section 12(c)(5)(C). As noted above, this will align to current non-FLEX auction functionality, including PIXL auction functionality in Options 3, Section 13.

[146] *See* proposed Options 3A, Section 12(c)(5)(D), which is identical to ISE Options 3A, Section 12(c)(5)(D).

[147] *See* proposed Options 3A, Section 12(c)(5)(E), which is identical to ISE Options 3A, Section 12(c)(5)(E).

[148] *See* proposed Options 3A, Section 12(c)(5)(F), which is identical to ISE Options 3A, Section 12(c)(5)(F).

[149] *See* proposed Options 3A, Section 12(c)(5)(G). The Exchange notes that ISE does not have a similar sentence but intends to file a rule change to add this language to its corresponding rule.

[150] *See* ISE Options 3A, Section 12(e) for identical rule text.

[151] *See* proposed Section 12(e)(1)(A), which is identical to ISE Options 3A, Section 12(e)(1)(A).

[152] *See* proposed Section 12(e)(1)(A), which is identical to ISE Options 3A, Section 12(e)(1)(A).

[153] *See* proposed ISE Options 3A, Section 12(e)(1)(A) with identical rule text. *See infra* note 134 for further discussion on the 50%/40% allocation percentages.

[154] This sentence does not appear in ISE Options 3A, Section 12(e)(1)(B). The Exchange proposes to add this sentence as a guidepost and reminder that a Member may elect less than their guaranteed allocation.

[155] *See* proposed Section 12(e)(1)(B), which is identical to ISE Options 3A, Section 12(e)(1)(B).

[156] *See* proposed Section 12(e)(1)(C). Phlx's allocation model differs from ISE's allocation model, although the Exchange notes that Size Pro-Rata as defined in Options 3, Section 10(a) is similar to pro-rata as referenced in ISE Options 3, Section 10(c). Phlx's allocation model allocates to Market Makers pursuant to Options 3, Section 10(a)(1)(E), after allocating to Public Customers, and thereafter allocates to all other remaining non-Public Customer, non-Market Maker interest pursuant to Options 3, Section 10(a)(1)(F). The Exchange notes that Public Customers on Phlx will continue to have priority over other market participants.

[157] *See* proposed Section 12(e)(1)(D), which is identical to ISE Options 3A, Section 12(e)(1)(D).

Member selected a single-price submission, at each price better than the final auction price, the System executes the Agency Order in the following order:

◦ Public Customer responses (in time priority); [158]

◦ Other FLEX PIXL responses (in time priority) at prices better than the final auction price; and

◦ All other FLEX PIXL responses at the final auction price, allocated on a Size Pro-Rata basis ((as defined in Options 3, Section 10(a)(1)(E) and (F)).[159]

For example, assume a FLEX PIXL Agency Order is sent for 100 contracts with a price of $1.00 and the Initiating Member selected a single-price submission. There are two PIXL responses for 5 contracts each at $0.98, two PIXL responses for 20 contracts each at $0.99, and two PIXL responses for 40 contracts each at $1.00. The PIXL responses at $0.98 and $0.99 will be executed in their entirety. The PIXL responses at $1.00 (final auction price) will be executed on a Size Pro-Rata basis.

At the final auction price, the System executes any remaining contracts from the Agency Order at that price in the order set forth in proposed Section 12(e)(1), as described above.[160]

• *Price Improvement with Auto-Match:* If the FLEX PIXL auction results in price improvement for the Agency Order and the Initiating Member selected auto-match, at each price better than the final auction price up to the designated limit price, the System executes the Agency Order against the Initiating Order for the number of contracts equal to the aggregate size of all FLEX PIXL responses and then executes the Agency Order against those responses in the order set forth in proposed subparagraph (e)(2) described above. At the final auction price, the System executes contracts at that price in the order set forth in proposed subparagraph (e)(1) described above.[161]

• *Guaranteed Allocation:* If the Initiating Member selects a single-price submission, it may elect for the Initiating Order to have less than their guaranteed allocation (50% if there is a response(s) from one other Member or 40% if there are responses from two or more Members) to trade against the Agency Order. The Initiating Member may select a lesser percentage than their guaranteed allocation. If the Initiating Member elects 0%, then notwithstanding subparagraphs (e)(1) and (2), the System only executes the Initiating Order against any remaining Agency Order contracts at the stop price after the Agency Order is allocated to all FLEX PIXL responses at all prices equal to or better than the stop price. Guaranteed allocation information is not available to other market participants and may not be modified after it is submitted.[162]

Pursuant to proposed Section 12(e)(5), the System cancels any unexecuted FLEX PIXL responses (or unexecuted portions) at the conclusion of the FLEX PIXL auction.[163]

Lastly, the Exchange proposes a number of policies applicable to FLEX PIXL as Supplementary Materials to Options 3A, Section 12. Specifically, proposed Supplementary Material .01 will provide that a Member may only use a FLEX PIXL auction where there is a genuine intention to execute a bona fide transaction.[164] Proposed Supplementary Material .02 will provide that it will be deemed conduct inconsistent with just and equitable principles of trade and a violation of General 9, Section 1(c) [165] to engage in a pattern of conduct where the Initiating Member breaks up an Agency Order into separate orders for the purpose of gaining a higher allocation percentage than the Initiating Member would have otherwise received in accordance with the allocation procedures contained in proposed paragraph (e) above.[166] Lastly, proposed Supplementary Material .03 will provide that if an allocation would result in less than one contract, then one contract will be allocated.[167] This aligns to how the Exchange currently allocates contracts in PIXL.[168]

N. FLEX SOM (Section 13)

The Exchange proposes to establish SOM auction functionality for FLEX Options in Options 3A, Section 13. The proposed FLEX SOM auction will be substantially similar to ISE Options 3, Section 11(d) and (e), except for the allocation methodology which aligns with the Exchange's current System functionality for non-FLEX Options, as further described below. Pursuant to proposed Section 13, a Member (the ''Initiating Member'') may electronically submit for execution an order (which may be a simple or complex order) it represents as agent (''Agency Order'') against a solicited order (''Solicited Order'') if it submits the Agency Order for electronic execution into a FLEX SOM auction pursuant to this Rule.[169]

Proposed Section 13(a)(1)–(6) will set forth the FLEX SOM auction eligibility requirements, and will be identical to ISE Options 3A, Section 13(a)(1)–(6). Specifically, the Initiating Member may initiate a FLEX SOM auction if all of the following conditions are met:

• *Class.* An Agency Order must be in a FLEX Option class the Exchange designates as eligible for FLEX SOM auctions.

• *FLEX Option Series.* The Agency Order and Solicited Order must each be a FLEX Order that complies with proposed Section 11(a) in a permissible FLEX Option series that complies with proposed Section 3 above. For a complex FLEX Order, each leg must be

[158] *See* proposed Section 12(e)(2)(A), which is identical to ISE Options 3A, Section 12(e)(2)(A).

[159] *See* proposed Section 12(e)(2)(B). *See infra* note 156. Phlx PIXL has the same allocation process pursuant to Options 3, Section 12(b)(5)(B)(i). *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions).

[160] *See* proposed Section 12(e)(2), which is identical to ISE Options 3A, Section 12(e)(2).

[161] *See* proposed Section 12(e)(3), which is identical to ISE Options 3A, Section 12(e)(3).

[162] *See* proposed Section 12(e)(4), which is identical to ISE Options 3A, Section 12(e)(4). The Exchange notes that the proposed guaranteed allocation percentages of 50% (if there is a response(s) from one other Member) and 40% (if there are responses from two or more Members) for FLEX PIXL will differ from the current guaranteed allocation percentage of 40% for standard PIXL. Phlx has a consistent guaranteed allocation percentage for its non-FLEX price improvement auctions at Options 3, Section 13(b)(5)(B).

[163] *See* ISE Options 3A, Section 12(e)(5) for identical rule text.

[164] *See* ISE Supplementary Material .01 to Options 3A, Section 12 for identical rule text.

[165] General 9, Section 1(c) provides that no Member shall engage in acts or practices inconsistent with just and equitable principles of trade. Persons associated with Members shall have the same duties and obligations as Members under the Rules of General 9.

[166] *See* ISE Options 3A, Section 12(e) for identical rule text.

[167] See ISE Supplementary Material .03 to Options 3A, Section 12 for identical rule text. The Exchange would System-enforce this provision by rejecting a FLEX PIXL auction that does not comply with the provisions in proposed Options 3A, Section 12.

[168] *See* Supplementary Material .10 to Options 3, Section 13. *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions).

[169] *See* identical rule text at ISE Options 3A, Section 13. Of note, facilitated orders cannot be entered into FLEX SOM (just like they cannot be entered into standard SOM today). Since an order with the capacity of Firm can be valid for a solicitation order, the Exchange will not System enforce the rejection of Firm capacity orders to avoid the rejection of contra-side orders that are entered with a Firm capacity and are, in fact, solicitations at the outset. Instead, it will monitor for compliance with the requirement that the contra-side order be a solicitation rather than a facilitation through surveillance, as it does today for non-FLEX SOM. The applicable rule for the foregoing requirement will be set forth in proposed Supplementary Material .02 to Options 3A, Section 13.

in a permissible FLEX option series that complies with Section 3 above.[170]

• *Marking.* The Initiating Member must mark an Agency Order for FLEX SOM auction processing.

• *Size.* The Agency Order must be for at least the minimum size designated by the Exchange (which may not be less than 500 standard option contracts). For complex FLEX Orders, this minimum size requirement will apply to each leg. The Solicited Order must be for the same size as the Agency Order. The System handles each of the Agency Order and the Solicited Order as all-or-none.[171]

• *Minimum Increment.* The price of the Agency Order and Solicited Order for simple FLEX Orders must be in an increment the Exchange determines on a class basis (which may not be smaller than the amounts set forth in Section 5 above). If the Agency Order and Solicited Order are complex orders, the price must be a net price for the complex strategy.[172] The Exchange proposes to align the minimum increment requirements for stock-tied FLEX complex strategies with the existing requirements for stock-tied non-FLEX complex strategies as set forth in Options 3, Section 14(c)(1). As such, proposed Options 3A, Section 12(a)(5) will further provide that the prices of Complex Options Strategies (as defined in Options 3, Section 14) may be expressed in one cent ($0.01) increments, and the options leg of Complex Options Strategies may be executed in no smaller than one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Prices of Stock-Option Strategies or Stock-Complex Strategies (each as defined in Options 3, Section 14) may be expressed in any decimal price determined by the Exchange,[173] and the stock leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in any decimal price permitted in the equity market. The options leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in no smaller than one cent ($0.01) increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order. Similar to stock-tied complex orders today, the Exchange believes that smaller minimum increments are appropriate for complex FLEX Orders that contain a stock component as the stock component can trade at finer decimal increments permitted by the equity market.

• An Initiating Member may only submit an Agency Order to a FLEX SOM auction after trading in FLEX Options is open pursuant to proposed Section 8.

The System will reject or cancel both an Agency Order and Solicited Order submitted to a FLEX SOM auction that do not meet the conditions in proposed paragraph (a) as described above.

Pursuant to proposed Section 13(b), the Solicited Order must stop the entire Agency Order at a specified price. If the Agency Order and Solicited Order are complex orders, the price must be a net price for the complex strategy. The Initiating Member must specify a single price at which it seeks to execute the Agency Order against the Solicited Order. Otherwise, the System will reject or cancel both an Agency Order and Solicited Order submitted to a FLEX SOM auction that do not meet this condition.[174]

Proposed Section 13(c) will govern the FLEX SOM auction process. Specifically, upon receipt of an Agency Order that meets the conditions in paragraphs (a) and (b) as described above, the FLEX SOM auction process commences. Proposed subparagraphs (c)(1)(A) and (B) will describe concurrent FLEX SOM auctions for simple Agency Orders and complex Agency Orders, identical to ISE Options 3A, Section 13(c).

One or more FLEX SOM auctions in the same FLEX Option series or same complex strategy (as applicable) may occur at the same time.[175] To the extent there is more than one FLEX SOM auction in a FLEX Option series or complex strategy (as applicable) underway at the same time, the FLEX SOM auctions will conclude sequentially based on the times at which the FLEX SOM auction periods end. At the time each FLEX SOM auction concludes, the System allocates the Agency Order pursuant to proposed paragraph (e) as described below, and takes into account all FLEX SOM responses received during the FLEX SOM auction period. As noted above, the proposed concurrent FLEX SOM auction feature are identical to ISE concurrent FLEX SOM auction features in ISE Options 3A, Section 13(c)(1) and also consistent with the concurrent auction feature proposed above for FLEX Auctions and FLEX PIXL. For the same reasons stated above for FLEX Auctions and FLEX PIXL, the Exchange believes that providing this concurrent auction functionality for FLEX SOM may provide additional opportunities for execution of FLEX Orders by encouraging Members to use FLEX SOM.

Pursuant to proposed Section 13(c)(2), the System initiates the FLEX SOM auction process by sending a FLEX SOM auction notification message detailing the side, size, price, capacity, auction ID, the length of the FLEX SOM auction period, and FLEX Option series or complex strategy, as applicable, of the Agency Order to all Members that elect to receive FLEX SOM auction notification messages. Similar to all other auction notifications, FLEX SOM auction notification messages will not be disseminated to OPRA. These provisions are identical to ISE Options 3A, Section 13(c)(2).

Proposed Section 13(c)(3) will describe the ''FLEX SOM Auction period,'' and is based on an identical ISE rule at Options 3A, Section 13(c)(3). The FLEX SOM Auction period will be defined as a period of time that must be designated by the Initiating Member, which may be no less than three seconds and no more than five minutes. Similar to the exposure interval for electronic FLEX Auctions in Section 11(b) and the FLEX PIXL Auction period in Section 12(c)(3) as discussed above, the Initiating Member will be required to identify a length of time within the specified parameters for FLEX SOM as there will be no default for the FLEX SOM Auction period. Otherwise, their FLEX Order will be

[170] *See* ISE Options 3A, Section 13(a)(2) for identical rule text.

[171] *See* ISE Options 3A, Section 13(a)(3) for identical rule text. Of note, the Exchange will not allow the Solicited Order to be comprised of multiple solicited orders in FLEX SOM to be consistent with current non-FLEX SOM functionality in Options 3, Section 11(d).

[172] See ISE Options 3A, Section 13(a)(5) for identical rule text. The existing minimum increment requirements noted in this rule text for non-FLEX complex orders align the proposed FLEX functionality with non-FLEX functionality.

[173] The prices for FLEX Stock-Option Strategies and FLEX Stock-Complex Strategies can be expressed to four decimal places, which is identical to how the stock portion of a non-FLEX Stock-Option Strategy and a non-FLEX Stock-Complex Strategy can be priced today. Phlx's Complex Order functionality was amended in SR–Phlx–2025–17. *See* Options 3, Section 14 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration. *See supra* note 101.

[174] *See* ISE Options 3A, Section 13(b) for identical rule text.

[175] Further, for complex Agency Orders, SOM auctions in different complex strategies may be ongoing at any given time, even if the complex strategies have overlapping components. A FLEX SOM auction in a complex strategy may be ongoing at the same time as a FLEX SOM auction in any component of the complex strategy. *See* proposed subparagraph (c)(1)(B)(i) of Options 3A, Section 13 which is identical to ISE subparagraph (c)(1)(B)(i) of Options 3A, Section 13.

rejected by the System. If the auction time periods for a FLEX SOM exceed the market close, the Exchange would accept the FLEX SOM order, but the FLEX SOM auction would terminate at the market close without an execution.[176] In doing so, the Exchange's proposal will promote executions in FLEX SOM (instead of cancelling the FLEX Order) while also preventing executions from occurring after the market close.

Proposed Section 13(c)(4) will provide that an Initiating Member may not modify an Agency Order or Solicited Order after submission to a FLEX SOM auction. This will be identical to ISE Options 3A, Section 13(c)(4). In allowing Initiating Members to cancel their Agency Orders and Solicited Orders upon submission into a FLEX SOM, this rule text will align with current SOM functionality.[177]

Proposed Section 13(c)(5) will govern the requirements for FLEX SOM responses. Specifically:

- Any Member other than the Initiating Member (the response cannot have the same badge/mnemonic as the Agency Order) may submit responses to a FLEX SOM auction that are properly marked specifying size, side, price, and the auction ID for the FLEX SOM auction to which the Member is submitting the response. A FLEX SOM response may only participate in the FLEX SOM auction with the auction ID specified in the response.[178]
- The minimum price increment for FLEX SOM responses is the same as the one the Exchange determines for a class pursuant to proposed Section 12(a)(5) above. A response to a FLEX SOM auction of a complex Agency Order must have a net price. The System will reject a FLEX SOM response that is not in the applicable minimum increment.[179]
- A Member using the same badge/mnemonic may only submit a single FLEX SOM response per auction ID for a given auction. If an additional SOM response is submitted for the same auction ID from the same badge/mnemonic, then that FLEX SOM response will automatically replace the previous FLEX SOM response.[180]
- The System will cap the size of a FLEX SOM response at the size of the Agency Order (*i.e.,* the System will ignore size in excess of the size of the Agency Order when processing the FLEX SOM auction).[181]
- FLEX SOM responses must be on the opposite side of the market as the Agency Order. The System rejects a FLEX SOM response on the same side of the market as the Agency Order.[182]
- FLEX SOM responses will not be visible to FLEX SOM auction participants or disseminated to OPRA.[183]
- A Member may modify or cancel its FLEX SOM responses during a FLEX SOM auction.[184]
- FLEX SOM responses in a complex strategy with a stock component that are through the Stop Price must improve such Stop Price by at least one cent.[185]

Pursuant to proposed Section 13(d), a FLEX SOM auction concludes at the earliest to occur of the following times: (1) the end of the FLEX SOM auction period; and (2) any time the Exchange halts trading in the affected underlying, provided, however, that in such instance the FLEX SOM auction concludes without execution.[186]

Proposed Section 13(e) will govern how executions will occur in FLEX SOM. In particular, at the end of the FLEX SOM auction, the System will execute the Agency Order against the Solicited Order or FLEX SOM responses at the best price(s) as follows. For purposes of ranking the Solicited Order and FLEX SOM responses when determining how to allocate the Agency Order against the Solicited Order and those responses, the term ''price'' refers to the dollar and decimal amount of the order or response bid or offer.[187] Proposed subparagraphs (e)(1)–(3) details the FLEX SOM allocation methodology for the following scenarios:

- *Execution Against Solicited Order:* The System executes the Agency Order against the Solicited Order at the stop price if there are no Public Customer FLEX SOM responses and the aggregate size of FLEX SOM responses at an improved price(s) is insufficient to satisfy the Agency Order.[188]
- *Execution Against FLEX SOM Responses:* The System executes the Agency Order against FLEX SOM responses if (1) there is a Public Customer FLEX SOM response and the aggregate size of that response and all other FLEX SOM responses is sufficient to satisfy the Agency Order or (2) the aggregate size of FLEX SOM responses at an improved price(s) is sufficient to satisfy the Agency Order. The Agency Order executes against FLEX SOM responses at each price level. At the price at which the balance of the Agency Order can be fully executed, in the following order:
  - Public Customer FLEX SOM responses (in time priority);[189] and
  - All other FLEX SOM responses, allocated on a Size Pro-Rata basis (as defined in Options 3, Section 10(a)(1)(E) and (F)).[190]
- *No Execution:* The System will cancel the Agency Order and Solicited

[176] While this behavior is not explicitly stated in the current Rules, the Exchange's proposal will be consistent with current non-FLEX auction behavior, including current PIXL and SOM behavior.

[177] This feature is not explicitly stated in the current SOM rules in Options 3, Section 11(d), but it is consistent with current SOM functionality.

[178] *See* proposed Options 3A, Section 13(c)(5), which identical to ISE Options 3A, Section 13(c)(5).

[179] *See* proposed Options 3A, Section 13(c)(5)(A), which is identical to ISE Options 3A, Section 13(c)(5)(A).

[180] *See* proposed Options 3A, Section 13(c)(5)(B), which is identical to ISE Options 3A, Section 13(c)(5)(B). Of note, the Exchange will not allow Members to submit multiple FLEX SOM responses using the same badge/mnemonic, and will not aggregate all of the Member's FLEX SOM responses similar to standard non-FLEX rules at Options 3, Section 13(b)(1)(K). *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions).

[181] *See* proposed Options 3A, Section 13(c)(5)(C), which identical to ISE Options 3A, Section 13(c)(5)(c). Of note, the Exchange will not allow Members to submit multiple FLEX SOM responses using the same badge/mnemonic, and will not aggregate all of the Member's FLEX SOM responses. As noted above, this will align to current non-FLEX auction functionality, including SOM auctions in Options 3, Section 11(d).

[182] *See* proposed Options 3A, Section 13(c)(5)(D), which is identical to ISE Options 3A, Section 13(c)(5)(D).

[183] *See* proposed Options 3A, Section 13(c)(5)(E), which is identical to ISE Options 3A, Section 13(c)(5)(E).

[184] *See* proposed Options 3A, Section 13(c)(5)(F), which is identical to ISE Options 3A, Section 13(c)(5)(F).

[185] *See* proposed Options 3A, Section 13(c)(5)(G). The Exchange notes that ISE does not have a similar sentence but intends to file a rule change to add this language to its corresponding rule.

[186] *See* ISE Options 3A, Section 13(d) for identical rule text.

[187] *See* ISE Options 3A, Section 13(e) for identical rule text.

[188] *See* proposed Section 13(e)(1), which is identical to ISE Options 3A, Section 13(e)(1).

[189] *See* proposed Section 13(e)(2)(A), which is materially identical to Cboe Rule 5.74(e)(2)(A).

[190] *See* proposed Section 13(e)(2)(B). Phlx's allocation model differs from ISE's allocation model, although the Exchange notes that Size Pro-Rata (as defined in Options 3, Section 10(a)) is similar to pro-rata as referenced in ISE Options 3, Section 10(c). Phlx's allocation model allocates to Market Maker pursuant to Options 3, Section 10(a)(1)(E), after allocating to Public Customers, and thereafter allocates to all other remaining non-Public Customer, non-Market Maker interest based on a size pro-rata basis. The Exchange notes that Public Customers on Phlx will continue to have priority over other market participants. Phlx SOM has the same allocation process pursuant to Options 3, Section 11(d)(3)(C). *See also* Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions).

Order with no execution if there is a Public Customer FLEX SOM response and the aggregate size of that response and other FLEX SOM responses is insufficient to satisfy the Agency Order.[191]

Pursuant to proposed Section 13(e)(4), the System cancels any unexecuted FLEX SOM responses (or unexecuted portions) at the conclusion of a FLEX SOM auction.[192]

Lastly, the Exchange proposes a number of policies applicable to FLEX SOM as Supplementary Materials to Options 3A, Section 13. Specifically, proposed Supplementary Material .01 will provide that prior to entering Agency Orders into a FLEX SOM auction on behalf of customers, Initiating Members must deliver to the customer a written notification informing the customer that its order may be executed using the FLEX SOM Auction. The written notification must disclose the terms and conditions contained in this Rule and be in a form approved by the Exchange.[193] Proposed Supplementary Material .02 will provide that under this Rule, Initiating Members may enter contra-side orders that are solicited. FLEX SOM provides a facility for Members that locate liquidity for their customer orders. Members may not use the FLEX SOM auction to circumvent Options 3, Section 22(b) limiting principal transactions. This may include, but is not limited to, Members entering contra-side orders that are solicited from (1) affiliated broker-dealers, or (2) broker-dealers with which the Member has an arrangement that allows the Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal. Additionally, any solicited contra-side orders entered by Members to trade against Agency Orders may not be for the account of an Exchange Market Maker that is assigned to the options class.[194] Lastly, proposed Supplementary Material .03 will provide that if an allocation would result in less than one contract, then one contract will be allocated. This aligns to how the Exchange currently allocates contracts in SOM.[195]

O. Risk Protections (Section 14)

The Exchange proposes in Options 3A, Section 14 to specify which of the Exchange's risk protections apply to FLEX trading. Risk protections are protections in our System to help minimize risk. The risk protections specified in proposed Options 3A, Sections 14(a) and 14(b) are mandatory whereas the risk protections specified in proposed Options 3A, Section 14(c) are optional. Proposed Section 14(a) will provide that the following simple order risk protections (as described in Options 3, Section 15) are available to FLEX Options: Market Wide Risk Protection at Options 3, Section 15(a)(3) and Size Limitation at Options 3, Section 15(b)(2).[196] The Market Wide Risk Protections are mandatory activity-based protections that allow Members to establish limits for order entry and execution rate during a specified period of time. The System maintains separate counts for each of the thresholds specified in the rule over rolling periods of time.[197] Upon triggering the specified limits, the System will either delete all open orders and prevent entry of new orders for the Member, or prevent entry of new orders for the Member. Similar to how Market Wide Risk Protection assists Members in better managing their risk in the standard non-FLEX market on ISE today, the Exchange believes that applying Market Wide Risk Protection to its FLEX market will be beneficial for Members using FLEX trading.

Proposed Section 14(b) will provide that the following complex order risk protections (as described in Options 3, Section 16) are available to FLEX Options: Strategy Protections (only to FLEX Auctions and FLEX responses in proposed Options 3A, Section 11(b)), Size Limitation,[198] the Price Limit for Complex Order protections as appliable to the stock component (as described in Options 3, Section 16(a), except that DNTT will not apply for the stock component),[199] the Stock-Tied NBBO protections (only to FLEX Auctions and FLEX responses in Section 11(b) above)[200] (as described in Options 3, Section 16(d)),[201] and the Stock-Tied Reg SHO protections (as described in Options 3, Section 16(e)).[202] The

[191] *See* proposed Section 13(e)(3), which is identical to ISE Options 3A, Section 13(e)(3).

[192] *See* ISE Options 3A, Section 13(e)(4) for identical text.

[193] *See* ISE Supplementary Material .01 to Options 3A, Section 13 for identical text.

[194] *See* ISE Supplementary Material .03 to Options 3, Section 13 for identical text. The Exchange is also adding a prohibition against solicited contra-side orders being for the account of an Exchange Market Maker assigned to the options class to align with the current prohibition in Supplementary Material .03 to Options 3, Section 11.

[195] *See* Supplementary Material .09 to Options 3, Section 11.

[196] Size Limitation for simple orders is a limit on the number of contracts an incoming order may specify. Orders that exceed the maximum number of contracts are rejected. The maximum number of contracts, which shall not be less than 10,000, is established by the Exchange from time-to-time.

[197] As set out in Options 3, Section 15(a)(3), the Market Wide Risk Protection will have counting programs that will maintain separate counts, over rolling time periods specified by the Member for each count, of: (1) the total number of orders entered in the regular order book; (2) the total number of Complex Option Orders entered in the complex order book; (3) the total number of Stock-Option and Stock-Complex Orders entered into the complex order book; (4) the total number of contracts traded in regular orders; (5) the total number of contracts traded in Complex Options Orders; and (6) the total number of contracts traded in Stock-Option and Stock-Complex Orders entered into the complex order book. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration.

[198] Size Limitation for complex orders is a limit on the number of contracts (and shares in the case of a Stock-Option Strategy or Stock-Complex Strategy) any single leg of an incoming Complex Order may specify. Orders that exceed the maximum number of contracts (or shares) are rejected. The maximum number of contracts (or shares), which shall not be less than 10,000 (or 100,000 shares), is established by the Exchange from time-to-time. *See* Options 3, Section 16 (c)(2) which was amended by SR–Phlx–2025–17. *See* Options 3, Section 14 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[199] The Exchange introduced the Price Limit for Complex Order protections in Options 3, Section 16(a) for its standard non-FLEX complex market as part of the technology migration to enhanced Nasdaq functionality discussed above. Options 3, Section 16 was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[200] The language describing ''only to FLEX Auctions and FLEX responses in Section 11(b) above'' is not currently in ISE Options 3A, Section 14(b). This additional language provides greater clarity to the risk protections. ISE will separately file to add this rule text.

[201] The Exchange introduced the Stock-Tied NBBO protections in Options 3, Section 16(d) for its standard non-FLEX complex market as part of the technology migration to enhanced Nasdaq functionality discussed above. *See* Options 3, Section 16 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[202] The Exchange introduced the Stock-Tied Reg SHO protections in Options 3, Section 16(e) for its standard non-FLEX complex market as part of the technology migration to enhanced Nasdaq functionality discussed above. *See* Options 3, Section 16 which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate

Exchange notes that the phrase ''except that DNTT is not available for the stock component'' does not appear at ISE Options 3A, Section 14(b). The Exchange proposes this rule text to make clear that DNTT will not apply to the stock component of the order.[203] Since Complex Orders have no NBBO, DNTT could only apply to the stock component and with a FLEX Option there is no market to trade-through.

The Strategy Protections listed in Options 3, Section 16(b) are the Vertical Spread Protection,[204] Calendar Spread Protection,[205] Butterfly Spread Protection,[206] and Box Spread Protection.[207] These Strategy Protections are all aimed at preventing the potential execution of the specified complex strategies (*i.e.,* vertical spread, calendar spread, butterfly spread, and box spread) outside of specified price parameters in order to prevent executions at undesirable prices. Today, Strategy Protections do not apply to orders and responses submitted into non-FLEX PIXL and non-FLEX SOM.[208] The Exchange will align this application to FLEX such that Strategy Protections would only apply to FLEX Auctions and FLEX responses in proposed Section 11(b) as described above, and not to FLEX Orders and responses submitted into FLEX PIXL and FLEX SOM.

As noted above, the Exchange adopted the Price Limit for Complex Order protections in Options 3, Section 16(a),[209] the Stock-Tied NBBO protections in Options 3, Section 16(d),[210] and the Stock-Tied Reg SHO protections in Options 3, Section 16(e)[211] (collectively, the ''Stock-Tied Risk Protections'') as part of SR–Phlx–2025–17 for its standard non-FLEX complex market. The Exchange is now proposing to apply the Stock-Tied Risk Protections to complex FLEX Orders to the extent the complex FLEX Order has a stock component. The Price Limits for Complex Orders in Options 3, Section 16(a) seek to prevent complex executions from occurring outside of certain price limits that are tied to the NBBO for the options series or for any stock component. Because there will be no book for FLEX trading (and therefore no NBBO for the FLEX Options series),

Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[203] ISE will add the identical rule text in a separate rule change.

[204] The Vertical Spread Protection will apply to a vertical spread. A vertical spread is an order to buy a call (put) option and to sell another call (put) option in the same security with the same expiration but at a higher (lower) strike price. *See* Options 3, Section 16(b)(1) which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[205] The Calendar Spread Protection will apply to a Calendar Spread. A calendar spread is an order to buy a call (put) option with a longer expiration and to sell another call (put) option with a shorter expiration in the same security at the same strike price. *See* Options 3, Section 16(b)(2) which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[206] The Butterfly Spread Protection will apply to a butterfly spread. A butterfly spread is a three legged Complex Order with the following: (1) two legs to buy (sell) the same number of calls (puts); (2) one leg to sell (buy) twice the number of calls (puts) with a strike price at mid-point of the two legs to buy (sell); (3) all legs have the same expiration; and (4) each leg strike price is equidistant from the next sequential strike price. *See* Options 3, Section 16(b)(3) which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[207] The Box Spread Protection will apply to a box spread. A box spread is a four legged Complex Order with the following: (1) one pair of legs with the same strike price with one leg to buy a call (put) and one leg to sell a put (call); (2) a second pair of legs with a different strike price from the pair described in (1) with one leg to sell a call (put) and one leg to buy a put (call); (3) all legs have the same expiration; and (4) all legs have equal volume. *See* Options 3, Section 16(b)(4) which was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[208] *See* Options 3, Section 16(b), which describes the non-applicability of the Strategy Protections to certain auction mechanisms. Options 3, Section 16(b) provides that the Strategy Protections do not apply when a standard non-FLEX complex order includes at least one p.m.-settled leg and at least one a.m.-settled leg. This would likewise be true for complex FLEX Orders (*i.e.,* the Strategy Protections would not apply when a complex FLEX Order includes at least one p.m.-settled leg and at least one a.m.-settled leg). Options 3, Section 16 was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[209] Specifically, Options 3, Section 16(a) states that as provided in Options 3, Section 14(d)(2), the legs of a complex strategy may be executed at prices that are inferior to the prices available on other exchanges trading the same options series. Notwithstanding, the System will not permit any leg of a complex strategy to trade through the NBBO for the series or any stock component by a configurable amount calculated as the lesser of (i) an absolute amount not to exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the Exchange on a class, series or underlying basis. A Member can also include an instruction on a Complex Order that each leg of the Complex Order is to be executed only at a price that is equal to or better than the NBBO for the options series or any stock component, as applicable (''Do-Not-Trade-Through'' or ''DNTT''). As discussed later in this filing, the NBBO price limit for the option series will not apply to complex FLEX orders; however, the NBBO price limit for the stock component will apply. Options 3, Section 16 was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[210] Specifically, Options 3, Section 16(d) provides that for Complex Orders in Stock-Option Strategies and Stock-Complex Strategies, the Exchange shall electronically communicate the underlying security component of a Complex Order to Nasdaq Execution Services, LLC (''NES''), its designated broker dealer, for immediate execution. Such execution and reporting will not occur on the Exchange and will be handled by NES pursuant to applicable rules regarding equity trading. NES will ensure that the execution price is within the high-low range for the day in that stock at the time the Complex Order is processed and within a certain price from the current market pursuant to Options 3, Section 16(a). If the stock price is not within these parameters, the Complex Order is not executable and the Exchange will hold the Complex Order on the Order Book, if consistent with Member instructions. This risk protection will apply wholesale to complex FLEX Orders with a stock component. Options 3, Section 16 was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[211] Specifically, Options 3, Section 16(e) provides that when the short sale price test in Rule 201 of Regulation SHO is triggered for a covered security, NES will not execute a short sale order in the underlying covered security component of a Complex Order if the price is equal to or below the current national best bid. However, NES will execute a short sale order in the underlying covered security component of a Complex Order if such order is marked ''short exempt,'' regardless of whether it is at a price that is equal to or below the current national best bid. If NES cannot execute the underlying covered security component of a Complex Order in accordance with Rule 201 of Regulation SHO, the Exchange will hold the Complex Order on the Complex Order Book, if consistent with Member instructions. The order may execute at a price that is not equal to or below the current national best bid. For purposes of this paragraph, the term ''covered security'' shall have the same meaning as in Rule 201(a)(1) of Regulation SHO. This risk protection will apply wholesale to complex FLEX Orders with a stock component. Options 3, Section 16 was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

the Exchange will not apply the price limit protection tied to the NBBO for the options series for FLEX trading. To the extent the complex FLEX Order has a stock component, the Exchange will only apply the price limit protection tied to the NBBO for the stock component. The below is an example of how the Exchange will apply the Options 3, Section 16(a) price protection to complex FLEX Orders.

Scenario illustrating applicability of the stock buffer described in Options 3, Section 16(a) Price Limits for Complex Orders:

IBM Underlying/Stock NBBO is 1.00 × 2.00

Stock buffer is configured to the lesser of $0.05 or 5%

FLEX Option NBBO does not exist, but the minimum trading increment/minimum price variation (MPV) for option leg executions is $0.01

- FLEX Auction is entered in a Stock-Complex Strategy encompassing 2 IBM FLEX Put options: Buy 1 Put (FLEX option leg A) + Buy 1 Put (FLEX option leg B) + Buy 100 shares IBM stock: Buy 110 units of the A + B + Stock strategy @net price of $1.02
- A firm responds to Sell 110 @net price of $0.89

FLEX Auction timer passes & auction concludes

➢ The firm's response trades with the FLEX Auction order 110 @net price of $0.97 because the stock component cannot trade at any price lower than $0.95 ($1.00 − $0.05 [price limit for stock component] = $0.95) and the FLEX option legs cannot trade at any price lower than $0.01 as this is the minimum trading increment for option legs; therefore, the minimum stock price of $0.95 plus the $0.01 minimum option leg price means that, despite the $0.89 limit price on the response, the strategy cannot trade below $0.97 ($0.95 + [$0.01 * 2 legs])

As it relates to the other Stock-Tied Risk Protections (*i.e.,* the Stock-Tied NBBO protections and the Stock-Tied Reg SHO protections), these will apply wholesale to complex FLEX Orders with a stock component as noted above.

Proposed Section 14(c) will provide that the optional risk protections in Options 3, Section 28 are available to FLEX Options.[212] In particular, the following are optional risk protections in Options 3, Section 28: (1) notional dollar value per order (which will be calculated as quantity multiplied by limit price multiplied by number of underlying shares), (2) daily aggregate notional dollar value, (3) quantity per order, and (4) daily aggregate quantity. In sum, Members may set thresholds for each of the foregoing protections in order to limit the quantity and notional value they can send per order and on aggregate for the day.

P. Data Feeds (Section 15)

The Exchange proposes to specify in Options 3A, Section 15 which data feeds it will disseminate auction notifications for simple and complex FLEX Orders. Proposed Section 15(a) will provide that auction notifications for simple FLEX Orders will be disseminated through the Nasdaq Phlx Order Feed, as described in Options 3, Section 23(a)(2).[213] Proposed Section 15(b) will provide that auction notifications for complex FLEX Orders will also be disseminated through the Nasdaq Phlx Order Feed, as described in Options 3, Section 23(a)(2).[214] Today, simple and complex auction notifications inform Members that an auction order has been accepted by the System and that an auction is commencing. Auction notifications also contain all of the relevant information Members need to respond to that particular auction.[215] As proposed, the simple and complex FLEX auction notifications will likewise inform Members that a FLEX auction order has been accepted by the System, a FLEX auction is commencing, and will also contain all of the relevant information Members need to respond to that particular FLEX auction.[216] The FLEX auction notifications will specify that a particular auction is FLEX versus non-FLEX. As is the case today for non-FLEX auctions, FLEX auction notifications disseminated over the Nasdaq Phlx Order Feed will be available to all Members that elect to receive such notification messages.

Q. FLEX Market Makers (Section 16)

Proposed Section 16 will govern FLEX Market Makers on the Exchange. Pursuant to proposed Section 16(a), a FLEX Market Maker will automatically receive an appointment in the same FLEX option class(es) as its non-FLEX class appointments selected pursuant to Options 2, Section 3.[217] Only the Lead Market Maker in the non-FLEX Option may be the assigned Lead Market Maker in that FLEX Option.[218] Today, in order for Market Makers to submit auction responses in option classes through SQF, they need to be appointed to that option class.[219] As such, the Exchange is automatically carrying over the FLEX Market Maker's non-FLEX options class appointment as its FLEX option class appointment in order to allow the FLEX Market Maker to respond to the electronic FLEX Auction, FLEX PIXL, and FLEX SOM as described above.

Proposed Section 16(b) will provide that each FLEX Market Maker must fulfill all the obligations of a Market Maker under Options 2 and must comply with the applicable provisions, except FLEX Market Makers do not need

[212] The Exchange introduced the optional risk protections in Options 3, Section 28 as part of the technology migration to enhanced Nasdaq functionality discussed above. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration.

[213] The Nasdaq Phlx Order Feed is a real-time full Limit Order book data feed that provides pricing information for orders on the Phlx Order book for displayed order types as well as market participant capacity. Nasdaq Phlx Order Feed is currently provided as part of the TOPO Plus Orders data product. The Nasdaq Phlx Order[s] Feed provides real-time information to enable users to keep track of the single and complex order book(s). The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, leg information on complex strategies and whether the option series is available for trading on Phlx and identifies if the series is available for closing transactions only. The feed also provides auction and exposure notifications and order imbalances on opening/reopening (size of matched contracts and size of the imbalance). The Exchange amend the PHLX Orders Fee as part of the technology migration to enhanced Nasdaq functionality discussed above. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration.

[214] The Nasdaq PHLX Order Feed provides single-leg and complex order information.

[215] For example, at the commencement of a standard, non-FLEX PIXL auction, the Exchange sends a broadcast message (*i.e.,* auction notification) that includes the series, price and size of the Agency Order, and whether it is to buy or sell, through the Order Feed. *See* Options 3, Section 13(c).

[216] For example, at the commencement of a FLEX PIXL Auction, the Exchange would send FLEX PIXL Auction notification message detailing the side, size, auction ID, the length of the FLEX PIXL Auction period, and FLEX Option series or complex strategy, as applicable, of the Agency Order to all Members that elect to receive FLEX PIXL Auction notification messages. *See* proposed Options 3A, Section 12(c)(2).

[217] *See* ISE Options 3A, Section 16(a) for identical text.

[218] The Exchange notes that this requirement is based on Phlx Options 8, Section 34(d)(1), Phlx's floor FLEX rule, which currently states that only the Lead Market Maker in the non-FLEX option may be the assigned Specialist in that FLEX option.

[219] *See supra* note 64 describing SQF features available in the Exchange's non-FLEX market today (including the ability for Market Makers to currently send auction responses). As discussed above, the Exchange is proposing to also allow FLEX auction responses through SQF.

to provide continuous quotes in FLEX Options.[220]

R. Letters of Guarantee (Section 17)

The Exchange proposes in Options 3A, Section 17(a) to provide that no FLEX Market Maker shall effect any transaction in FLEX Options unless one or more effective Letter(s) of Guarantee has been issued by a Clearing Member and filed with the Exchange accepting financial responsibility for all FLEX transactions made by the FLEX Market Maker pursuant to Options 6, Section 4.[221]

S. Position Limits (Section 18)

The Exchange proposes to detail the position limits for FLEX Options in Options 3A, Section 18. As discussed below, proposed Section 18 will be based on the FLEX Options position limit rules on ISE and its own market.

Proposed Section 18(a) will govern the position limits for FLEX Index Options. Specifically, proposed Section 18(a)(1) will provide that except as provided in proposed Section 18(a)(2)–(4) below, FLEX Index Options shall be subject to the same position limits governing index options as provided for in Options 4A, Section 6.[222] Proposed Section 18(a)(2) will provide that except as otherwise provided in subparagraph (a)(3) of this Rule, in no event shall the position limits for broad-based FLEX Index Options exceed 25,000 contracts on the same side of the market.[223] Proposed Section 18(a)(3) will provide that there shall be no position limits for broad-based index options listed in Options 4A, Section 6(a).[224] However, each Member (other than FLEX Market Makers) that maintains a FLEX broad-based index option position on the same side of the market in excess of 100,000 contracts in NDX or Nasdaq-100 ESG Index Options,[225] for its own account or for the account of a customer, shall report information as to whether the positions are hedged and provide documentation as to how such contracts are hedged, in the manner and form required by the Exchange. In calculating the applicable contract-reporting amount, reduced-value contracts and micro index contracts will be aggregated with full-value contracts and counted by the amount by which they equal a full-value contract (*e.g.,* 10 MNX options equal 1 NDX full-value contract). The Exchange may impose other reporting requirements as well as the limit at which the reporting requirement may be triggered.[226] Whenever the Exchange determines that additional margin is warranted in light of the risks associated with an under-hedged FLEX NDX or Nasdaq-100 ESG Index options[227] position, the Exchange may impose additional margin upon the account maintaining such under-hedged position pursuant to its authority under Options 6C, Section 5. The clearing firm carrying the account also will be subject to capital charges under Rule 15c3–1 under the Exchange Act to the extent of any margin deficiency resulting from the higher margin requirements.[228]

Proposed Section 18(a)(4) will provide that industry-based FLEX Index Options shall be subject to separate position limits of 18,000, 24,000, or 31,500 contracts, depending on the position limit tier determined pursuant to Options 4A, Section 7(a)(1).[229]

Proposed Section 18(b) will govern the position limits for FLEX Equity Options. Pursuant to proposed Section 18(b)(1)(A), there will generally be no position limits for FLEX Equity Options with the exceptions noted below.[230] Pursuant to proposed Section 18(b)(2), each Member (other than a Market Maker) that maintains a position on the same side of the market in excess of the standard limit under Options 9, Section 13 for non-FLEX Equity Options of the same class on behalf of its own account or for the account of a customer shall report information on the FLEX Equity option position, positions in any related instrument, the purpose or strategy for the position, and the collateral used by the account. This report shall be in the form and manner prescribed by the Exchange.[231] Pursuant to proposed Section 18(b)(3), whenever the Exchange determines that a higher margin requirement is necessary in light of the risks associated with a FLEX Equity option position in excess of the standard limit for non-FLEX Equity options of the same class, the Exchange may consider imposing additional margin upon the account maintaining such under-hedged position, pursuant to its authority under Options 6C, Section 5.[232] Additionally, it should be

[220] *See* ISE Options 3A, Section 16(b) for identical text.

[221] Options 6, Section 4 provides that no Market Maker shall make any transactions on the Exchange unless a Letter of Guarantee has been issued for such Member by a Clearing Member and filed with the Exchange, and unless such Letter of Guarantee has not been revoked pursuant to paragraph (c) of this Rule. A Letter of Guarantee shall provide that the issuing Clearing Member accepts financial responsibilities for all Exchange Transactions made by the guaranteed Member.

[222] Options 4A, Section 6 presently sets forth the position limits for broad-based and industry index options, respectively.

[223] This separate same side position limit for broad-based FLEX Index Options (except for the ones noted below) is based on the Exchange's same side position limit for its standard market as set forth in Options 4A, Section 6(a).

[224] As such the following broad-based index options listed in Options 4A, Section 6(a) will have no position limits for FLEX Index Options: options on Full Value Nasdaq 100 Options, the Reduced Value Nasdaq 100 Options, the Nasdaq 100-Micro Index Options, and the Nasdaq-100 ESG Index Options.

[225] The Nasdaq-100 ESG Index Options are currently not listed on Phlx.

[226] *See* Options 4A, Section 9(a)(13) (setting forth the same reporting requirements for the Exchange's standard non-FLEX index options market). *See also* Cboe Rule 8.35(b) for similar reporting requirements.

[227] The Nasdaq-100 ESG Index Options are currently not listed on Phlx.

[228] *See* Options 4A, Section 6(c) (setting forth the same stipulation for the Exchange's standard index options market). *See also* ISE Options 4A, Section 9(a)(14).

[229] The proposed position limits align to the Exchange's non-FLEX position limits for industry index options in Options 4A, Section 6(b)(i).

[230] *See* ISE Options 3A, Section 18(b) for identical text. Of note, the Exchange's rule will have exceptions for the aggregation of FLEX positions (proposed Section 18(c)) and for position limits for cash-settled FLEX Equity Options where the underlying security is an ETF (proposed Section 18(b)(1)(B), which will be discussed later in this filing). Recently, Phlx received approval to eliminate the 25,000 contract position and exercise limits and apply the position and exercise limits in ISE Options 9, Sections 13 and 15 to IBIT options. *See* Securities Exchange Act Release No. 103564 (July 29, 2025), 90 FR 36229 (SR–ISE–2024–62) (Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, Regarding Position and Exercise Limits for Options on the iShares Bitcoin Trust ETF). As a result, position limits for options on IBIT would be subject to the criteria in Options 9, Section 13(d) as well as subsequent six-month reviews to determine future position and exercise limits. Additionally, Phlx adopted rules to eliminate the current 25,000 contract position and exercise limit for options on the Grayscale Bitcoin Mini Trust (''BTC''), on the Bitwise Bitcoin ETF (''BITB'') and on Grayscale Bitcoin Trust ETF (''GBTC''). See Securities Exchange Act Release No. 103678 (August 11, 2025) (SR–Phlx–2025–34) (not yet published). In addition to the approval to eliminate the current 25,000 contract position and exercise limit for options on IBIT, Phlx adopted rules to permit IBIT options to transact as FLEX Equity Options subject to the position limits set forth in Options 9, Section 13, and subject to the exercise limits set forth in Options 9, Section 15 which would be aggregated with positions on the same non-FLEX underlying ETF for the purpose of calculating the position limits set forth in Options 9, Section 13, and the exercise limits set forth in Options 9, Section 15. *See* Securities Exchange Act Release No. 103565 (July 29, 2025), 90 FR 36233 (August 1, 2025) (SR–Phlx–2024–72) (Order Approving a Proposed Rule Change To Permit the Trading of FLEX Options on Shares of the iShares Bitcoin Trust ETF). Additionally, Phlx adopted rules to permit BTC, BITB, and GBTC options to transact as FLEX Equity Options subject to the position limits set forth in Options 9, Section 13, and subject to the exercise limits set forth in Options 9, Section 15 which would be aggregated with positions on the same non-FLEX underlying ETF for the purpose of calculating the position limits set forth in Options 9, Section 13, and the exercise limits set forth in Options 9, Section 15. *See* Securities Exchange Act Release No. 103678 (August 11, 2025) (SR–Phlx–2024–34) (not yet published).

[231] *See* ISE Options 3A, Section 18(b)(2) for identical text.

[232] Options 6C, Section 5 provides that the amount of margin prescribed by these Rules is the

Continued

noted that the clearing firm carrying the account will be subject to capital charges under Rule 15c3–1 under the Exchange Act to the extent of any margin deficiency resulting from the higher margin requirement.[233]

Proposed Section 18(c) will govern the aggregation of FLEX positions. Specifically, for purposes of the position limits and reporting requirements set forth in this Section 18, FLEX Option positions shall not be aggregated with positions in non-FLEX Options other than as provided in this Section 18(c) and in Section 18(b)(1)(B),[234] positions in FLEX Index Options on a given index shall not be aggregated with options on any stocks included in the index or with FLEX Index Option positions on another index, and positions in FLEX Currency Options shall be aggregated with positions in non-FLEX Currency Options.[235] Pursuant to proposed Section 18(c)(1), commencing at the close of trading two business days prior to the last trading day of the calendar quarter, positions in P.M.-settled FLEX Index Options (*i.e.,* the settlement value for FLEX Index Options is derived from closing prices on the expiration date) shall be aggregated with positions in Quarterly Options Series on the same index with the same expiration and shall be subject to the position limits set forth in Options 4A, Section 6, as applicable.[236] Pursuant to proposed Section 18(c)(2), commencing at the close of trading two business days prior to the last trading day of the week, positions in FLEX Index Options that are cash settled[237] shall be aggregated with positions in Short Term Option Series on the same underlying (*e.g.,* same underlying index as a FLEX Index Option) with the same means for determining exercise settlement value (*e.g.,* opening or closing prices of the underlying index) and same expiration, and shall be subject to the position limits set forth in Options 4A, Section 6 (for broad-based index options and narrow-based index options), as applicable.[238] Pursuant to proposed Section 18(c)(3), as long as the options positions remain open, positions in FLEX Options that expire on a third Friday-of-the-month expiration day shall be aggregated with positions in non-FLEX Options on the same underlying, and shall be subject to the position limits set forth in Options 4A, Section 6, or Options 9, Section 13, as applicable, and the exercise limits set forth in Options 9, Section 15, as applicable.[239]

T. Exercise Limits (Section 19)

The Exchange proposes to detail the exercise limits for FLEX Options in Options 3A, Section 19. As discussed below, proposed Section 19 will be based on the FLEX Options exercise limit rules on ISE and Phlx.

Proposed Section 19(a) will provide that exercise limits for FLEX Options shall be equivalent to the FLEX position limits prescribed in proposed Section 18.[240] There shall be no exercise limits for broad-based FLEX Indexes (including reduced value option contracts) on broad-based index options listed in Options 4A, Section 6(a).[241]

Proposed Section 19(a)(1) will require that the minimum value size for FLEX Equity Option and FLEX Currency Option exercises be 25 contracts or the remaining size of the position, whichever is less.[242] Proposed Section 19(a)(2) will require that the minimum value size for FLEX Index Option exercises be $1 million Underlying Equivalent Value (as defined below) or the remaining Underlying Equivalent Value of the position, whichever is less.[243] Proposed Section 19(a)(3) will stipulate that except as provided in proposed Section 18(b)(1)(B) and Section 18(c) above,[244] FLEX Options shall not be taken into account when calculating exercise limits for non-FLEX Option contracts.[245] Lastly, proposed Section 19(a)(4) will set forth the definition of Underlying Equivalent Value as the aggregate value of a FLEX Index Option (index multiplier times the current index value) multiplied by the number of FLEX Index Options.[246]

U. Capacity and Surveillances

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 the additional message traffic associated with the listing of new series that may result from the introduction of FLEX Options.[247]

Additionally, the Exchange believes it has an adequate surveillance program in place and intends to apply the same program procedures to FLEX Options that is applied to the Exchange's other options products, as applicable. FLEX Option products and their respective symbols will be integrated into the Exchange's existing surveillance system architecture and will be subject to the relevant surveillance processes. The Exchange believes that any potential risk of manipulative activity is mitigated by these existing surveillance technologies, procedures, and reporting requirements, which allow the Exchange to properly identify disruptive and/or manipulative trading activity. Additionally, taking into consideration that FLEX Options have unique characteristics, the Exchange has reviewed its catalog of patterns and updated a number of patterns to include FLEX Options transactions for when they begin trading. The Exchange will periodically review its surveillance procedures and make any changes that the Exchange believes are necessary for FLEX trading.

As discussed in more detail in the ''Cash-Settled FLEX ETFs'' section below, the Exchange is also a member of the Intermarket Surveillance Group (''ISG''),[248] and works with other self-

minimum which must be required initially and subsequently maintained with respect to each account affected thereby; but nothing in these Rules shall be construed to prevent a Member from requiring margin in an amount greater than that specified. Further, the Exchange may at any time impose higher margin requirements with respect to such positions when it deems such higher margin requirements to be advisable.

[233] *See* ISE Options 3A, Section 18(b)(3) for identical text.

[234] Proposed Section 18(b)(1)(B) will set forth the position limits for cash-settled FLEX ETF options and will be discussed later in this filing.

[235] *See* ISE Options 3A, Section 18(c) and Phlx Options 8, Section 34(i)(4) (FLEX Currency Options), respectively, for identical text.

[236] *See* ISE Options 3A, Section 18(c)(1) for substantially similar rule text. The citations for ISE are to Options 4A, Section 6 and 7.

[237] The Exchange notes that all FLEX Index Options will be cash settled.

[238] *See* ISE Options 3A, Section 18(c)(2) for substantially similar rule text. The citations for ISE are to Options 4A, Section 6 and 7.

[239] *See* ISE Options 3A, Section 18(c)(3) for substantially similar rule text. The citations for ISE are to Options 4A, Section 6 and 7.

[240] *See* ISE Options 3A, Section 19(a) for identical text.

[241] As such the following broad-based index options listed in Options 4A, Section 6(a)(i) will have no exercise limits for FLEX Index Options: Full Value Nasdaq 100 Options, the Reduced Value Nasdaq 100 Options, the Nasdaq 100-Micro Index Options, and the Nasdaq-100 ESG Index Options.

[242] *See* ISE Options 3A, Section 19(a)(1) and Phlx Options 8, Section 34(j)(a) (FLEX Currency Options) for identical text.

[243] *See* ISE Options 3A, Section 19(a)(2) for identical text.

[244] As described above, proposed Section 18(c) will govern the aggregation of FLEX positions generally, while proposed Section 18(b)(1)(B) will govern the aggregation of cash-settled FLEX Equity Options specifically and that positions in such cash-settled FLEX Equity Options will be aggregated with positions in physically settled options on the same underlying ETF. Cash-settled FLEX Equity Options will be discussed later in this filing.

[245] *See* ISE Options 3A, Section 19(a)(3) for identical text.

[246] *See* ISE Options 3A, Section 19(a)(4) for identical text.

[247] The Exchange will report FLEX Option trades and, if necessary, trade cancellations to OPRA.

[248] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory

regulatory organizations and exchanges on intermarket surveillance related issues through its participation in the ISG. As discussed in the ''Cash-Settled FLEX ETFs'' section below, the Exchange and all other ISG members can and do share information for regulatory purposes.

V. Cash-Settled FLEX ETFs

The Exchange proposes to include rule text in proposed Options 3A, Section 3(c) and Section 18, each as discussed above, to allow for cash settlement of certain FLEX Equity Options. Generally, as discussed above, FLEX Equity Options will be settled by physical delivery of the underlying security,[249] while all FLEX Index Options will be settled by delivery in cash.[250] The Exchange proposes to allow FLEX Equity Options where the underlying security is an ETF to be settled by delivery in cash if the underlying security meets prescribed criteria. The Exchange notes that cash-settled FLEX ETF Options will be subject to the same trading rules and procedures described above that will govern the trading of other FLEX Options on the Exchange, with the exception of the rules to accommodate the cash-settlement feature proposed as follows. Today, NYSE American Rule 903G,[251] Cboe Rule 4.21(b)(5)(A)[252] and ISE Options 3A, Section 3(c)(5)(A)[253] allow for cash-settled FLEX ETF Options as well. The Exchange's proposed rule changes for cash-settled ETF Options will be based on NYSE American Rule 903G, Cboe Rule 4.21(b)(5)(A) and ISE Options 3A, Section 3(c)(5)(A).

To permit cash settlement of certain FLEX ETF Options, the Exchange proposes rule text in Section 3(c)(5)(A)(ii) to provide that the exercise settlement for a FLEX ETF Option may be settled by physical delivery of the underlying ETF or by delivery in cash if the underlying security, measured over a defined six-month period,[254] has an average daily notional value of $500 million or more and a national average daily volume (''ADV'') of at least 4,680,000 shares.[255]

The Exchange also proposes in Section 3(c) that a FLEX Equity Option overlying an ETF (cash- or physically-settled) may not be the same type (put or call) and may not have the same exercise style, expiration date, and exercise price as a non-FLEX Equity Option overlying the same ETF.[256] In other words, regardless of whether a FLEX Equity Option overlying an ETF is cash or physically settled, at least one of the exercise style (*i.e.,* American-style or European-style), expiration date, and exercise price of that FLEX Option must differ from those terms of a non-FLEX Option overlying the same ETF in order to list such a FLEX Equity Option. For example, suppose a non-FLEX SPY option (which is physically settled, p.m.-settled and American-style) with a specific September expiration and exercise price of 475 is listed for trading. A FLEX Trader could not submit an order to trade a FLEX SPY option that is cash-settled (or physically settled) and American-style with the same September expiration and exercise price of 475.

In addition, the Exchange proposes new subparagraph (a) to Section 3(c)(5)(A)(ii), which would provide that the Exchange will determine bi-annually the underlying ETFs that satisfy the notional value and trading volume requirements in Section 3(c)(5)(A)(ii) by using trading statistics for the defined six-month period.[257] The proposed rule would further provide that the Exchange will permit cash settlement as a contract term on no more than 50 underlying ETFs that meet the criteria in this subparagraph (ii) and that if more than 50 underlying ETFs satisfy the notional value and trading volume requirements, then the Exchange would select the top 50 ETFs that have the highest average daily volume.[258]

Proposed new subparagraph (b) to Section 3(c)(5)(A)(ii) would further provide that if the Exchange determines pursuant to the bi-annual review that an underlying ETF ceases to satisfy the requirements under proposed Section 3(c)(5)(A)(ii), any new position overlying such ETF entered into will be required to have exercise settlement by physical delivery, and any open cash-settled FLEX ETF Option positions may be traded only to close the position.[259]

The Exchange believes it is appropriate to introduce cash settlement as an alternative contract term to the select group of ETFs because they are among the most highly liquid and actively traded ETF securities. As described more fully below, the Exchange believes that the deep liquidity and robust trading activity in the ETFs identified by the Exchange as meeting the criteria mitigate against historic concerns regarding susceptibility to manipulation.

Characteristics of ETFs

ETFs are funds that have their value derived from assets owned. The net asset value (''NAV'') of an ETF is a daily calculation that is based off the most recent closing prices of the assets in the fund and an actual accounting of the total cash in the fund at the time of calculation. The NAV of an ETF is calculated by taking the sum of the assets in the fund, including any securities and cash, subtracting out any liabilities, and dividing that by the number of shares outstanding.

information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

[249] *See* proposed Options 3A, Section 3(c)(5)(A)(i).

[250] *See* proposed Options 3A, Section 3(c)(5)(B). As discussed below, cash settlement is also permitted in the OTC market. Trading in cash-settled FLEX ETF Options will not commence until the related reporting requirements are finalized.

[251] *See* Securities Exchange Act Release No. 88131 (February 5, 2020), 85 FR 7806 (February 11, 2020) (SR–NYSEAmer–2019–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Allow Certain Flexible Equity Options To Be Cash Settled).

[252] Cboe also filed an immediately effective rule change to allow certain FLEX Options to be cash settled. *See* Securities Exchange Act Release No. 98044 (August 2, 2023), 88 FR 53548 (August 8, 2023) (SR–Cboe–2023–036) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow Certain Flexible Exchange Equity Options To Be Cash Settled).

[253] *See also* Securities Exchange Release Act No. 101720 (November 22, 2024), 89 FR 94986 (November 29, 2024) (SR–ISE–2024–12) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules To List and Trade FLEX Options).

[254] As noted below, the Exchange plans to conduct the bi-annual review on January 1 and July 1 of each year. As such, the six-month periods will be from January to June, and from July to December each year.

[255] *See* ISE Options 3A, Section 3(c)(5)(A)(ii) for identical text.

[256] *See* ISE Options 3A, Section 3(c) for identical text. All non-FLEX Equity Options (including on ETFs) are physically settled. Note all FLEX and non-FLEX Equity Options (including ETFs) are p.m.-settled.

[257] *See* proposed Options 3A, Section 3(c)(5)(A)(ii)(a), which is identical to ISE Options 3A, Section 3(c)(5)(A)(ii)(a). The Exchange plans to conduct the bi-annual review on January 1 and July 1 of each year. As such, the six-month periods will be from January to June, and from July to December each year. The results of the bi-annual review will be announced via an Options Trader Alert and any new securities that qualify would be permitted to have cash settlement as a contract term beginning on February 1 and August 1 of each year. If the Exchange initially begins listing cash-settled FLEX Equity Options on a different date (*e.g.,* September 1), it would initially list securities that qualified as of the last bi-annual review (*e.g.,* the one conducted on July 1).

[258] *See* proposed Options 3A, Section 3(c)(5)(A)(ii)(a), which is identical to ISE Options 3A, Section 3(c)(5)(A)(ii)(a).

[259] *See* proposed Options 3A, Section 3(c)(5)(A)(ii)(b), which is identical to ISE Options 3A, Section 3(c)(5)(A)(ii)(b). If a listing is closing only, pursuant to ISE Options 4, Section 4(a), opening transactions by Market Makers executed to accommodate closing transactions of other market participants are permitted. Phlx's Options 4 rules are incorporated by reference to ISE's Options 4 rules.

Additionally, each ETF is subject to a creation and redemption mechanism to ensure the price of the ETF does not fluctuate too far away from its NAV—which mechanisms the Exchange believes reduce the potential for manipulative activity. Each business day, ETFs are required to make publicly available a portfolio composition file that describes the makeup of their creation and redemption ''baskets'' (*i.e.,* a specific list of names and quantities of securities or other assets designed to track the performance of the portfolio as a whole). ETF shares are created when an Authorized Participant,[260] typically a market maker or other large institutional investor, deposits the daily creation basket or cash with the ETF issuer. In return for the creation basket or cash (or both), the ETF issues to the Authorized Participant a ''creation unit'' that consists of a specified number of ETF shares. For instance, IWM is designed to track the performance of the Russell 2000 Index. An Authorized Participant will purchase all the Russell 2000 constituent securities in the exact same weight as the index prescribes, then deliver those shares to the ETF issuer. In exchange, the ETF issuer gives the Authorized Participant a block of equally valued ETF shares, on a one-for-one fair value basis. This process can also work in reverse. A redemption is achieved when the Authorized Participant accumulates a sufficient number of shares of the ETF to constitute a creation unit and then exchanges these ETF shares with the ETF issuer, thereby decreasing the supply of ETF shares in the market.

The principal, and perhaps most important, feature of ETFs is their reliance on an ''arbitrage function'' performed by market participants that influences the supply and demand of ETF shares and, thus, trading prices relative to NAV. As noted above, new ETF shares can be created and existing shares redeemed based on investor demand; thus, ETF supply is open-ended. This arbitrage function helps to keep an ETF's price in line with the value of its underlying portfolio, *i.e.,* it minimizes deviation from NAV. Generally, in the Exchange's view, the higher the liquidity and trading volume of an ETF, the more likely the price of the ETF will not deviate from the value of its underlying portfolio, making such ETFs less susceptible to price manipulation.

Trading Data for the ETFs Proposed for Cash Settlement

The Exchange believes that average daily notional value is an appropriate proxy for selecting underlying securities that are not readily susceptible to manipulation for purposes of establishing a settlement price. Average daily notional value considers both the trading activity and the price of an underlying security. As a general matter, the more expensive an underlying security's price, the less cost-effective manipulation could become. Further, manipulation of the price of a security encounters greater difficulty the more volume that is traded. To calculate average daily notional value (provided in the table below), the Exchange summed the notional value of each trade for each symbol (*i.e.,* the number of shares times the price for each execution in the security) and divided that total by the number of trading days in the six-month period (from January 1, 2025 through June 30, 2025) reviewed by the Exchange.

Further, the Exchange proposes that qualifying ETFs also meet an ADV standard. The purpose for this second criteria is to prevent unusually expensive underlying securities from qualifying under the average daily notional value standard while not being one of the most actively traded securities. The Exchange believes an ADV requirement of 4,680,000 shares a day is appropriate because it represents average trading in the underlying ETF of 200 shares per second. While no security is immune from all manipulation, the Exchange believes that the combination of average daily notional value and ADV as prerequisite requirements would limit cash settlement of FLEX ETF Options to those underlying ETFs that would be less susceptible to manipulation in order to establish a settlement price.

The Exchange believes that the proposed objective criteria would ensure that only the most robustly traded and deeply liquid ETFs would qualify to have cash settlement as a contract term. As provided in the below table, from January 1, 2025 through June 30, 2025the Exchange would be able to provide cash settlement as a contract term for FLEX ETF Options on 50 underlying ETFs, as only this group of securities would currently meet the requirement of $500 million or more average daily notional value and a minimum ADV of 4,680,000 shares. The table below provides the list of the 50 ETFs that, for the period covering January 1, 2025 through June 30, 2025, would be eligible to have cash settlement as a contract term.

Symbol	Security name	Average daily notional value (in dollars) (01/01/25–06/30/25)	Average daily volume (in shares) (01/01/25–06/30/25)
AGG	iShares Core U.S. Aggregate Bond ETF	$8,699,833.00	$851,832,576.12
ARKK	ARK Innovation ETF	643,094,760.54	11,636,050.00
BIL	SPDR Bloomberg 1–3 Month T-Bill ETF	11,455,300.00	1,049,004,625.19
BND	Vanguard Total Bond Market Index Fund ETF	6,972,184.00	506,391,840.38
EEM	iShares MSCI Emerging Markets ETF	26,928,444.00	1,183,523,732.62
EFA	iShares MSCI EAFE ETF	15,257,630.00	1,258,317,969.73
EMB	iShares JPMorgan USD Emerging Markets Bond ETF	6,392,138.00	576,324,752.09
EWZ	iShares MSCI Brazil ETF	626,130,542.30	24,085,357.00
FXI	iShares China Large-Cap ETF	1,648,482,158.97	48,278,257.00
GDX	VanEck Gold Miners ETF	964,960,046.99	21,190,831.00
GLD	SPDR Gold Shares	3,040,973,761.83	10,578,410.00
HYG	iShares iBoxx High Yield Corporate Bond ETF	3,458,742,769.77	43,934,595.00
IBIT	iShares Core MSCI Emerging Markets ETF	2,444,160,416.54	45,262,581.00
IEF	iShares 7–10 Year Treasury Bond ETF	838,636,187.01	8,888,803.00
IEFA	iShares Core MSCI EAFE ETF	877,992,879.01	11,486,955.00
IEMG	iShares Core MSCI Emerging Markets ETF	604,482,851.56	11,048,003.00
IJH	iShares Core S&P Mid-Cap ETF	594,185,677.81	10,004,433.00

[260] ''Authorized Participant'' means a member or participant of a clearing agency registered with the Commission, which has a written agreement with the exchange-traded fund or one of its service providers that allows the authorized participant to place orders for the purchase and redemption of creation units. *See* SEC Rule 6c–11(a)(1).

Symbol	Security name	Average daily notional value (in dollars) (01/01/25–06/30/25)	Average daily volume (in shares) (01/01/25–06/30/25)
IVV	iShares Core S&P 500 ETF	3,956,330,969.59	6,884,382.00
IWM	iShares Russell 2000 ETF	6,621,708,117.27	32,220,788.00
KRE	SPDR S&P Regional Banking ETF	766,145,682.51	13,394,042.00
KWEB	KraneShares CSI China Internet ETF	782,540,679.07	23,611,762.00
LQD	Shares iBoxx Investment Grade Corporate Bond ETF	3,003,836,168.46	27,935,827.00
MUB	iShares National Muni Bond ETF	607,671,564.00	5,806,927.00
NVDL	GraniteShares 2x Long NVDA Daily ETF	1,142,344,013.02	23,444,552.00
QQQ	Invesco QQQ Trust	22,453,225,320.87	45,324,821.00
RSP	Invesco S&P 500 Equal Weight ETF	1,657,278,524.11	9,543,887.00
SGOV	iShares 0–3 Month Treasury Bond ETF	1,094,471,379.90	10,888,840.00
SLV	iShares Silver Trust	626,451,875.06	20,969,906.00
SMH	VanEck Semiconductor ETF	1,827,681,038.22	7,907,172.00
SOXL	Direxion Daily Semiconductor Bull 3x Shares	2,608,869,731.95	155,313,463.00
SOXS	Direxion Daily Semiconductor Bear 3x Shares	1,300,312,913.91	74,333,226.00
SPLG	SPDR® Portfolio S&P 500® ETF	691,197,284.83	10,311,961.00
SPY	SPDR S&P 500 ETF Trust	39,825,410,549.78	69,665,746.00
SQQQ	ProShares UltraPro Short QQQ ETF	2,907,450,691.44	92,864,283.00
TLT	iShares 20+ Year Treasury Bond ETF	3,502,549,497.38	39,759,038.00
TQQQ	ProShares UltraPro QQQ	5,682,017,747.81	89,617,983.00
TSLL	Direxion Daily TSLA Bull 2X Shares	2,143,237,531.15	170,152,425.00
TSLQ	Tesla Inc	550,334,801.97	19,311,857.00
USHY	iShares Broad USD High Yield Corporate Bond ETF	504,230,715.47	13,734,881.00
VCIT	Vanguard Intermediate-Term Corp Bond Idx Fund ETF	619,497,556.24	7,641,263.00
VEA	Vanguard Tax Managed Fund FTSE Developed Markets ETF	698,674,764.63	13,501,246.00
VOO	Vanguard S&P 500 ETF	3,926,170,825.14	7,489,441.00
XBI	SPDR S&P Biotech ETF	894,522,471.65	10,779,949.00
XLB	Materials Select Sector SPDR Fund	518,464,677.66	6,078,047.00
XLE	Energy Select Sector SPDR Fund	1,582,987,109.88	18,369,894.00
XLF	Financial Select Sector SPDR Fund	2,312,210,164.47	46,902,066.00
XLI	Industrial Select Sector SPDR Fund	1,391,124,943.29	10,327,188.00
XLP	Consumer Staples Select Sector SPDR Fund	1,101,445,442.72	13,671,681.00
XLU	Utilities Select Sector SPDR Fund	889,607,111.47	11,322,522.00

The Exchange believes that permitting cash settlement as a contract term for FLEX ETF Options for the ETFs in the above table would broaden the base of investors that use FLEX Equity Options to manage their trading and investment risk, including investors that currently trade in the OTC market for customized options, where settlement restrictions do not apply.

The Exchange notes that the SEC has previously approved a rule filing of another exchange that allowed for the trading of cash-settled options [261] and, specifically, cash-settled FLEX ETF Options (which the Exchange proposes to list in the same manner as that exchange).[262]

Today, equity options are settled physically at The Options Clearing Corporation (''OCC''), *i.e.,* upon exercise, shares of the underlying security must be assumed or delivered. Physical settlement may possess certain risks with respect to volatility and movement of the underlying security at expiration against which market participants may need to hedge. The Exchange believes cash settlement may be preferable to physical delivery in some circumstances as it does not present the same risk. If an issue with the delivery of the underlying security arises, it may become more expensive (and time consuming) to reverse the delivery because the price of the underlying security would almost certainly have changed. Reversing a cash payment, on the other hand, would not involve any such issue because reversing a cash delivery would simply involve the exchange of cash. Additionally, with physical settlement, market participants that have a need to generate cash would have to sell the underlying security while incurring the costs associated with liquidating their position as well as the risk of an adverse movement in the price of the underlying security.

With respect to position and exercise limits, cash-settled FLEX ETF Options would be subject to the position limits set forth in proposed Options 3A, Section 18. Accordingly, the Exchange proposes to add subparagraph (b)(1)(B) of Options 3A, Section 18, which would provide that a position in cash-settled FLEX Equity Options where the underlying security is an ETF pursuant

[261] *See, e.g.,* PHLX FX Options traded on Nasdaq PHLX and S&P 500® Index Options traded on Cboe Options Exchange. The Commission approved, on a pilot basis, the listing and trading of RealDay™ Options on the SPDR S&P 500 Trust on the BOX Options Exchange LLC (''BOX''). *See* Securities Exchange Act Release No. 79936 (February 2, 2017), 82 FR 9886 (February 8, 2017) (''RealDay Pilot Program''). The RealDay Pilot Program was extended until February 2, 2019. *See* Securities Exchange Act Release No. 82414 (December 28, 2017), 83 FR 577 (January 4, 2018) (SR–BOX–2017–38). The RealDay Pilot Program was never implemented by BOX. *See also* Securities Exchange Act Release Nos. 56251 (August 14, 2007), 72 FR 46523 (August 20, 2007) (SR–Amex–2004–27) (Order approving listing of cash-settled Fixed Return Options (''FROs'')); and 71957 (April 16, 2014), 79 FR 22563 (April 22, 2014) (SR–NYSEMKT–2014–06) (Order approving name change from FROs to ByRDs and re-launch of these products, with certain modifications.

[262] *See* Securities Exchange Act Release Nos. 88131 (February 5, 2020), 85 FR 7806 (February 11, 2020) (SR–NYSEAMER–2019–38) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Allow Certain Flexible Equity Options To Be Cash Settled); 97231 (March 31, 2023), 88 FR 20587 (April 6, 2023) (SR–NYSEAMER–2023–22) (Notice of Filing and Immediate Effectiveness of Proposed Change to Make a Clarifying Change to the Term Settlement Style Applicable to Flexible Exchange Options); and 98044 (August 2, 2023), 88 FR 53548 (August 8, 2023) (SR–Cboe–2023–036) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow Certain Flexible Exchange Equity Options To Be Cash Settled. ISE also received approval for cash-settled FLEX ETF options. *See also* Securities Exchange Release Act No. 101720 (November 22, 2024), 89 FR 94986 (November 29, 2024) (SR–ISE–2024–12) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules To List and Trade FLEX Options).

to Options 3A, Section 3(c)(5)(A)(ii) shall be subject to the position limits set forth in Options 9, Section 13, and subject to the exercise limits set forth in Options 9, Section 15.[263] The proposed rule would further state that positions in such cash-settled FLEX Equity Options shall be aggregated with positions in physically settled options on the same underlying ETF for the purpose of calculating the position limits set forth in Options 9, Section 13 and the exercise limits set forth in Options 9, Section 15.[264] The Exchange further proposes to add in subparagraph (b)(1)(A) of Section 18 a cross-reference to subparagraph (b)(1)(B) of Section 18, as subparagraph (b)(1)(B) would also contain provisions about position limits for FLEX Equity Options that would be exceptions to the statement in Options 3A, Section 18(b)(1)(A) that FLEX Equity Options have no position limits. The Exchange also proposes to add in paragraph (c) of Section 18, a cross-reference to proposed subparagraph (b)(1)(B), as the proposed rule adds language regarding aggregation of positions for purposes of position limits, which will be covered by paragraph (c). Given that each of the underlying ETFs that would currently be eligible to have cash-settlement as a contract term have established position and exercise limits applicable to physically settled options, the Exchange believes it is appropriate for the same position and exercise limits to also apply to cash-settled options. Accordingly, of the 50 underlying securities that would currently be eligible to have cash settlement as a FLEX contract term, 30 would have a position limit of 250,000 contracts pursuant to Options 9, Section 13(d)(5).[265] Further, pursuant to Supplementary Material .01 to Options 9, Section 13, six would have a position limit of 500,000 contracts (EWZ, TLT, HYG, XLF, LQD, and GDX); four (EEM, FXI, IWM, and EFA) would have a position limit of 1,000,000 contracts; one (QQQ) would have a position limit of 1,800,000 contracts; and one (SPY) would have a position limit of 3,600,000.[266]

The Exchange understands that cash-settled ETF options are currently traded in the OTC market by a variety of market participants, *e.g.,* hedge funds, proprietary trading firms, and pension funds.[267] These options are not fungible with the exchange listed options. The Exchange believes some of these market participants would prefer to trade comparable instruments on an exchange, where they would be cleared and settled through a regulated clearing agency. The Exchange expects that users of these OTC products would be among the primary users of exchange-traded cash-settled FLEX ETF Options. The Exchange also believes that the trading of cash-settled FLEX ETF Options would allow these same market participants to better manage the risk associated with the volatility of underlying equity positions given the enhanced liquidity that an exchange-traded product would bring.

In the Exchange's view, cash-settled FLEX ETF Options traded on the Exchange would have three important advantages over the contracts that are traded in the OTC market. First, as a result of greater standardization of contract terms, exchange-traded contracts should develop more liquidity. Second, counter-party credit risk would be mitigated by the fact that the contracts are issued and guaranteed by OCC. Finally, the price discovery and dissemination provided by the Exchange and its members would lead to more transparent markets. The Exchange believes that its ability to offer cash-settled FLEX ETF Options would aid it in competing with the OTC market and at the same time expand the universe of products available to interested market participants. The Exchange believes that an exchange-traded alternative may provide a useful risk management and trading vehicle for market participants and their customers. Further, the Exchange believes listing cash-settled FLEX ETF Options would provide investors with competition on an exchange platform, as other options exchanges have received Commission approval to list the same options.[268]

The Exchange notes that OCC has received approval from the Commission for rule changes that will accommodate the clearance and settlement of cash-settled ETF options, and is now clearing these products.[269] The Exchange has also analyzed its capacity and represents that it and The Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of cash-settled FLEX ETF Options. The Exchange believes any additional traffic that would be generated from the introduction of cash-settled FLEX ETF Options would be manageable. The Exchange expects that members will not have a capacity issue as a result of this proposed rule change. The Exchange also does not believe this proposed rule change will cause fragmentation of liquidity. The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.

The Exchange does not believe that allowing cash settlement as a contract term would render the marketplace for equity options more susceptible to manipulative practices. The Exchange believes that manipulating the settlement price of cash-settled FLEX ETF Options would be difficult based on the size of the market for the underlying ETFs that are the subject of this proposed rule change. The Exchange notes that each underlying ETF in the table above is sufficiently active to alleviate concerns about potential manipulative activity. Further, in the Exchange's view, the vast liquidity in the 50 underlying ETFs that would currently be eligible to be traded as cash-settled FLEX options under the proposal ensures a multitude of market participants at any given time. Moreover, given the high level of participation among market participants that enter quotes and/or orders in physically settled options on these ETFs, the Exchange believes it would be very difficult for a single participant to alter the price of the underlying ETF or options overlying such ETF in any

[263] The Exchange proposes to add to proposed Options 3A, Section 18(b)(1)(A) a cross reference to proposed paragraph (c) of Section 18, as proposed Section 18(c) also contains provisions about position limits for FLEX Equity Options that would be exceptions to the statement in proposed Section 18(b)(1)(A) that FLEX Equity Options have no position limits (in addition to the language in proposed Section 18(b)(1)(B). The Exchange also proposes to add to proposed Section 18(c) a cross-reference to proposed subparagraph (b)(1)(B) of Section 18, as the proposed rule adds language regarding aggregation of positions for purposes of position limits, which will be covered in proposed Section 18(c).

[264] *See* proposed Options 3A, Section 18(b)(1)(B), which is identical to ISE Options 3A, Section 18(b)(1)(B). The aggregation of position and exercise limits would include all positions on physically settled FLEX and non-FLEX Options on the same underlying ETFs.

[265] Options 9, Section 13(g(i) provides that to be eligible for the 250,000 contract limit, either the most recent six (6) month trading volume of the underlying security must have totalled at least 100 million shares or the most recent six-month trading volume of the underlying security must have totalled at least seventy-five (75) million shares and the underlying security must have at least 300 million shares currently outstanding.

[266] These were based on position limits as of January 28, 2025. Position limits are available on at *https://www.theocc.com.* Position limits for ETFs are always determined in accordance with the Exchange's Rules regarding position limits.

[267] As noted above, other options exchanges have received approval to list certain cash-settled FLEX ETF Options. *See supra* notes 251–253.

[268] *See supra* notes 251–253.

[269] *See* Securities Exchange Act Release No. 34–94910 (May 13, 2022), 87 FR 30531 (May 19, 2022) (SR–OCC–2022–003).

significant way without exposing the would-be manipulator to regulatory scrutiny. The Exchange further believes any attempt to manipulate the price of the underlying ETF or options overlying such ETF would also be cost prohibitive. As a result, the Exchange believes there is significant participation among market participants to prevent manipulation of cash-settled FLEX ETF Options.

Still, the Exchange believes it has an adequate surveillance program in place and intends to apply the same program procedures to cash-settled FLEX ETF Options that it applies to the Exchange's other options products.[270] The Exchange will periodically review its surveillance procedures and make any changes that the Exchange believes are necessary for FLEX trading. FLEX options products and their respective symbols will be integrated into the Exchange's existing surveillance system architecture and will thus be subject to the relevant surveillance processes, as applicable. The Exchange believes that the existing surveillance procedures at the Exchange are capable of properly identifying unusual and/or illegal trading activity, which procedures the Exchange would utilize to surveil for aberrant trading in cash-settled FLEX ETF Options.

With respect to regulatory scrutiny, the Exchange believes its existing surveillance technologies and procedures adequately address potential concerns regarding possible manipulation of the settlement value at or near the close of the market. The Exchange notes that the regulatory program operated by and overseen by Phlx [271] includes cross-market surveillance designed to identify manipulative and other improper trading, including spoofing, algorithm gaming, marking the close and open, as well as more general, abusive behavior related to front running, wash sales, and quoting/routing, which may occur on the Exchange or other markets.[272] These cross-market patterns incorporate relevant data from various markets beyond the Exchange and its affiliates and from markets not affiliated with the Exchange. The Exchange represents that, today, its existing trading surveillances are adequate to monitor trading in the underlying ETFs and subsequent trading of options on those securities listed on the Exchange. Further, with the introduction of cash-settled FLEX ETF Options, the Exchange would leverage its existing surveillances to monitor trading in the underlying ETFs and subsequent trading of options on those securities listed on the Exchange with respect to cash-settled FLEX ETF options.[273]

Additionally, for options, the Exchange utilizes an array of patterns that monitor manipulation of options, or manipulation of equity securities (regardless of venue) for the purpose of impacting options prices on the Exchange (*i.e.,* mini-manipulation strategies). That surveillance coverage is initiated once options begin trading on the Exchange. Accordingly, the Exchange believes that the cross-market surveillance performed by the Exchange or FINRA, on behalf of the Exchange, coupled with Phlx's own monitoring for violative activity on the Exchange comprise a comprehensive surveillance program that is adequate to monitor for manipulation of the underlying ETF and overlying option. Furthermore, the Exchange believes that the existing surveillance procedures at the Exchange are capable of properly identifying unusual and/or illegal trading activity, which the Exchange would utilize to surveil for aberrant trading in cash-settled FLEX ETF Options.

In addition to the surveillance procedures and processes described above, improvements in audit trails (*i.e.,* the Consolidated Audit Trail), recordkeeping practices, and inter-exchange cooperation over the last two decades have greatly increased the Exchange's ability to detect and punish attempted manipulative activities. In addition, the Exchange is a member of the ISG. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. For surveillance purposes, the Exchange would therefore have access to information regarding trading activity in the pertinent underlying securities.

The proposed rule change is designed to allow investors seeking to effect cash-settled FLEX ETF Options with the opportunity for a different method of settling option contracts at expiration if they choose to do so. As noted above, market participants may choose cash settlement because physical settlement possesses certain risks with respect to volatility and movement of the underlying security at expiration that market participants may need to hedge against. The Exchange believes that offering innovative products flows to the benefit of the investing public. A robust and competitive market requires that exchanges respond to members' evolving needs by constantly improving their offerings. Such efforts would be stymied if exchanges were prohibited from offering innovative products for reasons that are generally debated in academic literature. The Exchange believes that introducing cash-settled FLEX ETF Options would further broaden the base of investors that use FLEX Equity Options to manage their trading and investment risk, including investors that currently trade in the OTC market for customized options, where settlement restrictions do not apply. The proposed rule change is also designed to encourage market makers to shift liquidity from the OTC market onto the Exchange, which, it believes, would enhance the process of price discovery conducted on the Exchange through increased order flow. The Exchange also believes that this may open up cash-settled FLEX ETF Options to more retail investors. The Exchange does not believe that this proposed rule change raises any unique regulatory concerns because existing safeguards—such as position limits (and the aggregation of cash-settled positions with physically-settled positions), exercise limits (and the aggregation of cash-settled positions with physically-settled positions), and reporting requirements—would continue to apply. The Exchange believes the proposed position and exercise limits may further help mitigate the concerns that the limits are designed to address about the potential for manipulation and market disruption in

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[270] For example, the regulatory program for the Exchange includes surveillance designed to identify manipulative and other improper options trading, including, spoofing, marking the close, front running, wash sales, etc.

[271] Phlx maintains a Regulatory Services Agreement or ''RSA'' with Financial Industry Regulatory Authority, Inc. (''FINRA'') whereby FINRA provides certain regulatory services to the exchanges, including cross-market surveillance, investigation, and enforcement services.

[272] As it relates to Reg SHO violations, the Exchange will enforce this through its Stock-Tied Reg SHO price protections in Options 3, Section 16(e). *See supra* note 211 for Stock-Tied Reg SHO discussion. NES will only execute Stock-Option Strategies and Stock-Complex Strategies if the underlying covered security component is in accordance with Rule 201 of Regulation SHO. Additionally, FINRA's regulatory program addresses Reg SHO compliance for its member firms (which includes Exchange Members). was amended by SR–Phlx–2025–17. Options 3, Section 16 was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[273] Such surveillance procedures generally focus on detecting securities trading subject to opening price manipulation, closing price manipulation, layering, spoofing or other unlawful activity impacting an underlying security, the option, or both. The Exchange has price movement alerts, unusual market activity and order book alerts active for all trading symbols.

the options and the underlying securities.[274]

Given the novel characteristics of cash-settled FLEX ETF Options, the Exchange will conduct a review of the trading in cash-settled FLEX ETF Options over an initial five-year period. The Exchange will furnish five reports to the Commission based on this review, the first of which would be provided within 60 days after the first anniversary of the initial listing date of the first cash-settled FLEX ETF Option under the proposed rule and each subsequent annual report to be provided within 60 days after the second, third, fourth and fifth anniversary of such initial listing. At a minimum, each report will provide a comparison between the trading volume of all cash-settled FLEX ETF Options listed under the proposed rule and physically settled options on the same underlying security, the liquidity of the market for such options products and the underlying ETF, and any manipulation concerns arising in connection with the trading of cash-settled FLEX ETF Options under the proposed rule. The Exchange will also provide additional data as requested by the Commission during this five year period. The reports will also discuss any recommendations the Exchange may have for enhancements to the listing standards based on its review. The Exchange believes these reports will allow the Commission and the Exchange to evaluate, among other things, the impact such options have, and any potential adverse effects, on price volatility and the market for the underlying ETFs, the component securities underlying the ETFs, and the options on the same underlying ETFs and make appropriate recommendations, if any, in response to the reports.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[275] in general, and furthers the objectives of Section 6(b)(5) of the Act.[276] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[277] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, 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 national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the adoption of the proposed rules allowing FLEX Options to trade on Phlx in the manner specified above is consistent with the goals of the Act to remove impediments to and perfect the mechanism of a free and open market because it will benefit market participants by providing an additional venue for market participants to provide and seek liquidity for FLEX Options. As the Commission noted in its order granting FLEX trading on Cboe and what was then the Pacific Stock Exchange (now NYSE Arca), trading FLEX Options on an exchange is an alternative to trading customized options in OTC markets and carries with it the advantages of exchange markets such as transparency, parameters and procedures for clearance and settlement, and a centralized counterparty clearing agency.[278] Therefore, the Exchange believes the proposed rule change will promote these same benefits for the market as a whole by providing an additional venue for market participants to trade customized FLEX Options. The Exchange believes that providing an additional venue for FLEX Options will be beneficial by increasing competition for order flow and executions.

In general, transactions in FLEX Options will be subject to many of the same rules that currently apply to non-FLEX Options traded on the Exchange. In order to provide investor with the flexibility to designate terms of the options and accommodate the special trading of FLEX Options, however, the Exchange is proposing to add new rules in proposed Options 3A that will apply solely to FLEX Options. As noted above, the proposed rules are substantially identical to ISE's rules pertaining to electronic FLEX Options, with certain intended differences regarding the allocation methodologies that are intended to align to current System behavior (and especially current auction behavior) to provide increased consistency for Members trading FLEX Options and non-FLEX Options on Phlx, each as discussed above and below.

The Exchange further believes that its proposal is designed to prevent fraudulent and manipulative acts and practices as the Exchange believes that it has an adequate surveillance program in place and intends to apply the same program procedures to FLEX Options that are applied to the Exchange's other options products, as applicable. As described above, FLEX Option products and their respective symbols will be integrated into the Exchange's existing surveillance system architecture and will be subject to the relevant surveillance processes, thereby allowing the Exchange to properly identify disruptive and/or manipulative trading activity.

A. General Provisions (Section 1)

The Exchange believes that proposed Section 1(a) setting forth the applicability of Exchange Rules will make clear that unless otherwise provided in proposed Options 3A the Exchange's existing rules will continue to apply to FLEX Options, which will provide consistency for Members trading both FLEX Options and non-FLEX Options on ISE.

The Exchange believes that the defined terms proposed in Section 1(b) will provide increased clarity to Members by specifying definitions like ''FLEX Option'' and ''FLEX Order'' that are used throughout Options 3A. The Exchange further believes that adding the definition of ''FLEX Order'' in Options 3, Section 7(z) will add transparency as to which order types would be available on Phlx. Lastly, the non-substantive change proposed in Options 3, Section 7(y) will bring clarity and avoid potential confusion for market participants.

B. Hours of Business (Section 2)

The Exchange believes that specifying the trading hours for FLEX Options in proposed Section 2(a) will provide increased clarity that the trading hours for FLEX Options will generally be the same as the trading hours for corresponding non-FLEX Options as set forth in Options 3, Section 1. As noted above, the proposed language is identical to ISE Options 3A, Section 2.

As it relates to the Exchange's proposed discretion relating to the trading hours for FLEX Options, this is identical to ISE Options 3A, Section 2. The Exchange believes that because of the unique nature of FLEX, in contrast to the non-FLEX market, it is reasonable to permit the Exchange, in its discretion, to narrow or otherwise restrict the trading hours for FLEX Options, so long as such trading hours occur within the normal options trading hours of the Exchange described above. The Exchange would provide adequate advance notification to its Members of such changes in FLEX trading hours.

[274] *See supra* note 264.

[275] 15 U.S.C. 78f(b).

[276] 15 U.S.C. 78f(b)(5).

[277] 15 U.S.C. 78f(b)(5).

[278] *See* Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996) (SR–CBOE–95–43) (SR–PSE–95–24) (Order Approving the Trading of Flexibly Structured Equity Options by CBOE and PSE).

C. FLEX Option Classes and Permissible Series (Section 3(a) and (b))

The Exchange believes that the proposed rule text in Sections 3(a) and 3(b) will provide greater transparency around the Exchange's listing standards for FLEX Option classes and FLEX Option series.

Proposed Section 3(b)(1), which will prevent FLEX Options and non-FLEX Options with the same terms from trading concurrently by System enforcing this restriction, is consistent with the Act because this restriction will address concerns that FLEX Options would act as a surrogate for the trading of non-FLEX Options. In particular, a non-FLEX Option trading pursuant to Options 3 has different priority rules than a FLEX Option trading pursuant to proposed Options 3A.[279] Allowing an option with the same terms to trade under both rules concurrently would result in inconsistent order handling and could allow the order priority of non-FLEX Orders to be circumvented. Therefore, the Exchange proposes to prevent this situation by permitting FLEX Options transactions only in options with a different term (exercise style, expiration date, or exercise price) than a non-FLEX Option on the same underlying security or index that is already listed for trading. As noted above, the proposed language in Section 3(a) and Section 3(b) is substantially similar to Cboe Rule 4.20, Rule 4.21(a), and Rule 4.22(c) respectively, except the Exchange is clarifying in proposed Section 3(b)(2) that on the expiration date, a FLEX Order for the expiring FLEX Option series may only be submitted to close out a position in such expiring FLEX Option series.[280]

D. FLEX Options Terms (Section 3(c))

The Exchange believes that the terms of FLEX Options pursuant to proposed Options 3A, Section 3(c) serve to perfect the mechanism of a free and open market and a national market system because they will permit investors to customize some of the terms of their FLEX Options to implement more precise trading strategies, which may not be possible using non-FLEX Options. These investors may have improved capability to execute strategies to meet their specific investment objectives by using customized FLEX Options. However, only certain terms as specified in proposed Section 3(c) are subject to flexible structuring by the parties to the FLEX Option transactions, and most of such terms have a specified number of alternative configurations. The Exchange believes that these restrictions are reasonable and designed to further the objectives of the Act and to promote just and equitable principles of trade because limiting FLEX Option terms enables the efficient, centralized clearance and settlement and active secondary trading of opened FLEX Options.

As discussed above, the Exchange is proposing to allow the listing of FLEX PM Third Friday Options on ISE, consistent with the Commission's recent approval of Cboe's proposal to make its pilot a permanent program.[281] The Exchange believes that aligning to Cboe will allow ISE to compete effectively with Cboe's product offering. Like Cboe, the Exchange believes that FLEX PM Third Friday Options will provide investors with greater trading opportunities and flexibility. The Exchange notes that the Commission recently approved proposals to make other pilots permitting p.m.-settlement of index options permanent after finding those pilots were consistent with the Act and the options subject to those pilots had no significant impact on the market.[282]

The Exchange further believes that permitting ISE to list FLEX PM Third Friday Options, similar to Cboe, will remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors, while maintaining a fair and orderly market. As described in the FLEX Settlement Pilot Approval, Cboe observed no significant adverse market impact or identified any meaningful regulatory concerns during the nearly 14-year operation of the FLEX PM Third Friday Program as a pilot nor during the 15 years since P.M.-settled index options (SPX) were reintroduced to the marketplace.[283]

As discussed in the FLEX Settlement Pilot Approval, the DERA staff study[284] and corresponding Cboe study concluded that a significantly larger amount of non-FLEX p.m.-settled index options had no significant adverse market impact and caused no meaningful regulatory concerns. Therefore, Cboe concluded that the relatively small amount of FLEX Index Option volume would similarly have no significant adverse market impact or cause no meaningful regulatory concerns.[285]

Cboe also concluded that the introduction of FLEX PM options had no significant impact on the market quality of corresponding a.m.-settled options or other options. As discussed in the FLEX Settlement Pilot Approval, Cboe's analysis conducted after the

[279] For example, the Exchange's order books will be inapplicable to FLEX Orders and thus certain priority provisions in Options 3, Section 10 applicable to non-FLEX Orders will not be applicable to FLEX Orders, such as the enhanced Lead Market Maker priority in Section 10(c)(1)(B), Preferred Market Maker priority in Section 10(c)(1)(C), and entitlement for orders of 5 contracts or fewer in Section 10(c)(1)(D). FLEX Options will instead be subject to the priority provisions in Options 3A, Section 11(b)(3)(A) (electronic FLEX Auctions), Section 12(e) (FLEX PIXL), and Section 13(e) (FLEX SOM).

[280] The Exchange will System enforce this provision such that it will reject an opening position in an expiring FLEX Option series on the day of expiration.

[281] *See supra* note 53.

[282] *See* Securities Exchange Act Release Nos. 98454 (September 20, 2023) (SR–CBOE–2023–005) (order approving proposed rule change to make permanent the operation of a program that allows the Exchange to list p.m.-settled third Friday-of-the-month SPX options series) (''SPXPM Approval''); 98455 (September 20, 2023) (SR–CBOE–2023–019) (order approving proposed rule change to make permanent the operation of a program that allows the Exchange to list p.m.-settled third Friday-of-the-month XSP and MRUT options series) (''XSP and MRUT Approval''); and 98456 (September 20, 2023) (SR–CBOE–2023–020) (order approving proposed rule change to make the nonstandard expirations pilot program permanent) (''Nonstandard Approval''). See also Securities Exchange Act Release Nos. 98450 (September 20, 2023), 88 FR 66111 (September 26, 2023) (SR–ISE–2023–08) (order approving proposed rule change to make permanent certain p.m.-settled pilots); and 98935 (November 14, 2023), 88 FR 80792 (November 20, 2023) (SR–ISE–2023–20) (order approving a proposed rule change to permit the listing and trading of p.m.-settled Nasdaq-100 Index® Options with a third-Friday-of-the-month expiration).

[283] Notably, Cboe did not identify any significant economic impact (including on pricing or volatility or in connection with reversals) on related futures, the underlying indexes, or the underlying component securities of the underlying indexes surrounding the close as a result of the quantity of FLEX PM Third Friday Options or the amount of expiring open interest in FLEX PM Third Friday Options, nor any demonstrated capacity for options hedging activity to impact volatility in the underlying markets. *See supra* note 54.

[284] *See* FLEX Settlement Pilot Approval, citing to Securities and Exchange Commission, Division of Economic Risk and Analysis, Memorandum dated February 2, 2021 on Cornerstone Analysis of PM Cash-Settled Index Option Pilots (September 16, 2020), available at: *https://www.sec.gov/files/Analysis_of_PM_Cash_Settled_Index_Option_Pilots.pdf.*

[285] *See supra* note 54. Additionally, these studies measured any impact on related futures, the underlying indexes, or the underlying component securities of the underlying indexes surrounding the close. Despite FLEX SPX options (which represent approximately half of the year-to-date 2023 volume of FLEX Index Options but only approximately 0.3% of total SPX volume) not being included in the DERA staff study and corresponding Cboe study, those studies concluded that during the time periods covered (which included the period of time in which the Pilot Program has been operating), there was no significant economic impact on the underlying index or related products. Therefore, Cboe concluded that any FLEX SPX Options that executed during the timeframes covered by the studies had no significant impact on the underlying index or related products, as neither DERA staff nor Cboe observed any significant economic impact on the underlying index or related product.

introduction of SPXW options with Tuesday and Thursday expirations demonstrated no statistically significant impact on the bid-ask or effective spreads of SPXW options with Monday, Wednesday, and Friday expirations after trading in the SPXW options with Tuesday and Thursday expirations began.[286] Further, Cboe concluded that large FLEX PM Third Friday Options trades had no material negative impact (and likely no impact) on quote quality of non-FLEX a.m.-settled options overlying the same index with similar terms as the FLEX PM Third Friday Option upon evaluating data that showed that the spreads were relatively stable before and after large trades.[287] Therefore, Cboe concluded that it is likely that FLEX PM Third Friday Options have had no significant negative impact on the market quality of non-FLEX Options with a.m.-settlement.[288]

Additionally, Cboe noted that the significant changes in the closing procedures of the primary markets in recent decades, including considerable advances in trading systems and technology, has significantly minimized risks of any potential impact of FLEX PM Third Friday Options on the underlying cash markets. As such, Cboe concluded that listing FLEX PM Third Friday Options did not raise any unique or prohibitive regulatory concerns and that such trading has not, and will not, adversely impact fair and orderly markets on expiration Fridays for the underlying indexes or their component securities.

The Exchange notes that p.m.-settled options were previously approved on ISE's standard market,[289] including p.m.-settled third-Friday-of-the-month expirations for NDX options.[290] In the P.M.-Settled Pilot Permanency Approval, the Commission stated it believed that the evidence contained in the Exchange's filing, the Exchange's pilot data and reports, and the DERA staff study[291] analysis demonstrate that the Exchange's pilot programs have benefitted investors and other market participants by providing more flexible trading and hedging opportunities while also having no disruptive impact on the market.[292] The Commission also stated that the market for p.m.-settled options has grown in size over the course of the Exchange's pilot programs, and analysis of the pilot data did not identify any significant economic impact on the underlying component securities surrounding the close as a result of expiring p.m.-settled options nor did it indicate a deterioration in market quality (as measured by relative quoted spreads) for an existing product when a new p.m.-settled expiration was introduced.[293] Further, the Commission stated that significant changes in closing procedures in the decades since index options moved to a.m. settlement may also serve to mitigate the potential impact of p.m.-settled index options on the underlying cash markets.[294]

In support of its proposal to list p.m.-settled third-Friday-of-the-month expirations for NDX options on its standard market, the Exchange pointed to, among other things, the data it provided underlying the P.M.-Settled Pilot Permanency Approval.[295] In reviewing this data from the Exchange (and other options exchanges in support of similar proposals to list and trade certain p.m.-settled broad-based index options) as well as the DERA staff study analysis, the Commission concluded that analysis of the pilot data did not identify any significant economic impact on the underlying component securities surrounding the close as a result of expiring p.m.-settled options nor did it indicate a deterioration in market quality for an existing product when a new p.m.-settled expiration was introduced.[296] Further, the Commission made similar findings as those in the P.M.-Settled Pilot Permanency Approval that significant changes in closing procedures in the decades since index options moved to a.m. settlement may also serve to mitigate the potential impact of p.m.-settled index options on the underlying cash markets.[297] The Exchange has observed no significant adverse market impact or identified any meaningful regulatory concerns since the introduction of p.m.-settled index options on its standard market.[298] Given that the Exchange anticipates FLEX PM Third Friday Options to have a relatively smaller amount of volume compared to its standard non-FLEX p.m.-settled index options market, the Exchange believes that introducing FLEX PM Third Friday coupled with the other findings in Cboe's FLEX Settlement Pilot Approval would likely have no significant adverse market impact or cause any meaningful regulatory concerns as well.

E. FLEX Fungibility (Section 3(d))

The Exchange believes that the FLEX fungibility provisions in proposed Options 3A, Section 3(d) are consistent with the Act by preventing new FLEX Option positions from being opened when a non-FLEX Option with the same terms is listed for trading. Pursuant to proposed Section 3(d)(1), a FLEX Option with the same terms as a subsequently added non-FLEX Option would become fungible with the non-FLEX Option. Accordingly, once a non-FLEX Option is added with the same terms as an outstanding FLEX Option, the FLEX Option would effectively become a standardized, non-FLEX Option and trade under the same rules and procedures that apply to any other standard non-FLEX Option. The Exchange believes that enforcing consistent order handling for identical and fungible options prevents fraudulent and manipulative acts and practices, and promotes just and equitable principles of trade to protect investors and the public interest by ensuring consistent treatment of these

[286] *See supra* note 54.

[287] Specifically, Cboe evaluated each FLEX PM Third Friday Options trade for more than 500 contracts that occurred on Cboe during a two-year timeframe and analyzed the market quality (specifically, the average time-weighted quote spread and size 30 minutes prior to the trade and the average time-weighted quote spread and size 30 minutes after the trade) of series non-FLEX a.m.-settled options overlying the same index with similar terms as the FLEX PM Third Friday Option that traded (time to expiration, type (call or put), and strike price) as set forth in the Cboe's data. *See supra* note 54.

[288] Cboe acknowledged that, while FLEX PM Third Friday Options has historically represented a very small percentage of overall volume, it is possible trading in these options may grow in the future. *See supra* note 54.

[289] *See* Securities Exchange Act Release No. 98450 (September 20, 2023), 88 FR 66111 (September 26, 2023) (SR–ISE–2023–08) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Make Permanent Certain P.M.-Settled Pilots) (''P.M.-Settled Pilot Permanency Approval'').

[290] *See* Securities Exchange Act Release No. 98935 (November 14, 2023), 88 FR 80792 (November 20, 2023) (SR–ISE–2023–20) (Order Approving a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Nasdaq-100 Index® Options With a Third-Friday-of-the-Month Expiration) (''P.M. Third Friday NDX Options Approval'').

[291] *See* P.M.-Settled Pilot Permanency Approval, citing to Securities and Exchange Commission, Division of Economic Risk and Analysis, Memorandum dated February 2, 2021 on Cornerstone Analysis of PM Cash-Settled Index Option Pilots (September 16, 2020) (also referred to therein as the ''Pilot Memo''), available at: *https://www.sec.gov/files/Analysis_of_PM_Cash_Settled_Index_Option_Pilots.pdf.*

[292] *See* P.M.-Settled Pilot Permanency Approval.

[293] *See id.*

[294] *See id.*

[295] *See* P.M.-Settled Pilot Permanency Approval and P.M. Third Friday NDX Options Approval in notes 274 and 276, respectively.

[296] *See* P.M. Third Friday NDX Options Approval.

[297] *See id.*

[298] While the Exchange has received approval to list p.m.-settled third Friday-of-the-month expirations for NDX options on its standard market pursuant to the Third Friday NDX Options Approval, the Exchange has not listed them to date. The Exchange will launch p.m.-settled third-Friday-of-the-month expirations on NDX options on or before the launch of electronic FLEX on ISE.

options. As noted above, proposed Section 3(d)(1) is identical to ISE Options 3A, Section 3(d)(1).

Additionally, pursuant to proposed Section 3(d)(2)(A), if a non-FLEX Option series [299] is added intraday, for the balance of that trading day, a position established under the FLEX trading procedures may be closed using the FLEX trading procedures in this Options 3A against another closing only FLEX position. No FLEX Orders may be submitted into an electronic auction pursuant to Options 3A, Sections 11(b), 12, or 13 for a FLEX Option series with the same terms as the non-FLEX Option series, unless the FLEX Order is a closing order, and it is the day on which the non-FLEX Option series was added intraday; Members may only submit responses that close out existing FLEX positions. The Exchange notifies Members when a FLEX Option series is restricted to closing only transactions. The System will reject a transaction in such a restricted series that does not conform to these requirements.

This proposed rule will prevent an option with the same terms from trading both a FLEX Option series and a non-FLEX Option series concurrently, while providing a narrow exception for closing positions. The Exchange believes that providing a narrow exception to permit such closing only transactions will help investors close out their outstanding FLEX Option positions the same day as the identical non-FLEX Option is added. As noted above, proposed Section 3(d)(2) is identical to ISE Options 3A, Section 3(d)(2).

F. Units of Trading; Minimum Trading Increments (Sections 4 and 5)

The Exchange believes that the proposed rule text in Section 4(a) provides clear, transparent language regarding how bids and offers for FLEX Options must be expressed.

The Exchange similarly believes that proposed Section 5(a) provides clarity to market participants that the Exchange will determine the minimum increments for bids and offers on FLEX Options on a class-by-class basis, which may be no smaller than $0.01 for the options leg of a FLEX Option. Allowing FLEX Options to trade in increments as small as $0.01 is consistent with the Act because it provides investors with increased ability to meet their specific investment objectives and allows for increased opportunities for price improvement through a finer trading increment. The Exchange is also proposing to clarify in proposed Section 5(b) that the stock leg of a FLEX Option will be subject to the minimum increment rules in proposed Options 3A, Section 11(b)(1)(G), Section 12(a)(5), and Section 13(a)(5) for greater transparency around how minimum increments for complex FLEX Orders (including complex FLEX Orders with a stock component) would be handled.

G. Types of Orders; Order and Quote Protocols (Section 6)

The Exchange believes that specifying in proposed Section 6(a) that it may make the order types and TIFs specified in Options 3, Section 7 available on a class or System basis for FLEX Orders is consistent with the Exchange's existing authority to designate the availability of order types and times-in-force for non-FLEX Orders.[300] As noted above, only the following order types in Options 3, Section 7 would apply to FLEX at this time: Limit Orders and Cancel and Replace Orders. Also as noted above, only the Immediate-or-Cancel TIF described in Supplementary Material .02(d) would apply to FLEX. Given that FLEX Orders will only be eligible to submitted into an electronic FLEX Auction, FLEX PIXL, or FLEX SOM, and not rest on the order book or route away (for which most of the order types and TIFs set forth in Options 3, Section 7 are relevant), the Exchange believes that these are appropriate designations for FLEX Orders. Because there is no existing market for FLEX Options on the Exchange, the Exchange believes that permitting FLEX Options to be submitted as limit orders is appropriate to ensure execution of FLEX Orders at reasonable prices (*i.e.,* at the Member's specified price or better). The Exchange also believes that it is appropriate to allow FLEX Orders to be submitted as Cancel and Replace orders so that Members can cancel and replace their FLEX Order in a single message. The Exchange further believes that it is appropriate to allow FLEX Orders to have a TIF of Immediate-or-Cancel because that is how the Exchange currently treats all auction orders in its standard non-FLEX market today. Specifically, the Exchange considers all orders that are entered into one of its non-FLEX auction mechanisms (*e.g.,* SOM Orders and PIXL Orders) to have a TIF of Immediate-or-Cancel. By their terms, these orders will be: (1) executed either on entry or after an exposure period, or (2) cancelled.[301] Because FLEX Orders may only be submitted into one of the proposed auctions described above (FLEX Auction, FLEX PIXL, FLEX SOM), the Exchange will likewise consider FLEX Orders like its non-FLEX auction orders today.

The Exchange further believes proposed Section 6(b) will provide greater transparency as to which existing order and quote protocols would be available for FLEX Orders, FLEX auction notifications, and FLEX auction responses.

H. Complex Orders (Section 7)

The Exchange believes the proposed Section 7 will provide investors with additional transparency regarding order entry requirements for complex FLEX Options. As noted above, the proposed complex FLEX Order entry requirements will be identical to ISE Options 3A, Section 7.

The Exchange also believes that allowing the submission of complex FLEX Orders with any ratio will remove impediments to and perfect the mechanism of a free and open market and benefit investors, because it will provide Members with additional flexibility and precision in their investment strategies. ISE offers this feature for complex FLEX Orders, so the Exchange believes that the proposed changes will promote a free and open market and a national market system by providing an additional venue for market participants to execute complex FLEX Orders with any ratio.[302]

I. Opening of FLEX Trading (Section 8)

The Exchange believes that proposed Section 8, which will specify that there will be no Opening Process in FLEX Options and that Members may begin submitting FLEX Orders into an electronic FLEX Auction, a FLEX PIXL, or a FLEX SOM when the underlying security is open for trading, will provide clarity to market participants regarding the mechanisms available for FLEX trading. The Exchange will not conduct an Opening Process in FLEX Options due to the customized nature of these products and the fact that there will be no requirement for specific FLEX Option series to be quoted or traded each day. ISE also does not hold an opening trading rotation in FLEX Options.[303]

The Exchange also believes that allowing Member to begin submitting FLEX Orders once the underlying security is open is appropriate. Because market participants incorporate

[299] ISE Options 3A, Section 3(d)(2)(A) has identical text.

[300] *See* introductory paragraph to Options 3, Section 7.

[301] *See* Supplementary Material .02(d)(3) to Options 3, Section 7.

[302] *See supra* note 82.

[303] *See* ISE Options 3A, Section 8 for identical text.

transaction prices of underlying securities or the values of underlying indexes when pricing options (which will include FLEX Options), the Exchange believes it will benefit investors for FLEX Options trading to not be available until that information has begun to be disseminated in the market. Because the Exchange will have no electronic book of resting orders for FLEX Options (and no Opening Process), being ''open'' for FLEX trading merely means that Members may submit FLEX Orders into one of the specified FLEX auction mechanisms once the underlying is open, at the conclusion of which executions in those auction mechanisms may occur (which are all discussed in the respective FLEX Auction, FLEX PIXL, and FLEX SOM sections above).

J. Trading Halts (Section 9)

The Exchange believes that proposed Section 9 will provide clarity as to when the Exchange would halt trading in FLEX Options. The reasons why the Exchange would halt trading in a non-FLEX Option class (*e.g.,* trading in the underlying security is halted) would generally be reasons why the Exchange would halt a FLEX Option class, and therefore the Exchange will always halt trading in a FLEX Option class when trading in a non-FLEX Option class with the same underlying equity security or index is halted on the Exchange. Proposed Section 9 also provides the Exchange with authority to halt trading in a FLEX Option, even if trading in a non-FLEX Option with the same underlying is not halted. While such situation would be rare, there may be unusual circumstances that would cause the Exchange to halt trading in the FLEX Option. As noted above, the proposed halt provisions are identical to ISE Options 3A, Section 9.

K. Exchange Order Books (Section 10)

The Exchange believes that specifying in proposed Section 10 that the Exchange's simple and complex order books will not be available for transactions in FLEX Options will make clear what mechanisms would be available for FLEX trading (or not). FLEX Orders may only be submitted into a FLEX Auction, FLEX PIXL, or FLEX SOM. As noted above, proposed Section 10 is consistent with the FLEX rules of other options exchanges that similarly do not contemplate the interaction of their respective order books with FLEX transactions.[304]

L. FLEX Options Trading (Section 11)

The Exchange believes that proposed Section 11(a), which specifies the requirements for submitting FLEX Orders for trading, is consistent with the Act. Proposed Section 11(a) will set forth which mechanisms would be available for FLEX Orders (*i.e.,* electronic FLEX Auction, FLEX PIXL, or FLEX SOM) and the order entry requirements for simple and complex FLEX Orders. The Exchange believes that System-enforcing the stipulation that it will not accept simple or complex FLEX Orders if the order or leg, as applicable, has identical terms as a non-FLEX Option series that is already listed for trading will prevent options with the same terms to trade as both a FLEX Options and non-FLEX Option, thereby eliminating any potential concerns around inconsistent order handling.

The Exchange believes that the electronic FLEX Auction as described in proposed Section 11(b) will remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest. The proposed FLEX Auction will offer market participants with an auction mechanism for the execution of FLEX Options at potentially improved prices that is identical to ISE Options 3A, Section 11(b), except for certain intended differences to align to current auction functionality in order to allow the proposed FLEX Auction to fit more seamlessly into the Exchange's market. The Exchange will align the proposed FLEX Auction allocation methodology (*i.e.,* Public Customer Size Pro-Rata and one contract allocation and non-Public Customer allocation in accordance with Options 3, Section 10(a)(1)(A), (E), and (F)) [305] with current auction functionality in Phlx Options 3, Section 10. The Exchange believes that the proposed priority and allocation rules for the FLEX Auction will ensure a fair and orderly market by maintaining the priority of orders and protecting Public Customer orders, while still affording the opportunity for price improvement during each FLEX Auction commenced on the Exchange. As noted above, all of the foregoing features are harmonized with the Exchange's current auction functionality for non-FLEX Orders, including PIXL and SOM, so the Exchange believes that this will promote consistency for Members participating across different auctions on Phlx.

Of note, the Exchange will instead disseminate the duration of the exposure interval, instead of calculating and disseminating what time the auction will conclude, and will not offer an Attributable designation for FLEX Orders. Otherwise, the general framework of the proposed electronic FLEX Auction in Section 11(b) (such as the eligibility requirements, the auction process and conclusion, and execution provisions) is identical to ISE Options 3A, Section 11(b).

The Exchange believes that the proposed auction exposure interval periods strike an appropriate balance between allowing executions of FLEX Orders to be completed in a timely fashion and providing Members sufficient time to price the unique terms of FLEX Options. As noted above, the submitting Member must designate the length of the exposure interval (which will be included in the auction notification message) to be between three seconds and five minutes, which is identical to ISE's range of exposure intervals for their electronic FLEX Auctions in ISE Options 3A, Section 11(b)(1)(F). The Exchange believes it is appropriate to require the submitting Member to establish the length of the auction period (which will be included in the auction notification message), as the Member is in the best position to determine a reasonable period of time to provide other Members to respond based on the complexity of the FLEX Option series that is the subject of the auction, as well as based on market conditions (for example, in a volatile market, the Member may believe it is in the best interests of a customer to have a shorter auction period given quickly changing prices).

The Exchange believes that the proposed rule change to allow multiple electronic FLEX Auctions overlap will benefit investors, as it may lead to an increase in Exchange volume and permit the Exchange to compete with the OTC market, while providing for additional opportunities for price discovery and execution. Although electronic FLEX Auctions will be allowed to overlap, the Exchange does not believe that this raises any issues that are not addressed through the proposal as described above. For example, although overlapping, each auction will be started in a sequence and with a time that will determine its processing. Thus, even if there are two auctions that commence and conclude, at nearly the same time, each auction will have a distinct conclusion at which time the auction will be allocated. Additionally, FLEX Orders submitted into an electronic FLEX Auction will be able to execute only against FLEX responses submitted to that auction. If market participants desire to have interest execute against both FLEX

[304] *See* ISE Options 3A, Section 10 for identical rule text. *See infra* note 90.

[305] *See* proposed Options 3A, Sections 11(b)(3)(A)(i) and (iii).

Orders subject to concurrent FLEX Auctions, market participants may submit responses to both auctions. Additionally, the proposed concurrent auction feature is materially identical to ISE Options 3A, Section 11(b)(2)(B).

M. FLEX PIXL and FLEX SOM (Sections 12 and 13)

The Exchange believes that the FLEX PIXL and FLEX SOM Auctions as described in proposed Sections 12 and 13, respectively, will remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest. The proposed FLEX PIXL and FLEX SOM Auctions will offer market participants with auction mechanisms for the execution of FLEX Options at potentially improved prices that are identical to ISE's FLEX PIXL at Options 3A, Section 12 and FLEX SOM at Options 3A, Section 13, except for certain intended differences to align to the Exchange's current PIXL and SOM auction functionality to allow the proposed FLEX PIXL and SOM Auctions to fit more seamlessly into the Exchange's market. The Exchange will align the proposed FLEX PIXL allocation methodology with its current non-FLEX PIXL allocation methodology in that the allocation methodology for remaining contracts, once Public Customer contracts have been allocated, will align with Phlx Options 3, Section 10(a)(1)(A), (E), and (F) as compared to ISE's allocation methodology at ISE Options 3, Section 10.[306] For both FLEX PIXL and FLEX SOM, the Exchange will also specify that if an allocation would result in less than one contract, then one contract will be allocated.[307] This would align to current SOM and PIXL allocation.[308] As noted above, all of the foregoing features are consistent with the Exchange's current PIXL and SOM auction functionality for non-FLEX Orders, so the Exchange believes that this will promote consistency for Members participating across different auctions on Phlx.

As it relates to FLEX PIXL's proposed guaranteed allocation percentages of 50% (if there is a response(s) from one other Member) or 40% (if there are responses from two or more Members), these percentages will align ISE Options 3A, Section 12(e) and Phlx's non-FLEX PIXL at Options 3, Section 13(b)(5).

The general frameworks of the proposed FLEX PIXL and FLEX SOM Auctions in Sections 12 and 13 (such as the eligibility requirements, stop price requirements, auction process and conclusion, and execution provisions) are identical to ISE Options 3A, Sections 12 and 13. The clarity in how FLEX PIXL and FLEX SOM will function and their consistency with similar auctions at another exchange will help promote a fair and orderly national options market system. For example, the proposed range for the length of each of the FLEX PIXL and FLEX SOM Auction periods is consistent with the range for the auction periods of ISE's FLEX PIM and FLEX SOM Auctions in Options 3A, Section 12 and 13. The Exchange believes it is appropriate to provide a reasonable and sufficient amount of time in which market participants may submit responses because of the unique terms of FLEX Options. Therefore, the Exchange is proposing that the minimum length of a FLEX PIXL or FLEX SOM Auction be three seconds. The Exchange also proposes a maximum length of an auction period to be five minutes, as the Exchange also believes it is appropriate to provide for efficient and timely executions so that customers do not potentially miss a market. The proposed rule change also requires the Initiating Member to establish the length of the auction period (which will be included in the auction notification message), as the Member is in the best position to determine a reasonable period of time to provide other Members to respond based on the complexity of the FLEX Option series that is the subject of the auction, as well as based on market conditions (for example, in a volatile market, the Member may believe it is in the best interests of a customer to have a shorter auction period given quickly changing prices).

The proposal will also allow FLEX PIXL and FLEX SOM Auctions to occur concurrently with other FLEX PIXL and FLEX SOM Auctions. The Exchange does not believe that allowing FLEX PIXL and FLEX SOM Auctions to overlap would raise any issues that are not addressed by proposal. For example, although overlapping, each FLEX PIXL or FLEX SOM Auction will be started in a sequence and with a duration that determines its processing. Thus, even if there are two FLEX PIXL or FLEX SOM Auctions that commence and conclude, at nearly the same time, each Auction will have a distinct conclusion at which time the Auction will be allocated, and only against responses submitted into that Auction. As discussed above, each FLEX PIXL or FLEX SOM response is required to specifically identify the FLEX PIXL or FLEX SOM Auction, respectively, for which it is targeted and if not fully executed, will be cancelled back at the conclusion of the Auction. Thus, responses will be specifically considered and executed only in the specified Auction. As a general matter, issues with concurrent auctions can relate to the interaction of auctioned orders with contra-side interest resting on the book at the end of various auctions. As noted above, there will be no order book available for FLEX trading, so there can be no conflict among contra-side interest resting on the book and FLEX PIXL or FLEX SOM responses with respect to executions. Further, because there is no book for FLEX Options, there are no events that cause a FLEX PIXL or FLEX SOM to conclude prior to the end of auction exposure period that would result in an execution, and therefore, the same event could not cause multiple auctions to conclude early.

The Exchange will apply a Size Pro-Rata execution algorithm with a Public Customer overlay for FLEX PIXL and FLEX SOM pursuant to Options 3, Section 10(a)(1)(A),[309] except that the allocation for non-Public Customer Orders will allocate pursuant to Phlx Options 3, Section 10(a)(1)(E) and (F). The Exchange believes that the proposed priority and allocation rules for FLEX PIXL and FLEX SOM will ensure a fair and orderly market by maintaining the priority of orders and protecting Public Customer orders, while still affording the opportunity for price improvement during each FLEX PIXL and FLEX SOM Auction commenced on the Exchange.

N. Risk Protections (Section 14)

The Exchange believes that specifying the risk protections in proposed Options 3A, Section 14 will benefit investors with additional transparency regarding which of the Exchange's risk protections in Options 3, Sections 15 (simple order risk protections, 16 (complex order risk

[306] Phlx's allocation model differs from ISE's allocation model, although the Exchange notes that Size Pro-Rata (as defined in Options 3, Section 10(a)) is similar to pro-rata as referenced in ISE Options 3, Section 10(c). Phlx's allocation model allocates to Market Maker pursuant to Options 3, Section 10(a)(1)(E), after allocating to Public Customers, and thereafter allocates to all other remaining non-Public Customer, non-Market Maker interest pursuant to Options 3, Section 10(a)(1)(F) based on a size pro-rata basis. The Exchange notes that Public Customers on Phlx will continue to have priority over other market participants.

[307] *See* proposed Supplementary Material .03 to Options 3A, Section 11 and Supplementary Material .03 to Options 3A, Section 12.

[308] *See* Supplementary Material .09 to Options 3, Section 11 and Supplementary Material .10 to Options 3, Section 13).

[309] *See* proposed Options 3A, Sections 12(e) and 13(e). As noted above, this is also consistent with the Exchange's current priority and allocation methodology for non-FLEX auctions, including SOM and PIXL. *See* Options 3, Section 11(d)(3)(C) and Section 13(d).

protections),[310] and 28 (optional risk protections)[311] would apply to FLEX trading. The Exchange also believes that applying the foregoing risk protections to FLEX Options will protect investors and the public interest, and maintain fair and orderly markets, by providing market participants with more tools to manage their risk. In addition, providing Members with more tools for managing risk facilitates transactions in FLEX Options because Members will have more confidence that risk protections are in place. As a result, apply the foregoing risk protections has the potential to promote just and equitable principles of trade.

O. Data Feeds (Section 15)

The Exchange believes that specifying the data feeds in proposed Options 3A, Section 15 will benefit investors with additional transparency regarding which data feeds it will disseminate auction notifications for simple and complex FLEX Orders. As discussed above, the Exchange proposes to disseminate auction notifications for simple and complex FLEX Orders through the through the Nasdaq Phlx Order Feed, as described in Options 3, Section 23(a)(2),[312] which will be consistent with how non-FLEX simple and complex auction notifications are disseminated today.

P. FLEX Market Makers and Letters of Guarantee (Sections 16 and 17)

The Exchange believes that the proposed FLEX Market Maker provisions in Section 16 will provide clarity and transparency as to how FLEX Market Makers are appointed and their related obligations. As noted above, these provisions are identical to ISE Options 3A, Sections 16 and 17.

Pursuant to proposed Section 17, the Exchange will ensure that all FLEX transactions effected by FLEX Market Makers will be covered by an effective Letter of Guarantee.[313] The Exchange believes that the Letter of Guarantee will protect investors and the public interest because it signifies that the clearing member has accepted financial responsibility for transactions in all options entered into by the Market Maker, which will protect the counterparties of those trades and such protections will flow to other clearing members and ultimately to the OCC as the central counterparty and guarantor of both FLEX and non-FLEX Option transactions. The Exchange will notify all clearing members of the new FLEX rules to confirm that all clearing members' Letters of Guarantee will cover all financial responsibilities for all FLEX transactions by FLEX Market Makers, and will require additions to their effective Letters of Guarantee to provide full coverage, where necessary. The Exchange believes this will ensure that all FLEX Market Makers will be covered by effective Letters of Guarantee for their FLEX transactions.

Q. Position and Exercise Limits (Sections 18 and 19)

Position and exercise limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position and exercise limits should address and discourage the potential for manipulative schemes and adverse market impact, if such limits are set too low, participation in the options market may be discouraged. The Exchange believes that any decision regarding imposing position and exercise limits for FLEX Options must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes.

As it relates to FLEX Index Options, the Exchange believes that the proposed position and exercise limits in Sections 18(a), 18(c), and 19(a) are reasonably designed to prevent a Member from using FLEX Index Options to evade the position limits applicable to comparable non-FLEX Index Options. Further, by establishing the proposed position and exercise limits for FLEX Index Options and, importantly, aggregating such positions in the manner described in proposed Sections 18(c)(1), (c)(2), and 19(a)(3), the Exchange believes that the position and exercise limit requirements for FLEX Index Options should help to ensure that the trading of FLEX Index Options would not increase the potential for manipulation or market disruption and could help to minimize such incentives. The Exchange also notes that proposed position and exercise limits are consistent with the rules of another options exchanges that offer FLEX Index Options, as well as the rules of its own standard non-FLEX index options market, and therefore raise no novel issues for the Commission.[314]

As it relates to FLEX Equity Options, while no position limits are proposed for FLEX Equity Options, there are several mitigating factors, which include aggregation of FLEX Equity Option and non-FLEX Equity Option positions that expire on a third Friday-of-the-month and subjecting those positions to position and exercise limits, and daily monitoring of market activity. Similar to the other exchanges that trade FLEX Equity Options, the Exchange believes that eliminating position and exercise limits for FLEX Equity Options, while requiring positions in FLEX Equity Options that expire on a third Friday-of-the-month to be aggregated with positions in non-FLEX Equity Options on the same underlying security,[315] removes impediments to and perfects the mechanism of a free and open market and a national market system because it allow the Exchange to create a product and market that is an improved but comparable alternative to the OTC market in customized options. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the

[310] *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration.

[311] *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration.

[312] The Nasdaq Phlx Order Feed is a real-time full Limit Order book data feed that provides pricing information for orders on the Phlx Order book for displayed order types as well as market participant capacity. Nasdaq Phlx Order Feed is currently provided as part of the TOPO Plus Orders data product. The Nasdaq Phlx Order[s] Feed provides real-time information to enable users to keep track of the single and complex order book(s). The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, leg information on complex strategies and whether the option series is available for trading on Phlx and identifies if the series is available for closing transactions only. The feed also provides auction and exposure notifications and order imbalances on opening/reopening (size of matched contracts and size of the imbalance). The Exchange amend the PHLX Orders Fee as part of the technology migration to enhanced Nasdaq functionality discussed above. *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR–Phlx–2024–71). SR–Phlx–2024–71 is effective but not yet operative. SR–Phlx–2024–71 would be operative at the same time as this rule change as they are both part of the same technology migration.

[313] Today, all Phlx Market Makers are required to enter into a Letter of Guarantee pursuant to Options 6, Section 4.

[314] *See* Cboe Rules 8.35(a), (b), (d), and 8.42(g) and ISE Options 4A, Sections 6(a), 7(a)(1), 9(a)(13), and 9(a)(14).

[315] *See* proposed Options 3A, Section 18(c)(3) and Section 19(a)(3). *See also* Cboe Rules 8.35(d)(3) and 8.42(g)(3); NYSE Arca Rules 5.35–O(a)(iii), (b) and 5.36–O; NYSE American Rules 906G and 907G; and Phlx Options 8, Section 34(e) and (f) (FLEX Currency Options). *See also* Options 3A, 18(c)(1).

marketplace. As such, OTC transactions do not contribute to the price discovery process that exists on a public exchange.

The Exchange believes that the proposed elimination of position and exercise limits for FLEX Equity Options may encourage market participants to transfer their liquidity demands from OTC markets to exchanges and enable liquidity providers to provide additional liquidity to Phlx through transactions in FLEX Equity Options. The Exchange notes that the Commission previously approved the elimination of position and exercise limits for FLEX Equity Options, finding that such elimination would allow exchanges ''to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and dealers and exchange markets.'' [316] The Commission has also stated that the elimination of position and exercise limits for FLEX Equity Options ''could potentially expand the depth and liquidity of the FLEX equity market without significantly increasing concerns regarding intermarket manipulations or disruptions of the options or the underlying securities.'' [317]

Additionally, the Exchange believes that requiring positions in FLEX Equity Options that expire on a third Friday-of-the-month to be aggregated with positions in non-FLEX Equity Options on the same underlying security subjects FLEX Equity Options and non-FLEX Equity Options to the same position and exercise limits on third Friday-of-the-month expirations. These limitations are intended to serve as a safeguard against potential adverse effects of large FLEX Equity Option positions expiring on the same day as non-FLEX Equity Option positions. As noted above, ISE Options 3A, Section 18(c)(1) has identical rule text.

The Exchange believes that any potential risk of manipulative activity is mitigated by existing surveillance technologies, procedures, and reporting requirements at the Exchange, which allows the Exchange to properly identify disruptive and/or manipulative trading activity. In addition to its own surveillance programs, the Exchange also works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in ISG, the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange also notes that FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement.[318] The Exchange also represents that it is reviewing its procedures to detect potential manipulation in light of any changes required for FLEX Options to confirm appropriate surveillance coverage and would make any changes that the Exchange believes are necessary for FLEX trading. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and their underlying securities and are designed to protect investors and the public interest by ensuring that the Exchange has an adequate surveillance program in place.

The Exchange believes that proposed Section 18(b)(2) and (3) further mitigates concerns for potential market manipulation and/or disruption in the underlying markets and thus protects investors and the public interest because position reporting will be required (other than for a Market Maker) and the Exchange may determine that a higher margin requirement is necessary in light of the risks associated with a FLEX Equity Option position in excess of the standard limit for non-FLEX Equity Options of the same class. The Exchange may, pursuant to its authority under Options 6C, Section 5, impose additional margin upon the account maintaining such under-hedged position as a safeguard against potential adverse effects of large FLEX Equity Option positions. The Exchange notes that the clearing firm carrying the account will be subject to capital charges under SEC Rule 15c3–1 to the extent of any margin deficiency resulting from a higher margin requirement imposed by the Exchange.

Lastly, the Exchange notes that ISE has identical position and exercise limits described above at Options 3A, Sections 18 and 19.

R. Cash-Settled FLEX ETF Options

Introducing cash-settled FLEX ETF Options will increase order flow to the Exchange, increase the variety of options products available for trading, and provide a valuable tool for investors to manage risk.

The Exchange believes that the proposal to permit cash settlement as a contract term for options on the specified group of equity securities would remove impediments to and perfect the mechanism of a free and open market as cash-settled FLEX ETF Options would enable market participants to receive cash in lieu of shares of the underlying security, which would, in turn provide greater opportunities for market participants to manage risk through the use of a cash-settled product to the benefit of investors and the public interest. The Exchange does not believe that allowing cash settlement as a contract term for options on the specified group of equity securities would render the marketplace for equity options more susceptible to manipulative practices. As illustrated in the table above, each of the qualifying underlying securities is actively traded and highly liquid and thus would not be susceptible to manipulation because, over a six-month period, each security had an average daily notional value of at least $500 million and an ADV of at least 4,680,000 shares, which indicates that there is substantial liquidity present in the trading of these securities, and that there is significant depth and breadth of market participants providing liquidity and of investor interest. The Exchange believes the proposed bi-annual review to determine eligibility for an underlying ETF to have cash settlement as a contract term would remove impediments to and perfect the mechanism of a free and open market as it would permit the Exchange to select only those underlying ETFs that are actively traded and have robust liquidity as each qualifying ETF would be required to meet the average daily notional value and average daily volume requirements, as well as to select the same underlying ETFs on which other exchanges may list cash-settled FLEX ETF Options.[319]

The Exchange believes the proposed change that, for FLEX ETF Options, at least one of exercise style, expiration date, and exercise price must differ from options in the non-FLEX market will provide clarity and eliminate confusion regarding permissible terms of FLEX ETF Options, including the proposed cash-settled FLEX ETF Options.

The Exchange believes that the data provided by the Exchange supports the supposition that permitting cash settlement as a FLEX term for the 50 underlying ETFs that would currently qualify to have cash settlement as a contract term would broaden the base of investors that use FLEX Equity Options

[316] *See* Securities Exchange Act Release No. 42223 (December 10, 1999), 64 FR 71158, 71159 (December 20, 1999) (SR–Amex–99–40) (SR–PCX–99–41) (SR–CBOE–99–59) (Order Granting Accelerated Approval to Proposed Rule Change Relating to the Permanent Approval of the Elimination of Position and Exercise Limits for FLEX Equity Options).

[317] *See id.*

[318] The Exchange notes that it is responsible for FINRA's performance under this Regulatory Services Agreement.

[319] *See supra* notes 251–253.

to manage their trading and investment risk, including investors that currently trade in the OTC market for customized options, where settlement restrictions do not apply.

The Exchange believes that the proposal to permit cash settlement for certain FLEX ETF options would remove impediments to and perfect the mechanism of a free and open market because the proposed rule change would provide members and member organizations with enhanced methods to manage risk by receiving cash if they choose to do so instead of the underlying security. In addition, this proposal would promote just and equitable principles of trade and protect investors and the general public because cash settlement would provide investors with an additional tool to manage their risk. Further, the Exchange notes that other exchanges have received approval that allows for the trading of cash-settled options, and, specifically, cash-settled FLEX ETF Options in an identical manner as the Exchange proposes to list them pursuant to this rule filing.[320] The proposed rule change therefore should not raise issues for the Commission that it has not previously addressed.

The proposed rule change to permit cash settlement as a contract term for options on up to 50 ETFs is designed to promote just and equitable principles of trade in that the availability of cash settlement as a contract term would give market participants an alternative to trading similar products in the OTC market. By trading a product in an exchange-traded environment (that is currently traded in the OTC market), the Exchange would be able to compete more effectively with the OTC market. The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that it would lead to the migration of options currently trading in the OTC market to trading on the Exchange. Also, any migration to the Exchange from the OTC market would result in increased market transparency. Additionally, the Exchange believes the proposed rule change is designed to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest in that it should create greater trading and hedging opportunities and flexibility. The proposed rule change should also result in enhanced efficiency in initiating and closing out positions and heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of the proposed cash-settled options. Further, the proposed rule change would result in increased competition by permitting the Exchange to offer products that are currently available for trading only in the OTC market and are approved to trade on another options exchange.

The Exchange believes that establishing position limits for cash-settled FLEX ETF Options to be the same as physically settled options on the same underlying security, and aggregating positions in cash-settled FLEX ETF Options with physically settled options on the same underlying security for purposes of calculating position limits is reasonable and consistent with the Act. By establishing the same position limits for cash-settled FLEX ETF Options as for physically settled options on the same underlying security and, importantly, aggregating such positions, the Exchange believes that the position limit requirements for cash-settled FLEX ETF Options should help to ensure that the trading of cash-settled FLEX ETF Options would not increase the potential for manipulation or market disruption and could help to minimize such incentives. For the same reasons, the Exchange believes the proposed exercise limits are reasonable and consistent with the Act.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in cash-settled FLEX ETF Options and the underlying ETFs. Regarding the proposed cash settlement, the Exchange would use the same surveillance procedures currently utilized for the Exchange's other FLEX Options. For surveillance purposes, the Exchange would have access to information regarding trading activity in the pertinent underlying ETFs. The Exchange believes that limiting cash settlement to no more than 50 underlying ETFs (currently, 50 ETFs would be eligible to have cash-settlement as a contract term) would minimize the possibility of manipulation due to the robust liquidity in both the equities and options markets.

As a self-regulatory organization, the Exchange recognizes the importance of surveillance, among other things, to detect and deter fraudulent and manipulative trading activity as well as other violations of Exchange rules and the federal securities laws. As discussed above, Phlx has adequate surveillance procedures in place to monitor trading in cash-settled FLEX ETF Options and the underlying securities, including to detect manipulative trading activity in both the options and the underlying ETF.[321] The Exchange further notes the liquidity and active markets in the underlying ETFs, and the high number of market participants in both the underlying ETFs and existing options on the ETFs, helps to minimize the possibility of manipulation. The Exchange further notes that under Section 19(g) of the Act, the Exchange, as a self-regulatory organization, is required to enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the rules of the Exchange.[322] The Exchange believes its surveillance, along with the liquidity criteria and position and exercise limits requirements, are reasonably designed to mitigate manipulation and market disruption concerns and will permit it to enforce compliance with the proposed rules and other Exchange rules in accordance with Section 19(g) of the Act. The Exchange performs ongoing evaluations of its surveillance program to ensure its continued effectiveness and will continue to review its surveillance procedures on an ongoing basis and make any necessary enhancements and/or modifications that may be needed for the cash settlement of FLEX ETF Options.

Additionally, the Exchange will monitor any effect additional options series listed under the proposed rule change will have on market fragmentation and the capacity of the Exchange's automated systems. The Exchange will take prompt action, including timely communication with the Commission and with other self-regulatory organizations responsible for oversight of trading in options, the

[320] *See supra* notes 251–253.

[321] Among other things, Phlx's regulatory program include cross-market surveillance designed to identify manipulative and other improper trading, including spoofing, algorithm gaming, marking the close and open, as well as more general abusive behavior related to front running, wash sales, and quoting/routing, which may occur on the Exchange and other markets. Furthermore, the Exchange stated that it has access to information regarding trading activity in the pertinent underlying securities as a member of ISG. As it relates to Reg SHO violations, the Exchange will enforce this through its Stock-Tied Reg SHO price protections in Options 3, Section 16(e). Options 3, Section 16 was amended by SR–Phlx–2025–17. was amended by SR–Phlx–2025–17. *See* Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR–Phlx–2025–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). SR–Phlx–2025–17 proposed the same operative date as this proposal as they are both part of the same technology migration. *See supra* note 211 for Stock-Tied Reg SHO discussion. NES will only execute Stock-Option Strategies and Stock-Complex Strategies if the underlying covered security component is in accordance with Rule 201 of Regulation SHO.

[322] 15 U.S.C. 78s(g).

underlying ETFs, and the ETFs' component securities, should any unanticipated adverse market effects develop.

Section 11(a) Analysis

The Exchange believes that the proposed FLEX rules in Options 3A, including the proposed electronic FLEX Auction in Options 3A, Section 11(b), proposed FLEX PIXL in Options 3A, Section 12, and proposed FLEX SOM in Options 3A, Section 13, are consistent with Section 11(a)(1) of the Act [323] and the rules promulgated thereunder. Generally, Section 11(a)(1) of the Act restricts any member of a national securities exchange from effecting any transaction on such exchange for (i) the member's own account, (ii) the account of a person associated with the member, or (iii) an account over which the member or a person associated with the member exercises investment discretion (collectively referred to as ''covered accounts''), unless a specific exemption is available. Examples of common exemptions include the exemption for transactions by broker dealers acting in the capacity of a market maker under Section 11(a)(1)(A),[324] the ''G'' exemption for yielding priority to non-members under Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder,[325] and the ''Effect vs. Execute'' exemption under Rule 11a2–2(T) under the Act.[326] The ''Effect vs. Execute'' exemption permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [327] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Exchange believes that Members entering orders and responses into the electronic FLEX Auction pursuant to proposed Options 3A, Section 11(b), FLEX PIXL pursuant to proposed Options 3A, Section 12, and FLEX SOM pursuant to proposed Options 3A, Section 13 would satisfy the requirements of Rule 11a2–2(T).

Rule 11a2–2(T)'s first requirement is that orders for covered accounts be transmitted from off the exchange floor. While the Exchange operates a physical trading floor, the proposed auctions would only be traded electronically. Today, FLEX is permitted on Phlx's trading floor pursuant to Options 8, Section 34. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[328] The Exchange represents that the System and the proposed FLEX auction mechanisms described above will receive all FLEX Orders and FLEX responses electronically through remote terminals or computer-to-computer interfaces. The Exchange represents that FLEX Orders and FLEX responses for covered accounts from Members will be transmitted from a remote location directly to the proposed FLEX auction mechanisms described above by electronic means.

The second condition of Rule 11a2–2(T) requires that neither a member nor an associated person participate in the execution of its order once the order is transmitted to the floor for execution. The Exchange represents that, upon submission to the FLEX Auction, FLEX PIXL, or FLEX SOM, a FLEX Order or FLEX response will be executed automatically pursuant to the rules set forth in proposed Options 3A, Section 11(b) (for FLEX Auctions), Section 12 (for FLEX PIXL), and Section 13(for FLEX SOM). In particular, execution of a FLEX Order (including the Agency and the Initiating or Solicited Order, as applicable) or a FLEX response sent to the applicable auction mechanism depends not on the Member entering the FLEX Order or FLEX response, but rather on what other FLEX responses are present and the priority of those FLEX responses. Thus, at no time following the submission of a FLEX Order or FLEX response is a Member or any associated person of such Member able to acquire control or influence over the result or timing of the FLEX Order or FLEX response execution.[329] Once the FLEX Order (including the Agency Order and Initiating or Solicited Order (as applicable)) has been transmitted, the Member that transmitted such order into the FLEX Auction, FLEX PIXL, or FLEX SOM (as applicable) will not participate in the execution of the FLEX Order. Members submitting the FLEX Orders (including the Agency Orders and Initiating or Solicited Orders (as applicable)) into the applicable FLEX auction mechanisms will relinquish control to cancel their FLEX Orders entered into the FLEX Auction, or modify or cancel their Agency Orders and Initiating or Solicited Orders (as applicable) entered into FLEX PIXL and FLEX SOM.[330] Further, no Member, including the Member submitting the FLEX Order into the applicable FLEX auction mechanisms described above, will see FLEX responses submitted into any of the FLEX auction mechanisms and therefore will not be able to influence or guide the execution of their FLEX Orders or FLEX responses, as applicable.

[323] 15 U.S.C. 78k(a). Section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion unless an exception applies.

[324] 15 U.S.C. 78k(a)(1)(A).

[325] 15 U.S.C. 78k(a)(1)(G) and 17 CFR 240.11a1–1(T).

[326] 17 CFR 240.11a2–2(T).

[327] The member may, however, participate in clearing and settling the transaction.

[328] *See, e.g.,* Securities Exchange Act Release Nos. 95445 (August 8, 2022), 87 FR 49894 (August 12, 2022) (SR–MEMX–2022–10) (approving options trading on MEMX Options); 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[329] The submitting Member may cancel a FLEX Auction prior to the end of the exposure interval. *See* proposed Options 3A, Section 11(b)(2)(C). Members may modify or cancel FLEX responses during the exposure interval. *See* Options 3A, Section 11(b)(2)(D)(v). An Initiating Member may not cancel or modify an Agency Order or Initiating Order after it has been submitted into FLEX PIXL, except to improve the price of the Initiating Order. *See* proposed Options 3A, Section 12(c)(4). Members may modify or cancel their responses after being submitted to into a FLEX PIXL. *See* proposed Options 3A, Section 12(c)(5)(F). An Initiating Member may not modify an Agency Order or Solicited Order after it has been submitted into FLEX SOM. *See* proposed Options 3A, Section 13(c)(4). Members may modify or cancel their responses after being submitted to into a FLEX SOM. *See* proposed Options 3A, Section 12(c)(5)(F). The Commission has stated that the nonparticipation requirement does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted so long as the modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542, 11547 (the ''1978 Release'').

[330] *See id.*

Rule 11a2–2(T)'s third condition requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the FLEX Auction, FLEX PIXL, and FLEX SOM are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[331] The Exchange represents that the FLEX Auction, FLEX PIXL, and FLEX SOM are designed so that no Member has any special or unique trading advantage in the handling of its FLEX Orders after transmitting its FLEX Orders to the applicable FLEX auction mechanism.

Rule 11a2–2(T)'s fourth condition requires that, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[332] The Exchange recognizes that Members relying on Rule 11a2–2(T) for transactions effected pursuant to the proposed FLEX rules, and in particular through the applicable FLEX auction mechanisms described above, must comply with this condition of the Rule and the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

The Exchange therefore believes that the proposed rules in Options 3A governing FLEX trading, including the proposed FLEX Auction, FLEX PIXL, and FLEX SOM, are consistent with Rule 11a2–2(T).

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, as all Members who wish to trade FLEX Options will be able to trade such options in the same manner. Additionally, positions in FLEX Options of all Members will be subject to the same position limits, and such positions will be aggregated in the same manner as described in proposed Section 18(c).

The Exchange also does not believe that the proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, other options exchanges currently offer electronic FLEX trading and cash-settled FLEX ETF Options on their respective markets. The Exchange believes that its proposal will allow Phlx to compete with these other exchanges and provide an additional execution venue for these transactions for market participants. Thus, the Exchange believes that its proposal will promote inter-market competition by increasing the number of exchanges where electronic FLEX trading and cash-settled FLEX ETF Options will be available. The proposal also promotes inter-market competition by providing another alternative (*i.e.,* exchange markets) to bilateral OTC trading of options with flexible terms. Exchange markets, in contrast with bilateral OTC trading, are centralized, transparent, and have the guarantee of OCC for options traded.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[333] and subparagraph (f)(6) of Rule 19b–4 thereunder.[334]

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 shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–Phlx–2025–38 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.

[331] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release.

[332] *See* 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement which amount must be exclusive of all amounts paid to others during that period for services rendered to effect such transactions. *See also* 1978 Release, at 11548 (stating "[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests").

[333] 15 U.S.C. 78s(b)(3)(A)(iii).

[334] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to file number SR–Phlx–2025–38. 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–2025–38 and should be submitted on or before September 16, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[335]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2025–16290 Filed 8–25–25; 8:45 am]

BILLING CODE 8011–01–P

[335] 17 CFR 200.30–3(a)(12).