compliance with applicable securities laws and regulations, and with applicable FINRA rules. These supervisory procedures would, at least in effect, require the assessment and mitigation of risks of non-compliance posed by the types of business conducted at Residential Supervisory Locations. FINRA determined that requiring a firm to conduct and document a risk assessment for designating an office or location as an RSL would not provide an additional benefit to members or investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The SEC published the 2022 RSL Rule Filing for comment and as of the end of the comment period on August 23, 2022, the SEC had received 20 unique comment letters, then subsequently received six more comment letters.[123] On October 31, 2022, FINRA responded to the comments and did not propose changing the terms of the 2022 RSL Rule Filing in response to the comments.[124] On the same day, the Commission instituted proceedings to determine whether to approve or disapprove the 2022 RSL Rule Filing (''Order''),[125] and the SEC received five comments letters in response to the Order.[126] On December 9, 2022, FINRA responded to those comments and did not propose changing the 2022 RSL Rule Filing in response to them.[127] Since then, the SEC has received one supplemental comment letter.[128] March 30, 2023 was the date by which the SEC was required to either approve or disapprove the 2022 RSL Rule Filing. But on March 29, 2023, FINRA withdrew the 2022 RSL Rule Filing from the SEC to consider whether modifications and clarifications to the filing would be appropriate in response to concerns raised by commenters. While the proposed rule change retains many of the terms of the 2022 RSL Rule Filing, the proposed rule change makes some adjustments, which are discussed in detail above under Item II.A.1.b.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2023–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2023–006. 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 (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2023–006 and should be submitted on or before April 27, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[129]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–07145 Filed 4–5–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97232; File No. SR–Phlx–2023–09]

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

March 31, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 28, 2023, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to permit the listing and trading of options on the Nasdaq-100 ESG Index.

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

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[123] *See* note 9, *supra.*

[124] *See* note 9, *supra; see also* Exhibit 2b.

[125] *See* Securities Exchange Act Release No. 96191 (October 31, 2022), 87 FR 66767 (November 4, 2022) (Order Instituting Proceedings to Determine Whether to Approve or Disapprove File No. SR–FINRA–2022–019).

[126] *See* note 9, *supra.*

[127] *See* note 9, *supra; see also* Exhibit 2c.

[128] *See* Letter from Bernard V. Canepa, Managing Director & Associate General Counsel, Securities Industry and Financial Markets Association, to Vanessa A. Countryman, Secretary, SEC, dated December 20, 2022, *https://www.sec.gov/comments/sr-finra-2022-019/srfinra2022019-20153234-320719.pdf.*

[129] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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 permit the listing and trading of options on the Nasdaq-100 ESG Index or ''NDXESG''.[3] The Nasdaq-100 ESG Index is a broad based, modified ESG Risk Rating Score-adjusted market-capitalization-weighted index that is designed to measure the performance of the companies in the Nasdaq-100 Index (''NDX'') that meet specific environmental, social and governance (''ESG'') criteria.[4] The Nasdaq-100 ESG Index at all times consists of a selection of securities in NDX.[5] In order to be selected for the Nasdaq-100 ESG Index, a Nasdaq-100 Index company must: (1) not be involved in specific business activities, as defined in the methodology [6] and determined by Sustainalytics; [7] (2) not be deemed non-compliant with the principles of the United Nations Global Compact, as determined by Sustainalytics; (3) not have a controversy level higher than four (4), as defined by Sustainalytics; and (4) have a Sustainalytics ESG Risk Rating Score lower than 40. There are various stages in the constituent weighting process which are outlined in the methodology.[8]

Initial and Maintenance Listing Criteria

The Nasdaq-100 ESG Index meets the definition of a broad-based index as set forth in Options 4A, Section 2(a)(13) [9] (*i.e.,* an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries). Additionally, the Nasdaq-100 ESG Index satisfies the initial listing criteria of a broad-based index, as set forth in Options 4A, Section 3(d):

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

(2) Options on the index are designated as A.M.-settled index options;

(3) The index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted;

(4) The index consists of 50 or more component securities;

(5) Component securities that account for at least ninety-five percent (95%) of the weight of the index have a market capitalization of at least $ 75 million, except that component securities that account for at least sixty-five percent (65%) of the weight of the index have a market capitalization of at least $ 100 million;

(6) Component securities that account for at least eighty percent (80%) of the weight of the index satisfy the requirements of Options 4, Section 3 applicable to individual underlying securities;

(7) Each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period;

(8) No single component security accounts for more than ten percent (10%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than thirty-three percent (33%) of the weight of the index;

(9) Each component security must be an ''NMS Stock'' as defined in rule 600 of Regulation NMS under the Exchange Act;

(10) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the index;

(11) The current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors during the time options on the index are traded on the Exchange;

(12) The Exchange reasonably believes it has adequate System capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index;

(13) An equal dollar-weighted index is rebalanced at least once every calendar quarter;

(14) If an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index;

(15) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

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

(1) The conditions set forth in subparagraphs (d)(1), (2), (3), (9), (10), (11), (12), (13), (14) and (15) must continue to be satisfied. The conditions set forth in subparagraphs (d)(5), (6), (7) and (8) must be satisfied only as of the first day of January and July in each year;

(2) The total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing.[10]

Expiration Months, Settlement, and Exercise Style

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

The NDXESG options will be a.m.-settled [14] and cash-settled contracts with European-style exercise.[15] A.M.-

[3] These options would trade under the symbol ''EXGN.''

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

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

[6] *See supra* note 5.

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

[8] *See supra* note 5.

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

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

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

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

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

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

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

settlement is consistent with the generic listing criteria for broad-based indexes,[16] and thus it is common for index options to be a.m.-settled. The Exchange proposes to amend Phlx Options 4A, Section 12(e)(II) to add the Nasdaq-100 ESG Index options to the list of other a.m.-settled options. European-style exercise is consistent with many index options, as set forth in Options 4A, Section 12(a)(5). The Exchange proposes to amend Options 4A, Section 12(a)(5) to add the NDXESG options to the list of European-style index options. Standard third-Friday NDX options are a.m.-settled with European-style exercise. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the NDXESG options with the same settlement and exercise style as the other NDX options.

Minimum Trading Increment

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

Reporting Authority

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

Position Limit and Exercise Limits

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

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

Trading Hours

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

Margin and Sales Practice

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

Surveillance and Capacity

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

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

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(5) of the Act,[23] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange. The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act[24] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the introduction of NDXESG options will attract order flow to the Exchange, increase the variety of listed options to investors, and provide a valuable hedge tool to investors.

In particular, the Exchange believes that the proposal to list and trade options on the Nasdaq-100 ESG Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, because the Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Additionally, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, as the

[16] *See* Phlx Options 4A, Section 3(d).

[17] *See* Phlx Options 3, Section 3.

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

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

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

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

[22] 15 U.S.C. 78f(b)

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78(f)(b)(8).

Exchange believes there is unmet market demand for exchange-listed security options listed on this new ESG index. NDXESG options are designed to provide different and additional opportunities for investors who have a desire to invest in companies that meet certain environmental, social and governance criteria to hedge on the market risk associated with this index by listing an option directly on this index. Further, the Exchange believes that this new product will provide market participant with an additional investment opportunity.

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

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

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

The NDXESG options will be a.m.-settled [27] and cash-settled contracts with European-style exercise.[28] The Exchange believes that it is consistent with the Act for NDXESG options to be a.m.-settled as this is consistent with the generic listing criteria for broad-based indexes,[29] and thus it is common for index options to be a.m.-settled. Additionally, standard third-Friday NDX options are a.m.-settled. Further, the Exchange believes that it is consistent with the Act for NDXESG options to be European-style as standard third-Friday NDX options have European-style exercises. Further, European-style exercise is consistent with many index options, as set forth in Options 4A, Section 12(a)(5) including NDX options. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the NDXESG options with the same settlement and exercise style as the other NDX options. Additionally, the Reporting Authority shall be the same for NDXESG as it is for NDX.

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

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

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

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

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

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

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

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

This proposed rule change does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Any member or member organization may transact NDXESG options. Further, the Nasdaq-100 ESG Index satisfies initial listing standards set forth in the rules, and the proposed number of expirations, settlement, and exercise style are consistent with current rules applicable to index options, including standard

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

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

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

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

[29] *See* Phlx Options 4A, Section 3(d).

third-Friday NDX options. Because of the relationship between the Nasdaq-100 ESG Index and the NDX, which will likely result in market participants' investment and hedging strategies consisting of options over each of these indexes, the Exchange believes it is appropriate to have the same number of expirations, settlement, and exercise style for options on each index. The NDXESG options will provide investors with different and additional opportunities to hedge or speculate on the market associated with this index.

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

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2023–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2023–09. This file number should be included on the subject line if 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2023–09 and should be submitted on or before April 27, 2023.

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

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–07141 Filed 4–5–23; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–409, OMB Control No. 3235–0467]

Submission for OMB Review; Comment Request; Extension: Rule 102

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 102 of Regulation M (17 CFR 242.102), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 102 prohibits distribution participants, issuers, and selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by this rule may seek to use several applicable exceptions such as an exclusion for actively traded reference securities and the maintenance of policies regarding information barriers between their affiliates.

There are approximately 1,361 respondents per year that require an aggregate total of 2,261 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes on average approximately 1.661 hours to complete. Thus, the total hour burden per year is approximately 2,261 hours. The total internal compliance cost for all respondents is approximately $183,141.00, resulting in an internal cost of compliance per respondent of approximately $134.56 (*i.e.,* $183,141.00/1,361 respondents).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by May 8, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*