

All submissions should refer to File Number SR–NYSE–2022–35. 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 10:00 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–NYSE–2022–35 and should be submitted on or before September 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>43</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2022–17663 Filed 8–16–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95479; File No. SR–Phlx–2022–33]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4

August 11, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup>

notice is hereby given that on August 1, 2022, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Phlx’s Pricing Schedule at Options 7, Section 4, “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A).”

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

Phlx proposes to amend its Pricing Schedule at Options 7, Section 4, “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A).” Specifically, Phlx proposes to remove the maximum Qualified Contingent Cross (“QCC”) rebate that will be paid by the Exchange in a given month. The Exchange believes that removing this rebate will permit Phlx to compete more effectively with other options exchange for QCC Orders by incentivizing market

participants to transact a greater amount of QCC Orders on Phlx in order to receive a QCC Rebate.<sup>3</sup>

Today, the Exchange assesses a \$.20 per contract QCC Transaction Fee for a Lead Market Maker,<sup>4</sup> Market Maker,<sup>5</sup> Firm<sup>6</sup> and Broker-Dealer.<sup>7</sup> Customers<sup>8</sup> and Professionals<sup>9</sup> are not assessed a QCC Transaction Fee. QCC Transaction Fees apply to electronic QCC Orders<sup>10</sup> and Floor QCC Orders.<sup>11</sup> Rebates are paid on all qualifying executed electronic QCC Orders and Floor QCC Orders based on the following six tier rebate schedule:<sup>12</sup>

<sup>3</sup> Phlx will monitor the impact of this proposal on QCC Order volumes, and may in the future impose a maximum on the amount of QCC Rebate it would pay to members and member organizations that execute qualifying QCC Orders.

<sup>4</sup> The term “Lead Market Maker” applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c). The term “Floor Lead Market Maker” is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange’s trading floor. See Options 8, Section 2(a)(3).

<sup>5</sup> The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c). The term “Floor Market Maker” is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Options 8, Section 2(a)(4).

<sup>6</sup> The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. See Options 7, Section 1(c).

<sup>7</sup> The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(c).

<sup>8</sup> The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

<sup>9</sup> The term “Professional” applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) 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). See Options 7, Section 1(c).

<sup>10</sup> Electronic QCC Orders are described in Options 3, Section 12.

<sup>11</sup> Floor QCC Orders are described in Options 8, Section 30(e).

<sup>12</sup> Volume resulting from all executed electronic QCC Orders and Floor QCC Orders, including Customer-to-Customer, Customer-to-Professional, and Professional-to-Professional transactions and

<sup>43</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

Tier	Threshold	Rebate per contract
Tier 1 .....	0 to 99,999 contracts in a month .....	\$0.00
Tier 2 .....	100,000 to 299,999 contracts in a month .....	0.05
Tier 3 .....	300,000 to 499,999 contracts in a month .....	0.07
Tier 4 .....	500,000 to 699,999 contracts in a month .....	0.08
Tier 5 .....	700,000 to 999,999 contracts in a month .....	0.09
Tier 6 .....	Over 1,000,000 contracts in a month .....	0.11

The Exchange does not pay a QCC Rebate where the transaction is either: (i) Customer-to-Customer; (ii) Customer-to-Professional; (iii) Professional-to-Professional; or (iv) a dividend, merger, short stock interest or reversal or conversion strategy execution (as defined in Options 7, Section 4). The Exchange will continue to pay rebates on QCC Orders as described above.

Today, the maximum QCC Rebate to be paid in a given month may not exceed \$750,000. The Exchange proposes to remove the limit on the amount of QCC Rebate that will be paid in a given month. With this proposal, members and member organizations will be paid QCC Rebates for all qualifying executed QCC Orders without limitation.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>14</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>15</sup>

Likewise, in *NetCoalition v. Securities and Exchange Commission*<sup>16</sup>

(“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.<sup>17</sup> As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”<sup>18</sup>

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . . .”<sup>19</sup> Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that it is reasonable to remove the limit on the amount of QCC Rebate that will be paid in a given month because it would allow members and member organizations to be paid QCC Rebates, for all qualifying executed QCC Orders, without limitation. Further, removing the limit on the amount of QCC Rebate that would be paid in a given month will permit Phlx to compete more effectively with other options exchange for QCC Orders by incentivizing market participants to transact a greater amount of QCC Orders on Phlx in order to receive a QCC Rebate.

The Exchange believes that it is equitable and not unfairly discriminatory to remove the limit on the amount of QCC Rebate that will be paid in a given month because all qualifying market participants are

eligible to transact QCC Orders, either electronically or on the Trading Floor, and would, therefore, be eligible to receive QCC Rebates for all qualifying executed QCC Orders, without limitation.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

### Intra-Market Competition

The proposed amendments do not impose an undue burden on intra-market competition. The Exchange believes that removing the limit on the amount of QCC Rebate that will be paid in a given month does not impose an undue burden on competition because all qualifying market participants are eligible to transact QCC Orders, either

excluding dividend, merger, short stock interest or reversal or conversion strategy executions, is aggregated in determining the applicable volume tier.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>15</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>16</sup> *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

<sup>17</sup> See *NetCoalition*, at 534–535.

<sup>18</sup> *Id.* at 537.

<sup>19</sup> *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

electronically or on the Trading Floor, and would, therefore, be eligible to receive QCC Rebates for all qualifying executed QCC Orders, without limitation.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>20</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2022-33 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-2022-33. 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 10:00 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-2022-33 and should be submitted on or before September 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022-17669 Filed 8-16-22; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Investment Company Act Release No. 34671; 812-15360]

**Pacific Funds Series Trust, et al.**

August 11, 2022.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application under Section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from Section 15(c) of the Act.

**SUMMARY OF APPLICATION:** The requested exemption would permit a Trust's board of trustees (the "Board") to approve new sub-advisory agreements and material amendments to existing sub-advisory agreements without complying with the in-person meeting requirement of Section 15(c) of the Act.

**APPLICANT:** Pacific Funds Series Trust and Pacific Select Fund (each a "Trust" and collectively the "Trusts"), and

Pacific Life Fund Advisors LLC ("PLFA" or the "Adviser").

**FILING DATES:** The application was filed on June 27, 2022.

**HEARING OR NOTIFICATION OF HEARING:**

An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov) and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below.

Hearing requests should be received by the Commission by 5:30 p.m. on September 7, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

**ADDRESSES:** The Commission:

*Secretarys-Office@sec.gov*. Applicants: Audrey L. Cheng, Esq., *Audrey.Cheng@PacificLife.com* and Anthony Zacharski, Esq., *Anthony.Zacharski@Dechert.com*.

**FOR FURTHER INFORMATION CONTACT:**

Terri Jordan, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** For

Applicants' representations, legal analysis, and condition, please refer to Applicants' application, dated June 27, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at <http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022-17658 Filed 8-16-22; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>21</sup> 17 CFR 200.30-3(a)(12).