Proposed Rule Change by Philadelphia Stock Exchange

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

<table>
<thead>
<tr>
<th>Initial</th>
<th>Amendment</th>
<th>Withdrawal</th>
<th>Section 19(b)(2)</th>
<th>Section 19(b)(3)(A)</th>
<th>Section 19(b)(3)(B)</th>
<th>Rule</th>
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Pilot

Extension of Time Period for Commission Action

Date Expires

This proposed rule change amends the Exchange’s Fee Schedule regarding PACE fees and NMS Linkage.

Contact Information

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

First Name: John

Last Name: Dayton

Title: Director and Counsel

E-mail: john.dayton@phlx.com

Telephone: (215) 496-5162

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date: 09/26/2006

By: John Dayton

Director and Counsel

(Note: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

John Dayton, john.dayton@phlx.com

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2007
Estimated average burden hours per response: 38
<table>
<thead>
<tr>
<th><strong>Form 19b-4 Information</strong></th>
<th>The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.</th>
</tr>
</thead>
</table>

| **Exhibit 1 - Notice of Proposed Rule Change** | The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3). |
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| **Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications** | Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G. |
| Add | Remove | View |

| **Exhibit 3 - Form, Report, or Questionnaire** | Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change. |
| Add | Remove | View |

| **Exhibit 4 - Marked Copies** | The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working. |
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| **Exhibit 5 - Proposed Rule Text** | The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change. |
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| **Partial Amendment** | If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission’s permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions. |
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1. **Text of the Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to amend the Equity Transaction Charge (the “Charge”) on the Phlx Fee Schedule to extend the application of the Charge to an order, after being delivered to the Exchange by the PACE system\(^3\), that is executed by the specialist by way of an outbound NMS Linkage order, when such outbound NMS Linkage order reflects the PACE order’s clearing information. The Charge will not apply where a PACE order was executed against an inbound NMS Linkage order.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the applicable portion of the Exchange’s Fee Schedule is attached hereto as Exhibit 5.

2. **Procedures of the Self-Regulatory Organization**

The Executive Committee, pursuant to delegated authority, approved the proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on September 20, 2006.

Questions and comments on the proposed rule change may be directed to John Dayton, Director and Counsel, at (215) 496-5162, or Edith Hallahan, Senior Vice President and Deputy General Counsel, at (215) 496-5179.

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\(^3\) PACE is the Exchange’s automated order routing, delivery, execution and reporting system for equities. **See** Phlx Rule 229.
3. **Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

   a. **Purpose**

   The purpose of the proposed rule change is to treat PACE trades that interact with NMS Linkage orders the same as Intermarket Trading System ("ITS") commitments with respect to the Exchange’s Charge. The NMS Linkage Plan will be the successor Plan to the ITS Plan. While there are some operational differences between the two Plans, both Plans facilitate intermarket linkage among market centers trading certain listed securities and the Exchange believes the NMS Linkage Plan will be used in a similar manner as the ITS Plan by its members and member organizations. Therefore, the Exchange proposes to apply the Charge to PACE trades that interact with NMS Linkage orders in the identical manner as PACE trades that interact with ITS commitments. This is accomplished by adding the words “or NMS Linkage order” to footnote 1 in the Summary of Equity Charges section of the Exchange’s Fee Schedule.

   b. **Statutory Basis**

   The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of

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the Act\textsuperscript{7} in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

4. **Self-Regulatory Organization's Statement on Burden on Competition**

   The Phlx 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.

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

   No written comments were either solicited or received.

6. **Extension of Time Period for Commission Action**

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

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

   The foregoing proposed rule change establishes or changes a due, fee, or other charge applicable only to a member pursuant to Section 19(b)(3)(A)(ii) of the Act\textsuperscript{8} and Rule 19b-4(f)(2)\textsuperscript{9} thereunder. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.


\textsuperscript{9} 17 CFR 240.19b-4(f)(2).
8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

   The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. **Exhibits**

   1. Notice of proposed rule for publication in the *Federal Register*.
   2. The applicable portion of the Exchange’s schedule of fees.
SECURITIES AND EXCHANGE COMMISSION  
(Release No. ; File No. SR-Phlx-2006-62)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to PACE Equity Transaction Charge and NMS Linkage

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 ______________________ 2006, the Philadelphia Stock Exchange, Inc. ("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 Phlx. 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 Phlx, pursuant to Section 19(b)(1) of the Act\(^3\) and Rule 19b-4 thereunder,\(^4\) proposes to amend the Equity Transaction Charge (the “Charge”) on the Phlx Fee Schedule to extend the application of the Charge to an order, after being delivered to the Exchange by the PACE system\(^5\), that is executed by the specialist by way of an outbound NMS Linkage order, when such outbound NMS Linkage order reflects the PACE order’s


\(^5\) PACE is the Exchange’s automated order routing, delivery, execution and reporting system for equities. See Phlx Rule 229.
clearing information. The Charge will not apply where a PACE order was executed against an inbound NMS Linkage order.


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 Phlx 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 Phlx 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 purpose of the proposed rule change is to treat PACE trades that interact with NMS Linkage\(^6\) orders the same as Intermarket Trading System (“ITS”) commitments with respect to the Exchange’s Charge.\(^7\) The NMS Linkage Plan will be the successor Plan to the ITS Plan. While there are some operational differences between the two Plans, both Plans facilitate intermarket linkage among market centers trading certain


listed securities and the Exchange believes the NMS Linkage Plan will be used in a 
similar manner as the ITS Plan by its members and member organizations. Therefore, the 
Exchange proposes to apply the Charge to PACE trades that interact with NMS Linkage 
orders in the identical manner as PACE trades that interact with ITS commitments. This 
is accomplished by adding the words “or NMS Linkage order” to footnote 1 in the 
Summary of Equity Charges section of the Exchange’s Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent 
with Section 6(b) of the Act\(^8\) in general, and furthers the objectives of Section 6(b)(4) of 
the Act\(^9\) in particular, in that it is an equitable allocation of reasonable fees and other 
charges among Exchange members.

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.

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\(^\text{10}\) and paragraph (f)(2) of Rule 19b-4\(^\text{11}\) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission’s Internet comment form
  
  (http://www.sec.gov/rules/sro.shtml); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2006-62 on the subject line.

Paper comments:

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


All submissions should refer to File Number SR-Phlx-2006-62. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-62 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.\textsuperscript{12}

\begin{flushright}
Nancy M. Morris \\
Secretary
\end{flushright}

\textsuperscript{12} 17 CFR 200.30-3(a)(12).
Exhibit 5

Underlining indicates additions

SUMMARY OF EQUITY CHARGES (p 1/3)*

EQUITY TRANSACTION CHARGE
Based on total shares per transaction with the exception of specialist trades and PACE trades1.

Transaction Fee $0.0023

$50 maximum fee per trade side.

LICENSE FEE
SPDRs, STANDARD & POOR'S DEPOSITORY RECEIPTS**
Customer Non-PACE and ELECTRONIC COMMUNICATIONS NETWORK E (“ECN”)
License Fee
$0.00025 per share per trade side for sides greater than 500 shares
No maximum fee per trade side
Specialist License Fee
$0.00035 per share per trade side
No maximum fee per trade side

DIAMONDS® EXCHANGE TRADED FUNDS**
Customer Non-PACE and ELECTRONIC COMMUNICATIONS NETWORK E (“ECN”)
License Fee
$0.00025 per share per trade side for sides greater than 500 shares
No maximum fee per trade side
Specialist License Fee
$0.0005 per share per trade side
No maximum fee per trade side

EQUITY FLOOR BROKERAGE ASSESSMENT

$250 monthly charge2

EQUITY FLOOR BROKERAGE TRANSACTION FEE
$.05 per 100 shares or fraction thereof, for floor broker executing transactions for their own member firms.

See Appendix A for additional fees.
* not applicable to transactions in Nasdaq-100 Index Tracking StockSM (see page 4 for fees).

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1 However, this charge applies where an order, after being delivered to the Exchange by the PACE system is executed by the specialist by way of an outbound ITS commitment or NMS Linkage order, when such outbound ITS commitment or NMS Linkage order reflects the PACE order’s clearing information, but does not apply where a PACE trade was executed against an inbound ITS commitment or NMS Linkage order.
2 Applies to each member who derives at least 80% of gross income generated from Phlx floor based activities from his/her brokerage business conducted on the equity floor of the Exchange. Floor brokerage business conducted on the Exchange includes orders that are received on the equity floor of the Phlx, even if those orders are executed on an exchange other than the Phlx.