Proposed Rule Change by Philadelphia Stock Exchange

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

<table>
<thead>
<tr>
<th>Initial 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>
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</tbody>
</table>

Pilot: Extension of Time Period for Commission Action | Date Expires

Rule

- ✔ 19b-4(f)(2)
- ✔ 19b-4(f)(5)
- ✔ 19b-4(f)(6)
- 19b-4(f)(1)
- 19b-4(f)(4)
- 19b-4(f)(3)

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Clarifying the Exchange's payment for order flow program as it relates to order flow providers.

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: Cynthia
Last Name: Hoekstra
Title: Vice President
E-mail: cynthia.hoekstra@phlx.com
Telephone: (215) 496-5066
Fax: (215) 496-6729

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: 11/07/2006
By: Cynthia Hoekstra, Vice President

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.
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form 19b-4 Information</td>
<td>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.</td>
</tr>
<tr>
<td>Exhibit 1 - Notice of Proposed Rule Change</td>
<td>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. 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)</td>
</tr>
<tr>
<td>Exhibit 2 - Notices, Written Comments,</td>
<td>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.</td>
</tr>
<tr>
<td>Transcripts, Other Communications</td>
<td></td>
</tr>
<tr>
<td>Exhibit 3 - Form, Report, or Questionnaire</td>
<td>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.</td>
</tr>
<tr>
<td>Exhibit 4 - Marked Copies</td>
<td>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.</td>
</tr>
<tr>
<td>Exhibit 5 - Proposed Rule Text</td>
<td>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.</td>
</tr>
<tr>
<td>Partial Amendment</td>
<td>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.</td>
</tr>
</tbody>
</table>
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 clarify, in connection with the Exchange’s payment for order flow program,\(^3\) who may receive payment for order flow funds that are assessed by the Exchange on members and member organizations\(^4\) and are disbursed, as described in detail below, based on the instructions of the specialist units\(^5\) and Directed ROTs.\(^6\)

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\(^4\) Specifically, the payment for order flow fee is assessed on specialists/specialist units and Directed Registered Options Traders (“Directed ROTs”) who participate in the Exchange’s payment for order flow program, and Registered Options Traders (“ROTs”).

\(^5\) The Exchange uses the terms “specialist” and “specialist unit” interchangeably herein.

\(^6\) Directed ROTs are either Streaming Quote Traders (“SQTs”) or Remote Streaming Quote Traders (“RSQTs”) that receive Directed Orders. An SQT is an Exchange ROT who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. AUTOM is the Exchange’s electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. See Exchange Rules 1014(b)(ii) and 1080. An RSQT is an Exchange ROT that is a member or member organization of the Exchange with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may only trade in a market making capacity in classes of options in which he is assigned. See Exchange Rule 1014(b)(ii)(B). See Securities Exchange Act Release Nos. 51126 (February 2, 2005), 70 FR 6915 (February 9, 2005) (SR-Phlx-2004-90) and 51428 (March 24, 2005), 70 FR 16325 (March 30, 2005) (SR-Phlx-2005-12). The term
Under the Exchange’s current payment for order flow program, any available payment for order flow funds are disbursed by the Exchange according to the instructions of the specialist units and Directed ROTs. A specialist unit or Directed ROT must certify to the Exchange that payment for order flow funds directed by either of them to be paid to Order Flow Providers reflect payment arrangements entered into by the specialist unit or Directed ROT and the Order Flow Provider. The term “Order Flow Provider” is defined as any member or member organization that submits, as agent, customer orders to the Exchange. 7

In addition to the Order Flow Providers defined above, there are additional order flow providers who are not members or member organizations of the Exchange who also route orders to the Exchange, but do so through a member or member organization. In these situations, the Exchange proposes to clarify that the specialist unit or Directed ROT may instruct the Exchange to direct payment to these order flow providers, in the same way that is done for Order Flow Providers, if they have entered into payment arrangements with a specialist unit or Directed ROT to send order flow to the Exchange. Thus, specialist units and Directed ROTs may instruct the Exchange to direct payment for order flow funds to order flow providers who are members, non-members, member organizations or non-member organizations, provided the requirements relating to certification, as described above, have been met. Of course, such order flow providers

“Directed Order” means any customer order to buy or sell, which has been directed to a particular specialist, RSQT, or “SQT” by an Order Flow Provider (defined below). The provisions of Rule 1080(l) are in effect for a one-year pilot period to expire on May 27, 2007. See Securities Exchange Act Release No. 53870 (May 25, 2006), 71 FR 31251 (June 1, 2006) (SR-Phlx-2006-27).

7 See Exchange Rule 1080(l).
may arrange for the member organizations through which they route orders (referred to as “Order Flow Providers” in this proposal) to receive their payment for order flow payments and forward those funds to such non-member order flow provider. Although order flow providers may do this, many have chosen to receive payments directly, such that this proposal seeks to codify that practice.

It is the Exchange's understanding that the arrangement to disburse payment for order flow funds to non-member payment for order flow providers, in the same way that is done for Order Flow Providers (who are members or member organizations of the Exchange) is not unacceptable to the Order Flow Providers. To codify this practice, the Exchange intends to amend its certification form to require that the specialists and Directed ROTs that request payment for order flow funds certify, if applicable, that payments sent directly to a non-member payment for order flow provider is not unacceptable to the Order Flow Provider through whom the orders are routed.

In addition, consistent with current practice, Directed ROTs and specialists who request that payments be made to order floor providers are required to make, keep current and preserve all books and records relating to payment for order flow arrangements.\(^8\)

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 section of the Exchange’s Summary of Equity Option Charges is attached hereto as Exhibit 5.

\(^8\) See Exchange Rule 760, Maintenance, Retention and Furnishing of Books, Records and Other Information.
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 August 30, 2006.

   Questions and comments on the proposed rule change may be directed to Cynthia Hoekstra, Vice President, at (215) 496-5066 or Edith Hallahan, Deputy General Counsel, at (215) 496-5179.

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

   a. **Purpose**

      The purpose of amending the definition of Order Flow Providers\(^9\) as set forth in the Exchange’s payment for order flow program is to clarify that the available payment for order flow funds that are disbursed by the Exchange according to instructions of the specialist units and Directed ROTs to Order Flow Providers, may include order flow providers that are not members or member organizations of the Exchange. Consistent with the Exchange’s current payment for order flow program, the Exchange will not be involved in the determination of the terms governing the orders that qualify for payment or the amount of any payment. The Exchange is merely providing administrative support for the payment for order flow program by making the payment for order flow payments on behalf of, and at the direction of, the specialist units or Directed ROTs.

      Currently, the term “Order Flow Provider” is defined in Exchange Rule 1080(l) as any member or member organization that submits, as agent, customer orders to the Exchange. The Exchange is not seeking to change the definition as set forth in Rule

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\(^9\) See Exchange Rule 1080(l).
1080(l). As described above, the Exchange merely intends to clarify that in addition to the defined term of Order Flow Provider, order flow providers may include non-members or non-member organizations that submit, as agent, customer orders to the Exchange through a member or member organization. The Exchange is not changing any other aspect of its payment for order flow program pursuant to this filing. The payment for order flow fee will continue to be assessed on Exchange members, specifically specialists and Directed ROTs who participate in the Exchange’s payment for order flow program, in addition to ROTs.

b. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^\text{10}\) in general, and furthers the objectives of Section 6(b)(4) and 6(b)(5) of the Act\(^\text{11}\) in particular, in that it is an equitable allocation of reasonable fees, and other charges among Exchange members or other persons using the Exchange’s facilities\(^\text{12}\) and is designed to promote just and equitable principles of trade, 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, by acknowledging that not all order flow providers are members of Phlx, but nonetheless otherwise qualify to have payment for order flow funds, which are assessed on Exchange members and member organizations, directed to them at the direction of the specialist unit or Directed ROT.

\(^{10}\) 15 U.S.C. 78f(b).

\(^{11}\) 15 U.S.C. 78f(b)(4) and (5).

\(^{12}\) As stated above, the payment for order flow fee is only assessed on Exchange members or member organizations. However, a specialist unit or Directed ROT may instruct the Exchange to direct the funds collected from this fee to an order flow provider (a non-member/member organization of the Exchange).
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\(^\text{13}\) and Rule 19b-4(f)(2)\(^\text{14}\) 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.


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*.

5. Applicable Section of the Exchange’s Summary of Equity Option Charges.
Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2006-71)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Clarifying Its Payment for Order Flow Program as it Relates to Order Flow Providers

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 clarify, in connection with the Exchange’s payment for order flow program,\(^5\) who may receive payment for order flow funds that are assessed by the Exchange on


members and member organizations and are disbursed, as described in detail below, based on the instructions of the specialist units and Directed ROTs.

Under the Exchange’s current payment for order flow program, any available payment for order flow funds are disbursed by the Exchange according to the instructions of the specialist units and Directed ROTs. A specialist unit or Directed ROT must certify to the Exchange that payment for order flow funds directed by either of them to be paid to Order Flow Providers reflect payment arrangements entered into by the specialist unit or Directed ROT and the Order Flow Provider. The term “Order Flow Provider” is

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8 Directed ROTs are either Streaming Quote Traders (“SQTs”) or Remote Streaming Quote Traders (“RSQTs”) that receive Directed Orders. An SQT is an Exchange ROT who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. AUTOM is the Exchange’s electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. See Exchange Rules 1014(b)(ii) and 1080. An RSQT is an Exchange ROT that is a member or member organization of the Exchange with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may only trade in a market making capacity in classes of options in which he is assigned. See Exchange Rule 1014(b)(ii)(B). See Securities Exchange Act Release Nos. 51126 (February 2, 2005), 70 FR 6915 (February 9, 2005) (SR-Phlx-2004-90) and 51428 (March 24, 2005), 70 FR 16325 (March 30, 2005) (SR-Phlx-2005-12). The term “Directed Order” means any customer order to buy or sell, which has been directed to a particular specialist, RSQT, or “SQT” by an Order Flow Provider (defined below). The provisions of Rule 1080(I) are in effect for a one-year pilot period to expire on May 27, 2007. See Securities Exchange Act Release No. 53870 (May 25, 2006), 71 FR 31251 (June 1, 2006) (SR-Phlx-2006-27).
defined as any member or member organization that submits, as agent, customer orders to
the Exchange. 9

In addition to the Order Flow Providers defined above, there are additional order
flow providers who are not members or member organizations of the Exchange who also
route orders to the Exchange, but do so through a member or member organization. In
these situations, the Exchange proposes to clarify that the specialist unit or Directed ROT
may instruct the Exchange to direct payment to these order flow providers, in the same
way that is done for Order Flow Providers, if they have entered into payment
arrangements with a specialist unit or Directed ROT to send order flow to the Exchange.
Thus, specialist units and Directed ROTs may instruct the Exchange to direct payment for
order flow funds to order flow providers who are members, non-members, member
organizations or non-member organizations, provided the requirements relating to
certification, as described above, have been met. Of course, such order flow providers
may arrange for the member organizations through which they route orders (referred to as
“Order Flow Providers” in this proposal) to receive their payment for order flow
payments and forward those funds to such non-member order flow provider. Although
order flow providers may do this, many have chosen to receive payments directly, such
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Exchange intends to amend its certification form to require that the specialists and Directed ROTs that request payment for order flow funds certify, if applicable, that payments sent directly to a non-member payment for order flow provider is not unacceptable to the Order Flow Provider through whom the orders are routed.

In addition, consistent with current practice, Directed ROTs and specialists who request that payments be made to order floor providers are required to make, keep current and preserve all books and records relating to payment for order flow arrangements.\(^{10}\)


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 amending the definition of Order Flow Providers\(^{11}\) as set forth in the Exchange’s payment for order flow program is to clarify that the available payment for order flow funds that are disbursed by the Exchange according to instructions of the

\(^{10}\) See Exchange Rule 760, Maintenance, Retention and Furnishing of Books, Records and Other Information.

\(^{11}\) See Exchange Rule 1080(l).
specialist units and Directed ROTs to Order Flow Providers, may include order flow providers that are not members or member organizations of the Exchange. Consistent with the Exchange’s current payment for order flow program, the Exchange will not be involved in the determination of the terms governing the orders that qualify for payment or the amount of any payment. The Exchange is merely providing administrative support for the payment for order flow program by making the payment for order flow payments on behalf of, and at the direction of, the specialist units or Directed ROTs.

Currently, the term “Order Flow Provider” is defined in Exchange Rule 1080(l) as any member or member organization that submits, as agent, customer orders to the Exchange. The Exchange is not seeking to change the definition as set forth in Rule 1080(l). As described above, the Exchange merely intends to clarify that in addition to the defined term of Order Flow Provider, order flow providers may include non-members or non-member organizations that submit, as agent, customer orders to the Exchange through a member or member organization. The Exchange is not changing any other aspect of its payment for order flow program pursuant to this filing. The payment for order flow fee will continue to be assessed on Exchange members, specifically specialists and Directed ROTs who participate in the Exchange’s payment for order flow program, in addition to ROTs.
2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^{12}\) in general, and furthers the objectives of Section 6(b)(4) and 6(b)(5) of the Act\(^{13}\) in particular, in that it is an equitable allocation of reasonable fees, and other charges among Exchange members or other persons using the Exchange’s facilities\(^{14}\) and is designed to promote just and equitable principles of trade, 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, by acknowledging that not all order flow providers are members of Phlx, but nonetheless otherwise qualify to have payment for order flow funds, which are assessed on Exchange members and member organizations, directed to them at the direction of the specialist unit or Directed ROT.

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.

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\(^{13}\) 15 U.S.C. 78f(b)(4) and (5).

\(^{14}\) As stated above, the payment for order flow fee is only assessed on Exchange members or member organizations. However, a specialist unit or Directed ROT may instruct the Exchange to direct the funds collected from this fee to an order flow provider (a non-member/member organization of the Exchange).
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 and paragraph (f)(2) of Rule 19b-4 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-2006-71 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.

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All submissions should refer to File Number SR-Phlx-2006-71. 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-2006-71 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.17

Nancy M. Morris
Secretary

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Exhibit 5

New Text Underlined

SUMMARY OF EQUITY OPTION CHARGES (p. 3/6)

*    *    *    *    *

EQUITY OPTION PAYMENT FOR ORDER FLOW FEES*

(1) For trades resulting from either Directed or non-Directed Orders that are delivered electronically and executed on the Exchange: Assessed on ROTs, specialists and Directed ROTs on those trades when the specialist unit or Directed ROT elects to participate in the payment for order flow program.***
(2) No payment for order flow fees will be assessed on trades that are not delivered electronically.

QQQQ (NASDAQ-100 Index Tracking StockSM) $0.75 per contract
Remaining Equity Options $0.70 per contract

See Appendix A for additional fees.

*Assessed on transactions resulting from customer orders and are available to be disbursed by the Exchange according to the instructions of the specialist units/specialists or Directed ROTs to order flow providers who are members or member organizations, who submit, as agent, customer orders to the Exchange or non-members or non-member organizations who submit, as agent, customer orders to the Exchange through a member or member organization who is acting as agent for those customer orders. This proposal will be in effect for trades settling on or after October 1, 2005 and will remain in effect as a pilot program that is scheduled to expire on May 27, 2007.
***Any excess payment for order flow funds billed but not utilized by the specialist or Directed ROT will be carried forward unless the Directed ROT or specialist elects to have those funds rebated to the applicable ROT, Directed ROT or specialist on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange will calculate the amount of excess funds from the previous quarter and subsequently rebate excess funds on a pro-rata basis to the applicable ROT, Directed ROT or specialist who paid into that pool of funds.

*    *    *    *    *