Proposed Rule Change by Philadelphia Stock Exchange

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

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Extension of Time Period for Commission Action

Date Expires

☑ 19b-4(f)(1) ☐ 19b-4(f)(4)
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Description

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

Eliminating certain license fees

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
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: 11/27/2006
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.
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.

### Form 19b-4 Information

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).

### Exhibit 1 - Notice of Proposed Rule Change

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.

### Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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.

### Exhibit 3 - Form, Report, or Questionnaire

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.

### Exhibit 4 - Marked Copies

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.

### Exhibit 5 - Proposed Rule Text

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.
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") and Rule 19b-4 thereunder, proposes to modify its fee schedule to eliminate certain licensing fees and to not charge or rebate, when applicable, those license fees that were collected during the time period that the license fees were deemed to be no longer in effect.

Currently, the Exchange imposes a license fee of $0.10 per contract side for equity option and index option “firm” transactions on certain licensed products after a cap of $60,000 per member organization is reached. The Exchange also assesses a license fee of $0.10 per contract side after a 14,000 cap is reached on Registered Options Traders ("ROT") comparison charges and ROT and specialist transaction charges in connection with non-AUTOM delivered equity option contracts on those products that carry a license fee. Additionally, the Exchange imposes a license fee of $0.05 per contract side for dividend and short stock interest strategies in connection with certain

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3. The $60,000 cap applies to all “firm-related” equity option and index option comparison and transaction charges combined. “Firm-related” charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transaction charges, index option firm/proprietary comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively “firm-related” charges). See e.g., Securities Exchange Act Release No. 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006) (SR-Phlx-2006-10).
products that carry license fees, if applicable.\textsuperscript{5} The list of product symbols that are assessed a license fee are listed on the Exchange’s $60,000 “Firm-Related” Equity Option and Index Option Cap Fee Schedule.

The Exchange is proposing to eliminate the $0.10 per contract side and $0.05 per contract side license fees described above on the following products: iShares Lehman 1-3 Year Treasury Bond Fund, traded under the symbol SHY; iShares Lehman 7-10 Year Treasury Bond Fund, traded under the symbol IEF; iShares Lehman 20+ Treasury Bond Fund, traded under the symbol TLT; iShares Lehman Aggregate Bond Fund, traded under the symbol AGG; iShares Lehman TIPS Bond Fund, traded under the symbol TIP (collectively “iShares Lehman products”); Standard & Poor’s Depositary Receipts®, Trust Series 1, traded under the symbol SPY;\textsuperscript{6} iShares S&P 100 Index, traded under the symbol OEF; iShares S&P Europe 350, traded under the symbol IEV; iShares S&P Global 100 Index, traded under the symbol IVO; iShares S&P Global Energy Sector Index, traded under the symbol IXC; iShares S&P Global Financial Sector Index, traded under the symbol IXG; iShares S&P Global Healthcare Sector Index, traded under the symbol IXJ; iShares S&P Global Information Technology Sector Index, traded under the symbol IXN; iShares S&P Global Telecom Sector Index, traded under the symbol IXP; iShares S&P Latin America 40, traded under the symbol ILF; iShares S&P MidCap 400, iShares S&P Russell 1000, and iShares S&P Russell 2000.


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traded under the symbol IJH; iShares S&P SmallCap 600, traded under the symbol IJR; iShares S&P TOPIX 150, traded under the symbol ITF; iShares S&P 500, traded under the symbol IVV; S&P Industrial Select Sector SPDR, traded under the symbol XLI; S&P Technology Select Sector SPDR, traded under the symbol XLK; S&P Utilities Select Sector SPDR, traded under the symbol XLU; S&P Consumer Staples Select Sector SPDR, traded under the symbol XLP; S&P Energy Select Sector SPDR, traded under the symbol XLE; S&P Financial Select Sector SPDR, traded under the symbol XLF; S&P Health Care Select Sector SPDR, traded under the symbol XLV; S&P Materials Select Sector SPDR, traded under the symbol XLB; S&P Consumer Discretionary Select Sector SPDR, traded under the symbol XLY; MidCap SPDR, traded under the symbol MDY (collectively “S&P products”); State Street Global Advisors’, a division of State Street Bank and Trust Company (“SSGA”), streetTracks based on the Dow Jones & Co., Inc. (“Dow Jones”) Global Titans 50 Index SM, traded under the symbol DGT; SSGA’s streetTracks based on the Dow Jones Wilshire 5000 Index SM, traded under the symbol TMW; BGI’s iShares Dow Jones Select Dividend Index SM, traded under the symbol DVY; iShares Dow Jones U.S. Total Market Index SM, traded under the symbol IYY; iShares Dow Jones U.S. Basic Materials Index SM, traded under the symbol IWY; iShares Dow Jones U.S. Consumer Services Sector Index SM, traded under the symbol IYC; iShares Dow Jones U.S. Financial Sector Index SM, traded under the symbol IYF; iShares Dow Jones U.S. Financial Services Sector Index SM, traded under the symbol IYG; iShares Dow Jones U.S. Healthcare Sector Index SM, traded under the symbol IYH; iShares Dow Jones U.S. Industrial Sector Index SM, traded under the symbol IYJ; iShares Dow Jones U.S. Consumer Goods Sector Index SM, traded under the symbol IYK; iShares
Dow Jones U.S. Real Estate Sector Index℠, traded under the symbol IYR; iShares Dow Jones U.S. Technology Sector Index℠, traded under the symbol IYW; iShares Dow Jones U.S. Telecommunications Sector Index℠, traded under the symbol IYZ; iShares Dow Jones U.S. Utilities Sector Index℠, traded under the symbol IDU; and First Trust’s ETF based on the Dow Jones Select Microcap Index℠, traded under the symbol FDM, (collectively “Dow Jones products”); 7 NYSE Composite Index, traded under the symbol NYC; and NYSE U.S. 100 Index, traded under the symbol NY, (collectively “NYSE products”); and Nasdaq-100 Index Tracking Stock, traded under the symbol QQQQ (“QQQQ”)℠ 8.

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7 “Dow Jones” and “SSGA’s streetTracks based on the Dow Jones Global Titans 50 Index℠,” “SSGA’s streetTracks based on the Dow Jones Wilshire 5000 Index℠,” “BGI’s iShares Dow Jones Select Dividend Index℠,” “iShares Dow Jones U.S. Total Market Index℠,” “iShares Dow Jones U.S. Basic Materials Index℠,” “iShares Dow Jones U.S. Consumer Services Sector Index℠,” “iShares Dow Jones U.S. Financial Sector Index℠,” “iShares Dow Jones U.S. Financial Services Sector Index℠,” “iShares Dow Jones U.S. Healthcare Sector Index℠,” “iShares Dow Jones U.S. Industrial Sector Index℠,” “iShares Dow Jones U.S. Consumer Goods Sector Index℠,” “iShares Dow Jones U.S. Real Estate Sector Index℠,” “iShares Dow Jones U.S. Technology Sector Index℠,” “iShares Dow Jones U.S. Telecommunications Sector Index℠,” “iShares Dow Jones U.S. Utilities Sector Index℠,” and “First Trust’s ETF based on the Dow Jones Select Microcap Index℠,” are service marks of Dow Jones & Company, Inc. and have been licensed for use for certain purposes by the Philadelphia Stock Exchange, Inc. The Dow Jones products are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product(s).

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Therefore, for trades settling on or after November 28, 2006, the Exchange will eliminate the $0.10 and $0.05 license fees for the above-referenced products. In addition, the Exchange will either not charge any license fees, or rebate any license fees that were collected for iShares Lehman products, S&P products, Dow Jones products and NYSE products for trades settling on or after June 16, 2006 through November 27, 2006. Additionally, the Exchange will either not charge any license fees, or rebate any license fees that were collected, on QQQQ for trades settling on or after October 13, 2006 through November 27, 2006.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the Exchange’s $60,000 “Firm Related” Equity Option and Index Option Cap 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 October 19, 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, (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 the proposed rule change is to remove references to the product symbols listed above from the Exchange’s $60,000 “Firm Related” Equity Option and
Index Option Cap because the Exchange no longer pays a license fee in connection with the trading of these products. Accordingly, there is no need to assess a license fee.

For trades settling on or after November 28, 2006, the Exchange will eliminate the $0.10 and $0.05 license fees for the above-referenced products. In addition, the Exchange will either not charge any license fees, or rebate any license fees that were collected for iShares Lehman products, S&P products, Dow Jones products and NYSE products for trades settling on or after June 16, 2006 through November 27, 2006. Additionally, the Exchange will either not charge any license fees, or rebate any license fees that were collected on QQQQ for trades settling on or after October 13, 2006 through November 27, 2006.

b. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act\(^9\) in general, and furthers the objectives of Section 6(b)(4) of the Act\(^10\) 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\(^\text{11}\) and Rule 19b-4(f)(2)\(^\text{12}\) 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 similar to proposed rule changes filed by the International Securities Exchange, LLC and the American Stock Exchange LLC.\(^\text{13}\)

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9. **Exhibits**

1. Notice of proposed rule for publication in the *Federal Register*.

5. Exchange’s $60,000 “Firm Related” Equity Option and Index Option Cap.
Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2006-78)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Eliminating Certain License Fees

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 modify its fee schedule to eliminate certain licensing fees and to not charge or rebate, when applicable, those license fees that were collected during the time period that the license fees were deemed to be no longer in effect.

Currently, the Exchange imposes a license fee of $0.10 per contract side for equity option and index option “firm” transactions on certain licensed products after a

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cap of $60,000 per member organization is reached.\textsuperscript{5} The Exchange also assesses a license fee of $0.10 per contract side after a 14,000 cap is reached on Registered Options Traders ("ROT") comparison charges and ROT and specialist transaction charges in connection with non-AUTOM delivered equity option contracts on those products that carry a license fee.\textsuperscript{6} Additionally, the Exchange imposes a license fee of $0.05 per contract side for dividend and short stock interest strategies in connection with certain products that carry license fees, if applicable.\textsuperscript{7} The list of product symbols that are assessed a license fee are listed on the Exchange’s $60,000 “Firm-Related” Equity Option and Index Option Cap Fee Schedule.

The Exchange is proposing to eliminate the $0.10 per contract side and $0.05 per contract side license fees described above on the following products: iShares Lehman 1-3 Year Treasury Bond Fund, traded under the symbol SHY; iShares Lehman 7-10 Year Treasury Bond Fund, traded under the symbol IEF; iShares Lehman 20+ Treasury Bond Fund, traded under the symbol TLT; iShares Lehman Aggregate Bond Fund, traded under the symbol AGG; iShares Lehman TIPS Bond Fund, traded under the symbol TIP (collectively “iShares Lehman products”); Standard & Poor’s Depositary Receipts®,

\textsuperscript{5} The $60,000 cap applies to all “firm-related” equity option and index option comparison and transaction charges combined. “Firm-related” charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transaction charges, index option firm/proprietary comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively “firm-related” charges). See e.g., Securities Exchange Act Release No. 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006) (SR-Phlx-2006-10).


Trust Series 1, traded under the symbol SPY; iShares S&P 100 Index, traded under the symbol OEF; iShares S&P Europe 350, traded under the symbol IEV; iShares S&P Global 100 Index, traded under the symbol IOO; iShares S&P Global Energy Sector Index, traded under the symbol IXC; iShares S&P Global Financial Sector Index, traded under the symbol IXG; iShares S&P Global Healthcare Sector Index, traded under the symbol IXJ; iShares S&P Global Information Technology Sector Index, traded under the symbol IXN; iShares S&P Global Telecom Sector Index, traded under the symbol IXP; iShares S&P Latin America 40, traded under the symbol ILF; iShares S&P MidCap 400, traded under the symbol IJH; iShares S&P SmallCap 600, traded under the symbol IJR; iShares S&P TOPIX 150, traded under the symbol ITF; iShares S&P 500, traded under the symbol IVV; S&P Industrial Select Sector SPDR, traded under the symbol XLI; S&P Technology Select Sector SPDR, traded under the symbol XLK; S&P Utilities Select Sector SPDR, traded under the symbol XLU; S&P Consumer Staples Select Sector SPDR, traded under the symbol XLP; S&P Energy Select Sector SPDR, traded under the symbol XLE; S&P Financial Select Sector SPDR, traded under the symbol XLF; S&P Health Care Select Sector SPDR, traded under the symbol XLV; S&P Materials Select Sector SPDR, traded under the symbol XLB; S&P Consumer Discretionary Select Sector SPDR, traded under the symbol XLY; MidCap SPDR, traded under the symbol MDY (collectively “S&P products”); State Street Global Advisors’, a division of State Street Bank and Trust Company (“SSGA”), streetTracks based on the Dow Jones & Co., Inc.

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(“Dow Jones”) Global Titans 50 Index\textsuperscript{SM}, traded under the symbol DGT; SSGA’s streetTracks based on the Dow Jones Wilshire 5000 Index\textsuperscript{SM}, traded under the symbol TMW; BGI’s iShares Dow Jones Select Dividend Index\textsuperscript{SM}, traded under the symbol DVY; iShares Dow Jones U.S. Total Market Index\textsuperscript{SM}, traded under the symbol IYY; iShares Dow Jones U.S. Basic Materials Index\textsuperscript{SM}, traded under the symbol IWF; iShares Dow Jones U.S. Consumer Services Sector Index\textsuperscript{SM}, traded under the symbol IYC; iShares Dow Jones U.S. Financial Sector Index\textsuperscript{SM}, traded under the symbol IYF; iShares Dow Jones U.S. Financial Services Sector Index\textsuperscript{SM}, traded under the symbol IYG; iShares Dow Jones U.S. Healthcare Sector Index\textsuperscript{SM}, traded under the symbol IYH; iShares Dow Jones U.S. Industrial Sector Index\textsuperscript{SM}, traded under the symbol IYJ; iShares Dow Jones U.S. Consumer Goods Sector Index\textsuperscript{SM}, traded under the symbol IYK; iShares Dow Jones U.S. Real Estate Sector Index\textsuperscript{SM}, traded under the symbol IYR; iShares Dow Jones U.S. Technology Sector Index\textsuperscript{SM}, traded under the symbol IYW; iShares Dow Jones U.S. Telecommunications Sector Index\textsuperscript{SM}, traded under the symbol IYZ; iShares Dow Jones U.S. Utilities Sector Index\textsuperscript{SM}, traded under the symbol IDU; and First Trust’s ETF based on the Dow Jones Select Microcap Index\textsuperscript{SM}, traded under the symbol FDM, (collectively “Dow Jones products”),\textsuperscript{9} NYSE Composite Index, traded under the symbol

\textsuperscript{9} “Dow Jones” and “SSGA’s streetTracks based on the Dow Jones Global Titans 50 Index\textsuperscript{SM}, “SSGA’s streetTracks based on the Dow Jones Wilshire 5000 Index\textsuperscript{SM}, “BGI’s iShares Dow Jones Select Dividend Index\textsuperscript{SM}, “iShares Dow Jones U.S. Total Market Index\textsuperscript{SM}, “iShares Dow Jones U.S. Basic Materials Index\textsuperscript{SM}, “iShares Dow Jones U.S. Consumer Services Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Financial Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Financial Services Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Healthcare Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Industrial Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Consumer Goods Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Real Estate Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Technology Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Telecommunications Sector Index\textsuperscript{SM}, “iShares Dow Jones U.S. Utilities Sector Index\textsuperscript{SM}, and “First Trust’s ETF based on the Dow Jones
NYC; and NYSE U.S. 100 Index, traded under the symbol NY, (collectively “NYSE products”); and Nasdaq-100 Index Tracking Stock, traded under the symbol QQQQ (“QQQQ”) \(^{10}\).

Therefore, for trades settling on or after November 28, 2006, the Exchange will eliminate the $0.10 and $0.05 license fees for the above-referenced products. In addition, the Exchange will either not charge any license fees, or rebate any license fees that were collected for iShares Lehman products, S&P products, Dow Jones products and NYSE products for trades settling on or after June 16, 2006 through November 27, 2006.

Additionally, the Exchange will either not charge any license fees, or rebate any license fees that were collected, on QQQQ for trades settling on or after October 13, 2006 through November 27, 2006.

The text of the proposed rule change is available on the Exchange’s Website at


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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 remove references to the product symbols listed above from the Exchange’s $60,000 “Firm Related” Equity Option and Index Option Cap because the Exchange no longer pays a license fee in connection with the trading of these products. Accordingly, there is no need to assess a license fee.

For trades settling on or after November 28, 2006, the Exchange will eliminate the $0.10 and $0.05 license fees for the above-referenced products. In addition, the Exchange will either not charge any license fees, or rebate any license fees that were collected for iShares Lehman products, S&P products, Dow Jones products and NYSE products for trades settling on or after June 16, 2006 through November 27, 2006. Additionally, the Exchange will either not charge any license fees, or rebate any license fees that were collected on QQQQ for trades settling on or after October 13, 2006 through November 27, 2006.
2. **Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act\(^{11}\) in general, and furthers the objectives of Section 6(b)(4) of the Act\(^{12}\) 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\(^{13}\) and paragraph (f)(2) of Rule 19b-4\(^{14}\) 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-2006-78 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-2006-78. 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-2006-78 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. ¹⁵

Nancy M. Morris
Secretary

$60,000 “FIRM RELATED” EQUITY OPTION AND INDEX OPTION CAP

“Firm related” transaction and comparison charges for equity and index options, in the aggregate, for one billing month will not exceed $60,000 per month, per member organization, except when a member organization who trades [QQQQ, IWF, IWM, IWO, IWP, IWS, [NYC, NY, SPY, SHY, IEF, TLT, AGG, TIP], KSX, KIX, BKX, [OEF, IEV, IOO, IXC, IXG, IJX, IWN, IWP, ILF, IJH, IJR, ITF, IVV, XLI, XLK, XLU, XLP, XLE, XLF, XLY, XLY, MDY,] KRX and MFX, DTG, TMW, DVY, IYY, IYM, IYC, IYF, IYG, IYH, IYJ, IYK, IYR, IYW, IYZ, IDU and FDM] options exceeds the $60,000 cap, a license fee of $0.10 per contract side will be in addition, once the cap is reached. When calculating the $60,000 cap, all equity option and index option transaction and comparison charges for products without license fees are calculated first and then equity option and index option transaction and comparison charges for products with license fees that are assessed by the Exchange after the $60,000 cap is reached are calculated.

See Appendix A for additional fees.

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[“Dow Jones” and “SSGA’s streetTracks based on the Dow Jones Global Titans 50 IndexSM”, “SSGA’s streetTracks based on the Dow Jones Wilshire 5000 IndexSM”, “BGI’s iShares Dow Jones Select Dividend IndexSM”, “iShares Dow Jones U.S. Total Market IndexSM”, “iShares Dow Jones U.S. Basic Materials IndexSM”, “iShares Dow Jones U.S. Consumer Services Sector IndexSM”, “iShares Dow Jones U.S. Financial Sector IndexSM”, “iShares Dow Jones U.S. Financial Services Sector IndexSM”, “iShares Dow Jones U.S. Healthcare Sector IndexSM”, “iShares Dow Jones U.S. Industrial Sector IndexSM”, “iShares Dow Jones U.S. Consumer Goods Sector IndexSM”, “iShares Dow Jones U.S. Real Estate Sector IndexSM”, “iShares Dow Jones U.S. Technology Sector IndexSM”, “iShares Dow Jones U.S. Telecommunications Sector IndexSM”, “iShares Dow Jones U.S. Utilities Sector IndexSM”, and “First Trust’s ETF based on the Dow Jones Select Microcap IndexSM”, are service marks of Dow Jones & Company, Inc. and have been licensed for use for certain purposes by the Philadelphia Stock Exchange, Inc. The Dow Jones products are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product(s).]