Proposed Rule Change by Philadelphia Stock Exchange
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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Rule

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

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

Imposing a license fee in connection with the firm-related equity option and index option fee cap

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: 12/12/2006
- By: Cynthia Hoekstra
- Title: 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.

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)

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.

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.

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item 1 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.

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")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to amend its schedule of fees to adopt a license fee of $.10 for the Hapoalim American Israeli Index\(^TM\) (traded under the symbol HAI ("HAI"))\(^3\) to be assessed per contract side for index option “firm” transactions (comprised of index option firm (proprietary and customer executions) comparison transactions, index option firm/proprietary transactions and index option firm/proprietary facilitation transactions). This license fee will be imposed only after the Exchange’s $60,000 “firm-related” equity option and index option comparison and transaction charge cap, described more fully below, is reached.

Currently, the Exchange imposes a cap of $60,000 per member organization\(^4\) on all “firm-related” equity option and index option comparison and transaction charges combined.\(^5\) Specifically, “firm-related” charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transactions.

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\(^3\) “Hapoalim American Israeli Index” is a trademark of Hapoalim Securities USA, Inc. and has been licensed for use by the Exchange.

\(^4\) The firm/proprietary comparison or transaction charge applies to member organizations for orders for the proprietary account of any member or non-member broker-dealer that derives more than 35% of its annual, gross revenues from commissions and principal transactions with customers. Member organizations will be required to verify this amount to the Exchange by certifying that they have reached this threshold by submitting a copy of their annual report, which was prepared in accordance with Generally Accepted Accounting Principles ("GAAP"). In the event that a member organization has not been in business for one year, the most recent quarterly reports, prepared in accordance with GAAP, will be accepted. See Securities Exchange Act Release No. 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000) (SR-Phlx-00-85).

transaction charges, index option firm (proprietary and customer executions) comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively the “firm-related charges”). Thus, such firm-related charges in the aggregate for one billing month may not exceed $60,000 per month per member organization.

The Exchange also imposes a license fee of $0.10 per contract side for equity option and index option “firm” transactions on certain licensed products (collectively “licensed products”) after the $60,000 cap, as described above, is reached. Therefore, when a member organization exceeds the $60,000 cap (comprised of combined firm-related charges), the member organization is charged $60,000, plus license fees of $0.10 per contract side for any contracts in licensed products (if any) over those that were included in reaching the $60,000 cap. In other words, if the cap is reached, the $0.10 license fee is imposed on all subsequent equity option and index option firm transactions; these license fees are charged in addition to the $60,000 cap.

The Exchange proposes to adopt a $.10 license fee per contract side for HAI for index option firm transactions, which will be imposed after the $60,000 cap is reached in the same way as the current licensed product fees are assessed. Thus, when a member organization exceeds the $60,000 cap, the member organization will be charged $60,000 plus any applicable license fees for trades of licensed products, including HAI, over those trades that were counted in reaching the $60,000 cap.

6 For a complete list of the licensed products that are assessed a $.10 license fee per contract side after the $60,000 cap is reached, see $60,000 “Firm Related” Equity Option and Index Option Cap on the Exchange’s fee schedule.

7 Consistent with current practice, when calculating the $60,000 cap, the Exchange first calculates all equity option and index option transaction and comparison charges for products without license fees and then equity option and index option transaction and comparison charges for products with license fees (i.e., IWF license fees) that are assessed by the Exchange after the
This proposal is scheduled to become effective for transactions settling on or after December 14, 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 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 Commission on September 30, 2004.

Questions and comments on the proposed rule change may be directed to Cynthia Hoekstra, Vice President, at (215) 496-5079, or Edith Hallahan, Senior Vice President and 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 assessing the HAI license fee of $.10 per contract side after reaching the $60,000 cap as described in this proposal is to help defray licensing costs associated with the trading of this product, while still capping member organizations’ fees enough to attract volume from other exchanges. The cap operates this way in order to offer an incentive for additional volume without leaving the Exchange with significant out-of-pocket costs.

b. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act\(^8\) in general, and furthers the objectives of Section 6(b)(4)


of the Act\textsuperscript{9} in particular, in that it is an equitable allocation of reasonable dues, 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 has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act\textsuperscript{10} and Rule 19b-4(f)(2)\textsuperscript{11} 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{11} 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 similar to the rules of the International Securities Exchange, Inc.\(^\text{12}\)

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 fee schedule.

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2006-86)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of
Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Imposing a
License Fee in Connection with the Firm-Related Equity Option and Index Option Fee Cap

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 its schedule of fees to adopt a license fee of $.10 for the Hapoalim
American Israeli Index\(^5\) (traded under the symbol HAI ("HAI"))\(^5\) to be assessed per
contract side for index option “firm” transactions (comprised of index option firm


\(^5\) “Hapoalim American Israeli Index” is a trademark of Hapoalim Securities USA, Inc.
and has been licensed for use by the Exchange.
(proprietary and customer executions) comparison transactions, index option firm/proprietary transactions and index option firm/proprietary facilitation transactions). This license fee will be imposed only after the Exchange’s $60,000 “firm-related” equity option and index option comparison and transaction charge cap, described more fully below, is reached.

Currently, the Exchange imposes a cap of $60,000 per member organization on all “firm-related” equity option and index option comparison and transaction charges combined. Specifically, “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 and customer executions) comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively the “firm-related charges”). Thus, such firm-related charges in the aggregate for one billing month may not exceed $60,000 per month per member organization.

The Exchange also imposes a license fee of $0.10 per contract side for equity option and index option “firm” transactions on certain licensed products (collectively

6 The firm/proprietary comparison or transaction charge applies to member organizations for orders for the proprietary account of any member or non-member broker-dealer that derives more than 35% of its annual, gross revenues from commissions and principal transactions with customers. Member organizations will be required to verify this amount to the Exchange by certifying that they have reached this threshold by submitting a copy of their annual report, which was prepared in accordance with Generally Accepted Accounting Principles (“GAAP”). In the event that a member organization has not been in business for one year, the most recent quarterly reports, prepared in accordance with GAAP, will be accepted. See Securities Exchange Act Release No. 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000) (SR-Phlx-00-85).

“licensed products”) after the $60,000 cap, as described above, is reached. Therefore, when a member organization exceeds the $60,000 cap (comprised of combined firm-related charges), the member organization is charged $60,000, plus license fees of $0.10 per contract side for any contracts in licensed products (if any) over those that were included in reaching the $60,000 cap. In other words, if the cap is reached, the $0.10 license fee is imposed on all subsequent equity option and index option firm transactions; these license fees are charged in addition to the $60,000 cap.

The Exchange proposes to adopt a $.10 license fee per contract side for HAI for index option firm transactions, which will be imposed after the $60,000 cap is reached in the same way as the current licensed product fees are assessed. Thus, when a member organization exceeds the $60,000 cap, the member organization will be charged $60,000 plus any applicable license fees for trades of licensed products, including HAI, over those trades that were counted in reaching the $60,000 cap.

This proposal is scheduled to become effective for transactions settling on or after December 14, 2006.


8 For a complete list of the licensed products that are assessed a $.10 license fee per contract side after the $60,000 cap is reached, see $60,000 “Firm Related” Equity Option and Index Option Cap on the Exchange’s fee schedule.

9 Consistent with current practice, when calculating the $60,000 cap, the Exchange first calculates all equity option and index option transaction and comparison charges for products without license fees and then equity option and index option transaction and comparison charges for products with license fees (i.e., IWF license fees) that are assessed by the Exchange after the $60,000 cap is reached. See Securities Exchange Act Release No. 50836 (December 10, 2004), 69 FR 75584 (December 17, 2004) (SR-Phlx-2004-70).
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 assessing the HAI license fee of $.10 per contract side after reaching the $60,000 cap as described in this proposal is to help defray licensing costs associated with the trading of this product, while still capping member organizations’ fees enough to attract volume from other exchanges. The cap operates this way in order to offer an incentive for additional volume without leaving the Exchange with significant out-of-pocket costs.

2.  **Statutory Basis**

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act\(^{10}\) in general, and furthers the objectives of Section 6(b)(4) of the Act\(^{11}\) in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members.

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

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 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 [link](http://www.sec.gov/rules/sro.shtml); or

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• Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2006-86 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-2006-86. 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-2006-86 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.¹⁴

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 IWF, IWM, IWN, IWO, IWP, IWS, KSX, KIX, BKX, KRX, [and] MFX and HAI 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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“Hapoalim American Israeli Index” is a trademark of Hapoalim Securities USA, Inc and has been licensed for use by the Exchange.