Proposed Rule Change by Philadelphia Stock Exchange

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

Initial [ ] Amendment [ ] Withdrawal [ ]

Section 19(b)(2) [ ] Section 19(b)(3)(A) [ ] Section 19(b)(3)(B) [ ]

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).

Exchange Rule 607 and XLE Fee Schedule changes

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 officer.

Date: 03/19/2007

By: Cynthia Hoekstra

Vice President

(Title)

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>Exhibit 1 - Notice of Proposed Rule Change</th>
</tr>
</thead>
<tbody>
<tr>
<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. 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)</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications</th>
</tr>
</thead>
<tbody>
<tr>
<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>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Exhibit 3 - Form, Report, or Questionnaire</th>
</tr>
</thead>
<tbody>
<tr>
<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>
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</tbody>
</table>

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<thead>
<tr>
<th>Exhibit 4 - Marked Copies</th>
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</thead>
<tbody>
<tr>
<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>
</tbody>
</table>

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<thead>
<tr>
<th>Exhibit 5 - Proposed Rule Text</th>
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<tbody>
<tr>
<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>
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</table>

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<thead>
<tr>
<th>Partial Amendment</th>
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</thead>
<tbody>
<tr>
<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 amend Phlx Rule 607, Covered Sale Fee, and the XLE Fee Schedule to include sale transactions that are routed through the Exchange’s routing facility. The Exchange also proposes to clarify and update the language in Rule 607 and on the XLE Fee Schedule that relates to the routing of orders over the NMS Linkage Plan.

This proposal is scheduled to become effective for transactions settling on or after March 20, 2007.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, a copy of Exchange Rule 607 is attached hereto as Exhibit 5A and a copy of the Exchange’s XLE fee schedule is attached hereto as Exhibit 5B.

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 March 19, 2007.

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

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

   a. **Purpose**

      Currently, pursuant to Exchange Rule 607, each Phlx member and member organization engaged in executing sale transactions on the Exchange or executing transactions on another exchange or on a Participant in NASD's Alternative Display Facility ("ADF Participant"), which were routed over the NMS Linkage Plan, pays a Covered Sale fee equal to (i) the Section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales.\(^3\)

      A sale transaction may now be routed through the Exchange’s outbound routing facility,\(^4\) which is not covered by the language set forth above. The Exchange’s outbound routing facility now sends outbound orders to an away market broker for execution on that away market. Any covered sale type-fee assessed by an away market and incurred by the away market broker is then passed back to Phlx for payment, through the Exchange’s outbound routing facility. This proposal will insert language to reflect that sale transactions may be routed over the Exchange’s routing facility. Also, the proposed language will reflect that the Covered Sale fee may be collected by the Exchange for these transactions to help the Exchange recover the amounts paid to other exchanges.

      Additionally, the Exchange proposes to delete the reference to transactions routed over the NMS Linkage Plan, as it is no longer applicable. The Exchange has contracted

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\(^3\) This proposal uses the term “Covered Sale fee” to describe the fee the Phlx imposes to recover what it owes pursuant to Section 31. Other exchanges may use different terms to describe the same fee (i.e. “Activity Assessment Fee” or “Sales Value Fee”).

\(^4\) See Exchange Rule 185(g).
with its outbound routing facility to route the Exchange’s outbound orders. Thus, these orders are no longer routed outbound through the NMS Linkage Plan. Deleting the language relating to outbound routing over the NMS Linkage Plan will update Exchange Rule 607 and the XLE Fee Schedule to reflect current outbound routing practices. The provisions of Rule 607 pertaining to arrangements with other exchanges remain unchanged because the Exchange accepts orders routed inbound through the NMS Linkage Plan.

This proposal is scheduled to become effective for transactions settling on or after March 20, 2007.

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 the Act 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\(^7\) and Rule 19b-4(f)(2)\(^8\) 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*.

   5A. Exchange Rule 607.

   5B. Exchange’s XLE fee schedule.


Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No.  ; File No. SR-Phlx-2007-23)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Exchange Rule 607 and the XLE Fee Schedule

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 ______________________ 2007, 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 Phlx Rule 607, Covered Sale Fee, and the XLE Fee Schedule to include sale transactions that are routed through the Exchange’s routing facility. The Exchange also proposes to clarify and update the language in Rule 607 and on the XLE Fee Schedule that relates to the routing of orders over the NMS Linkage Plan.

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This proposal is scheduled to become effective for transactions settling on or after March 20, 2007.


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

Currently, pursuant to Exchange Rule 607, each Phlx member and member organization engaged in executing sale transactions on the Exchange or executing transactions on another exchange or on a Participant in NASD's Alternative Display Facility ("ADF Participant"), which were routed over the NMS Linkage Plan, pays a Covered Sale fee equal to (i) the Section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales.\(^5\)

\(^5\) This proposal uses the term “Covered Sale fee” to describe the fee the Phlx imposes to recover what it owes pursuant to Section 31. Other exchanges may use different terms to describe the same fee (i.e. “Activity Assessment Fee” or “Sales Value Fee”).
A sale transaction may now be routed through the Exchange’s outbound routing facility, which is not covered by the language set forth above. The Exchange’s outbound routing facility now sends outbound orders to an away market broker for execution on that away market. Any covered sale type-fee assessed by an away market and incurred by the away market broker is then passed back to Phlx for payment, through the Exchange’s outbound routing facility. This proposal will insert language to reflect that sale transactions may be routed over the Exchange’s routing facility. Also, the proposed language will reflect that the Covered Sale fee may be collected by the Exchange for these transactions to help the Exchange recover the amounts paid to other exchanges.

Additionally, the Exchange proposes to delete the reference to transactions routed over the NMS Linkage Plan, as it is no longer applicable. The Exchange has contracted with its outbound routing facility to route the Exchange’s outbound orders. Thus, these orders are no longer routed outbound through the NMS Linkage Plan. Deleting the language relating to outbound routing over the NMS Linkage Plan will update Exchange Rule 607 and the XLE Fee Schedule to reflect current outbound routing practices. The provisions of Rule 607 pertaining to arrangements with other exchanges remain unchanged because the Exchange accepts orders routed inbound through the NMS Linkage Plan.

This proposal is scheduled to become effective for transactions settling on or after March 20, 2007.

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6 See Exchange Rule 185(g).
2. **Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act\(^7\) in general, and furthers the objectives of Section 6(b)(4) of the Act\(^8\) 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\(^9\) and paragraph (f)(2) of Rule 19b-4\(^{10}\) 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.

\(^7\) 15 U.S.C. 78f(b).


\(^{10}\) 17 CFR 240.19b-4(f)(2).
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](http://www.sec.gov/rules/sro.shtml)); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-23 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-2007-23. 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](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-2007-23 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.¹¹

Nancy M. Morris
Secretary

Exhibit 5A

New text underlined; deleted text bracketed.

Rule 607. Covered Sale Fee

Under Section 31 of the Securities Exchange Act of 1934, the Exchange must pay certain fees to the Securities and Exchange Commission ("Commission"). To help fund the Exchange's obligations to the Commission under Section 31, a Covered Sale Fee is assessed by the Exchange to members and member organizations. To the extent there may be any excess monies collected under this Rule, the Exchange may retain those monies to help fund its general operating expenses.

Each member and member organization engaged in executing sale transactions on the Exchange or executing transactions[, which were routed over the Intermarket Trading System or pursuant to the NMS Linkage Plan,] on another exchange or on a Participant in NASD's Alternative Display Facility ("ADF Participant"), which were routed through the Exchange's Routing Facility, as described in Rule 185(g) or over the Intermarket Trading System, during any computational period shall pay a Covered Sale Fee equal to (i) the Section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales.

The Exchange may enter into arrangements with other exchanges or ADF Participants to pass the Covered Sale Fee among the applicable exchanges or ADF Participants where the Exchange has collected the Covered Sale Fee from its members and member organizations for sale transactions executed on another exchange or ADF Participant through the NMS Linkage Plan and when other exchanges or ADF Participants have collected the Covered Sale Fee from their members for sale transactions executed on the Exchange through the NMS Linkage Plan.
EXHIBIT 5B

New text underlined; deleted text bracketed.

XLE FEE SCHEDULE

Transaction Fees

<table>
<thead>
<tr>
<th>XLE Participant Organization Tier</th>
<th>Monthly Shares Executed 2</th>
<th>Execution Fees *</th>
<th>Routing Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Fee to Remove Liquidity (Per Share Executed)</td>
<td>Credit for Providing Liquidity (Per Share Executed)</td>
</tr>
<tr>
<td>1</td>
<td>Less than or equal to 10 million shares executed</td>
<td>$0.003</td>
<td>$0.002</td>
</tr>
<tr>
<td>2</td>
<td>Greater than 10 million and less than or equal to 50 million shares executed</td>
<td>$0.0028</td>
<td>$0.0025</td>
</tr>
<tr>
<td>3</td>
<td>Greater than 50 million and less than or equal to 200 million shares executed</td>
<td>$0.0027</td>
<td>$0.0026</td>
</tr>
<tr>
<td>4</td>
<td>Greater than 200 million shares executed</td>
<td>$0.0026</td>
<td>$0.0026</td>
</tr>
</tbody>
</table>

* Securities executed on XLE with a per share price below $1.00 that remove liquidity, will be charged 0.1% (i.e., 10 basis points) of total dollar value of the transaction. There is no execution fee credit for providing liquidity for shares with a per share price below $1.00. 3

+ Excluding single-sided odd lot orders executed at an away market. See Miscellaneous Transaction Fees.

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1 Per XLE Participant Organization. Sponsoring Member Organizations are responsible for the fees generated by their Sponsored Participant(s).
2 The total monthly shares executed includes executions resulting from removing and providing liquidity on XLE and crosses executed on XLE, as well as shares executed when routed via XLE to an away trading center and executed on that away trading center, except for liquidity provided by NMS Linkage Orders or ITS Commitments. The total monthly shares will be calculated separately per XLE Participant Organization, which, for purposes of these fees, refers to Sponsored Participants, Sponsoring Member Organizations, and member organizations without Sponsored Participants. Thus, Sponsored Participant activity will accrete towards that Sponsored Participant’s volume tier and not towards the Sponsoring Member Organization’s volume tier. Once a specific tier has been reached in a month, all transactions that month will be subject to the fee that corresponds with that volume tier.
3 Executed volume in such shares will accrete towards the volume tier breakpoint per XLE Participant Organization.
Miscellaneous Transaction Fees

Execution Fee for all IOC Cross and Mid-Point Cross Orders entered over technology provided by the Phlx, including odd
lot IOC and Mid-Point Cross Orders: \[4\] \[\text{For All Tiers} - \$0.0023 \text{ per share per side, maximum charge of } \$50.00 \text{ per trade side}\]

Execution Fee for all other IOC Cross and Mid-Point
Cross Orders, including all other odd lot IOC Cross and
Mid-Point Cross Orders: \[5\] \[\text{For All Tiers} - \text{No Charge}\]

Execution Fee for Single-Sided Odd Lot Orders executed
on XLE against another XLE Participant: \[6\] \[\text{For All Tiers} - \$0.003 \text{ per share}\]

Routing Fee for Single-Sided Odd Lot Orders executed
at an away market: \[6\] \[\text{For All Tiers} - \$0.03 \text{ per share}\]

Execution Fee for Incoming NMS Linkage Orders or ITS
Commitments \[7\] \[\text{For All Tiers} - \$0.003 \text{ per share}\]

* Applicable to orders initially entered as odd-lot orders

Covered Sale Fee

Each member and member organization engaged in executing sale transactions on the Exchange or executing transactions[which were routed over the Intermarket Trading System or pursuant to the NMS Linkage Plan,] on another exchange or on a Participant in NASD's Alternative Display Facility ('ADF Participant'), which were routed through the Exchange’s Routing Facility, as described in Rule 185(g) or over the Intermarket Trading System, during any computational period shall pay a Covered Sale Fee equal to (i) the Section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales. \[8\]

System Fees

Monthly FIX Computer-to-Computer Interface (CTCI) Port Fee \[9\] \[\$100 \text{ per port}\]

Monthly Drop Copy Feed Fee \[10\] \[\text{No Charge}\]

Monthly Phlx Systems Fee \[11\] \[\text{No Charge}\]

Depth of Book Data Feed Fee \[12\] \[\text{No Charge}\]

Quarterly Market Data Revenue Sharing for Tape A (NYSE), Tape B (Amex and other non-NASDAQ, non-NYSE exchanges), and Tape C (Nasdaq) Securities

50% of gross market data revenue for trades executed on XLE will be shared with the member organization responsible for providing the liquidity portion of the trade. Sponsored Participant trades will be credited to the applicable Sponsoring Member Organization.

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4 Phlx provides optional technology to XLE Participants for the entry of two-sided orders into XLE. Executed volume will accrete towards the volume tier breakpoint for each XLE Participant Organization that is a party to the execution. There is no execution credit for IOC Cross and Mid-Point Cross executions entered through technology provided by Phlx.

5 Executed volume will accrete towards the volume tier breakpoint per XLE Participant Organization. There is no Execution credit for IOC Cross and Mid-Point Cross executions.

6 Executed volume will accrete towards the volume tier breakpoint per XLE Participant Organization. There is no execution credit for orders initially entered as odd-lot orders and executed on XLE.

7 Applicable to Incoming NMS Linkage Orders or ITS Commitments routed to the Phlx and executed on XLE. Activity will not accrete towards the XLE Participant Organization’s volume tier.

8 A Sponsoring Member Organization is responsible for the fees generated in connection with its Sponsored Participant’s sale transactions.

9 A port is defined as an IP address assigned by the Exchange for connectivity to XLE.

10 The drop copy feed will be provided on a subscription basis. The feed will provide real-time information concerning trades executed by an XLE Participant Organization.

11 Per device, for use of optional Phlx technology to enter in two-sided orders and related clearing information.

12 The Depth of Book feed will be provided on a subscription basis. The feed will display every order, except the undisplayed portion of a Reserve Order, within XLE at each price level.