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

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

Pilot Extension of Time Period for Commission Action Date Expires

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

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

Extending the Exchange's payment for order flow pilot program until May 27, 2008

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 05/18/2007
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.

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-x). 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 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.

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 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.

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 extend its payment for order flow pilot program, which is currently in effect until May 27, 2007, for an additional one-year period until May 27, 2008. This proposal is scheduled to expire on the same date as the one-year pilot program in effect in connection with the provisions of Exchange Rule 1080(l) relating to Directed Orders.\(^3\)

Other than extending the date of the pilot program for an additional year, no other changes to the Exchange’s current payment for order flow program are being proposed at this time.

The Exchange is also proposing to make minor clarifying changes to the Exchange’s Summary of Equity Option and RUT and RMN Charges fee schedule to update the language that appears in a footnote and to clarify the title relating to the Exchange’s payment for order flow fees.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as **Exhibit 1** and a copy of the applicable portion of the Exchange’s Summary of Equity Option and RUT and RMN Charges is attached hereto as **Exhibit 5**.

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\(^3\) The provisions of Rule 1080(l) are in effect for a one-year pilot period. The Exchange filed a separate proposed rule change to extend the Rule 1080(l) one-year pilot program for an additional year until May 27, 2008. See SR-Phlx-2007-37.
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 May 16, 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.

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

   a. **Purpose**

   The purpose of extending the Exchange’s payment for order flow program for an additional year is to remain competitive with other options exchanges that administer payment for order flow programs.4

   Currently, the following payment for order flow fees are in effect at the Exchange:

   (1) equity options (other than those equity options that trade as part of the Exchange’s Penny Pilot Program)5 and options on the Russell 2000® Index6 traded

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6 Currently, the following equity option classes, listed by symbol, are traded in the Penny Pilot Program: QQQQ, IWM, SMH, GE, AMD, MSFT, INTC, CAT, WFMI, TXN, A,
under the symbol RUT and options on the one-tenth value Russell 2000® Index traded
under the symbol RMN, are all assessed $0.70 per contract; and (2) equity options that
trade as part of the Exchange’s Penny Pilot Program are assessed $0.25 per contract.

Trades resulting from either Directed or non-Directed Orders that are delivered
electronically over AUTOM8 and executed on the Exchange are assessed a payment for
order flow fee,9 while non-electronically-delivered orders (i.e. represented by a floor
broker) are not assessed a payment for order flow fee.10

FLEX, and SUNW. See Securities Exchange Act Release No. 55290 (February 13,
scheduled to expire on July 26, 2007. If the Penny Pilot Program is not extended, the
Exchange intends to file a separate proposed rule change to make any necessary changes
to the payment for order flow pilot dates.

7 Russell 2000® is a trademark and service mark of the Frank Russell Company, used
under license. Neither Frank Russell Company’s publication of the Russell Indexes nor
its licensing of its trademarks for use in connection with securities or other financial
products derived from a Russell Index in any way suggests or implies a representation or
opinion by Frank Russell Company as to the attractiveness of investment in any securities
or other financial products based upon or derived from any Russell Index. Frank Russell
Company is not the issuer of any such securities or other financial products and makes no
express or implied warranties of merchantability or fitness for any particular purpose with
respect to any Russell Index or any data included or reflected therein, nor as to results to
be obtained by any person or any entity from the use of the Russell Index or any data
included or reflected therein.

8 The term “AUTOM” is used interchangeably with the term “Phlx XL”, the Exchange’s
fully electronic trading platform for options. The Exchange intends to file a separate
proposed rule change to update its rules to reflect that orders are now delivered
electronically over Phlx XL.

9 Specialists and Directed ROTs who participate in the Exchange’s payment for order
flow program are assessed a payment for order flow fee, in addition to ROTs. Therefore,
the payment for order flow fee is assessed, in effect, on equity option transactions
between a customer and an ROT, a customer and a Directed ROT, or a customer and a
specialist.

10 Electronically-delivered orders do not include orders delivered through the Floor
Broker Management System pursuant to Exchange Rule 1063.
The purpose of making minor technical changes to the payment for order flow fee section of the Exchange’s Summary of Equity Option and RUT and RMN Charges fee schedule is to delete obsolete words. Additionally, the purpose of deleting the words “equity option,” which appear in front of the payment for order flow fee section is to more clearly reflect that RUT and RMN, although index options, are also assessed payment for order flow charges.\(^\text{11}\)

This proposal, consistent with the Exchange’s current payment for order flow program, will remain in effect as a pilot program that is scheduled to expire on the same date as the one-year pilot program in effect in connection with the provisions of Exchange Rule 1080(l) relating to Directed Orders.\(^\text{12}\)

**b. Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act\(^\text{13}\) in general, and furthers the objectives of Section 6(b)(4) of the Act\(^\text{14}\) 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


\(^\text{12}\) See Footnote No. 3.

\(^\text{13}\) 15 U.S.C. 78f(b).

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\(^{15}\) and Rule 19b-4(f)(2)\(^{16}\) 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 the Chicago Board Options Exchange,

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Incorporated ("CBOE") and the International Securities Exchange, LLC. ("ISE:"), who also have payment for order flow pilot programs in effect.\textsuperscript{17}

9. **Exhibits**

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

5. Applicable Section of the Exchange’s Summary of Equity Option and RUT and RMN Charges.

\textsuperscript{17} See footnote 4.
Exhibit 1

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to its Payment for Order Flow Pilot Program

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 extend its payment for order flow pilot program, which is currently in effect until May 27, 2007, for an additional one-year period until May 27, 2008. This proposal

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is scheduled to expire on the same date as the one-year pilot program in effect in
connection with the provisions of Exchange Rule 1080(l) relating to Directed Orders.\(^5\)

Other than extending the date of the pilot program for an additional year, no other
changes to the Exchange’s current payment for order flow program are being proposed at
this time.

The Exchange is also proposing to make minor clarifying changes to the
Exchange’s Summary of Equity Option and RUT and RMN Charges fee schedule to
update the language that appears in a footnote and to clarify the title relating to the
Exchange’s payment for order flow fees.

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

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.

\(^5\) The provisions of Rule 1080(l) are in effect for a one-year pilot period. The Exchange
filed a separate proposed rule change to extend the Rule 1080(l) one-year pilot program
A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of extending the Exchange’s payment for order flow program for an additional year is to remain competitive with other options exchanges that administer payment for order flow programs.6

Currently, the following payment for order flow fees are in effect at the Exchange:7 (1) equity options (other than those equity options that trade as part of the Exchange’s Penny Pilot Program)8 and options on the Russell 2000® Index9 traded

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8 Currently, the following equity option classes, listed by symbol, are traded in the Penny Pilot Program: QQQQ, IWM, SMH, GE, AMD, MSFT, INTC, CAT, WFMI, TXN, A, FLEX, and SUNW. See Securities Exchange Act Release No. 55290 (February 13, 2007), 72 FR 8051 (February 22, 2007) (SR-Phlx-2007-05). The Penny Pilot Program is scheduled to expire on July 26, 2007. If the Penny Pilot Program is not extended, the Exchange intends to file a separate proposed rule change to make any necessary changes to the payment for order flow pilot dates.

9 Russell 2000® is a trademark and service mark of the Frank Russell Company, used under license. Neither Frank Russell Company’s publication of the Russell Indexes nor its licensing of its trademarks for use in connection with securities or other financial products derived from a Russell Index in any way suggests or implies a representation or opinion by Frank Russell Company as to the attractiveness of investment in any securities or other financial products based upon or derived from any Russell Index. Frank Russell Company is not the issuer of any such securities or other financial products and makes no express or implied warranties of merchantability or fitness for any particular purpose with
under the symbol RUT and options on the one-tenth value Russell 2000® Index traded
under the symbol RMN, are all assessed $0.70 per contract; and (2) equity options that
trade as part of the Exchange’s Penny Pilot Program are assessed $0.25 per contract.

Trades resulting from either Directed or non-Directed Orders that are delivered
electronically over AUTOM\(^{10}\) and executed on the Exchange are assessed a payment for
order flow fee,\(^{11}\) while non-electronically-delivered orders (i.e. represented by a floor
broker) are not assessed a payment for order flow fee.\(^{12}\)

The purpose of making minor technical changes to the payment for order flow fee
section of the Exchange’s Summary of Equity Option and RUT and RMN Charges fee
schedule is to delete obsolete words. Additionally, the purpose of deleting the words
“equity option,” which appear in front of the payment for order flow fee section is to

\(^{10}\) The term “AUTOM” is used interchangeably with the term “Phlx XL”, the Exchange’s
fully electronic trading platform for options. The Exchange intends to file a separate
proposed rule change to update its rules to reflect that orders are now delivered
electronically over Phlx XL.

\(^{11}\) Specialists and Directed ROTs who participate in the Exchange’s payment for order
flow program are assessed a payment for order flow fee, in addition to ROTs. Therefore,
the payment for order flow fee is assessed, in effect, on equity option transactions
between a customer and an ROT, a customer and a Directed ROT, or a customer and a
specialist.

\(^{12}\) Electronically-delivered orders do not include orders delivered through the Floor
Broker Management System pursuant to Exchange Rule 1063.
more clearly reflect that RUT and RMN, although index options, are also assessed payment for order flow charges.\textsuperscript{13}

This proposal, consistent with the Exchange’s current payment for order flow program, will remain in effect as a pilot program that is scheduled to expire on the same date as the one-year pilot program in effect in connection with the provisions of Exchange Rule 1080(l) relating to Directed Orders.\textsuperscript{14}

2. **Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act\textsuperscript{15} in general, and furthers the objectives of Section 6(b)(4) of the Act\textsuperscript{16} 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.


\textsuperscript{14} See Footnote No. 5.

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

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act\(^\text{17}\) and paragraph (f)(2) of Rule 19b-4\(^\text{18}\) 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](http://www.sec.gov/rules/sro.shtml)); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-39 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-2007-39. 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-2007-39 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.¹⁹

Nancy M. Morris
Secretary

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

Transition Period

For any top 120 equity option listed after February 1, 2004 and for any top 120 equity option acquired by a new specialist unit** within the first 60-days of operations, the following thresholds will apply, with a cap of $10,000 for the first 4 full months of trading per month per option provided that the total monthly market share effected on the Phlx in that top 120 equity option is equal to or greater than 50% of the volume threshold in effect:

<table>
<thead>
<tr>
<th>Full Month of Trading</th>
<th>National Market Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>0%</td>
</tr>
<tr>
<td>Second</td>
<td>3%</td>
</tr>
<tr>
<td>Third</td>
<td>6%</td>
</tr>
<tr>
<td>Fourth</td>
<td>9%</td>
</tr>
<tr>
<td>Fifth (and thereafter)</td>
<td>12%</td>
</tr>
</tbody>
</table>

** A new specialist unit is one that is approved to operate as a specialist unit by the Options Allocation, Evaluation, and Securities Committee on or after February 1, 2004 and is a specialist unit that is not currently affiliated with an existing options specialist unit as reported on the member organization’s Form BD, which refers to direct and indirect owners, or as reported in connection with any other financial arrangement, such as is required by Exchange Rule 783.

REAL-TIME RISK MANAGEMENT FEE

$.0025 per contract for firms/members receiving information on a real-time basis

[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.

<table>
<thead>
<tr>
<th>Option Type</th>
<th>Fee</th>
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<tbody>
<tr>
<td>QQQQ and options in Penny Pilot Program</td>
<td>$0.25 per contract</td>
</tr>
<tr>
<td>Remaining Equity Options</td>
<td>$0.70 per contract</td>
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</tbody>
</table>

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.

The [is proposal payment for order flow fees [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.