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) Rule
Section 19(b)(3)(A)
Section 19(b)(3)(B)

Pilot Extension of Time Period for Commission Action Date Expires

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).

The Phlx proposes a modification to Phlx Rule 185A

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 John Last Name Dayton
Title Director and Counsel
E-mail john.dayton@phlx.com
Telephone (215) 496-5162 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

John Dayton, John.dayton@phlx.com

Date 05/25/2007
By John Dayton  (Name)
Director and Counsel (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.
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 Phlx Rule 185A, which clarified the entry, routing and other requirements of certain orders on XLE, the Exchange’s electronic equity trading system, prior to March 5, 2007, the Trading Phase Date\(^3\) to make certain provisions of the rule applicable until the All Stocks Phase Date.\(^4\)

   A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of deleted Phlx Rule 185A is set forth below:

   Underlining indicates additions; brackets indicate deletions.

   * * * * *

**Rule 185A.**

**Orders and Order Execution – Temporary**

(a) [An away market obligation is an immediate or cancel limit order for an NMS stock generated by Phlx in connection with the execution of an order by Phlx and routed to one or more away market centers to execute against all better-priced protected quotations displayed by the other market centers up to their displayed size. In the event that an away market that trades a particular security is capable of receiving intermarket sweep orders, then the Exchange may choose to generate and utilize intermarket sweep orders as the away market obligations for that market. Before Rule 611 of Regulation NMS is operative on the Exchange (the "Trading Phase Date"), the words "immediate-or-cancel intermarket sweep orders" in Rule 185(b)(1)(C)(i)-(ii) and (b)(2)(B) shall mean "away

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\(^3\) The Trading Phase Date was the “[f]inal date for full operation of Regulation NMS-compliant trading systems [by exchanges] that intend[ed] to qualify their quotations for trade-through protection under Rule 611 [during the roll-out of Regulation NMS].” See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007).

\(^4\) The All Stocks Phase Date is the date that full industry compliance with Rules 610 and 611 of Regulation NMS, 17 CFR 242.610-611, begins. Currently, the All Stocks Phase Date is scheduled to be August 20, 2007. However, should the Commission change the All Stocks Phase Date, the changes to Phlx Rule 185A adopted in this proposed rule change will remain in effect until that new date. See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007).
market obligations."]For purposes of this rule, the All Stocks Phase Date is the date that full industry compliance with Rules 610 and 611 of Regulation NMS is required for all NMS Stocks.

(b) [In addition, b]Before the All Stocks Phase Date [Trading Phase Date, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every other ITS Participant displaying a better-priced quotation. For Nasdaq Global Market Securities and Nasdaq Capital Market Securities], a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every national securities exchange or national securities association displaying a better-priced quotation.

(c) Before the All Stocks Phase Date[Trading Phase Date], a XLE Participant may mark an IOC Cross Order [in Nasdaq Global Market Securities or Nasdaq Capital Market Securities] as Benchmark if it is an order: (1) at a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to execute the order was made.

(d) Before the All Stocks Phase Date[Trading Phase Date], a XLE Participant may mark an IOC Cross Order [in Nasdaq Global Market Securities or Nasdaq Capital Market Securities] as Qualified Contingent Trade. A Qualified Contingent Trade is a transaction consisting of two or more component orders, executed as agent or principal, where:

(1)-(7) No Change

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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 June 26, 2006 and July 31, 2006.

Questions and comments on the proposed rule change may be directed to John Dayton, Director and Counsel, at (215) 496-5162 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 the proposed rule change is to clarify the obligation of XLE Participants when submitting certain XLE order types before the All Stocks Phase Date. Phlx Rule 185A, Orders and Order Execution – Temporary, was adopted in November 2006, to clarify the entry, routing and other requirements of certain orders on XLE in the period before the Trading Phase Date.\(^5\) Phlx Rule 185A was subsequently amended twice.\(^6\) Each amendment addressed the period before the Trading Phase Date.

   Phlx Rule 185A clarified the routing of orders from XLE to other marketplaces,\(^7\) the entry of Intermarket Sweep Orders and IOC Cross Orders marked by the XLE Participant entering the order as meeting the requirement of an intermarket sweep order,\(^8\) the requirements for certain IOC Cross Orders marked as Benchmark,\(^9\) and the requirements for certain IOC Cross Orders marked as Qualified Continent Trade.\(^10\) At this time, Phlx proposes to delete the provisions of Phlx Rule 185A that applied to routing and modify the remaining provisions of the rule to make them applicable to the period prior to the All Stocks Phase Date.


\(^7\) See Phlx Rule 185A(a).

\(^8\) See Phlx Rule 185A(b).

\(^9\) See Phlx Rule 185A(c).

\(^10\) See Phlx Rule 185A(d).
Specifically Phlx Rule 185A(a) is being modified to delete provisions regarding routing of orders on XLE since intermarket sweep orders have been available at all venues to which XLE will route an order since the Trading Phase Date. In its place, Phlx Rule 185A(a) will define the term “All Stocks Phase Date.” Additionally, Phlx Rule 185A(b)-(d) are being amended to substitute the term “All Stocks Phase Date” for “Trading Phase Date” as the provisions of these sections of the rule will apply until the All Stocks Phase Date. At that time, Phlx will delete Phlx Rule 185A from its rulebook as it will no longer have any effect.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\textsuperscript{11} in general, and furthers the objectives of Section 6(b)(5) of the Act\textsuperscript{12} in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

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.

\textsuperscript{11} 15 U.S.C. 78f(b).

\textsuperscript{12} 15 U.S.C. 78f(b)(5).
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)**

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act\(^\text{13}\) and Rule 19b-4(f)(6) thereunder.\(^\text{14}\) The Phlx requests that the Commission waive the 30-day operative delay and make the proposed rule change effective upon filing. The Phlx believes that the earlier operative date is consistent with the protection of investors and the public interest because the temporary rule should eliminate potential confusion relating to orders on XLE.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

9. **Exhibits**

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

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SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2007-41)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Modification of Phlx Rule 185A

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\), and Rule 19b-4\(^2\) thereunder, 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 185A, which clarified the entry, routing and other requirements of certain orders on XLE, the Exchange’s electronic equity trading system, prior to March 5, 2007, the Trading Phase Date\(^5\) to make certain provisions of the rule applicable until the All Stocks Phase Date.\(^6\)

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\(^5\) The Trading Phase Date was the “[f]inal date for full operation of Regulation NMS-compliant trading systems [by exchanges] that intend[ed] to qualify their quotations for trade-through protection under Rule

\(^6\)
The text of deleted Phlx Rule 185A is set forth below:

Underlining indicates additions; brackets indicate deletions.

* * * * *

**Rule 185A.**

**Orders and Order Execution – Temporary**

(a) [An away market obligation is an immediate or cancel limit order for an NMS stock generated by Phlx in connection with the execution of an order by Phlx and routed to one or more away market centers to execute against all better-priced protected quotations displayed by the other market centers up to their displayed size. In the event that an away market that trades a particular security is capable of receiving intermarket sweep orders, then the Exchange may choose to generate and utilize intermarket sweep orders as the away market obligations for that market. Before Rule 611 of Regulation NMS is operative on the Exchange (the "Trading Phase Date"), the words "immediate-or-cancel intermarket sweep orders" in Rule 185(b)(1)(C)(i)-(ii) and (b)(2)(B) shall mean "away market obligations."] For purposes of this rule, the All Stocks Phase Date is the date that full industry compliance with Rules 610 and 611 of Regulation NMS is required for all NMS Stocks.

(b) [In addition, b]Before the All Stocks Phase Date [Trading Phase Date, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every other ITS Participant displaying a better-priced quotation. For Nasdaq Global Market Securities and Nasdaq Capital Market Securities, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every national securities exchange or national securities association displaying a better-priced quotation.

(c) Before the All Stocks Phase Date[Trading Phase Date], a XLE Participant may mark an IOC Cross Order [in Nasdaq Global Market Securities or Nasdaq Capital Market Securities] as Benchmark if it is an order: (1) at a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to

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6 The All Stocks Phase Date is the date that full industry compliance with Rules 610 and 611 of Regulation NMS, 17 CFR 242.610-611, begins. Currently, the All Stocks Phase Date is scheduled to be August 20, 2007. However, should the Commission change the All Stocks Phase Date, the changes to Phlx Rule 185A adopted in this proposed rule change will remain in effect until that new date. See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007).
execute the order was made.

(d) Before the All Stocks Phase Date [Trading Phase Date], a XLE Participant may mark an IOC Cross Order [in Nasdaq Global Market Securities or Nasdaq Capital Market Securities] as Qualified Contingent Trade. A Qualified Contingent Trade is a transaction consisting of two or more component orders, executed as agent or principal, where:

(1)-(7) No Change

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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 clarify the obligation of XLE Participants when submitting certain XLE order types before the All Stocks Phase Date. Phlx Rule 185A, Orders and Order Execution – Temporary, was adopted in November 2006, to clarify the entry, routing and other requirements of certain orders on XLE in the period before the Trading Phase Date. Phlx Rule 185A was subsequently amended twice. Each amendment addressed the period before the Trading Phase Date.


Phlx Rule 185A clarified the routing of orders from XLE to other marketplaces, the entry of Intermarket Sweep Orders and IOC Cross Orders marked by the XLE Participant entering the order as meeting the requirement of an intermarket sweep order, the requirements for certain IOC Cross Orders marked as Benchmark, and the requirements for certain IOC Cross Orders marked as Qualified Continent Trade. At this time, Phlx proposes to delete the provisions of Phlx Rule 185A that applied to routing and modify the remaining provisions of the rule to make them applicable to the period prior to the All Stocks Phase Date.

Specifically Phlx Rule 185A(a) is being modified to delete provisions regarding routing of orders on XLE since intermarket sweep orders have been available at all venues to which XLE will route an order since the Trading Phase Date. In its place, Phlx Rule 185A(a) will define the term “All Stocks Phase Date.” Additionally, Phlx Rule 185A(b)-(d) are being amended to substitute the term “All Stocks Phase Date” for “Trading Phase Date” as the provisions of these sections of the rule will apply until the All Stocks Phase Date. At that time, Phlx will delete Phlx Rule 185A from its rulebook as it will no longer have any effect.

2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular,

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9 See Phlx Rule 185A(a).
10 See Phlx Rule 185A(b).
11 See Phlx Rule 185A(c).
12 See Phlx Rule 185A(d).
in that it is designed to promote just and equitable principles of trade, to remove
impediments to and perfect the mechanism of a free and open market and a national
market system, and, in general to protect investors and the public interest.

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

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such
shorter time as the Commission may designate, it has become effective pursuant to
Section 19(b)(3)(A) of the Act15 and Rule 19b-4(f)(6) thereunder.16 The Phlx requests
that the Commission waive the 30-day operative delay and make the proposed rule
change effective upon filing. The Phlx believes that the earlier operative date is

consistent with the protection of investors and the public interest because the temporary rule should eliminate potential confusion relating to orders on XLE.

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-2007-41 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-2007-41. 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-2007-41 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.\(^\text{17}\)

Nancy M. Morris
Secretary

\(^{17}\) 17 CFR 200.30-3(a)(12).