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

Pilot Extension of Time Period Date Expires
for Commission Action

☑ 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).

Proposed rule change relating to a Market Access Provider Marketing Fee.

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 Richard Last Name Rudolph

Title Vice President and Counsel

E-mail Richard.Rudolph@phlx.com

Telephone (215) 496-5074 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 10/23/2007

By Richard S. Rudolph Vice President and Counsel

(Name) (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.

Richard Rudolph.
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 the Exchange’s fee schedule to reflect a “Market Access Provider (“MAP”) Marketing Subsidy” of $25,000.00 per month for a maximum of three months.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. A copy of the amended Market Access Provider Subsidy section of the Exchange’s 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 Securities and Exchange Commission (“SEC” or “Commission”) on October 9, 2007.

Questions and comments on the proposed rule change may be directed to Richard S. Rudolph, Vice President and Counsel at (215) 496-5074, 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 provide marketing incentives to Exchange member organizations, and to encourage additional options order flow to the Exchange.

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Market Access Provider

In August, 2007, the Exchange amended its fee schedule to provide a per contract Subsidy (the “Subsidy”) for certain Exchange members known as MAPs. A MAP is an Exchange member organization that offers to customers automated order routing systems and electronic market access to U.S. options markets. The Exchange pays a per-contract MAP Subsidy to any Exchange member organization that qualifies as a MAP (an “Eligible MAP”) who elects to participate by submitting any application(s) and/or form(s) required by the Exchange, and complying with other conditions.

The Proposal

The proposal would provide an incentive for Eligible MAPs to market the Exchange as a destination for orders routed by the MAP. Specifically, the Exchange would pay a MAP Marketing Subsidy of $25,000.00 per month, for a maximum of three months (totaling $75,000.00) to Eligible MAPs, in addition to the current per-contract Subsidy.

The MAP Marketing Subsidy is intended to be used by the Eligible MAP to: (i) promote the Subsidy program; (ii) provide technical assistance and information to its customers on the equity options order routing functionality that pertains to the Subsidy program; and (iii) analyze the volume based usage of such order routing functionality by the Eligible MAP and its customers, in each case with a view towards the successful launch of the Eligible MAP’s participation in the Subsidy for Eligible MAPs.


4 The term “Eligible MAP” is defined in current footnote 4(b) of the Market Access Provider Subsidy section of the Exchange’s fee schedule (the instant proposal would re-number that footnote to 5(b)).
The maximum aggregate Marketing Subsidy that an Eligible MAP would be entitled to receive is $75,000 (i.e., 3 monthly payments). The Exchange’s obligation to pay this Marketing Subsidy will be conditioned upon: (a) execution by the Eligible MAP of an agreement to function as a MAP (a “MAP Agreement”) with the Exchange and compliance in all respects with the requirements specified therein, and (b) continued participation of the Eligible MAP in the Subsidy program, including compliance in all respects with the requirements of the program.

The Exchange believes that the MAP Marketing Subsidy should assist MAPs in their marketing efforts to route order flow to the Exchange which should, in turn, encourage more options order flow to the Exchange.

b. 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, 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, by enhancing the Exchange’s competitive position by providing the MAP Marketing Subsidy to Eligible MAPs, and increase order flow to the Exchange.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any

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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 establishes or changes a due, fee or other charge applicable only to members 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.

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9. **Exhibits**

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

5. Market Access Provider Subsidy section of the Exchange’s fee schedule.
Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Amend the Market Access Provider Subsidy Section of the Exchange’s 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 Act³ and Rule 19b-4 thereunder,⁴ proposes to amend the Exchange’s fee schedule to reflect a “Market Access Provider (“MAP”) Marketing Subsidy” of $25,000.00 per month for a maximum of three months.


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 provide marketing incentives to Exchange member organizations, and to encourage additional options order flow to the Exchange.

Market Access Provider

In August, 2007, the Exchange amended its fee schedule to provide a per contract Subsidy (the “Subsidy”) for certain Exchange members known as MAPs.5 A MAP is an Exchange member organization that offers to customers automated order routing systems and electronic market access to U.S. options markets. The Exchange pays a per-contract MAP Subsidy to any Exchange member organization that qualifies as a MAP (an “Eligible MAP”)6 who elects to participate by submitting any application(s) and/or form(s) required by the Exchange, and complying with other conditions.


6 The term “Eligible MAP” is defined in current footnote 4(b) of the Market Access Provider Subsidy section of the Exchange’s fee schedule (the instant proposal would re-number that footnote to 5(b)).
The Proposal

The proposal would provide an incentive for Eligible MAPs to market the Exchange as a destination for orders routed by the MAP. Specifically, the Exchange would pay a MAP Marketing Subsidy of $25,000.00 per month, for a maximum of three months (totaling $75,000.00) to Eligible MAPs, in addition to the current per-contract Subsidy.

The MAP Marketing Subsidy is intended to be used by the Eligible MAP to: (i) promote the Subsidy program; (ii) provide technical assistance and information to its customers on the equity options order routing functionality that pertains to the Subsidy program; and (iii) analyze the volume based usage of such order routing functionality by the Eligible MAP and its customers, in each case with a view towards the successful launch of the Eligible MAP’s participation in the Subsidy for Eligible MAPs.

The maximum aggregate Marketing Subsidy that an Eligible MAP would be entitled to receive is $75,000 (i.e., 3 monthly payments). The Exchange’s obligation to pay this Marketing Subsidy will be conditioned upon: (a) execution by the Eligible MAP of an agreement to function as a MAP (a “MAP Agreement”) with the Exchange and compliance in all respects with the requirements specified therein, and (b) continued participation of the Eligible MAP in the Subsidy program, including compliance in all respects with the requirements of the program.

The Exchange believes that the MAP Marketing Subsidy should assist MAPs in their marketing efforts to route order flow to the Exchange which should, in turn, encourage more options order flow to the Exchange.
2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^7\) in general, and furthers the objectives of Section 6(b)(5) of the Act\(^8\) 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, by enhancing the Exchange’s competitive position by providing the MAP Marketing Subsidy to Eligible MAPs, and increase order flow to the Exchange.

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 proposed rule establishes or changes a due, fee or other charge applicable only to members pursuant to Section 19(b)(3)(A)(ii) of the Act\(^9\) and Rule 19b-4(f)(2)\(^{10}\) 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

\(^7\) 15 U.S.C. 78f(b).
\(^{10}\) 17 CFR 240.19b-4(f)(2).
Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission’s Internet comment form
  (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-82 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-2007-82. 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-2007-82 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.\textsuperscript{11}

Nancy M. Morris  
Secretary

\textsuperscript{11} 17 CFR 200.30-3(a)(12).
**Exhibit 5**

**New Text Underlined; Deleted Text Bracketed**

**Market Access Provider Subsidy**

Market Access Provider Subsidy\(^1\) $0.10 per contract (the “Subsidy Rate”) for Eligible Contracts in the immediately preceding calendar month that exceed the monthly Baseline Order Flow for the MAP\(^2\)

Monthly MAP Volume Bonus\(^3\) $50,000.00

MAP Marketing Subsidy\(^4\) $25,000.00

For the purposes of the Market Access Provider Subsidy\(^1\) [and] the Monthly MAP Volume Bonus, and the MAP Marketing Subsidy, the terms shall have the meanings set forth in footnotes 3 [and] 4 [and] 5.

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\(^1\)The Market Access Provider Subsidy is a per contract fee payable by the Exchange to Eligible MAPs for Eligible Contracts submitted by MAPs for execution, and are so executed, on the Exchange.

\(^2\) If the Exchange elects to extend the Priority Routing Covenant (as defined in footnote [4] 5) for additional one year terms beyond the end of the calendar year that commences after the date of execution of the agreement described in sub-paragraph (8) under the definition of “Eligible MAP” in footnote [4] 5(b) below, then the Market Access Provider Subsidy during such extension periods for such MAP shall be increased by $0.01 per contract above the Subsidy Rate then in effect at the date of such renewal, so long as such covenant remains in effect.

\(^3\)The Exchange will pay each Eligible MAP $50,000 per month (the “Monthly MAP Volume Bonus”) for each month in which the Eligible Contracts of such Eligible MAP in the immediately preceding calendar month exceeds the higher of (1) 1,500,000 or (2) three times the Baseline Order Flow of such Eligible MAP. The Monthly MAP Volume Bonus shall be in addition to the amount for any Market Access Provider Subsidy that is payable.

\(^4\) The Exchange will pay each eligible MAP $25,000.00 per month (the “MAP Marketing Subsidy”) for a maximum of three (3) months, provided that the Eligible MAP uses the MAP Marketing Subsidy to: (i) promote the Subsidy program, (ii) provide technical assistance and information to its customers on the equity options order routing functionality that pertains to the Subsidy program, and (iii) analyze the volume based usage of such order routing functionality by the Eligible MAP and its customers, in each case with a view towards the successful launch of the Eligible MAP’s participation in the Subsidy for Eligible MAPs. The maximum aggregate Marketing Subsidy that an Eligible MAP is entitled to receive is $75,000 (i.e., 3 monthly payments). The Exchange’s obligation to pay this Marketing Subsidy will be conditioned upon: (a) execution by the Eligible MAP of an agreement with the Exchange and compliance in all respects with the requirements specified therein and (b) continued participation of the Eligible MAP in the Subsidy program, including compliance in all respects with the requirements of the program.

\(^5\) (a) “Market Access Provider” or “MAP” means any Phlx member organization that offers to its customers automated order routing systems and electronic market access to U.S. options markets.

(b) “Eligible MAP” means a MAP eligible for the Market Access Provider Subsidy and who is required to:
(1) submit any required Exchange applications and/or forms for Exchange approval to participate as an Eligible MAP;
(2) provide to its customers systems that enable the electronic routing of equity option orders to all of the U.S. options exchanges, including Phlx;
(3) provide to its customers current consolidated market data from the U.S. options exchanges;
(4) interface with Phlx’s API to access the Exchange’s electronic options trading platform, Phlx XL;
(5) offer to its customers a customized interface and routing functionality (including sweep function described below) such that:
   A) Phlx will be the default destination for all equity option orders (whether marketable or not), provided that in the case of marketable orders, Phlx is at the national best bid or offer (“NBBO”) on the appropriate side of the market (i.e., the contra-side of the order that is routed to Phlx), regardless of size or time, up to Phlx’s disseminated size; and
   B) the MAP’s option order routing functionality incorporates a feature that causes orders at a specified price to be routed simultaneously to multiple exchanges with a single click (a “sweep function”), which is configured to route all such orders (or, if such orders are for a size larger than the size disseminated by the Phlx on the opposite side of the market, at least the portion of the order that corresponds to Phlx’s disseminated size) to Phlx as the default destination for execution for a size up to the full size quoted on the Phlx, provided that, in the case of marketable orders, the Phlx disseminated price on the appropriate side of the market is at the NBBO;
(6) configure its own option order routing functionality such that it is configured as described in sub-paragraph 5(A) and (B) above, with respect to all equity option orders as to which the MAP has discretion as to routing (“MAP Routing Orders”);
(7) ensure that the customized functionality described in sub-paragraphs (5) and (6) above permits users submitting option orders through such system(s) to manually override the Phlx as the default destination on an order-by-order basis; and
(8) enter into and maintain an agreement with the Exchange to function as an Eligible MAP and be in compliance with all terms thereof.

c) “Eligible Contracts” means contracts that result from the execution on the Phlx of (1) equity option orders (other than crosses) sent electronically to an Eligible MAP (and routed to Phlx electronically by the Eligible MAP) by its customers, and (2) MAP Routing Orders (other than crosses) sent electronically by the Eligible MAP.

d) “Baseline Order Flow” for an Eligible MAP means the higher of: (1) 500,000 contracts, or (2) the average contracts per month, calculated for the 3-month period immediately preceding the Eligible MAP entering into the agreement with Phlx as described in sub-paragraph (b)(8) above, that resulted from the execution on the Phlx of equity option orders (other than crosses) routed to Phlx electronically by such Eligible MAP.

e) “Priority Routing Covenant” means an Eligible MAP’s agreement with Phlx to refrain from entering into arrangements with other exchanges or execution venues where such exchange or execution venue will have the same routing position as, or priority over, Phlx as the default destination for option orders described in sub-paragraphs (b)(5) and (b)(6) above, unless Phlx otherwise consents.