

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57608; File No. SR-Phlx-2008-22)

April 2, 2008

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 Thereto, Relating to Floor Broker Charge and Specialist Unit Credit in Connection with Linkage P/A Orders

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 March 12, 2008, Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On April 1, 2008, Phlx submitted Amendment No. 1 to the proposed rule change. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to charge floor brokers an amount equal to the transaction fee(s) assessed on options specialist units by another exchange in connection with customer orders that are

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

delivered to the limit order book via the Exchange's Options Floor Broker Management System ("FBMS")⁵ and subsequently executed via the Intermarket Option Linkage ("Linkage")⁶ as a Principal Acting as Agent ("P/A") order.⁷ The Exchange also proposes to provide to options specialist units a credit in an amount equal to the transaction fee(s) assessed on them by another exchange in connection with executing customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders.

While changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated the changes to be in effect for transactions settling on or after March 17, 2008, through July 31, 2008.⁸ The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and www.phlx.com.

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 Exchange included statements concerning the

⁵ FBMS is designed to enable floor brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS also is designed to establish an electronic audit trail for options orders represented and executed by floor brokers on the Exchange such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations, and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. See Exchange Rule 1080, Commentary .06.

⁶ Linkage is governed by the Options Linkage Authority under the conditions set forth under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan"). The registered U.S. options markets are linked together on a real-time basis through a network capable of transporting orders and messages to and from each market.

⁷ A P/A order is an order for the principal account of a specialist (or equivalent entity on another participant exchange that is authorized to represent public customer orders), reflecting the terms of a related unexecuted public customer order for which the specialist is acting as agent. See Linkage Plan Section 2(16)(a) and Exchange Rule 1083.

⁸ This proposal is scheduled to be in effect for the same time period as fees for Linkage Principal and P/A orders. See Securities Exchange Act Release No. 56166 (July 30, 2007), 72 FR 43312 (August 3, 2007) (SR-Phlx-2007-52).

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 Exchange 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 Exchange proposes to charge floor brokers an amount equal to the transaction fee(s)⁹ assessed on options specialist units by another exchange in connection with customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders. The Exchange also proposes to provide to options specialist units a credit in an amount equal to the transaction fee(s) assessed on them by another exchange in connection with executing customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders.

The purpose of this proposal is to assist specialist units in offsetting the costs they incur in routing orders to other exchanges in order to obtain the National Best Bid or Offer ("NBBO"). By giving a corresponding credit to specialist units who bear the direct costs of routing these orders, the Exchange believes that the undue financial burden of multiple transaction charges imposed on Exchange specialist units in connection with orders that are executed at an away market will be lessened. Additionally, the purpose of assessing a fee on floor brokers who send customer orders that are delivered to the limit order book via FBMS and executed via Linkage as

⁹ Transaction fees do not include fees assessed by The Options Clearing Corporation or the Covered Sales Fee. The Covered Sale Fee is assessed on Phlx members in connection with the sales of securities on the Exchange with respect to which Phlx is obligated to pay a fee to the Commission under Section 31 of the Act. Other exchanges refer to this fee by different names.

P/A orders is to more equitably assess the applicable transaction fee(s) on the member originally entering the order to be executed. Floor brokers may choose to route these orders through other systems and not place such orders on the limit order book.

The Exchange represents that when members do not want an order to be routed away through Linkage (thereby avoiding the transaction fees discussed above), that member may mark the order with an Immediate or Cancel (“IOC”) designation. IOC orders are not routed to other market centers. Instead, if they cannot be executed on Phlx, they are cancelled.

While changes to the fee schedule pursuant to this proposal were effective upon filing, the Exchange designated the changes operative for trades settling on or after March 17, 2008 through July 31, 2008.¹⁰

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹² in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members. The Exchange believes that assessing a fee on floor brokers and giving a corresponding credit to specialist units as described herein allows for the transaction fee(s) to be assessed on the member who submits the order and for the credit to be given to the specialist unit that routed the order to another exchange in order to obtain the NBBO.

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

¹⁰ See supra note 8.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

competition that is 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change.

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

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii)¹³ of the Act and Rule 19b-4(f)(2)¹⁴ thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the Exchange. 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.¹⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on April 1, 2008, the date the Exchange filed Amendment No. 1 to the proposed rule change. See 15 U.S.C. 78s(b)(3)(C).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2008-22 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-2008-22. 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, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. 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 No. SR-Phlx-2008-22 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).