

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 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 Number SR-NYSE-2007-09 and should be submitted on or before April 26, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55564; File No. SR-NYSEArca-2007-17]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Waive Certain Listing Fees for Dually-Listed Issuers Who Delist During 2007

March 30, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 6, 2007, NYSE Arca, Inc. ("NYSE Arca" 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. The Commission is publishing this

notice to solicit comments on the proposal from interested persons.

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

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), proposes to waive 2007 listing fees for any companies who, as of January 1, 2007, were dually listed on NYSE Arca Equities, on the one hand, and another national securities exchange, on the other hand, and have provided notice by June 30, 2007 to NYSE Arca Equities of their intention to voluntarily withdraw from listing on NYSE Arca. The NYSE Arca schedule of listing fees will be amended to note that, for those issuers dually listed on NYSE Arca Equities on January 1, 2007 and who have given notice by June 30, 2007 to NYSE Arca Equities of their intention to voluntarily withdraw from listing on NYSE Arca (and in fact withdraw during 2007), the 2007 annual listing fees will be waived.

The text of the proposed rule change is available on the Exchange's Web site (<http://www.nysearca.com>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### 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 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 III 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, through NYSE Arca Equities, proposes to waive 2007 listing fees for any companies who, as of January 1, 2007, were dually listed on NYSE Arca Equities, on the one hand, and another national securities exchange, on the other hand, and have provided notice by June 30, 2007 to NYSE Arca Equities of their intention to voluntarily withdraw from listing on NYSE Arca. The NYSE Arca schedule of listing fees will be amended to note that,

for those issuers dually listed on NYSE Arca Equities on January 1, 2007 who have given notice by June 30, 2007 to NYSE Arca Equities of their intention to voluntarily withdraw from listing on NYSE Arca (and in fact withdraw during 2007), the 2007 annual listing fees will be waived.

Effective January 1, 2007, the annual listing fees for all companies listed on NYSE Arca Equities were increased.<sup>3</sup> Many of the issuers still dually listed on NYSE Arca Equities on January 1, 2007 had indicated to the Exchange their intention to voluntarily withdraw from NYSE Arca. However, because of the dually listed issuers' administrative or governance processes, some of these dually listed issuers were unable to complete the withdrawal process before the new fees became effective. In this instance, the Exchange believes that it is appropriate to waive the 2007 listing fees for issuers dually listed on NYSE Arca Equities as of January 1, 2007 who have given notice by June 30, 2007 of their intention to voluntarily withdraw during 2007 and in fact withdraw during 2007.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act<sup>4</sup> in general and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments, and to 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 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

Written comments on the proposed rule change were neither solicited nor received.

<sup>3</sup> See Securities Exchange Act Release No. 54007 (June 16, 2006), 71 FR 36155 (June 23, 2006) (SR-NYSEArca-2006-16).

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2007-17 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-NYSEArca-2007-17. 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 such filing also will 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 Number SR-NYSEArca-2007-17 and should be submitted on or before April 26, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55553; File No. SR-Phlx-2007-23]

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

March 29, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 20, 2007, the 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 Phlx. The Phlx has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 proposes to amend Phlx Rule 607,<sup>5</sup> 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 Phlx 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. The text of the proposed rule change is available at the Exchange, on the Exchange's Web site at [www.phlx.com](http://www.phlx.com), and at the Commission's Public Reference Room.

#### 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 Phlx 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.<sup>6</sup>

A sale transaction may now be routed through the Exchange's outbound routing facility,<sup>7</sup> which is not covered

Exchange's Form 19b-4 filing. Specifically, the Exchange did not include two references to the "Intermarket Trading System" that were contained in the third paragraph of Rule 607 (the third paragraph of the rule is not affected by this proposed rule change). These two references have subsequently been deleted as part of another immediately effective proposed rule change (see File No. SR-Phlx-2007-31), filed on March 27, 2007.

<sup>6</sup> The term "Covered Sale fee" describes the fee that Phlx imposes to recover what it owes pursuant to Section 31 of the Act (15 U.S.C. 78ee). Other exchanges may use different terms to describe the same fee (e.g., "Activity Assessment Fee" or "Sales Value Fee").

<sup>7</sup> See Phlx Rule 185(g).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The Commission notes that the text of Phlx Rule 607 was incorrectly reflected in Exhibit 5A of the