

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55028; File No. SR-Phlx-2006-90)

December 29, 2006

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate Certain License Fees

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 December 26, 2006, 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 prepared by the Phlx. The Phlx has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Phlx 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 modify its fee schedule to eliminate the license fees assessed on the following products: Russell 1000 Growth iShares (“IWF”); Russell 2000 iShares (“IWM”); Russell 2000 Value iShares (“IWN”); Russell 2000 Growth iShares (“IWO”); Russell Midcap Growth iShares (“IWP”); and Russell Midcap Value iShares

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<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).

("IWS"). This proposal is scheduled to become effective for trades settling on or after January 2, 2007.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.Phlx.com>, at the principal office of the Phlx, 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, the Exchange imposes a license fee of \$0.10 per contract side for equity option and index option "firm" transactions on certain licensed products after a cap of \$60,000 per member organization is reached.<sup>5</sup> The Exchange also assesses a license fee of \$0.10 per contract side after a 14,000 cap is reached on Registered Options

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<sup>5</sup> The \$60,000 cap applies to all "firm-related" equity option and index option comparison and transaction charges combined. "Firm-related" charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transaction charges, index option firm/proprietary comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively "firm-related" charges). See e.g., Securities Exchange Act Release No. 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006) (SR-Phlx-2006-10).

Traders (“ROT”) comparison charges and ROT and specialist transaction charges in connection with non-AUTOM delivered equity option contracts on those products that carry a license fee.<sup>6</sup> Additionally, the Exchange imposes a license fee of \$0.05 per contract side for dividend and short stock interest strategies in connection with certain products that carry license fees, if applicable.<sup>7</sup> The list of product symbols that are assessed a license fee are listed on the Exchange’s \$60,000 “Firm-Related” Equity Option and Index Option Cap Fee Schedule.

The Exchange is proposing to eliminate the \$0.10 per contract side and \$0.05 per contract side license fees described above on the following products: IWF; IWM; IWN; IWO, IWP; and IWS.<sup>8</sup>

The proposed rule change would remove references to the product symbols listed above from the Exchange’s \$60,000 “Firm Related” Equity Option and Index Option Cap because the Exchange no longer pays a license fee in connection with the trading of these products. Accordingly, there is no need to assess a license fee. Therefore, for trades settling on or after January 2, 2007, the Exchange will eliminate the \$0.10 and \$0.05 license fees for the above-referenced products.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent

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<sup>6</sup> See Securities Exchange Act Release No. 54659 (October 27, 2006), 71 FR 64603 (November 2, 2006) (SR-Phlx-2006-67).

<sup>7</sup> See e.g., Securities Exchange Act Release No. 54424 (September 11, 2006), 71 FR 54699 (September 18, 2006) (SR-Phlx-2006-55).

<sup>8</sup> The Exchange recently eliminated additional license fees from its fee schedule. See Securities Exchange Act Release No. 54874 (December 5, 2006), 71 FR 75604 (December 15, 2006) (SR-Phlx-2006-78).

with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> 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 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

No written comments were either solicited or received.

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<sup>11</sup> and paragraph (f)(2) of Rule 19b-4<sup>12</sup> 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

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

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-Phlx-2006-90 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-2006-90](#). 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-2006-90](#) 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.<sup>13</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).