

and, in general, protect investors and the public interest. The Commission believes that the Exchange's listing standards, trading rules, suitability and disclosure rules for the Funds are consistent with the Act. The Commission also believes that the proposed rule change raises no issues that have not been previously considered by the Commission. The Commission notes that it previously approved the original listing and trading of the Funds on the Amex.<sup>50</sup> Further, with respect to each of the following key issues, the Commission believes that the Funds satisfy established standards.

#### A. Surveillance

The Commission notes that the Underlying Indexes are broad-based and are composed of securities having significant trading volumes and market capitalization, thus impeding improper trading practices in the Shares, the ability to use the Shares to manipulate the underlying securities, and the ability to use the Shares as a surrogate to trade one or a few unregistered securities. Nevertheless, the PCX represents that its surveillance procedures applicable to trading in the proposed iShares are adequate to properly monitor the trading of the Funds. The Exchange also is able to obtain information regarding trading in both the Fund shares and the Component Securities by its members on any relevant market. In addition, the Commission notes that the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG.

As stated, when a broker-dealer, or a broker-dealer's affiliate such as MSCI, is involved in the development and maintenance of a stock index upon which a product such as iShares is based, the broker-dealer or its affiliate should have procedures designed specifically to address the improper sharing of information. The Commission notes that the Exchange has represented that MSCI has implemented procedures to prevent the misuse of material, non-public information regarding changes to component stocks in the MSCI Indices.

#### B. Dissemination of Information About the Shares

In approving the Funds for listing and trading on the PCX, the Commission notes that the Underlying Indexes are broad-based indexes. If there is an overlap between the foreign jurisdiction and the PCX trading hours, these index

values are disseminated through various main market data vendors at least every 60 seconds during such overlap in trading hours. Otherwise, the Funds provide the Index closing value at <http://www.iShares.com>. Additionally, the Commission notes that the Exchange will disseminate through the facilities of CTA during NYSE trading hours at least every 15 seconds a calculation of the IOPV (which will reflect price changes in the applicable foreign market and changes in currency exchange rates), along with an updated market value of the Shares. Comparing these two figures will help investors to determine whether, and to what extent, the Shares may be selling at a premium or discount to NAV and thus will facilitate arbitrage of the Shares in relation to the Index component securities.

The Commission also notes that the Web site for the Funds (<http://www.iShares.com>), which is and will be publicly accessible at no charge, will contain the Shares' prior business day NAV, the reported closing price, and a calculation of the premium or discount of such price in relation to the closing NAV.

#### C. Listing and Trading

The Commission finds that the Exchange's rules and procedures for the proposed listing and trading of the Funds are consistent with the Act. Shares of the Funds will trade as equity securities subject to PCX rules including, among others, rules governing trading halts, prospectus delivery, and customer suitability requirements. In addition, the Funds will be subject to PCX listing and delisting/halt rules and procedures governing the trading of Index Fund Shares on the Exchange. The Commission believes that listing and delisting criteria for the Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. Finally, the Commission believes that the Information Circular the Exchange will distribute will inform members and member organizations about the terms, characteristics, and risks in trading the Shares, including suitability and prospectus delivery requirements.

#### D. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>51</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the

listing and trading standards in PCXE Rule 5.2(j)(3) (ICUs), and the Commission has previously approved the listing of these securities on the Amex.<sup>52</sup> Therefore, the Commission does not believe that the proposed rule change raises issues that have not been previously considered by the Commission.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>53</sup> that the proposed rule change (SR-PCX-2005-116), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>54</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6-1931 Filed 2-10-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53226; File No. SR-Phlx-2005-92]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Cancellation Fees

February 3, 2006.

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 30, 2005, 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. On January 27, 2006, the Phlx submitted an amendment to the proposed rule change ("Amendment No. 1").<sup>3</sup> The Phlx has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Phlx under Section 19(b)(3)(A)(ii)<sup>4</sup> and Rule 19b-

<sup>52</sup> See Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (approving the listing and trading of the ICUs for trading on the Amex).

<sup>53</sup> 15 U.S.C. 78s(b)(2).

<sup>54</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> In Amendment No. 1, Phlx clarified the manner in which the fee will be assessed and made technical changes to the rule text.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>50</sup> See Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (SR-Amex-95-43).

<sup>51</sup> 15 U.S.C. 78s(b)(2).

4(f)(2) thereunder,<sup>5</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 adopt a cancellation fee of \$1.10 per order to be assessed on member organizations for each cancelled AUTOM-delivered<sup>6</sup> order in excess of the number of orders executed on the Exchange by that member organization in a given month. The proposed cancellation fee will not be assessed in a month in which fewer than 500 AUTOM-delivered orders are cancelled. Simple cancels and cancel-replacement orders are the types of orders that will be counted when calculating the number of AUTOM-delivered orders.<sup>7</sup> The text of the proposed rule change is available on the Exchange's Internet Web site (<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.

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

<sup>6</sup> AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. See Exchange Rules 1014(b)(ii) and 1080.

<sup>7</sup> A cancel-replacement order is a contingency order consisting of two or more parts which require the immediate cancellation of a previously received order prior to the replacement of a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety the replacement order is automatically canceled or reduced by such number. For example, if an original order is received for 100 contracts @ \$1.70 and 20 contracts get filled, leaving a remaining balance of 80 contracts, and a cancel-replacement order is received with instructions to cancel the 100 contracts and replace it with 60 contracts @ \$1.80, the replacement order would be for 40 contracts with a price of \$1.80 (because 20 contracts were already executed at the price of \$1.70). See Exchange Rule 1066(c)(7).

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of assessing \$1.10 per order for each cancelled AUTOM-delivered order in excess of the number of orders that the executing member organization executes on the Exchange in a given month is to discourage excessive use of cancellations.<sup>8</sup> The Exchange believes this proposed fee is necessary given the often disproportionate number of order cancellations received relative to order executions and the increased costs associated with the practice of canceling orders immediately after they are routed electronically to the Exchange. The Exchange believes that a cancellation fee should help to deal with the various operational problems and costs resulting from this practice.

##### 2. Statutory Basis

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

<sup>8</sup> As represented by the Phlx, this proposal does not cover orders delivered through the Floor Broker Management System ("FBMS") because, at this time, FBMS orders are entered and cancelled manually from the floor and do not create the capacity issues that are created in connection with excessive electronically-delivered cancelled orders, as described above. See Exchange Rule 1063. Telephone conversation between Edith Hallahan, Deputy General Counsel, and Cynthia K. Hoekstra, Director, Phlx, and Nancy J. Sanow, Assistant Director, and Ira L. Brandriss, Special Counsel, Division of Market Regulation, Commission, February 1, 2006.

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

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

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

The foregoing proposed rule change, as amended, has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>11</sup> and Rule 19b-4(f)(2)<sup>12</sup> 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.<sup>13</sup>

### 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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2005-92 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-2005-92. 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

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

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

<sup>13</sup> The effective date of the original proposed rule change is December 30, 2005 and the effective date of the amendment is January 27, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 27, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

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-2005-92 and should be submitted on or before March 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-1961 Filed 2-10-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53242; File No. SR-Phlx-2006-11]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Quoting Obligations for Directed Streaming Quote Traders and Directed Remote Streaming Quote Traders and Changes to the Exchange's Opening Rule

February 7, 2006.

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 February 3, 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 and II below, which Items have been prepared by the Exchange. On February 6, 2006, the Exchange filed Amendment No. 1.<sup>3</sup> The Commission is

publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

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

The Phlx proposes to amend Exchange Rule 1014(b)(ii)(D) and Exchange Rule 1017(b)(ii) to: (1) Delete the requirement that Streaming Quote Traders ("SQTs")<sup>4</sup> and Remote Streaming Quote Traders ("RSQTs")<sup>5</sup> submit continuous electronic quotations in not less than 99% of the series in each Streaming Quote Option in which they receive Directed Orders;<sup>6</sup> (2) establish a new quoting obligation for SQTs and RSQTs that receive Directed Orders; and, as a result of these changes, (3) establish that, if the specialist is not quoting at the opening, the system will nonetheless open a series when any two Phlx XL participants are quoting in such series within two minutes of the opening of the underlying security on the primary market for the underlying security (or such shorter time as determined by the Options Committee and disseminated to membership via Exchange Circular), or when one Phlx

Trader or Directed Remote Streaming Quote Trader enters a quotation in an option in which such trader is assigned, such trader must maintain continuous quotations for not less than 99% (instead of 100%) of the series of the option listed on the Exchange until the close of that trading day, and added clarifying language to the "Purpose" section of the proposed rule change to note that, in order to participate in a Directed Order that is received in a particular Streaming Quote Option, a Directed Streaming Quote Trader or Directed Remote Streaming Quote Trader must be quoting continuously in not less than 99% of the series of such Streaming Quote Option.

<sup>4</sup> An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. See Exchange Rule 1014(b)(ii)(A).

<sup>5</sup> An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Exchange Rule 1014(b)(ii)(B).

<sup>6</sup> The term "Directed Order" means any customer order to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Provider, as defined below. To qualify as a Directed Order, an order must be delivered to the Exchange via AUTOM. See Exchange Rule 1080(l)(i)(A).

The term "Order Flow Provider" ("OFP") means any member or member organization that submits, as agent, customer orders to the Exchange. See Exchange Rule 1080(l)(i)(B).

XL participant is quoting in such series thereafter.

The text of the proposed rule change is set forth below. Brackets indicate deletions; italics indicates new text.

\* \* \* \* \*

#### Obligations and Restrictions Applicable to Specialists and Registered Options Traders

**Rule 1014.** (a) No change.

(b) ROT. (i) No change.

(ii) (A)-(C) No change.

(D) Market Making Obligations Applicable in Streaming Quote Options.

(1) In addition to the other requirements for ROTs set forth in this Rule 1014, an SQT and an RSQT shall be responsible to quote continuous, two-sided markets in not less than 60% of the series in each Streaming Quote Option (as defined in Rule 1080(k)) in which such SQT or RSQT is assigned, provided that, *on any given day, a Directed SQT ("DSQT") or a Directed RSQT ("DRSQT") (as defined in Rule 1080(l)(i)(C)) shall be responsible to quote continuous, two-sided markets in not less than 99% of the series listed on the Exchange in at least 60% of the options in which such DSQT or DRSQT is assigned. Whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain continuous quotations for not less than 99% of the series of the option listed on the Exchange until the close of that trading day.*

[a Directed SQT or RSQT (as defined in Rule 1080(l)(i)(C)) shall be responsible to quote continuous, two-sided markets in not less than 99% of the series in each Streaming Quote Option in which they receive Directed Orders (as defined in Rule 1080(l)(i)(A))].

(2) The specialist shall be responsible to quote continuous, two-sided markets in not less than 99% of the series in each Streaming Quote Option in which such specialist is assigned.

(3)(1) During a six month period commencing on the date of the initial deployment of Phlx XL (the "initial six-month period"), any SQT or RSQT assigned in a Streaming Quote Option (and the specialist assigned in such Streaming Quote Option) may submit electronic quotations with a size of fewer than 10 contracts for a period of sixty days after such option begins trading as a Streaming Quote Option. Beginning on the sixty-first day after such option begins trading as a Streaming Quote Option, ] SQTs, RSQTs and the specialist assigned in such Streaming Quote Option shall submit

<sup>14</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> See Partial Amendment dated February 6, 2006 ("Amendment No. 1"). In Amendment No. 1, the Exchange amended the proposed rule text to provide that, whenever a Directed Streaming Quote