IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSEArca–2008–70) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19474 Filed 8–21–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58379; File No. SR–NYSEArca–2008–47]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change To Waive Retroactively as of June 24, 2008, Initial Listing Fees for Companies Who Apply To List Securities Currently Listed on Another National Securities Exchange

August 18, 2008.

I. Introduction

On June 24, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to waive retroactively as of June 24, 2008, initial listing fees for companies who apply to list securities currently listed on another national securities exchange. The proposed rule change was published in the **Federal Register** on July 14, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to waive initial listing fees for companies who apply to list securities currently listed on another national securities exchange. The waiver would apply to all classes of securities. The proposed fee waiver would be applied retroactively to any companies that apply to list after June 24, 2008. The Exchange had previously waived initial listing fees for all companies that transferred from the New York Stock Exchange (''NYSE'') at any time or from Nasdaq Stock Market (''Nasdaq'') or the American Stock Exchange prior to December 31, 2007, or had applied to list prior to that date.[4]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Sections 6(b)(4)[5] and 6(b)(5) of the Act,[6] which require that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities, and are designed, among other things, 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, to protect investors and the public interest, and to not permit unfair discrimination between customers, issuers, brokers, or dealers.[7]

The Commission notes that an issuer seeking to transfer to the Exchange has already paid initial listing fees to another national securities exchange when it became a publicly traded company. In addition, the Commission notes that the Exchange does not expect the loss of initial listing fees to be material and has stated that the fee waiver will not affect the Exchange's commitment of resources to its regulatory oversight of the listing process or its regulatory program. The Exchange would continue to assess annual fees and listing of additional shares fees from these issuers. Further, the Exchange believes that there will be lower burdens associated with its eligibility review of issuers transferring from another national securities exchange. However, the Commission expects, and the Exchange has represented, that a full and independent review of compliance with the listing standards will be conducted for any company seeking to take advantage of the fee waiver, just as for any company that applies for listing on the Exchange. Finally, the Commission also notes that The Nasdaq Stock Market and the New York Stock Exchange have similar provisions.[8] The Commission believes that the proposed waiver could enhance competition among the markets, as the Exchange seeks to become a more attractive listing venue and a viable alternative to listing on other national securities exchanges.

Based on the above, the Commission believes the proposed fee waiver, which is retroactively effective to June 24, 2008, the date of the filing of the proposed rule change,[9] does not constitute an inequitable allocation of reasonable dues, fees, and other charges under Section 6(b)(4) of the Act,[10] does not permit unfair discrimination between issuers under Section 6(b)(5) of the Act,[11] and is otherwise consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NYSEArca–2008–47) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19513 Filed 8–21–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58380; File No. SR–Phlx–2008–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Changing Its Name

August 18, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 15, 2008, 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

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[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58109 (July 7, 2008), 73 FR 40415.

[4] *See* Securities Exchange Act Release No. 54007 (June 16, 2006), 71 FR 36155 (June 23, 2006) (SR–PCX–2006–16).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] *See* Nasdaq Rule IM–4500–4 and NYSE Listed Company Manual Section 902.02.

[9] *See supra* note 3.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.