

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 34-60226; File No. SR-  
NYSEAmex-2009-33]

**Self-Regulatory Organizations; NYSE  
Amex LLC; Notice of Filing and Order  
Granting Accelerated Approval of  
Proposed Rule Change Amending the  
Linkage Fees Portion of the Schedule  
of Fees and Charges for Exchange  
Services**

July 1, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on June 26, 2009, the NYSE Amex LLC (“NYSE Amex” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and grant accelerated approval of the proposed rule change.

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

The Exchange proposes to [sic] the Linkage Fees portion of the Schedule of Fees and Charges for Exchange Services (“Schedule”). The Exchange intends for these changes to become operative on July 1, 2009 in conjunction with changes to the equivalent transaction fees. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange’s Web site at <http://www.nyse.com>, at the Exchange’s principal office 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 self-regulatory organization 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, and the most significant aspects of such statements are set forth in Sections A, B, and C below.

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

**1. Purpose**

The purpose of this filing is to amend the existing Schedule in order to revise the Linkage Fees portion of the Schedule, so as to match the fee changes the Exchange has proposed in a separate filing concerning certain Broker Dealer and Firm executions.

Executions on NYSE Amex resulting from orders sent via the InterMarket Linkage System (“Linkage Orders”) are presently subject to the same billing treatment as other Broker Dealer and Firm orders. In a separate filing, the Exchange proposed to charge \$0.15 for electronic Broker Dealer and Firm transactions. By this filing, the Exchange proposes to match the Linkage Fees to the electronic Broker Dealer and Firm charges and now charge \$0.15 per contract for electronically executed Linkage orders. The Exchange intends to implement this new Linkage fee in conjunction with the implementation of the new transaction fees on July 1, 2009.

**2. Statutory Basis**

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(5) [sic], in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities for the purpose of executing Linkage orders that are routed to the Exchange from other market centers.

*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 solicited or received with respect to the proposed rule change.

**III. 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 ([www.sec.gov/rules/sro.shtml](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-NYSEAmex-2009-33 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEAmex-2009-33. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. 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-NYSEAmex-2009-33 and should be submitted on or before July 30, 2009.

**IV. Commission’s Findings and Order  
Granting Accelerated Approval of the  
Proposed Rule Change**

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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

a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>6</sup> which requires that the rules of an exchange to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Commission finds good cause for approving this proposal before the 30th day after the publication of notice thereof in the **Federal Register**. The proposal seeks to conform Linkage Fees with the fees charged on other Broker Dealer and Firm executions. The Exchange plans to implement this new Linkage Fee in conjunction with the implementation of the new transactions fees on July 1, 2009.<sup>7</sup> The reduction of transactions fees charged on Linkage Orders to conform with the fees charged on other Broker Dealer and Firm executions does not appear to present any new or significant regulatory concerns. Therefore, the Commission believes that accelerating approval of this proposal would allow the Exchange to implement this new lower Linkage Fee in conjunction with the implementation of the new transactions fees on July 1, 2009.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NYSEAmex-2009-33) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Elizabeth M. Murphy**,  
Secretary.

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<sup>5</sup> In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> See SR-NYSEAmex-2009-38

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60209; File No. SR-Phlx-2009-55]

### Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program Related to a Specialist Fee Credit for Linkage Orders

July 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on June 29, 2009, NASDAQ OMX PHLX, Inc. ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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 Exchange proposes to extend for a one-year period until July 31, 2010, its current pilot programs relating to: (1) An option transaction charge credit of \$0.21 per contract for Exchange options specialist units<sup>3</sup> that incur Phlx option transaction charges when a customer order is delivered electronically via Phlx XL<sup>4</sup> or via the Exchange's Options Floor Broker Management Systems ("FBMS"),<sup>5</sup> and is then executed via the Intermarket Option Linkage ("Linkage")<sup>6</sup> as a Principal Acting as

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

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

<sup>3</sup> The Exchange uses the terms "specialists" and "specialist units" interchangeably herein.

<sup>4</sup> See Exchange Rule 1080.

<sup>5</sup> 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.

<sup>6</sup> 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 (the "Plan") approved by the Commission. 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.

Agent Order ("P/A Order"); and (2) the Floor Broker Linkage P/A fee and Options Specialist Unit Credit, which charges 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 delivered to the limit order book via FBMS and executed via Linkage as P/A Orders. The Exchange then provides 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 July 31, 2009.<sup>7</sup>

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, 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 those 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 parts 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 currently provides for an option transaction charge credit of \$0.21 per contract for Exchange options specialist units that incur Phlx option transaction charges when a customer order is delivered electronically via Phlx XL or via FBMS and then is

<sup>7</sup> This proposal is scheduled to be in effect for the same time period as a pilot program relating to fees for Linkage Principal Orders and P/A Orders. See Securities Exchange Act Release No. 58144 (July 11, 2008), 73 FR 41394 (July 18, 2008) (SR-Phlx-2008-49). See also, SR-Phlx-2009-53 filed June 29, 2009.