

The fees set forth in this proposal are scheduled to become effective for transactions settling on or after May 1, 2005.

The text of the proposed rule change is available on the Phlx's Web site, <http://www.phlx.com>, at the Phlx's Office of the Secretary, and at the Commission's Public Reference Section.

## 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 proposal. The text of these 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 aspects of such statements.

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

#### 1. Purpose

The purpose of assessing the iShares Lehman products and the KBW products license fee of \$0.10 per contract side after reaching the \$60,000 cap as described in this proposal is to help defray licensing costs associated with the trading of these products, while still capping member organizations' fees enough to attract volume from other exchanges. The cap operates this way in order to offer an incentive for additional volume without leaving the Exchange with significant out-of-pocket costs.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>14</sup> in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx believes that the proposed rule change would impose no 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

The Exchange did not solicit or receive any written comments with respect to the proposal.

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>15</sup> and Rule 19b-4(f)(2)<sup>16</sup> thereunder. Accordingly, the proposal is effective 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>17</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-2005-30 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Phlx-2005-30. 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 Section. 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-Phlx-2005-30 and should be submitted on or before July 11, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51827; File No. SR-Phlx-2005-20]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 Thereto, Relating to the Elimination of the Prohibition Against the Entry of Multiple Orders in an Option Within Any 15-Second Period for an Account or Accounts of the Same Beneficial Owner

June 13, 2005.

On March 24, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to

without license fees and then equity option and index option transaction and comparison charges for products with license fees (*i.e.*, QQQ license fees) that are assessed by the Exchange after the \$60,000 cap is reached. See Securities Exchange Act Release No. 50836 (December 10, 2004), 69 FR 75584 (December 17, 2004) (SR-Phlx-2004-70).

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

<sup>17</sup> See 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on June 6, 2005, the date the Phlx filed Amendment No. 2. The effective date of the original proposed rule change is April 28, 2005, the effective date of Amendment No. 1 is April 29, 2005, and the effective date of Amendment No. 2 is June 6, 2005.

<sup>18</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.

amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (“AUTOM”) System,<sup>3</sup> to eliminate the restriction against Order Entry Firms<sup>4</sup> entering or permitting the entry of multiple orders in an option within any 15-second period for an account or accounts of the same beneficial owner and to eliminate a similar provision in Commentary .05 to Exchange Rule 1080 relating to proprietary orders submitted by off-floor broker-dealers.<sup>5</sup>

On April 11, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>6</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on May 6, 2005.<sup>7</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>8</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>9</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,<sup>10</sup> in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market

<sup>3</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. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM’s automatic execution features, Book Sweep and Book Match. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. See Exchange Rule 1080.

<sup>4</sup> The Exchange defines an “Order Entry Firm” as a member organization of the Exchange that is able to route orders to AUTOM. See Exchange Rule 1080(c)(ii)(A)(1).

<sup>5</sup> The term “off-floor broker-dealer” means a broker-dealer that delivers orders from off the floor of the Exchange for the proprietary account(s) of such broker-dealer, including a market maker located on an exchange or trading floor other than the Exchange’s trading floor who elects to deliver orders via AUTOM for the proprietary account(s) of such market maker. See Exchange Rule 1080(b)(i)(C).

<sup>6</sup> In Amendment No. 1, the Exchange revised the status of the proposed rule change from one that would take effect upon filing with the Commission under Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), to one that is filed under Section 19(b)(2) of the Act.

<sup>7</sup> See Securities Exchange Act Release No. 51640 (April 29, 2005), 70 FR 24156.

<sup>8</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

and a national market system, and, in general, to protect investors and the public interest. In the Commission’s view, removal of the limitation on the entry into AUTOM of multiple orders by an Order Entry Firm for the same beneficial account owner within any 15-second period should help facilitate more efficient and immediate executions on the Exchange.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-Phlx-2005-20), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF STATE

[Public Notice 5114]

### **Bureau of Political-Military Affairs; Notice of Information Collection Under Emergency Review: Form DS-4076; Request for Commodity Jurisdiction (CJ)/U.S. Munitions List (USML) Determination; OMB Control Number 1405-XXXX**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

- *Type of Request:* Emergency Review.

- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, (PM/DDTC).

- *Title of Information Collection:* Request for Commodity Jurisdiction (CJ)/U.S. Munitions List (USML) Determination.

- *OMB Control Number:* None.

- *Frequency:* Once per year per respondent.

- *Form Number:* DS-4076.

- *Respondents:* Business organizations.

- *Estimated Number of Respondents:* 300.

- *Estimated Number of Responses:* 300.

- *Average Hours Per Response:* 2 hours.

- *Total Estimated Burden:* 600 hours.

- *Obligation to Respond:* Voluntary.

The proposed information collection is published to obtain comments from the public and affected agencies.

Emergency review and approval of this collection has been requested from OMB by July 29, 2005. If granted, the emergency approval is only valid for 180 days. Comments should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202-395-7316.

You may submit comments by any of the following methods:

- E-mail: *Katherine.T.Astrich@omb.eop.gov*. You must include the form number (DS-4076) and information collection title in the subject line of your message.

- Hand Delivery or Courier: OIRA State Department Desk Officer, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

- Fax: 202-395-6974.

**SUPPLEMENTARY INFORMATION:** During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until 60 days from the date that this notice is published in the **Federal Register**. The agency requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

*Abstract of proposed collection:* The information will be used to evaluate whether or not a particular article is covered by the U.S. Munitions List; to change the U.S. Munitions List category designation; to confirm the U.S. Munitions List Category designation; to remove a defense article from the U.S. Munitions List; or to reconsider a previous commodity jurisdiction determination.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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