

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

1. Purpose

The purpose of the proposed rule change is to treat PACE trades that interact with NMS Linkage orders the same as Intermarket Trading System ("ITS") commitments with respect to the Exchange's Charge.<sup>7</sup> The NMS Linkage Plan is the successor Plan to the ITS Plan. While there are some operational differences between the two Plans, both Plans facilitate intermarket linkage among market centers trading certain listed securities and the Exchange believes the NMS Linkage Plan is used in a similar manner as the ITS Plan by its members and member organizations. Therefore, the Exchange proposes to apply the Charge to PACE trades that interact with NMS Linkage orders in the identical manner as PACE trades that interact with ITS commitments. This is accomplished by adding the words "or NMS Linkage order" to footnote 1 in the Summary of Equity Charges section of the Exchange's Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>9</sup> in particular, regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities.

*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*

The Exchange has neither solicited nor received comments on the proposed rule change.

<sup>7</sup> See Securities Exchange Act Release No. 47245 (January 24, 2003), 68 FR 5069 (January 31, 2003) (adopting the current fee treatment of PACE trades that interact with ITS commitments).

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>11</sup> because it establishes or changes a due, fee, or other charge imposed by the Phlx. 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**

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-2006-62 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2006-62. 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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices 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-2006-62 and should be submitted on or before November 30, 2006.

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

**Nancy M. Morris,**  
*Secretary.*

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**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**Aviation Proceedings, Agreements Filed the Week Ending October 20, 2006**

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2006-26147.

*Date Filed:* October 20, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC23/123 Middle East—TC3 Mail Vote 515, Special Passenger Amending Resolution 010d, From Iran to Afganistan (Memo 0310).

*Intended Effective Date:* 1 November 2006.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

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**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**Aviation Proceedings, Agreements Filed the Week Ending October 13, 2006**

The following Agreements were filed with the Department of Transportation

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