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*. Please include File Number SR–ISE–2009–10 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–ISE–2009–10. 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 a.m. and 3 p.m. 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–ISE–2009–10 and should be submitted on or before April 6, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5593 Filed 3–13–09; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59553; File No. SR–ISE–2009–11]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Enable the Listing and Trading of Options on Managed Fund Shares

March 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2009, the International Securities Exchange, LLC (''ISE'' 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 Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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 Exchange proposes to amend Rule 502(h) to enable the listing and trading of options on Managed Fund Shares. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com*, 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

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 revise ISE Rule 502 to enable the listing and trading of options on managed fund shares (''Managed Fund Shares'') that are listed and traded on a national securities exchange and are considered to be an ''NMS Stock'' (as defined in Rule 600 of Regulation NMS under the Securities and Exchange Act of 1934 (the ''Act'')).

Managed Fund Shares represent an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity. Unlike traditional exchange traded funds Managed Fund Shares are actively managed. Managed Fund Shares, although, based upon a publicly disclosed portfolio of securities, each trade as a single exchange-listed equity security.

Accordingly, the rules pertaining to the listing and trading of standardized equity options will apply to Managed Fund Shares.

Listing Criteria

The Exchange will consider listing and trading options on Managed Fund Shares provided the Managed Fund Shares meet (1) the criteria for underlying securities set forth in ISE Rule 502(a) and (b)[5], or the Managed Fund Shares are available for creation and redemption each business day as set forth in ISE Rule 502(h)(A)(ii).

The Exchange proposes that Managed Fund Shares deemed appropriate for options trading represent an interest in an open-end management investment company or similar entity, as described below:

- *Managed Fund Shares* are securities that represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and

[5] *See* ISE Rule 502(a) and (b), which collectively require minimum requirements for the underlying security that include, but are not limited to: (1) The security be registered and be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) the security be characterized by a substantial number of outstanding shares that are widely held and actively traded; (3) 7,000,000 underlying shares, (4) 2,000 shareholders; and (4) trading volume of 2,400,000 shares in the preceding 12 months.

policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV.

Continued Listing Requirements

Options on Managed Fund Shares will be subject to all Exchange rules governing the trading of equity options and furthermore, the rules pertaining to position and exercise limits [6] or margin [7] shall apply. The current continuing or maintenance listing standards for options traded on ISE will continue to apply.

The Exchange will utilize its existing surveillance procedures applicable to options on exchange traded funds (which will include Managed Fund Shares) to monitor trading. In addition, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Managed Fund Shares, including adequate comprehensive surveillance sharing agreements (''CSSA'') with markets trading in non-U.S. components,[8] as applicable. Also, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') [9] from other exchanges who are members or affiliates of the ISG. ISE represents that these procedures will be adequate to properly monitor Exchange trading of options on these the securities and to deter and detect violations of Exchange rules.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, to protect investors and the public interest. The Exchange believes that proposed rules applicable to trading pursuant to generic listing and trading criteria, together with the Exchange's surveillance procedures applicable to trading in the securities covered by the proposed rules, serve to foster investor protection.

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

The proposed rule change does not 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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

The Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its intention to file the proposed rule change at least five business days before its filing. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] The proposed rule change will permit the Exchange to trade options on Managed Fund Shares thus providing investors additional opportunities to hedge their positions. Further, this proposed rule change is identical to one recently approved by the Commission.[12] For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 of the Act.

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*. Please include File Number SR–ISE–2009–11 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–ISE–2009–11. 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 a.m. and 3 p.m.

[6] Pursuant to ISE Rule 412(a)(1) and 412(d), Managed Fund Shares are subject to the same position limits applicable to options on stocks and Exchange-Traded Fund Shares. ISE Rule 414 stipulates that exercise limits for options on stocks and other securities, including Managed Fund Shares shall be the same as the position limits applicable under ISE Rule 412.

[7] *See* ISE Rules 1200—1204, the Exchange's rules governing margin.

[8] *See* ISE Rule 502(h)(B), the Exchange's rule governing the applicable CSSA requirements for options on exchange-traded funds. The Exchange notes that any non-U.S. component securities (including fixed-income) in an index or portfolio of securities on which the Fund Shares are based that are not subject to comprehensive surveillance agreements may in the aggregate represent an amount equal to 50% of the weight of the index or portfolio.

[9] A complete list of the current members of the ISG is available at *http://www.isgportal.org*.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *See* Securities Exchange Act Release Nos. 59004 (November 24, 2008), 73 FR 72882 (December 1, 2008) (SR–NYSEArca–2008–108); 59006 (November 24, 2008), 73 FR 72879 (SR–NYSEALTR–2008–08).

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–ISE–2009–11 and should be submitted on or before April 6, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5594 Filed 3–13–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59537; File No. SR–Phlx–2009–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto by NASDAQ OMX PHLX, Inc. To Amend the Exchange's Fee Schedule Relating to the Market Access Provider Subsidy

March 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on February 25, 2009, NASDAQ OMX PHLX, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. On March 3, 2009, the Exchange filed Amendment No. 1 to the proposal.[3] 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 amend its schedule of fees to remove certain subsidies that are available to qualifying Phlx member organizations that offer to customers automated order routing systems and electronic market access to U.S. options markets (''Market Access Providers'' or ''MAPs''). Specifically, the Exchange proposes to amend the Market Access Provider Subsidy section of its fee schedule by deleting the following subsidies: (i) A $0.01 per contract incentive above the previously established per-contract subsidy rate upon the renewal of a MAP Agreement; (ii) a $50,000 per month bonus payment (the ''Monthly MAP Volume Bonus'') for each month in which the number of contracts routed to the Exchange exceeds a defined number of contracts; and (iii) a $25,000 per month marketing subsidy (the ''MAP Marketing Subsidy''), as defined below.

The proposed rule change is filed for immediate effectiveness and will be effective for trades settling on or after March 1, 2009.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* 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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to manage Exchange expenses by removing certain subsidies from the Exchange's fee schedule.

Market Access Provider

In August, 2007, the Exchange amended its fee schedule to provide a per contract Subsidy (the ''Subsidy'') for certain Exchange members known as MAPs.[4] A MAP is an Exchange member organization that offers to customers automated order routing systems and electronic market access to U.S. options markets. The Exchange pays a per-contract MAP Subsidy to any Exchange member organization that qualifies as a MAP (an ''Eligible MAP'')[5] who elects to participate by submitting any application(s) and/or form(s) required by the Exchange, and complying with other conditions.

A MAP must enter into and maintain an Agreement (a ''MAP Agreement'') with the Exchange to function as an Eligible MAP and be in compliance with all terms thereof.

MAP Subsidy

The Exchange currently pays a Subsidy to Eligible MAPs on a monthly basis, of $0.10 (the ''Subsidy Rate'') for each Eligible Contract (as defined below) executed in the immediately preceding calendar month above the particular Eligible MAP's Baseline Order Flow (as defined below).

''Eligible Contracts'' means contracts that result from the execution on the Exchange of: (1) Equity option orders (other than crosses) sent electronically to an Eligible MAP (and routed to the Exchange electronically by the Eligible MAP) by its customers; and (2) MAP Routing Orders (other than crosses) sent electronically by the Eligible MAP.

''Baseline Order Flow'' for an Eligible MAP means the higher of: (1) 500,000 contracts; or (2) the average contracts per month, calculated for the 3-month period immediately preceding the Eligible MAP entering into an agreement with the Exchange, that resulted from the execution on the Exchange of equity option orders (other than crosses) routed to Phlx electronically by such Eligible MAP.

In addition, the Exchange pays an additional $0.01 per contract above the previously established per-contract Subsidy Rate upon the renewal of a MAP Agreement.[6]

The Exchange proposes to delete the additional $0.01 per contract payment provision respecting extended MAP Agreements from the Market Access Provider Subsidy section of its fee schedule. The Exchange believes that it would benefit both parties to negotiate the terms of any MAP Agreement extension on a case-by-case basis, rather than having fixed terms already in

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[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 clarified that if there is any change to the status of the Monthly MAP Volume Bonus and/or the MAP Marketing Subsidy, or if the Exchange negotiates any MAP Agreement extension, the Exchange will file a proposed rule change with the Commission.

[4] *See* Securities Exchange Act Release No. 56274 (August 16, 2007), 72 FR 48720 (August 24, 2007) (SR–Phlx–2007–54).

[5] The term ''Eligible MAP'' is defined in current footnote 5(b) of the Market Access Provider Subsidy section of the Exchange's fee schedule.

[6] A MAP Agreement is typically in effect for a period of one year, and the Exchange may, by giving written notice to the Eligible MAP, elect to extend it for additional one year terms, in which case the per contract Subsidy payable during any extension period for that Eligible MAP is $0.01 per contract greater than the Subsidy Rate then in effect at the date of renewal. *See supra* note 4.