

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57515; File No. SR-Phlx-2008-21)

March 18, 2008

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add the SIG Energy MLP Index™ to Rules 1101A and 1104A

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> notice is hereby given that on March 11, 2008, the Philadelphia Stock Exchange, Inc. (“Exchange” or “Phlx”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change 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 add the new SIG Energy MLP Index™ (trading as SVO<sup>SM</sup>) to Phlx Rule 1101A (Terms of Options Contracts), regarding listing options at strike price intervals of no less than \$2.50 for strike prices less than \$200, and to Phlx Rule 1104A (SIG Indices, LLLP), which sets forth SIG Indices’s disclaimer of express or implied warranties. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.phlx.com>), at the

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 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 amend Phlx Rules 1101A and 1104A to include the SIG Energy MLP Index™, which was recently licensed by SIG Indices, LLLP ("Susquehanna") to the Exchange, and thereby allow (i) the Exchange to list the index at strike price intervals of no less than \$2.50 for strike prices less than \$200, and (ii) Susquehanna's disclaimer of liability for use of the index. The proposal to permit \$2.50 strike price intervals should encourage the listing of options on the index at appropriate strike price intervals, to the benefit of investors. The proposed disclaimer should encourage maintenance of the SIG Energy MLP Index™ by Susquehanna, enabling the Exchange to continue to list options overlying the index.<sup>5</sup>

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<sup>5</sup> The Exchange currently lists and trades options on the SIG Steel Producers Index™, the SIG Coal Producers Index™, the SIG Oil Exploration & Production Index™, and the newly-licensed SIG Energy MLP Index™ pursuant to a license agreement with Susquehanna Indices, LLLP ("License Agreement") and Exchange Rule 1009A(b). All of the SIG Indexes noted herein are trademarks of SIG Indices, LLLP.

Phlx Rule 1101A currently indicates that the Exchange shall determine fixed point strike price intervals for index options at no less than \$5.00, provided that for indexes that are listed in Rule 1101A the Exchange may determine to list strike prices at no less than \$2.50 intervals if the strike price is less than \$200.<sup>6</sup> The rule provides also that such options may be traded at \$2.50 strike price intervals in response to customer interest or specialist request. The proposed rule change adds the SIG Energy MLP Index™ to the list of indexes in Rule 1101A upon which the Exchange may list options at \$2.50 strike price intervals.

Phlx Rule 1104A currently provides that Susquehanna makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of Susquehanna proprietary indexes,<sup>7</sup> and that Susquehanna makes no express or implied warranties of merchantability or fitness for a particular purpose for use with respect to any of the named indexes or any data included therein.<sup>8</sup> The proposed rule change expands the coverage of Rule 1104A to include the newly-listed SIG Energy MLP Index™, as required by the License Agreement.

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<sup>6</sup> See Securities Exchange Act Release No. 54973 (December 20, 2006), 71 FR 78252 (December 28, 2006) (SR-Phlx-2006-82).

<sup>7</sup> The indexes noted in Rule 1101A include the SIG Investment Managers Index™, the SIG Cable, Media & Entertainment Index™, the SIG Casino Gaming Index™, the SIG Semiconductor Equipment Index™, the SIG Semiconductor Device Index™, the SIG Specialty Retail Index™, the SIG Steel Producers Index™, the SIG Footwear & Athletic Index™, the SIG Education Index™, the SIG Restaurant Index™, and the SIG Coal Producers Index™.

<sup>8</sup> The Exchange noted in its filing to adopt Rule 1104A that the proposed disclaimer was appropriate given that it was similar to disclaimer provisions of American Stock Exchange (“Amex”) Rule 902C relating to indexes underlying options listed on Amex. See Securities Exchange Act Release No. 47937 (May 28, 2003), 68 FR 33555 (June 4, 2003) (SR-Phlx-2003-21). The Exchange subsequently amended Rule 1104A to add new indexes, similar to the current proposal. See, e.g., Securities Exchange Act Release No. 51664 (May 6, 2005), 70 FR 25641 (May 13, 2005) (SR-Phlx-2005-24).

The Exchange believes that the proposal should benefit investors by effectively encouraging the listing and trading of options on an additional Susquehanna index at more precise strike price intervals, thereby expanding the availability of appropriate investment choices for investors.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change will encourage Susquehanna to continue to maintain the SIG Energy MLP Index™, enabling the Exchange to list options on the index and thereby provide investors with a wider range of investment opportunities. The proposed rule change should also give the Exchange the capability to price options on the SIG Energy MLP Index™ at \$2.50 strike price intervals, thereby encouraging more efficient pricing.

### 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 either solicited or received.

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

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

### 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: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</sup>

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Exchange currently trades option on the SIG Energy MLP Index, and would like to add the index to Rule 1104A without delay to grant Susquehanna comfort that its liability has been properly disclaimed for the index, as it has been for Susquehanna's other index products currently listed in Rule 1104A. This will encourage Susquehanna to continue to provide the index, allowing the Exchange to continue to list options on the index without interruption.<sup>13</sup>

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>13</sup> Telephone conversation between Jurij Trypupenko, Director and Counsel, Phlx, and Nathan Saunders, Special Counsel, Division of Trading and Markets, Commission, on March 13, 2008.

The Commission believes that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest.<sup>14</sup> Therefore, the Commission designates the proposal to be operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 No. SR-Phlx-2008-21 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-Phlx-2008-21. 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

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<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

comments on the Commissions 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 10:00 a.m. and 3:00 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-Phlx-2008-21 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).