

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57899; File No. SR-Phlx-2008-40)

June 2, 2008

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Disclaimer of Warranties and the Listing of \$2.50 Strikes for Options on the SIG KCI Coal Index™

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 May 23, 2008, the Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) 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 Phlx. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it 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

Phlx proposes to add the SIG KCI Coal Index™ (“SIG KCI Coal Index” or “Index”) to Phlx Rule 1101A, Terms of Options Contracts, regarding listing options at strike price intervals of \$2.50 or greater and to Phlx Rule 1104A, SIG Indices, LLLP, regarding disclaimer of express or implied warranties.⁵ The text of the proposed rule change is available

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The SIG Indexes noted herein are trademarks of SIG Indices, LLLP.

at Phlx's principal office, the Commission's Public Reference Room, and

<http://www.phlx.com>.

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

In its filing with the Commission, Phlx 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 the 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 KCI Coal Index that was recently licensed by SIG Indices, LLLP ("Susquehanna") to the Exchange, which would enable the Exchange to list the index at \$2.50 or greater strike price intervals and limit Susquehanna's liability with respect to the Index. This proposal should encourage listing such options at appropriate strike price intervals to the benefit of investors and should encourage maintenance of the Index by Susquehanna so that options overlying the index may be available for trading.⁶

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 Phlx Rule 1101A the Exchange may determine to list strike prices at no less than

⁶ The Exchange has recently entered into a licensing agreement with Susquehanna that would, among other things, allow the Exchange to list and trade options on the SIG KCI Coal Index™ ("License Agreement").

\$2.50 intervals if the strike price is less than \$200.⁷ The rule also provides 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 KCI Coal Index to the list of indexes in Phlx 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,⁸ 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.⁹ The proposed rule change expands the coverage of Phlx Rule 1104A to include the Index, as required by the License Agreement.

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.

⁷ See Securities Exchange Act Release No. 54973 (December 20, 2006), 71 FR 78252 (December 28, 2006)(SR-Phlx-2006-82).

⁸ The indexes noted in Phlx Rule 1101A include the SIG Investment Managers IndexTM, the SIG Cable, Media & Entertainment IndexTM, the SIG Casino Gaming IndexTM, the SIG Semiconductor Equipment IndexTM, the SIG Semiconductor Device IndexTM, the SIG Specialty Retail IndexTM, the SIG Steel Producers IndexTM, the SIG Footwear & Athletic IndexTM, the SIG Education IndexTM, the SIG Restaurant IndexTM, the SIG Coal Producers IndexTM, and the SIG Energy MLP IndexTM.

⁹ The Exchange noted in its filing to adopt Phlx 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 that exchange. See Securities Exchange Act Release No. 48135 (July 7, 2003), 68 FR 42154 (July 16, 2003)(approving SR-Phlx-2003-21). The Exchange has proposed amendments similar to the current proposal to include a new index in Phlx Rule 1104A. See Securities Exchange Act Release No. 51664 (May 6, 2005), 70 FR 25641 (May 13, 2005)(SR-Phlx-2005-24).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ 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 should encourage SIG Indices, LLLP to continue maintaining indexes upon which options may be traded on the Exchange, thereby providing investors with enhanced investment opportunities.

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.

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

Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) 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

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹⁴ However, Rule 19b-4(f)(6)¹⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Phlx has requested that the Commission waive the 30-day operative delay. The Commission believes that granting this request is consistent with the protection of investors and the public interest because it will allow the Exchange to offer additional strike prices for options on the SIG KCI Coal Index to investors without delay. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁶

At any time within 60 days of the filing of such 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 the furtherance of the purposes of the Act.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). When filing a proposed rule change pursuant to Rule 19b-4(f)(6) under the Act, an Exchange is required to give the Commission 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 provided notice to the Commission two business days prior to filing the proposed rule change, and the Commission has determined to waive the five business day requirement.

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ Id.

¹⁶ For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-Phlx-2008-40 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2008-40. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection

and copying at the principal office of Phlx. 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-2008-40 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon
Acting Secretary

¹⁷ 17 CFR 200.30-3(a)(12).