

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56938; File No. SR-Phlx-2007-63)

December 10, 2007

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change Relating to Short Interest Reporting

I. Introduction

On August 16, 2007, the Philadelphia Stock Exchange, Inc. (“Phlx”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-Phlx-2007-63 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).<sup>1</sup> On September 20, 2007, Phlx amended the proposed rule change.<sup>2</sup> Notice of the proposal was published in the Federal Register on October 3, 2007.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The proposed rule change conforms Phlx Rule 786 to rule changes made by other self-regulatory organizations (“SROs”) to implement uniform changes to the short interest reporting requirements across SROs.

First, Phlx is making a technical change to the text of Phlx Rule 786, Supplementary Material .01. Supplementary Material .01 provides that, subject to certain limited exceptions, short positions required to be reported under the rule are those resulting from short sales as the term is defined in Rule 200 of Regulation SHO. The term “short sale” is actually defined in Rule

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

<sup>2</sup> Amendment No. 1, which replaced the original proposed rule change in its entirety, made clarifying changes to the original proposed rule change.

<sup>3</sup> Securities Exchange Act Release No. 56541 (September 26, 2007), 72 FR 56427 (October 3, 2007) (Phlx-2007-63).

200(a) of Regulation SHO.<sup>4</sup> Therefore, Phlx is amending the text of Supplementary Material .01 to reference Regulation SHO Rule 200(a), instead of Rule 200, in order to eliminate any confusion.

Second, Phlx is adding a new section, Supplementary Material .02, to Phlx Rule 786. The new language adopts exceptions to the short interest reporting requirement. Phlx is also adding conforming language relating to the new section to Rule 786, Supplementary Material .01. Currently, any transaction that is marked “sell short exempt” is exempt from the reporting requirement. Beginning on July 6, 2007, the “short exempt” marking requirement was eliminated by the Commission.<sup>5</sup> Therefore, beginning on July 6, 2007, all transactions marked short will be covered by Phlx’s reporting requirement. However, other SROs have modified their short interest reporting rules to exclude five specific transactions that were previously contained in the now eliminated Rule 10a-1 under the Act.<sup>6</sup> The rule change is designed to conform Phlx’s reporting requirement to those of other SROs and increase uniformity for broker-dealers as they comply with various rules across SROs, which should reduce costs and increase efficiency for those broker-dealers.

### III. Discussion

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<sup>4</sup> 17 CFR 242.200(a).

<sup>5</sup> See Securities Exchange Act Release No. 55970 (June 28, 2007), 72 FR 36348 (July 3, 2007).

<sup>6</sup> See, e.g., Securities Exchange Act Release No. 56300 (August 22, 2007), 72 FR 49342 (August 28, 2007) (NYSEArca-2007-63).

Section 6(b)(5) of the Act<sup>7</sup> requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, 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 rule change is designed to conform Phlx's reporting requirement to those of other SROs and increase uniformity for broker-dealers as they comply with various rules across SROs, which should reduce costs and increase efficiency for those broker-dealers. Accordingly, because the rule change will lead to greater uniformity in SRO rules, the Commission finds that the rule change meets the requirements of Section 6(b)(5) of the Act because it is designed to promote just and equitable principles of trade, 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.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the rule change is consistent with the requirements of the Act, in particular Section 6(b) of the Act<sup>8</sup> and the rules and regulations thereunder.<sup>9</sup>

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<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

<sup>9</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-Phlx-2007-63) be and hereby is approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).