

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54834; File No. SR-Phlx-2006-69)

November 29, 2006

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to a Direct Registration System

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 October 31, 2006, the Philadelphia Stock Exchange, Inc. (“Phlx”) filed with the Securities and Exchange Commission (“Commission”) and on November 14, 2006, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to adopt new Rule 868 to require certain listed securities to be eligible for a Direct Registration System (“DRS”) operated by a securities depository registered as a clearing agency under Section 17A of the Act starting on January 1, 2007.

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 these statements may be examined at the places specified in Item IV below.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Phlx has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.³

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

(1) Purpose

The purpose of proposed new Phlx Rule 868⁴ is to reduce the costs, risks, and delays associated with the physical delivery of securities certificates by requiring that certain securities be eligible for DRS.⁵ Proposed Rule 868 would require that on or after January 1, 2007, all securities initially listing on Phlx must be eligible for DRS operated by a securities depository that is a clearing agency registered under Section 17A of the Act ("securities depository"). This provision would not extend to (i) securities of companies which already have securities listed on Phlx; (ii) securities of companies which immediately prior to such listing had securities listed on another national securities exchange; (iii) derivative products,⁶ or (iv) securities (other than stocks) which are book-entry-only.

³ The Commission has modified portions of the text of the summaries prepared by the Phlx.

⁴ The exact text of the Phlx proposed rule change is set forth in its filing, which can be found at <http://www.phlx.com/exchange/rulefilings/2006/S-2006-69.pdf>.

⁵ The Commission has approved similar rule changes filed by the New York Stock Exchange LLC, NASDAQ Stock Market LLC, the American Stock Exchange LLC, and the NYSE Arca, Inc. that require certain listed companies securities become DRS eligible. Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR-NYSE-2006-29]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR-NASDAQ-2006-008]; 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR-Amex-2006-40]; 54410 (September 7, 2006), 71 FR 54316 (September 14, 2006) [File No. SR-NYSE Arca-2006-31].

⁶ For purposes of proposed Rule 868, the term "derivative products" means standardized options issued by The Options Clearing Corporation ("OCC") or other securities that are issued by OCC or another limited purpose entity or trust and that are based solely on the performance of

Proposed Rule 868 would also require that on or after January 1, 2008, all securities listed on the Phlx must be eligible for DRS operated by a securities depository. This provision would not extend to derivative products or securities (other than stocks) that are book-entry-only.

Securities certificates are used by issuers as a means to evidence and transfer ownership. Because securities certificates require manual processing, significant delays, expenses, and risks associated with lost, stolen, and forged certificates are attendant in processing securities transactions involving securities certificates. In Section 17A of the Act, Congress recognized these concerns by calling for the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities.⁷

DRS allows an investor to establish, either through an issuer's transfer agent or through the investor's broker-dealer, a book-entry position in a security and to electronically transfer that position between the transfer agent and the investor's broker-dealer of the investor's choice through a facility currently administered by The Depository Trust Company ("DTC").⁸ By using DRS, investors receive a DRS statement as evidence of share ownership instead of a securities certificate. Investors retain all the rights associated with securities certificates, including such rights as control of ownership and voting rights, without having the responsibility of holding and

an index or portfolio of other publicly traded securities. The term "derivative product" does not include warrants of any type or closed-end management investment companies.

⁷ 15 U.S.C. 78q-1.

⁸ Currently, the only registered clearing agency operating a DRS is DTC. For a description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR-DTC-96-15] (order granting approval to establish DRS) and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999), [File No. SR-DTC-99-16] (order approving implementation of the Profile Modification System).

safeguarding securities certificates. In addition, in corporate actions such as reverse stock splits and mergers, cancellation of old securities positions and issuance of new securities positions is handled electronically with no securities certificates to be returned to or received from transfer agents.

Issuers and their transfer agents may incur initial costs when making an issue DRS-eligible as required by this proposed rule change. In order to make a security DRS-eligible, the issuer must have a transfer agent which is a DRS Limited Participant at DTC.⁹ Transfer agents will need to meet certain DTC criteria, such as insurance and connectivity requirements, in order to become a DRS Limited Participant. Further, issuers may need to amend their corporate documents, such as their by-laws or charter, in order to permit the issuance of book-entry shares. Phlx believes that the proposed deadlines for DRS eligibility coupled with instructive communication by Phlx to issuers, will allow issuers sufficient time to make the necessary changes to comply with the proposed rule change.

While the proposed rule change should significantly reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates, the proposed rule change will not eliminate the ability of investors to obtain securities certificates provided the issuer chooses to issue or continue to issue certificates.

(2) Statutory Basis

Phlx believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. In particular, the proposed rule change is consistent with Section 6(b)(5) of the Act because it

⁹ DTC's rules require that a transfer agent (including an issuer acting as its own transfer agent) acting for a company issuing securities in DRS must be a DRS Limited Participant. Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR-DTC-96-15].

would promote just and equitable principles of trade, 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 perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by confirming that certain Phlx's issuers would be required to make their securities eligible for a DRS operated by a securities depository.¹⁰

(B) Self-Regulatory Organization's Statement on Burden on Competition

Phlx 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

Phlx has neither solicited nor received written comments on the proposed rule change.

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

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

¹⁰ 15 U.S.C. 78f(b)(5).

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-2006-69 in 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-2006-69. 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 Section, 100 F Street, NE, Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of Phlx and on Phlx's Web site, www.phlx.com. 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-2006-69 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).