

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55321; File No. SR-Phlx-2006-85)

February 21, 2007

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to Listing Standards for Basket Linked Notes

I. Introduction

On December 12, 2006, the Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposal to amend Phlx Rule 803 – Criteria for Listing – Tier 1, to increase the number of underlying securities that may be linked to a Basket Linked Note (“BLN”). The proposed rule change was published for comment in the Federal Register on January 31, 2007 for a 15-day comment period.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

A BLN is non-convertible debt of an issuer whose value is based, at least in part, on the performance of highly capitalized, actively traded common stock, or non-convertible preferred stock of other issuers.<sup>4</sup> Rule 803(k) currently permits the Exchange

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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> See Securities Exchange Act Release No. 55173 (January 25, 2007), 72 FR 4552.

<sup>4</sup> Phlx Rule 803(k)(3) currently requires, among other things, that each of the underlying securities linked to a BLN either: (i) have a minimum market capitalization of \$3 billion and during the 12 months preceding listing are shown to have traded at least 2.5 million shares; (ii) have a minimum market capitalization of \$1.5 billion and during the 12 months preceding listing are shown to have traded at least 10 million shares; or (iii) have a minimum market capitalization of \$500 million and during the 12 months preceding listing are shown to have traded at least 15 million shares.

to list and trade BLNs linked to more than one equity security but no more than 20.<sup>5</sup> Phlx proposes to amend Rule 803(k) to increase the number of underlying securities that may be linked to a BLN from no more than 20 to no more than 30.

### III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>6</sup> and, in particular, the requirements of Section 6 of the Act.<sup>7</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the rules of a national securities 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 Commission believes that expanding the basket of equity securities that may be linked to a BLN may enhance competition and benefit investors and the marketplace through additional product choices and alternatives. The Commission does not believe that there would be investor protection concerns with expanding the number of equity securities that may be linked to a BLN from more than one common stock to up to thirty common stocks. The Commission notes that the proposed rule change to Phlx's listing standards for BLNs, specifically Phlx Rule 803(k), is substantially similar to the listing standards of the American

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<sup>5</sup> See Securities Exchange Act Release No. 43690 (December 7, 2000), 65 FR 78523 (December 15, 2000) (SR-Phlx-2000-90).

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Stock Exchange LLC regarding equity linked term notes, which are substantially similar investment products.<sup>9</sup>

The Commission finds good cause to grant accelerated approval of the proposed rule change because it will enable the Exchange to immediately consider listing and trading a BLN consistent with the rules of other national securities exchanges and does not raise any new regulatory issues. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the notice is published for comment in the Federal Register pursuant to Section 19(b)(2) of the Act.<sup>10</sup>

#### IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-Phlx-2006-85) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> See Amex Company Guide Section 107B; and Securities Exchange Act Release No. 47055 (December 19, 2002), 67 FR 79669 (December 30, 2002) (SR-Amex-2002-110).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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