

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55473; File No. SR-Phlx-2007-12)

March 14, 2007

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 thereto Relating to Fees for Full Value Russell Index and Reduced Value Russell 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 February 16, 2007, 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, II and III below, which Items have been substantially prepared by the Exchange. On March 8, 2007, the Phlx submitted Amendment No. 1 to the proposed rule change. The Phlx has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Phlx, pursuant to Section 19(b)(1) of the Act⁵ and Rule 19b-4 thereunder,⁶ proposes to assess equity option charges, as opposed to index option charges on: (1) options on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ 15 U.S.C. 78s(b)(1).

⁶ 17 CFR 240.19b-4.

Russell 2000® Index⁷ traded under the symbol RUT (the “Full Value Russell Index”); and (2) options on the one-tenth value Russell 2000® Index traded under the symbol RMN (the “Reduced Value Russell Index”)(the Full Value and the Reduced Value Russell Indexes together are referred to herein as the “Russell Products”).⁸ Therefore, the Exchange proposes to charge the Russell Products, which are index options, in the same manner that it charges for equity options.

In addition, the Exchange proposes to adopt a \$0.15 per side license fee on “firm-related” comparison and transaction charges.⁹ This license fee will be imposed only after the Exchange’s \$60,000 “firm-related” equity option and index option comparison and transaction charge cap is reached.¹⁰

⁷ Russell 2000® is a trademark and service mark of the Frank Russell Company, used under license. Neither Frank Russell Company’s publication of the Russell Indexes nor its licensing of its trademarks for use in connection with securities or other financial products derived from a Russell Index in any way suggests or implies a representation or opinion by Frank Russell Company as to the attractiveness of investment in any securities or other financial products based upon or derived from any Russell Index. Frank Russell Company is not the issuer of any such securities or other financial products and makes no express or implied warranties of merchantability or fitness for any particular purpose with respect to any Russell Index or any data included or reflected therein, nor as to results to be obtained by any person or any entity from the use of the Russell Index or any data included or reflected therein.

⁸ See Securities Exchange Act Release No. 55305 (February 15, 2007), 72 FR 8240 (February 23, 2007) (SR-Phlx-2006-65) (order approving listing and trading equity and FLEX options on the Russell Products, and LEAPS on the Full Value Russell Index). FLEX options are customized or flexible index and equity options and LEAPS are Long-term Equity Anticipation Securities or long term options series. See Phlx Rules 1079, 1012 and 1101A.

⁹ Specifically, “firm-related” charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transaction charges, index option firm (proprietary and customer executions) comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively, the “firm-related charges”).

¹⁰ The Exchange currently imposes a license fee of \$0.10 per contract side for equity option and index option “firm” transactions on certain licensed products (collectively, “licensed

The Exchange also proposes to amend its Summary of Equity Option Charges to reflect that a \$0.15 license fee on the Russell Products will be assessed in connection with the Exchange's current cap on Registered Options Traders ("ROT") comparison charges and ROT and specialist transaction charges¹¹ on non-AUTOM delivered equity option contracts¹² when an ROT or specialist executes over 14,000 contracts calculated on a daily basis. These terms apply only to transactions when an ROT or specialist is the contra-party to a customer order.¹³ Therefore, after the 14,000 non-AUTOM delivered contract level is reached in a specific option,

products") after the \$60,000 cap per member organization on all "firm-related" equity option and index option comparison and transaction charges combined is reached. Therefore, when a member organization exceeds the \$60,000 cap (comprised of combined firm-related charges), the member organization is charged \$60,000, plus the applicable license fee per contract side for any contracts in licensed products (if any) over those that were included in reaching the \$60,000 cap. Thus, such firm-related charges in the aggregate for one billing month may not exceed \$60,000 per month per member organization. For a complete list of the licensed products that are assessed a \$0.10 license fee per contract side after the \$60,000 cap is reached, see \$60,000 "Firm Related" Equity Option and Index Option Cap on the Exchange's fee schedule. Consistent with current practice, when calculating the \$60,000 cap, the Exchange first calculates all equity option and index option transaction and comparison charges for products without license fees and then equity option and index option transaction and comparison charges for products with license fees that are assessed by the Exchange after the \$60,000 cap is reached. See Securities Exchange Act Release No. 50836 (December 10, 2004), 69 FR 75584 (December 17, 2004) (SR-Phlx-2004-70); and see e.g., Securities Exchange Act Release No. 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006) (SR-Phlx-2006-10).

¹¹ The Exchange does not currently assess a comparison charge on specialist transactions. Therefore, the proposed cap will apply to ROT comparison and transaction charges combined and separately to specialist transaction charges.

¹² For purposes of this fee, orders delivered via the Floor Broker Management System shall be deemed to be non-AUTOM delivered orders. See Phlx Rule 1063.

¹³ See Securities Exchange Act Release No. 54659 (October 27, 2006), 71 FR 64603 (November 2, 2006) (SR-Phlx-2006-67) (capping ROT comparison charges and ROT and specialist transaction charges when certain requirements are met. For equity options, ROT transaction and comparison charges and specialist transaction charges are not assessed on additional qualifying transactions on option contracts that number greater than 14,000, calculated per day per equity option overlying the same underlying security).

additional comparison and transaction charges are not assessed on subsequent option contracts in excess of 14,000 that are executed on that day in that specific option when the ROT or specialist is the contra-party to a customer order. Even when the 14,000 cap is reached, the license fee of \$0.10 per contract side (or \$0.15 per contract side for each of the Russell Products) will be imposed on applicable ROTs and specialists for equity option transactions on those licensed products that carry a license fee.¹⁴

This proposal is scheduled to become effective for transactions settling on or after February 20, 2007.

The text of the proposed rule change is available on the Exchange's Web site at www.Phlx.com, at the Phlx, 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 this proposal is to assess equity option charges, including payment for order flow charges, which are competitive with charges assessed on these same products by other

¹⁴ For a complete list of the licensed products that will be assessed a license fee per contract side after the 14,000 equity option contract cap is reached, see \$60,000 "Firm Related" Equity Option and Index Option Cap on the Exchange's fee schedule.

exchanges.¹⁵ Thus, the Russell Products will not be assessed customer comparison or transaction charges in accordance with the Exchange's equity option fee schedule.

The purpose of assessing the Russell Products a license fee of \$0.15 per contract side after reaching the \$60,000 cap and the 14,000 cap as described in this proposal is to help defray licensing costs associated with the trading of these products, while still capping member organizations' fees enough to attract volume from other exchanges.¹⁶ The caps operate this way in order to offer an incentive for additional volume without leaving the Exchange with significant out-of-pocket costs.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹⁸ in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities.¹⁹

¹⁵ See e.g., Securities Exchange Act Release No. 51858 (June 16, 2005), 70 FR 36218 (June 22, 2005) (SR-ISE-2005-26) (establishing fees for transactions in options on RUT and RMN).

¹⁶ See e.g., Securities Exchange Act Release Nos. 55099 (January 12, 2007), 72 FR 2720 (January 22, 2007) (SR-NYSEArca-2006-91) (adopting a \$0.15 per contract Royalty Fee on options traded on RUT); 55000 (December 21, 2006), 71 FR 78479 (December 29, 2006) (SR-BSE-2006-47) (establishing a \$0.15 surcharge fee for transactions in options on RUT); 53968 (June 9, 2006), 71 FR 34971 (June 16, 2006) (SR-Amex-2006-56) (adopting a per contract licensing fee for the orders of specialists, registered options traders, firms, non-member market makers, and broker-dealers in connection with options transactions on the RUT); and 51858 (June 16, 2005), 70 FR 36218 (June 22, 2005) (SR-ISE-2005-26) (adopting a surcharge fee of \$0.10 per contract for trading in RUT and RMN).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4).

¹⁹ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act²⁰ and Rule 19b-4(f)(2) thereunder,²¹ because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

At any time within 60 days of the filing of the 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 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

Commission considers the period to commence on March 8, 2007, the date on which the Phlx filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-12 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2007-12. 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. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2007-12 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.²²

Florence E. Harmon
Deputy Secretary

²² 17 CFR 200.30-3(a)(12).