

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57575; File No. SR-Phlx-2008-06)

March 28, 2008

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to U.S. Dollar-Settled FCO Spot Prices

I. Introduction

On January 28, 2008, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the definition of Spot Price so that the Exchange may use certain bid and ask prices (“Thomson Quotes”) provided by Tenfore Systems Limited (“Tenfore”) through Thomson Financial LLC (“Thomson”) as Spot Prices in determining applicable margin requirements and strike prices for the Exchange’s U.S. dollar-settled foreign currency options (“FCOs”). On February 19, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on February 27, 2008.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

Phlx proposes to amend the definition of Spot Price to permit the Exchange to use the Thomson Quotes to calculate the Spot Prices in connection with the Exchange’s determination of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57361 (February 20, 2008), 73 FR 10503.

strike prices and margin requirements for its U.S. dollar-settled FCOs.⁴ Under Phlx Rule 1012, “Series of Options Open for Trading,” the Exchange is required to refer to the spot prices of foreign currencies in determining strike prices for U.S. dollar-settled FCOs. Further, Phlx Rule 722, “Margin Accounts,” requires the Exchange to establish margin requirements for FCO transactions based upon the spot price of the foreign currency underlying the option.

Currently, the Exchange receives Spot Prices that are contributor bank quotes from Reuters in real-time and takes the weighted average of the various quotes to determine the Phlx’s foreign currency spot price.⁵ The Exchange now seeks to amend the definition of Spot Prices to include foreign currency quotes of entities other than commercial banks, so that the Exchange can use the Thomson Quotes to calculate Spot Prices for the setting of margin requirements and strike prices and for any other necessary purposes in connection with Phlx’s FCO contracts. Thomson Quotes are not limited to quotes from banks but also include quotes from other foreign currency market participants.

⁴ The Exchange is also proposing to substitute the term “Spot Prices” for the defined term “Spot Sales Prices” in Rule 1000(b)(16), as a clarification that this defined term includes both bids and offers made by participants in the foreign currency markets (as opposed to offers only). In addition, the Exchange is proposing to amend Rule 722 such that the current spot market price of an underlying foreign currency shall be determined using spot prices at 4:00 (the close of trading for U.S. dollar-settled FCOs) rather than 2:30 (the close of trading for physical delivery FCOs).

⁵ Until March 14, 2008, in connection with its physical delivery FCOs, when the Exchange received the bid and ask from the Reuters feed, the Exchange computed the average and distributed that value as the foreign currency spot value over the facilities of the Options Price Reporting Authority (“OPRA”) to vendors and individual customers. The Exchange ceased disseminating this foreign currency spot value after March 14, 2008, in connection with the planned delisting of its physical delivery FCO contracts.

Under the proposal, the Exchange will receive the latest Thomson Quotes from Thomson, which in turn obtains this data from Tenfore.⁶ With the exception of the Japanese yen, the Exchange will then calculate the average of the bid and ask received to determine the current spot market price that the Exchange will use for purposes of calculating margin requirements and strike prices with respect to U.S. dollar-settled FCOs. Because the Thomson Quote is expressed differently for the Japanese yen than for the other currencies (in foreign currency units per U. S. dollar rather than in U. S. dollars per unit of foreign currency), the spot price that Phlx will use for the Japanese yen will be the inverse of the average of the Thomson Quote bid and ask (that is, one divided by the average of the Thomson Quote bid and ask).

The Exchange will not disseminate the current spot market value it calculates based upon the Thomson Quotes. However, the Exchange currently does, and will continue to, disseminate its modified spot value, which is also based upon the Thomson Quotes, real-time over Network B of the Consolidated Tape Association.⁷ The Exchange states that this modified spot value is more widely distributed, carried by more vendors, and more easily accessible than the

⁶ Tenfore has more than 21 contributors reporting, consisting of banks, spot currency portals, the European Central Bank, and brokers. Tenfore's bid and ask Spot Prices are at any given point in time the latest bid and ask supplied to Tenfore by the last in time of any Tenfore contributor to report.

⁷ The Exchange currently disseminates, over the facilities of the Consolidated Tape Association at least once every fifteen seconds while the Exchange is open for trading, a modified spot rate for currencies underlying U.S. dollar-settled FCOs. The Exchange does not propose to change the modified spot rate in this proposed rule change. See Securities Exchange Act Release Nos. 55513 (March 22, 2007), 72 FR 14636 (March 28, 2007) (SR-Phlx-2007-28) and 56034 (July 10, 2007), 72 FR 38853 (July 16, 2007) (SR-Phlx-2007-34).

Exchange's current foreign currency spot market price calculated on the basis of the bank quotes provided by Reuters.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b)(5) of the Act,⁸ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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.⁹

The Commission believes that Exchange's use of Thomson Quotes for determining Spot Prices for the setting of margin requirements and strike prices for Phlx's U.S.-dollar settled FCOs is reasonable and should result in Phlx Spot Prices that are representative of foreign currency spot market prices. Although the Exchange will not disseminate the current Spot Prices it calculates based upon the Thomson Quotes, the Commission believes that sufficient venues exist for obtaining reliable information on the foreign currencies so that investors in U.S. dollar-settled FCOs can monitor the underlying spot market, including the Exchange's dissemination of a modified spot rate for foreign currencies at least once every fifteen seconds while the Exchange is open for trading. The Commission also notes that the Exchange has represented that it believes that the new method of calculating Phlx Spot Prices should, over time, produce only

⁸ 15 U.S.C. 78f(b)(5).

⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

minor differences from the current method of determining Spot Prices. Accordingly, the Commission finds that the proposed rule change, as amended, is consistent with the Act.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Phlx-2008-06), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).