

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54158; File No. SR-Phlx-2006-17)

July 17, 2006

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Listing Standards for Broad-Based Index Options

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 March 1, 2006, 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 and II below, which Items have been prepared by the Phlx. On April 12, 2006, the Phlx filed Amendment No. 1 to the proposed rule change.³ On July 14, 2006, the Phlx filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

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

The Exchange proposes to amend Phlx Rules 1000A (Applicability and Definitions), 1001A (Position Limits) and 1009A (Designation of the Index) to adopt “generic” listing standards pursuant to Rule 19b-4(e) under the Act⁵ and position limits for broad-based index options. The text of the proposed rule change is available on the Phlx’s Web site

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original filing in its entirety.

⁴ In Amendment No. 2, the Phlx made technical and clarifying changes to the proposal.

⁵ 17 CFR 240.19b-4(e).

(<http://www.phlx.com>), at the Phlx's Office of the Secretary 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 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 III below. The Phlx 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 Phlx proposes to adopt Phlx Rule 1009A(d) to establish initial listing standards for broad-based index options. The proposal will allow the Phlx to list and trade, pursuant to Rule 19b-4(e) under the Act,⁶ broad-based index options that meet the listing standards in Phlx Rule 1009A(d). The listing standards require, among other things, that the underlying index be broad-based, as defined in Phlx Rule 1000A(b)(11);⁷ that options on the index be a.m.-settled; that the index be capitalization-weighted, price-weighted, modified capitalization-weighted, or equal dollar-weighted; and that the index be comprised of at least 50 securities, all of which must be "NMS stocks," as defined in Rule 600 of Regulation NMS.⁸ In addition, Phlx Rule 1009A(d)

⁶ 17 CFR 240.19b-4(e).

⁷ The Exchange is also proposing to amend Phlx Rule 1000A to clarify the definitions of broad-based (market) indexes as well as narrow-based (industry) indexes.

⁸ Rule 600 of Regulation NMS defines an "NMS stock" to mean "any NMS security other than an option." An "NMS security" is "any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective

requires that the index's component securities meet certain minimum market capitalization and average daily trading volume requirements; that no single component account for more than 10% of the weight of the index and that the five highest weighted components represent no more than 33% of the weight of the index; that the index value be widely disseminated at least every 15 seconds; and that the Phlx have written surveillance procedures in place with respect to the index options. Phlx Rule 1009A(d) also provides that non-U.S. index components that are not subject to a comprehensive surveillance sharing agreement between the Phlx and the primary market(s) trading the index components may comprise no more than 20% of the weight of the index. The Phlx represents that its surveillance procedures are adequate to properly monitor the trading of broad-based index options and that it intends to apply its existing surveillance procedures for index options to monitor trading in broad-based index options listed pursuant to Phlx Rule 1009A(d). Additionally, the Exchange must reasonably believe that it has adequate system capacity to support the trading of any index options listed pursuant to Phlx Rule 1000A(d).

The Phlx also proposes to adopt Phlx Rule 1009A(e), which establishes maintenance standards for broad-based index options listed pursuant to Phlx Rule 1009A(d). In addition, the Phlx proposes to amend Phlx Rule 1001A(a) to establish a position limit of 25,000 contracts on the same side of the market for broad-based index options listed pursuant to Phlx Rule 1009A(d).

transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.” See 17 CFR 242.600.

For purposes of consistency, the Exchange is also proposing to amend Phlx Rule 1009A(b)(8), which indicates conditions that an underlying index must satisfy for the Exchange to list narrow-based index options pursuant to the generic Rule 19b-4(e) listing standards, to reference “NMS stock” as defined in Rule 600 of Regulation NMS under the Act.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2006-17 on the subject line.

Paper Comments:

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

- 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-2006-17. 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-2006-17 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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.¹¹ In particular, the Commission finds that the proposed rule

¹¹ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

change, as amended, is consistent with Section 6(b)(5) of the Act,¹² 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.

To list options on a particular broad-based index, the Phlx currently must file a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b-4 thereunder. However, Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) will not be deemed a proposed rule change pursuant to Rule 19b-4(c)(1) if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO’s trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class.

As described more fully above, the Phlx proposes to establish listing standards for broad-based index options. The Commission’s approval of the Phlx’s listing standards for broad-based index options will allow options that satisfy the listing standards to begin trading pursuant to Rule 19b-4(e), without constituting a proposed rule change within the meaning of Section 19(b) of the Act and Rule 19b-4, for which notice and comment and Commission approval is necessary.¹³ The Phlx’s ability to rely on Rule 19b-4(e) to list broad-based index options that meet the requirements of Phlx Rule 1009A(d) potentially reduces the time frame for bringing

¹² 15 U.S.C. 78f(b)(5).

¹³ When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within five business days after the SRO begins trading the new derivative securities product. See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7-13-98).

these securities to the market, thereby promoting competition and making new broad-based index options available to investors more quickly.

The Commission notes that the Phlx has represented that it has adequate trading rules, procedures, listing standards, and surveillance program for broad-based index options. Phlx's existing index option trading rules and procedures will apply to broad-based index options listed pursuant to Phlx Rule 1009A(d). Other existing Phlx rules, including provisions addressing sales practices and margin requirements, also will apply to these options. In addition, the Phlx proposes to establish position and exercise limits of 25,000 contracts on the same side of the market for broad-based index options listed pursuant to Phlx Rule 1009A(d).¹⁴ The Commission believes that the proposed position and exercise limits should serve to minimize potential manipulation concerns.

The Phlx represents that its surveillance procedures are adequate to properly monitor the trading of broad-based index options and that it intends to apply its existing surveillance procedures for index options to monitor trading in broad-based index options listed pursuant to Phlx Rule 1009A(d). In addition, because Phlx Rule 1009A(d) requires that each component of an index be an "NMS stock," as defined in Rule 600 of Regulation NMS under the Act, each index component must trade on a registered national securities exchange or through Nasdaq.¹⁵ Accordingly, the Phlx will have access to information concerning trading activity in the component securities of an underlying index through the Intermarket Surveillance Group

¹⁴ Under Phlx Rule 1002A, exercise limits for index option contracts are equivalent to the position limits described in Phlx Rule 1001A.

¹⁵ Recently, the Commission approved The NASDAQ Stock Market LLC's application to become a registered national securities exchange. See Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006). At the time of the Commission's consideration of this matter, The NASDAQ Stock Market is still operating as a subsidiary of the National Association of Securities Dealers ("NASD"), a registered national securities association.

(“ISG”).¹⁶ Phlx Rule 1009A(d) also provides that non-U.S. index components that are not subject to a comprehensive surveillance sharing agreement between the Phlx and the primary market(s) trading the index components may comprise no more than 20% of the weight of the index.¹⁷ The Commission believes that these requirements will help to ensure that the Phlx has the ability to monitor trading in broad-based index options listed pursuant to Phlx Rule 1009A(d) and in the component securities of the underlying indexes.

The Commission believes that the requirements in Phlx Rule 1009A(d) regarding, among other things, the minimum market capitalization, trading volume, and relative weightings of an underlying index’s component stocks are designed to ensure that the markets for the index’s component stocks are adequately capitalized and sufficiently liquid, and that no one stock dominates the index. In addition, Phlx Rule 1009A(d) requires that the underlying index be “broad-based,” as defined in Phlx Rule 1000A(b)(11).¹⁸ The Commission believes that these requirements minimize the potential for manipulating the underlying index.

The Commission believes that the requirement in Phlx Rule 1009A(d) that the current index value be widely disseminated at least once every 15 seconds by one or more major market

¹⁶ The ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. All of the registered national securities exchanges and NASD are members of the ISG. In addition, futures exchanges and non-U.S. exchanges and associations are affiliate members of the ISG.

¹⁷ However, such non-U.S. index components, as “NMS stocks,” would be registered under Section 12 of the Act and listed and traded on a national securities exchange or Nasdaq, where there is last sale reporting.

¹⁸ Phlx Rule 1000A(b)(11) defines “broad-based index” to mean “an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.”

data vendors¹⁹ during the time an index option trades on the Phlx should provide transparency with respect to current index values and contribute to the transparency of the market for broad-based index options. In addition, the Commission believes, as it has noted in other contexts, that the requirement in Phlx Rule 1009A(d) that an index option be settled based on the opening prices of the index's component securities, rather than on closing prices, could help to reduce the potential impact of expiring index options on the market for the index's component securities.²⁰

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of filing in the Federal Register. The Exchange has requested accelerated approval of the proposed rule change. The proposal implements listing and maintenance standards and position and exercise limits for broad-based index options substantially identical to those recently approved for the International Securities Exchange, Inc., the American Stock Exchange LLC and the CBOE.²¹ The Commission does not believe that the Exchange's proposal raises any novel regulatory issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,²² to approve the proposed rule change, as amended, on an accelerated basis.

¹⁹ The Phlx stated that “[m]ajor market data vendor’ for the purposes of Phlx Rule 1009A(d)(11) includes, but is not limited to, the Options Price Reporting Authority, the Consolidated Tape Association (administers the Consolidated Tape and Consolidated Quotation Plans), Nasdaq Index Dissemination Service, and securities information vendors such as Bloomberg and Reuters.”

²⁰ See, e.g., Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (order approving a Chicago Board Options Exchange, Incorporated (“CBOE”) proposal to establish opening price settlement for S&P 500 Index options).

²¹ See Securities Exchange Act Release Nos. 52578 (October 7, 2005), 70 FR 60590 (October 18, 2005) (SR-ISE-2005-27); 52781 (November 16, 2005), 70 FR 70898 (November 23, 2005) (SR-Amex-2005-069); and 53266 (February 9, 2006), 71 FR 8321 (February 16, 2006) (SR-CBOE-2005-59).

²² 15 U.S.C. 78s(b)(2).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-Phlx-2006-17), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Nancy M. Morris
Secretary

²³

Id.

²⁴

17 CFR 200.30-3(a)(12).