

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55114; File No. SR-Phlx-2006-81)

January 17, 2007

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Establishment of a Maximum Number of Quoting Participants Permitted in a Particular Option on the Exchange

I. Introduction

On December 5, 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 proposed rule change to amend Phlx Rule 507, which governs the assignment of options to Streaming Quote Traders (“SQTs”)<sup>3</sup> and Remote Streaming Quote Traders (“RSQRs”),<sup>4</sup> by adding commentary to the rule establishing a maximum number of quoting participants that may be assigned to a particular equity option at any one time. The proposed rule change was published for comment in the Federal Register on December 18, 2006.<sup>5</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The purpose of the proposed rule change is to enable the Exchange to manage its quotation traffic and bandwidth capacity by limiting the number of streaming quote market participants that may be assigned to a particular option at a given point in time. The proposed amendments to Phlx Rule 507 would establish: (i) a maximum number of quoters (“MNQ”) in

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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 Phlx Rule 1014(b)(ii)(A).

<sup>4</sup> See Phlx Rule 1014(b)(ii)(B).

<sup>5</sup> See Securities Exchange Act Release No. 54914 (December 11, 2006), 71 FR 75798.

equity options based on each option's monthly trading volume; (ii) a process for recalculating the MNQ based upon changes in an option's monthly trading volume; (iii) an increase to the MNQ due to exceptional circumstances; (iv) the process by which the Exchange will notify market participants of changes to the MNQ; and (v) additional criteria relating to the process by which the Exchange will assign SQT and/or RSQT applicants in options in the event that there are more applicants for assignment in a particular option than there are positions.

The Exchange proposes to limit the number of participants that may be assigned to a particular equity option at any one time based upon each option's monthly national volume. Proposed Commentary .02 to Phlx Rule 507 sets forth tiered MNQ levels providing for 20 participants for the top 5% most actively traded options; 15 participants for next 10% most actively traded options, and 10 market participants for all other options.<sup>6</sup> The ranking is based upon the preceding month's national volumes. The MNQ would be recalculated within the first five days of each month based on the previous month's trading volume ("new MNQ"). The Exchange would inform market participants of changes to the MNQ via Exchange circular.

The Exchange's Options Allocation, Evaluation and Securities Committee ("OAESC")<sup>7</sup> would be able to increase the MNQ in exceptional circumstances. Proposed Commentary .04 to Phlx Rule 507 describes the events that may be considered "exceptional," including substantial trading volume (whether actual or expected), a major news event, or corporate event. The

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<sup>6</sup> The Exchange may increase the MNQ levels by submitting to the Commission a rule filing pursuant to Section 19(b)(3)(A) of the Act and may decrease the MNQ levels upon Commission approval of a rule filing submitted pursuant to 19(b)(2) of the Act. See proposed Commentary .05 to Phlx Rule 507.

<sup>7</sup> See Phlx By-Law Article X, Section 10-7. The OAESC has jurisdiction over, among other things: the appointment of specialists on the options and foreign currency options trading floors; allocation, retention and transfer of privileges to deal in options on the trading floors; and administration of the 500 series of Phlx rules.

Exchange would also be permitted to reduce the MNQ following the cessation of the exceptional circumstances, but would be required to follow the same procedures applicable for decreases to the MNQ due to a change in volume.<sup>8</sup> When relying on this provision, the Exchange would submit a rule filing to the Commission pursuant to Section 19(b)(3)(A) of the Act.<sup>9</sup>

The Exchange is also proposing to amend Phlx Rule 507 by adding criteria for the OAESC to consider when determining whether to assign an option to a member in the situation where there are more applicants for assignment in a particular option than there are positions available. Specifically, proposed paragraph (b)(iii) of Phlx Rule 507 would require the OAESC to consider: (i) the financial and technical resources available to the applicant; (ii) the applicant's experience and expertise in market making or options trading; and (iii) the applicant's prior performance as a specialist, SQT or RSQT, based on evaluations conducted pursuant to Phlx Rule 510, which includes quantified measures of performance.

Finally, the Exchange represents that members assigned in a particular option as of the date of Commission approval of this proposed rule change will be guaranteed a position as a quoting participant in the particular option.

### III. Discussion

After careful review of the proposal, 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>10</sup> In particular, the Commission finds that the proposal is

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<sup>8</sup> See proposed Commentary .03 to Phlx Rule 507.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

consistent with Section 6(b)(5) of the Act,<sup>11</sup> which requires, among other things, that the rules of an 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 the Exchange's proposal, to establish a maximum number of quoting participants that may be assigned to a particular equity option at any one time based on the trading volume of that option should enhance the Exchange's ability to manage its quotation traffic and bandwidth capacity.

The Commission further believes that, in the event that there are more applicants for assignment in a particular option than there are available positions, the financial and technical capacity of SQTs and RSQTs, as well as prior performance, are appropriate factors to consider and should assist the OAESC in allocating the option on an equitable basis to the benefit of the Exchange and the public.

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<sup>11</sup> 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-Phlx-2006-81), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).