

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55261; File No. SR-Phlx-2007-01)

February 8, 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 Calculation and Dissemination of PHLX/KBW Bank Index Values

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 January 18, 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 and II below, which Items have been substantially prepared by the Phlx. On February 2, 2007, the Phlx filed Amendment No. 1 to the proposed rule change. The Phlx filed the proposed rule change as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) 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.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ Certain additions and technical corrections were made throughout the discussion of the proposed rule change pursuant to conversations with Phlx staff. Telephone conversation between Jurij Trypupenko, Director and Counsel, Phlx, and Kate Robbins, Attorney, Division of Market Regulation, Commission, on February 5, 2007.

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

The Phlx proposes that Dow Jones & Company, Inc. (“Dow Jones”) will replace the Exchange as the party solely responsible for the calculation and dissemination of the current index values⁶ of the PHLX/KBW Bank Index (“Bank Index” or “Index”).⁷

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 IV 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

⁶ Bridge Data, which merged into Reuters, at various times has calculated and disseminated relevant index values on behalf of the Exchange.

⁷ KBW is a registered broker-dealer that, among other things, specializes in U.S. bank stocks and is recognized as the “financial services industry authority.” The Bank Index (BKX), also known as the KBW Bank Index and as a sector index, is a European-style modified-capitalization-weighted index composed of 24 geographically dispersed companies representing national money center banks and leading regional institutions. KBW has informed the Exchange that an independent third party, Dow Jones, on behalf of KBW will calculate and publicly disseminate the current values of the Bank Index and will follow necessary procedures such as publicly reporting the current underlying index values at least once every 15 seconds during the periods that options on the Bank Index are traded.

The purpose of the proposed rule change is to provide that Dow Jones, rather than the Exchange, will calculate and disseminate the current index values of the Bank Index. No other changes are proposed in respect of the Index.

Options on the Bank Index, a narrow-based (industry) index, were originally listed in 1992.⁸ The Commission's Approval Order regarding the Bank Index and options on it contains the following language about the calculation of the underlying current index value:

Even though the Index will be maintained by KBW, the Phlx represents that the Exchange will be solely responsible for the calculation of the Index and that the Index value will be calculated and disseminated in such a way that neither KBW nor any other party will be in receipt of the Index value prior to the public dissemination of the value. In this connection, the Phlx has made arrangements for the Index to be calculated by an independent third party, Bridge Data, a vendor of financial information.⁹

In June 2006, the Exchange filed a proposal that it would calculate and disseminate the Bank Index values in the event that Bridge Data was temporarily unable to calculate and disseminate the values due to technical difficulties.¹⁰ The Exchange is proposing in this filing that it (and any third party on the Exchange's behalf) will cease calculating and disseminating the Bank Index values and, in its place, Dow Jones¹¹ will be solely responsible for such calculation and dissemination.¹²

⁸ See Securities Exchange Act Release No. 31145 (September 3, 1992), 57 FR 41531 (September 10, 1992) (SR-Phlx-91-27) ("Approval Order").

⁹ Id.

¹⁰ See Securities Exchange Act Release No. 53933 (June 1, 2006), 71 FR 33330 (June 8, 2006) (SR-Phlx-2006-29).

¹¹ Dow Jones is an independent third party vis a vis KBW, and KBW has informed the Exchange that Dow Jones will publicly report the underlying values of the Bank Index at least once every 15 seconds during the times that options on the Bank Index are traded on the Exchange.

¹² Although Dow Jones will take over from Phlx the responsibility to calculate and

The Exchange notes that the listing of options on the Bank Index preceded the adoption of the Exchange's generic index option listing standards in Phlx Rule 1009A. This rule permits the Exchange to list qualifying index options pursuant to a form filing per Rule 19b-4(e) under the Exchange Act (instead of a rule filing as with the Bank Index), and does not require a filing regarding the identity of the entity calculating or disseminating the current index values, so long as such values are publicly reported at least once every 15 seconds during the periods that the index options are traded on the Exchange.¹³

2. Statutory Basis

The Exchange believes that its proposed rule change to make Dow Jones responsible for calculating and disseminating the Bank Index values is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁵ in particular, in that it is 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 to protect investors and the public interest.

disseminate current index values of four additional KBW indexes, this is not part of the proposed filing because such indexes were listed pursuant to Rule 19b-4(e).

¹³ Where an underlying index is maintained by a broker-dealer, the index must be calculated by a third party who is not a broker-dealer, and the broker-dealer will have to erect a "Chinese Wall" around its personnel who have access to information concerning changes in and adjustments to the index. See Phlx Rule 1009A(b)(12).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78 f(b)(5).

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁶ and Rule 19b-4(f)(6) thereunder.¹⁷

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.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 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 Commission considers the period to commence on February 2, 2007, the date on which the Phlx submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

prior to 30 days after the date of filing.¹⁹ However, Rule 19b-4(f)(6)(iii)²⁰ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing of the proposed rule change. In addition, the Phlx has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will assure the continued availability of the current Bank Index values. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.²¹

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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-01 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and

¹⁹ 17 CFR 240.19b-4(f)(6)(iii).

²⁰ Id.

²¹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2007-01. 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-2007-01 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).