

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55666; File No. SR-Phlx-2007-29)

April 25, 2007

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extension of the \$1 Strike Pilot Program

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 April 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 Phlx. The Exchange has filed the proposal 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 it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Commentary .05 to Exchange Rule 1012 in order to extend for a period of one year a pilot program that allows the Exchange to list options classes overlying five individual stocks with strike price intervals of \$1.00 where, among other things, the underlying stock closes below \$20.00 on the primary market trading it on the day before selection by the Exchange to list pursuant to the pilot, and the Exchange can list \$1.00 strike prices on any options classes specifically designated by other securities exchanges that employ a

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).

similar pilot program under their rules (“Pilot Program”).⁵ The text of the proposed rule change is available at Phlx, the Commission’s Public Reference Room, and www.phlx.com.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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. 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 purpose of the proposed rule change is to extend the Pilot Program for one year until June 5, 2008, so that the Exchange may continue to list options at \$1.00 strike price intervals within the parameters specified in Commentary .05 to Phlx Rule 1012.

The Commission approved the Pilot Program allowing the listing of strike prices for options at \$1.00 intervals for securities trading under \$20.00, and extended it through June 5,

⁵ The Pilot Program was initially approved by the Commission on June 11, 2003, and extended until June 5, 2007. See Securities Exchange Act Release Nos. 48013 (June 11, 2003), 68 FR 35933 (June 17, 2003) (SR-Phlx-2002-55) (“Phlx Approval Order”); 49801 (June 3, 2004), 69 FR 32652 (June 10, 2004) (SR-Phlx-2004-38); 51768 (May 31, 2005), 70 FR 33250 (June 7, 2005) (SR-Phlx-2005-35); and 53938 (June 5, 2006), 71 FR 34178 (June 13, 2006) (SR-Phlx-2006-36) (collectively, “Phlx Pilot Extensions”). The other options exchanges have similar \$1 strike price listing pilot programs that were likewise extended through June 5, 2007. See Securities Exchange Act Release Nos. 53843 (May 19, 2006), 71 FR 30455 (May 26, 2006) (SR-Amex-2006-49); 53885 (May 24, 2006), 71 FR 30973 (May 31, 2006) (SR-BSE-2006-19); 53805 (May 15, 2006), 71 FR 29690 (May 23, 2006) (SR-CBOE-2006-31); 53806 (May 15, 2006), 71 FR 29694 (May 23, 2006) (SR-ISE-2006-20); and 53807 (May 15, 2006), 71 FR 29373 (May 22, 2006) (SR-NYSEArca-2006-14).

2007.⁶ The Exchange is proposing to extend the Pilot Program for a period of one year, through June 5, 2008. The Pilot Program will remain unchanged such that pursuant to it Phlx can establish \$1 strike price intervals on options classes overlying no more than five individual stocks designated by the Exchange where the underlying stock closes below \$20.00 on its primary market on the trading day before selection by the Exchange to list pursuant to the Pilot Program; the \$1.00 strike price is from \$3.00 to \$20.00; the \$1.00 strike price is no more than \$5.00 from (\$5.00 above or below) the closing price of the underlying stock on the preceding day; the \$1.00 strike price will not be listed within \$0.50 of an existing \$2.50 strike price within the same series; and the \$1.00 strike price will not be applied to Long-Term Equity Anticipation Securities. And, pursuant to the Pilot Program, the Exchange can multiply list those option classes specifically designated to be listed at \$1.00 strike prices by other options exchanges that have similar \$1.00 pilot programs pursuant to their own rules.

In July 2003, Phlx chose and listed five options classes with \$1 strike price intervals, thereafter listed on a multiple listing basis \$1 strike prices options classes that were listed by other options exchanges pursuant to their \$1 strike price pilot programs, and currently lists 22 options classes with \$1 strike prices.⁷ The Exchange continues to believe that the ability to list stocks at \$1 strike price intervals pursuant to the Pilot Program has given investors flexibility and the opportunity to more closely and effectively tailor their options investments to the price of the underlying stock and has allowed the Exchange to take advantage of competitive opportunities to

⁶ See Phlx Approval Order and Phlx Pilot Extensions, *supra* note 5.

⁷ Phlx continues to list the \$1 strike prices in the options classes that it initially chose for the Pilot Program: TYCO International, LTD (TYC), Micron Tech. (MU), Oracle Co. (ORQ), Brocade Comm. (UBF), and Juniper Networks (JUP). Because TYC is presently trading outside the strike price range permissible in the Pilot Program, however, it is not trading at \$1 strike price intervals.

list options at \$1.00 strike prices. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the Pilot Program.

In the Phlx Pilot Extensions, the Commission indicated that if Phlx sought to extend, expand, or request permanent approval of the Pilot Program, it would be required to include a Pilot Program Report with its filing.⁸ Phlx's Pilot Program Report ("Report"), included as Exhibit 3 to the proposal, reviews the Exchange's experience with the Pilot Program. According to Phlx, the Report clearly supports the Exchange's belief that extension of the Pilot Program is proper. Among other things, Phlx believes that the Report shows the strength and efficacy of the Pilot Program on the Exchange, as reflected by the increase in the percentage of \$1 strikes in comparison to total options volume traded on Phlx at \$1 strike price intervals as compared to other options volume and the continuing robust open interest of options traded on Phlx at \$1 strike price intervals. Phlx believes that the Report establishes that the Pilot Program has not created and in the future should not create capacity problems for the systems of the Exchange or the Options Price Reporting Authority ("OPRA"), and explains that most delistings of \$1 strike price options series occurred to ensure that the chosen \$1 strike price issues remained within the parameters of the Pilot Program.

2. Statutory Basis

The Exchange believes 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),¹⁰ specifically, in that it is designed to perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest, and to promote just and equitable principles of trade.

⁸ See Phlx Pilot Extensions, *supra* note 5.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

Phlx believes the proposal would achieve this by allowing the continued listing of options at \$1.00 strike price intervals within certain parameters, thereby stimulating customer interest in options overlying the lowest tier of stocks and creating greater trading opportunities and flexibility and providing customers with the ability to more closely tailor investment strategies to the precise movement of the underlying stocks.

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 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 rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. Phlx has satisfied the five-day pre-filing requirement. As set forth in the Commission's initial approval of the Pilot Program, if Phlx proposes to: (1) extend the Pilot Program; (2) expand the number of options eligible for inclusion in the Pilot Program; or (3) seek permanent approval of the Pilot Program, it must submit a Pilot Program Report to the Commission along with the filing of its proposal to extend, expand, or seek permanent approval of the Pilot Program. Phlx must file any proposal to expand or seek permanent approval of the Pilot Program and the Pilot Program Report

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 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
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Phlx-2007-29 on the subject line.

Paper comments:

- 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 No. SR-Phlx-2007-29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments

with the Commission at least 60 days prior to the expiration of the Pilot Program. The Pilot Program Report must cover the entire time the Pilot Program was in effect and must include: (1) data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of \$1 strike price intervals for the options Phlx selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of Phlx's, OPRA's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how Phlx addressed them; (6) any complaints that Phlx received during the operation of the Pilot Program and how Phlx addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program. See Phlx Approval Order, supra note 5.

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 will also be available for inspection and copying at the principal office of 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 No. SR- Phlx-2007-29 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.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).