

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49605; File No. SR-Phlx-2004-22)

April 22, 2004

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Susquehanna Indices, LLP Disclaimer

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 22, 2004, 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 prepared by the Exchange. 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 Phlx proposes to amend Exchange Rule 1104A, *Susquehanna Indices, LLP Indexes*.³

The text of the proposed rule change is set forth below. Additions are italicized.

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Rule 1104A. Susquehanna Indices, LLP Indexes

Susquehanna Indices, LLP makes no warranty, express or implied, as to results to be obtained by any person or any entity from the use of the SIG Investment Managers Index or the SIG Cable, Media & Entertainment Index or any data included therein in connection with the trading of option contracts thereon, or for any other use. Susquehanna Indices, LLP makes no express or

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

implied warranties of merchantability or fitness for a particular purpose for use with respect to the SIG Investment Managers Index or the SIG Cable, Media & Entertainment Index or any data included therein.

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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 Exchange 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 amend Exchange Rule 1104A which applies to indexes maintained by Susquehanna Indices, LLP.⁴ The rule currently provides generally that Susquehanna Indices, LLP ("SI") makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of SIG Investment Managers Index and that SI makes no express or implied warranties of merchantability or fitness for a particular

³ The Commission notes that it approved Phlx Rule 1104A on July 7, 2003. See Securities Exchange Act Release No. 48135 (July 7, 2003), 68 FR 42154 (July 16, 2003) (approving SR-Phlx-2003-21).

⁴ The Exchange currently lists options on the SIG Investment Managers IndexTM and the SIG Cable, Media & Entertainment IndexTM pursuant to a license agreement with Susquehanna Indices, LLP and Exchange Rule 1009A(b). The Exchange is filing this proposed rule change pursuant to a requirement in the license agreement. SIG Investment Managers IndexTM and SIG Cable, Media & Entertainment IndexTM are trademarks of Susquehanna Indices, LLP.

purpose for use with respect to that index or any data included therein.⁵ The Exchange is now proposing to amend Exchange Rule 1104A to expand the coverage of the rule to include the SIG Cable, Media & Entertainment Index, a new index upon which options have recently been listed on the Exchange.⁶

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)⁷ of the Act in general, and Section 6(b)(5)⁸ in particular in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest by amending its rules to more closely track the provisions of the Act. The Exchange believes that the proposed rule should encourage SI to continue to maintain the SIG Cable, Media & Entertainment Index so that options on it may be traded on the Exchange, thereby providing investors with enhanced investment opportunities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

⁵ The Exchange noted in its filing to adopt Rule 1104A that it believed that the disclaimer proposed in Rule 1104A is appropriate given that it is similar to disclaimer provisions of American Stock Exchange Rule 902C relating to indexes underlying options listed on that exchange. See Securities Exchange Act Release No. 48135 (July 7, 2003), 68 FR 42154 (July 16, 2003) (approving SR-Phlx-2003-21).

⁶ The Commission notes that the Phlx trades options on this index pursuant to the requirements set out in Rule 19b-4(e) and filed Form 19b(4)(e) concerning these options on February 18, 2004.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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-2004-22 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2004-22. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. 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-2004-22 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.⁹

Margaret H. McFarland
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).