

UNITED STATES OF AMERICA

before the

SECURITIES AND EXCHANGE COMMISSION

Securities Exchange Act of 1934  
Release No. 51984 / July 7, 2005

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In the Matter of:	)	
	)	
The Philadelphia Stock	)	ORDER
Exchange, Inc.	)	OF
	)	SUMMARY
(File No. SR-Phlx-2005-37)	)	ABROGATION
_____	)	

Notice is hereby given that the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(3)(C) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> is summarily abrogating a proposed rule change of the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange").

On June 2, 2005, the Phlx filed SR-Phlx-2005-37. The proposed rule change modified the Phlx's schedule of dues, fees, and charges to revise its equity option payment for order flow program to establish a payment for order flow program that takes into account Directed Orders<sup>2</sup> pursuant to Exchange Rule 1080(l). Pursuant to Exchange

<sup>1</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>2</sup> The Exchange states that the term "Directed Order" means any customer order to buy or sell which has been directed to a particular specialist, Remote Streaming Quote Trader (defined below), or Streaming Quote Trader (defined below) by an Order Flow Provider (defined below). The provisions of Phlx Rule 1080(l) are in effect for a one-year pilot period to expire on May 27, 2006.

Rule 1080(l), Exchange specialists, Streaming Quote Traders ("SQTs"),<sup>3</sup> and Remote Streaming Quote Traders ("RSQTs")<sup>4</sup> trading on the Exchange's electronic options trading platform, Phlx XL, may receive Directed Orders from Order Flow Providers.<sup>5</sup> In addition, the Exchange's proposal modified the time periods during which the specialists, SQTs, and RSQTs must notify the Exchange in connection with their election to participate or not to participate in the Exchange's payment for order flow program. The filing was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.<sup>6</sup>

Pursuant to Section 19(b)(3)(C) of the Act, at any time within 60 days of the date of filing of a proposed rule change pursuant to Section 19(b)(1) of the Act,<sup>7</sup> the Commission may summarily abrogate the change in the rules of the self-regulatory organization and require that the proposed rule change be refiled in accordance with the

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<sup>3</sup> The Exchange states that an SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange-approved proprietary electronic quoting device in eligible options to which such SQT is assigned. AUTOM is the Exchange's electronic order delivery, routing, execution, and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. See Exchange Rules 1014(b)(ii) and 1080.

<sup>4</sup> The Exchange states that an RSQT is an Exchange ROT that is a member or member organization of the Exchange with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may only trade in a market making capacity in classes of options in which he is assigned. See Exchange Rule 1014(b)(ii)(B).

<sup>5</sup> The term "Order Flow Provider" means any member or member organization that submits, as agent, customer orders to the Exchange. See Exchange Rule 1080(l).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 15 U.S.C. 78s(b)(1).

provisions of Section 19(b)(1) of the Act and reviewed in accordance with Section 19(b)(2) of the Act,<sup>8</sup> 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.

The Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to abrogate the proposed rule change.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(3)(C) of the Act, that File No. SR-Phlx-2005-37 be, and it hereby is, summarily abrogated. If the Phlx chooses to refile the proposed rule change, it must do so pursuant to Sections 19(b)(1) and 19(b)(2) of the Act.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

J. Lynn Taylor  
Assistant Secretary

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<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(58).