

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-52565; File No. SR-Phlx-2005-53)

October 5, 2005

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Disclaimer of Warranties by SIG Indices, LLLP

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on September 15, 2005, 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 prepared by the Phlx. The Phlx filed Amendment No. 1 to the proposed rule change on September 30, 2005.<sup>3</sup> The Exchange has filed the proposal as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

---

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Form 19b-4 dated September 30, 2005 (“Amendment No. 1”). Amendment No. 1 clarified that the Exchange listed options on the SIG Oil Exploration and Product Index on or about July 13, 2005. In addition, in a telephone call on October 3, 2005, between Juri Trypupenko, Phlx, and Sonia Trocchio, Special Counsel, Division of Market Regulation, Commission, Mr. Trypupenko indicated that the comma after the words “SIG Restaurant Index<sup>TM</sup>” was not underlined in its original filing.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

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

The Phlx proposes to amend Phlx Rule 1104A (Susquehanna Indices, LLLP) to add a new index that was licensed by Susquehanna Indices, LLLP ("SI") to the Exchange.

The text of the proposed rule change is set forth below. New language is italicized; deletions are in brackets.

**Rule 1104A.**

**SIG Indices, LLLP**

SIG Indices, LLLP 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™, the SIG Cable, Media & Entertainment Index™, the SIG Casino Gaming Index™, the SIG Semiconductor Equipment Index™, the SIG Semiconductor Device Index™, the SIG Specialty Retail Index™, the SIG Steel Producers Index™, the SIG Footwear & Athletic Index™, the SIG Education Index™, the SIG Restaurant Index™, [and] the SIG Coal Producers Index™, and the SIG Oil Exploration and Production Index™ or any data included therein in connection with the trading of option contracts thereon, or for any other use. SIG Indices, LLLP makes no express or implied warranties of merchantability or fitness for a particular purpose for use with respect to the SIG Investment Managers Index™, the SIG Cable, Media & Entertainment Index™, the SIG Casino Gaming Index™, the SIG Semiconductor Equipment Index™, the SIG Semiconductor Device Index™, the SIG Specialty Retail Index™, the SIG Steel Producers Index™, the SIG Footwear & Athletic Index™, the SIG Education Index™, the SIG Restaurant Index™,

[and] the SIG Coal Producers Index<sup>TM</sup>, and the SIG Oil Exploration and Production Index<sup>TM</sup> or any data included therein.

\* \* \* \* \*

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

The purpose of the proposed rule change is to amend Phlx Rule 1104A, which applies to indexes maintained by SI, to include a new index recently licensed by SI to the Exchange.<sup>6</sup>

Phlx Rule 1104A provides generally that SI makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of the SIG Investment Managers Index<sup>TM</sup>, the SIG Cable, Media & Entertainment Index<sup>TM</sup>, the SIG

---

<sup>6</sup> The Exchange currently lists options on the SIG Investment Managers Index<sup>TM</sup>, the SIG Cable, Media & Entertainment Index<sup>TM</sup>, the SIG Casino Gaming Index<sup>TM</sup>, the SIG Semiconductor Equipment Index<sup>TM</sup>, the SIG Semiconductor Device Index<sup>TM</sup>, the SIG Specialty Retail Index<sup>TM</sup>, the SIG Steel Producers Index<sup>TM</sup>, the SIG Footwear & Athletic Index<sup>TM</sup>, the SIG Education Index<sup>TM</sup>, the SIG Restaurant Index<sup>TM</sup>, and the SIG Coal Producers Index<sup>TM</sup>, pursuant to a license agreement with SI and Exchange Rule 1009A(b). The indexes are trademarks of SI.

Casino Gaming Index™, the SIG Semiconductor Equipment Index™, the SIG Semiconductor Device Index™, the SIG Specialty Retail Index™, the SIG Steel Producers Index™, the SIG Footwear & Athletic Index™, the SIG Education Index™, the SIG Restaurant Index™, and the SIG Coal Producers Index™, and that SI makes no express or implied warranties of merchantability or fitness for a particular purpose for use with respect to any of the named indexes or any data included therein.<sup>7</sup> The Exchange is now proposing to amend Rule 1104A to expand the coverage of the rule to include the newly-licensed SIG Oil Exploration and Production Index™.<sup>8</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> 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, in general, to protect investors and the public interest. The Exchange believes that the

---

<sup>7</sup> The Exchange noted in its filing to adopt Rule 1104A that the proposed disclaimer was appropriate given that it was 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). The Exchange recently amended Rule 1104A to include the SIG Coal Producers Index™, as required by the license agreement between SI and the Exchange. See Securities Exchange Act Release No. 51664 (May 6, 2005), 70 FR 25641 (May 13, 2005)(SR-Phlx-2005-24).

<sup>8</sup> Options on the SIG Oil Exploration and Production Index™ were listed pursuant to Section 19b-4(e) of the Act on or about July 13, 2005. See Amendment No. 1, supra note 3.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

proposed rule change disclaiming warranties as to results or merchantability or fitness for a particular purpose should encourage SI to continue to maintain the SIG Indices so that options on them 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

No written comments were either solicited or received

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

The proposed rule change is being designated by the Exchange as a “non-controversial” rule pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder,<sup>12</sup> because the proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule

---

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

change at least five business days prior to the filing of the proposed rule change.<sup>13</sup> At any time within 60 days of the filing of such 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.<sup>14</sup>

The Exchange requests that the Commission waive the operative delay. The Commission has determined that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay because accelerating the operative date will help to ensure that all options traded on SIG indices are treated uniformly.<sup>15</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

---

<sup>13</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.

<sup>14</sup> For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on September 30, 2005, the date Phlx filed Amendment No. 1.

<sup>15</sup> For purposes only of accelerating the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2005-53 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number [SR-Phlx-2005-53](#). 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 the 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-2005-53](#) 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.<sup>16</sup>

Jill M. Peterson  
Assistant Secretary

---

<sup>16</sup> 17 CFR 200.30-3(a)(12).