

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52961; File No. SR-Phlx-2005-77)

December 15, 2005

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand its \$2.50 Strike Price 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 December 14, 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 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

Phlx proposes to amend Commentary .05 to Phlx Rule 1012 (Series of Options Open for Trading) to allow the Exchange to list options with \$2.50 strike price intervals for options with strike prices between \$50 and \$75. Below is the text of the proposed rule change. Proposed new language is in underlined; proposed deletions are in [brackets].

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Rule 1012. Series of Options Open for Trading

(a) -- (d) No Change.

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).

Commentary:

.01 through .04 -- No Change.

.05

(a) -- No Change.

(b) Pursuant to a program initially approved by the SEC in 1995, [T]the Exchange may select up to [a specified number of its listed] 46 options classes on individual stocks for which the interval of strike prices will be \$2.50 where the strike price is greater than \$25 but less than \$50 (the “\$2.50 Strike Price Program”). In addition to those options selected by the Exchange, the strike price interval may be \$2.50 in any multiply-traded option once another exchange trading that option selects such option, as part of this program.

(i) In addition, on any option class that has been selected as part of the \$2.50 Strike Price Program pursuant to paragraph (b) above, the Exchange may list \$2.50 strike prices between \$50 and \$75, provided the \$2.50 strike prices between \$50 and \$75 are no more than \$10 from the closing price of the underlying stock in its primary market on the preceding day. For example, if an option class has been selected as part of the \$2.50 Strike Price Program, and the underlying stock closes at \$48.50 in its primary market, the Exchange may list the \$52.50 strike price and the \$57.50 strike price on the next business day. If an underlying security closes at \$54, the Exchange may list the \$52.50 strike price, the \$57.50 strike price and the \$62.50 strike price on the next business day.

(ii) An option class shall remain in the \$2.50 Strike Price Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

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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, 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 proposal is to amend Commentary .05 to Phlx Rule 1012 to expand the current \$2.50 Strike Price Program (“Program”) for individual equity options to permit the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$75, provided the \$2.50 strike price intervals are no more than \$10 from the closing price of the underlying stock in its primary market⁵ on the preceding day. In addition, the proposed rule change clarifies that an option class will remain in the Program until the Exchange otherwise designates and sends a decertification notice to the Options Clearing Corporation.

Pursuant to the proposed rule change, for example, if an option class has been selected as

⁵ The term “primary market” is defined in Phlx Rule 1000 in respect of an underlying stock or exchange-traded fund share as the principal market in which the underlying stock or exchange-traded fund share is traded.

part of the Program, and the underlying stock closed at \$48.50 in its primary market, the Exchange may list options with strike prices of \$52.50 and \$57.50 on the next business day; and if an underlying security closed at \$54, the Exchange may list options with strike prices of \$52.50, \$57.50, and \$62.50 on the next business day.

The current Program is set forth in Commentary .05 to Phlx Rule 1012. The Program permits the Exchange to list options with \$2.50 strike price intervals for selected options trading at strike prices greater than \$25 but less than \$50, excluding LEAPS. Initially adopted in 1995 as a pilot program, the options exchanges at that time were permitted to list options with \$2.50 strike price intervals up to \$50 on a total of up to 100 option classes.⁶ In 1998, the pilot program was expanded and permanently approved to allow the options exchanges collectively to select up to 200 option classes on which to list options with \$2.50 strike price intervals up to \$50.⁷ Of the current 200 options classes eligible for the Program, 46 have been allocated to Phlx.⁸ In addition, each options exchange is permitted to list options with \$2.50 strike price intervals on any option class that another options exchange selects under its Program.

The Exchange believes that the Program has created additional trading opportunities for customers benefiting the marketplace. The existence of \$2.50 strike price intervals affords customers the ability to more closely tailor investment strategies to the precise movement of the underlying security. Accordingly, Phlx believes that the proposal to expand the Program to allow the listing of options with \$2.50 strike price intervals for options with strike prices between

⁶ See Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (approving File Nos. SR-Phlx-95-08, SR-Amex-95-12, SR-PSE-95-07, SR-CBOE-95-19, and SR-NYSE-95-12).

⁷ See Securities Exchange Act Release No. 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (approving File Nos. SR-Amex-98-21, SR-CBOE-98-29, SR-PCX-98-31, and SR-Phlx-98-26).

⁸ The Exchange notes that the allocation is not changed by this proposal.

\$50 and \$75 should further benefit customers and the market by providing greater trading opportunities for those underlying stocks that have low volatility and thus trade in a narrow range.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objective of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 forgoing 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 after the date of this filing, or such shorter time as the Commission

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹³ However, Rule 19b-4(f)(6)(iii)¹⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹⁵ The Exchange has requested that the Commission waive the 30-day pre-operative delay, and the Commission hereby grants that request.¹⁶ The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and in the public interest. This action will allow the Exchange to immediately expand its Program to list options with \$2.50 strike price intervals for options with strike prices between \$50 and \$75. The Commission notes that it recently approved similar expansions to the \$2.50 Strike Price Programs of the Chicago Board Options Exchange (“CBOE”) and the American Stock Exchange (“Amex”).¹⁷ These proposals were subject to a full notice-and-comment period, and no negative

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ Id.

¹⁵ In addition, Rule 19b-4(f)(6)(iii) requires that the Exchange give the Commission written 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. The Commission has decided to waive the five-day pre-filing notice requirement.

¹⁶ For the purposes only of waiving the 30-day pre-operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ See Securities Exchange Act Release Nos. 52892 (December 5, 2005), 70 FR 73492 (December 12, 2005) (approving SR-CBOE-2005-39) and 52893 (December 5, 2005), 70 FR 73488 (December 12, 2005) (approving SR-Amex-2005-067).

comments were submitted. The Commission does not believe that Phlx's proposal raises any novel issues.

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-2005-77 on the subject line.

Paper comments:

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

All submissions should refer to File No. SR-Phlx-2005-77. 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, 100 F Street, NE, Washington, DC 20549. 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-2005-77 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.¹⁸

Jonathan G. Katz
Secretary

¹⁸ 17 CFR 200.30-3(a)(12).