

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, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site, <http://www.optionsclearing.com>. 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-OCC-2005-19 and should be submitted on or before February 8, 2006.

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

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53068; File No. SR-Phlx-2005-87]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change, and Amendment No. 1 Thereto Relating to the Exchange's Covered Sale Fee and Exchange Rule 607

January 11, 2006.

#### Correction

The release number for File No. SR-Phlx-2005-87 issued on January 6, 2006 was incorrectly stated as Release No. 34-53088. The correct release number appears above.

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53094; File No. SR-Phlx-2005-75]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to Dividend Spread and Merger Spread Strategy Rebate Request Forms

January 10, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 30, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or the "Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by Phlx. On December 21, 2005, the Exchange filed Amendment No. 1 to the proposal.<sup>3</sup> On January 10, 2006, the Exchange filed Amendment No. 2 to the proposal.<sup>4</sup> Phlx has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, pursuant to Section 19(b)(3)(A)(i) of the Act<sup>5</sup> and Rule 19b-4(f)(1) thereunder,<sup>6</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, as amended, from interested persons.

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

Phlx proposes to amend the timeframe in which dividend spread and merger spread strategy rebate

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

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

<sup>3</sup> In Amendment No. 1, Phlx modified the statutory basis for the immediate effectiveness of the proposal from Section 19(b)(3)(A)(ii) of the Act and Rule 19b-4(f)(2) thereunder to Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(3) thereunder, and also changed the implementation date for the proposal from the third business day of December 2005 to the third business day of January 2006.

<sup>4</sup> In Amendment No. 2, Phlx changed the statutory basis for the immediate effectiveness of the proposal from Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(3) thereunder to Section 19(b)(3)(A)(i) of the Act and Rule 19b-4(f)(1) thereunder. Amendment No. 2 also provided a revised statutory basis for the proposal.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>6</sup> 17 CFR 240.19b-4(f)(1).

request forms must be submitted to the Exchange. Rebate request forms will now be due three business days after the end of each month.

The text of the proposed rule change is available on the Phlx's Web site at <http://www.phlx.com>, at the Office of the Secretary at Phlx, and at the Commission's Public Reference Room.

#### 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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposal. 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

Currently, the Exchange provides a rebate for certain contracts executed in connection with transactions occurring as part of a dividend spread strategy<sup>7</sup> or merger spread strategy.<sup>8</sup> Specifically, for those options contracts executed pursuant to a dividend spread strategy or merger spread strategy, the Exchange rebates \$0.08 per contract side for Registered Options Trader ("ROT") executions and \$0.07 per contract side for specialist executions on the business day before the underlying stock's ex-date. The ex-date is the date on or after which a security is traded without a previously declared dividend or distribution.<sup>9</sup>

<sup>7</sup> For purposes of this proposal, the Exchange defines a "dividend spread" transaction as any trade done within a defined time frame pursuant to a strategy in which a dividend arbitrage can be achieved between any two deep-in-the-money options.

<sup>8</sup> For purposes of this proposal, the Exchange defines a "merger spread" transaction as a transaction executed pursuant to a merger spread strategy involving the simultaneous purchase and sale of options of the same class and expiration date, but different strike prices, followed by the exercise of the resulting long options position, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, *i.e.*, cash or stock. See Securities Exchange Act Release No. 51596 (April 21, 2005), 70 FR 22381 (April 29, 2005).

<sup>9</sup> The Exchange also imposes a fee cap on equity option transaction and comparison charges on merger spread transactions and dividend spread

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<sup>9</sup> 17 CFR 200.30-3(a)(12).