

regarding appeals from trading disputes, because potential conflicts of interest that may occur when members are tasked with ruling on appeals of trading disputes involving other members would be eliminated. Furthermore, the Commission notes that having an independent Referee rule on such appeals should help foster fair and neutral decisions with respect to the resolution of trading disputes. The Commission also notes that replacing the Review Panel with a Referee should help to streamline the Exchange's process for review of Floor Official rulings, thereby making the process for settling trading disputes more efficient. In addition, the Commission believes that allowing the Referee to act in the capacity of a Floor Official in making initial rulings on requests for relief from the requirements of those Exchange rules set forth in proposed Commentary .02(a) to Exchange Rule 124 should help promote prompt and efficient rulings on such requests.

The Commission has carefully considered the comments raised in the Citadel Letter. Specifically, the Citadel Letter asserts that the \$250 fee for unsuccessful appeals is unfair. The Commission notes, however, that the proposed \$250 fee would employ an objective standard with respect to the imposition of fees on unsuccessful appeals, rather than retaining the current method that permits such a fee to be imposed at the discretion of the Review Panel upon a finding that such appeal is frivolous. The Commission believes that the Exchange's proposal to impose a \$250 fee on unsuccessful appeals is consistent with the Act.

The Citadel Letter also expressed concern that the decisions of the Referee would be final and not appealable to the Exchange's Board. The Commission notes that the Exchange's proposal is intended to provide for expeditious resolution of trading disputes and believes that the proposal is a reasonable effort to ensure prompt, efficient, and fair review of Floor Officials' decisions. The Commission further notes that the proposal does not alter any right that a member or member organization may have to pursue any other legal remedy that may be available, such as arbitration. In the Commission's view, the Exchange's proposal contains appropriate safeguards, including the requirement that the Chairman of the respective committees or their designees must refer a Referee to the Exchange's Audit Committee if he or she fails to make a ruling in accordance with Exchange rules. Moreover, the requirements that the Referee may not be a member of the

Exchange, may not be directly or indirectly affiliated with any Exchange member and may not be a debtor or creditor of any Exchange member or member organization, should help to ensure that the Referee is neutral and that his or her rulings are fair and objective. In addition, the restrictions that provide that duties and responsibilities relating to disciplinary matters, that the issuance of citations for violations of Exchange rules, and that matters relating to order and decorum may not be assigned to the Referee should also further the goal of impartial, unbiased, and objective rulings on the part of the Referee. Finally, the Commission notes that, with respect to the Referee acting in the capacity of a Floor Official and making initial rulings to grant or deny relief from the requirements of the Exchange rules specified in proposed Commentary .02(a) to Exchange Rule 124, such Floor Official rulings currently are not considered final decisions of the Standing Committee and thus are not currently appealable to the Exchange's Board. For such initial rulings, the proposed rule change would not change the Exchange's current process with respect to such rulings. Based on these considerations, the Commission believes that the Citadel Letter has not raised any concerns that would preclude approval of the Exchange's proposal.

#### V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>44</sup> that the proposed rule change (SR-Phlx-2005-42), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>45</sup>

#### J. Lynn Taylor,

*Assistant Secretary.*

[FR Doc. 06-5678 Filed 6-27-06; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 54017; File No. SR-Phlx-2006-38]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Concerning Priority in Trades Involving Synthetic Option Orders

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 June 8, 2006, 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 Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)<sup>4</sup> thereunder, 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.

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

The Phlx proposes to extend for an additional one-year period a pilot concerning Exchange Rule 1033(e), which affords priority to synthetic option orders (as defined below) traded in an open-outcry over bids and offers in the trading crowd but not over bids (offers) of public customers on the limit order book and not over crowd participants who are willing to participate in the synthetic option order at the net debit or credit price. The rule applies to orders for 100 contracts or more and is subject to a pilot program scheduled to expire on June 30, 2006. The Exchange proposes to extend the pilot through June 30, 2007.

The text of the proposed rule change is set forth below. Brackets indicate deletions; *italics* indicate new text.

\* \* \* \* \*

#### Bids and Offers—Premium

Rule 1033. (a)–(d) No change.  
(e) Synthetic Option Orders. When a member holding a synthetic option order, as defined in Rule 1066, and bidding or offering on the basis of a total

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

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

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

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

<sup>44</sup> 15 U.S.C. 78s(b)(2).

<sup>45</sup> 17 CFR 200.30-3(a)(12).

credit or debit for the order has determined that the order may not be executed by a combination of transactions at or within the bids and offers established in the marketplace, then the order may be executed as a synthetic option order at the total credit or debit with one other member, provided that, the member executes the option leg at a better price than the established bid or offer for that option contract, in accordance with Rule 1014. Subject to a pilot expiring June 30, 2006<sup>7</sup>, synthetic option orders in open outcry, in which the option component is for a size of 100 contracts or more, have priority over bids (offers) of crowd participants who are bidding (offering) only for the option component of the synthetic option order, but not over bids (offers) of public customers on the limit order book, and not over crowd participants that are willing to participate in the synthetic option order at the net debit or credit price.

(f)–(i) No change.

\* \* \* \* \*

## 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 extend for a one-year period the pilot that facilitates the execution of an option order that is represented in the crowd together with a stock component, known under the Exchange's rules as a synthetic option order,<sup>5</sup> which by virtue of the stock

component may be difficult to execute without a limited exception to current Exchange priority rules. The pilot was originally adopted in July 2005<sup>6</sup> and was extended for an additional six-month period, currently scheduled to expire June 30, 2006.<sup>7</sup>

Currently, Exchange Rule 1033(e) provides that, if an Exchange member who is holding a synthetic option order and bidding or offering on a net debit or credit basis determines that such synthetic option order cannot be executed at the net debit or credit against the established bids and offers in the crowd, the member bidding for or offering the synthetic option on a net debit or credit basis may execute the synthetic option order with one other crowd participant, provided that the option portion of the synthetic option order is executed at a price that is better than the established bid or offer for the option. Thus, if the desired net debit or credit amount cannot be achieved by way of executing against the established bids and offers in the crowd, the member may elect to trade at the desired net debit or credit amount with one other member, provided that there is price improvement for the option component of the synthetic option order.

Exchange Rule 1033(e) affords synthetic option orders priority over bids (offers) of the trading crowd but not over bids (offers) of public customers on the limit order book and not over crowd participants that are willing to participate in the synthetic option order at the net debit or credit price. The effect of Exchange Rule 1033(e) is that a crowd participant bidding or offering for the synthetic option order has priority over other crowd participants that are bidding or offering only for the option component of the order. Exchange Rule 1033(e) applies only to synthetic option orders of 100 contracts or more.

In addition, Exchange Rule 1033(e) provides that members bidding and offering for synthetic option orders of 100 contracts or more do not have priority over bids (offers) of public customers on the limit order book.<sup>8</sup> Therefore, if members of the trading crowd wish to trade a synthetic option

order that is marketable against public customer orders on the limit order book, public customers would have priority. Multiple public customer orders at the same price are accorded priority based on time.

The Exchange believes that the pilot, which provides a limited exception to the Exchange's priority rules only respecting controlled accounts<sup>9</sup> competing at the same price, should enable Floor Brokers representing synthetic option orders to provide best executions to customers placing such orders and should enable the Exchange to provide liquid markets and compete for order flow in such orders.

As stated above, the pilot applies only to synthetic option orders in which the option component is for a size of 100 contracts or more that are represented in the trading crowd in open outcry and would be subject to a pilot program through June 30, 2007.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>11</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, by adopting a limited exception to the Exchange's priority rules concerning synthetic option orders.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

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

No written comments were either solicited or received.

<sup>5</sup> Exchange Rule 1066(g) defines a synthetic option order as an order to buy or sell a stated number of option contracts and buy or sell the underlying stock or Exchange-Traded Fund Share in an amount that would offset (on a one-for-one basis) the option position. For example;

(1) Buy-write: An example of a buy-write is an order to sell one call and buy 100 shares of the underlying stock or Exchange-Traded Fund Share.

(2) Synthetic put: An example of a synthetic put is an order to buy one call and sell 100 shares of the underlying stock or Exchange-Traded Fund Share.

(3) Synthetic call: An example of a synthetic call is an order to buy (or sell) one put and buy (or sell) 100 shares of the underlying stock or Exchange-Traded Fund Share.

<sup>6</sup> See Securities Exchange Act Release No. 52140 (July 27, 2005), 70 FR 45481 (August 5, 2005) (SR-Phlx-2005-31).

<sup>7</sup> See Securities Exchange Act Release No. 53004 (December 22, 2005), 70 FR 72234 (December 29, 2005) (SR-Phlx-2005-78).

<sup>8</sup> See Exchange Rule 1080, Commentary .02.

<sup>9</sup> A controlled account includes any account controlled by or under common control with a broker-dealer. Customer accounts are all other accounts. Orders of controlled accounts are required to yield priority to customer orders when competing at the same price. Orders of controlled accounts generally are not required to yield priority to other controlled account orders. See Exchange Rule 1014(g)(i)(A).

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 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, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> 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 purposes of the Act.

The Exchange requests that the Commission waive the 5-day pre-filing period and 30-day operative period under Rule 19b-4(f)(6)(iii)<sup>14</sup> in order to ensure the continuity of the pilot. The Commission has waived the 5-day pre-filing requirement for this proposed rule change. In addition, the Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay.<sup>15</sup> The Commission believes that the waiver of the 30-day operative delay will allow the Exchange to continue, without interruption, the existing operation of its pilot until June 30, 2007.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2006-38 on the subject line.

*Paper Comments*

- Send paper comments in triplicate in Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2006-38. 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 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-2006-38 and should be submitted on or before July 18, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 06-5679 Filed 6-26-06; 8:45 am]

**BILLING CODE 8010-01-M**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration # 10503 and # 10504]**

**Indiana Disaster # IN-00007**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Indiana dated June 20, 2006.

*Incident:* Severe Storms and Tornadoes.

*Incident Period:* June 7, 2006 through June 8, 2006.

*Effective Date:* June 20, 2006.

*Physical Loan Application Deadline Date:* August 21, 2006.

*Economic Injury (EIDL) Loan Application Deadline Date:* March 20, 2007.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:*

Jackson.

*Contiguous Counties:*

Indiana, Bartholomew, Brown, Jennings, Lawrence, Monroe, Scott, Washington.

*The Interest Rates are:*

	Percent
Homeowners with Credit Available Elsewhere: .....	5.875
Homeowners without Credit Available Elsewhere: .....	2.937
Businesses with Credit Available Elsewhere: .....	7.763
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere: .....	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere: .....	5.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere: .....	4.000

The number assigned to this disaster for physical damage is 10503 C and for economic injury is 10504 0.

The State which received an EIDL Declaration # is Indiana.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: June 20, 2006.

**Hector V. Barreto,**  
*Administrator.*

[FR Doc. E6-10072 Filed 6-26-06; 8:45 am]

**BILLING CODE 8025-01-P**

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

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