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–2006–31 and should be submitted on or before February 14, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–977 Filed 1–23–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55111; File No. SR–Phlx–2006–59]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change as Modified by Amendments No. 1 and 2 Thereto Relating to an Amendment to a Philadelphia Board of Trade Market Data Distribution Network Fee

January 16, 2007.

I. Introduction

On September 26, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to increase a fee assessed by the Exchange's wholly owned subsidiary, the Philadelphia Board of Trade ("PBOT"), on market data vendors for certain index values that subscribers receive over PBOT's Market Data Distribution Network ("MDDN"). The Phlx filed Amendment No. 1 to the proposed rule change on November 1, 2006 and filed Amendment No. 2 on December 6, 2006. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 13,

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

2006.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Phlx proposes to amend one of the fees charged by the PBOT for certain market data disseminated over the MDDN.[4] The Phlx has licensed the current and closing index values underlying most of the Phlx's proprietary indexes to PBOT for the purpose of selling, reproducing, and distributing the index values over PBOT's MDDN. On each trading day, the Exchange or its third party designee calculates and makes available to PBOT a real-time index value every 15 seconds and a closing index value at the end of the day. In exchange for subscriber fees paid to PBOT, market data vendors are allowed to widely disseminate this market data for all the values of Phlx's proprietary indexes to their subscribers.[5]

As approved by the Commission, the market data fees charged by PBOT included a $.00025 per request fee for "snapshot data," which is essentially market data that is refreshed no more frequently than once every 60 seconds.[6] The Exchange is now proposing to increase that fee from $.00025 to $.0025 per request for snapshot data.[7]

[3] *See* Securities Exchange Act Release No. 54890 (December 7, 2006), 71 FR 74975.

[4] The MDDN is an internet protocol multicast network developed by PBOT and SAVVIS Communications.

[5] Approximately 65 vendors, including for example Bloomberg L.P., Telekurs Financial Information Ltd. and Thomson Financial, have already entered into such market data agreements with PBOT. The PBOT has contracted with one or more major Market Data Vendors to receive real-time and closing index values over the MDDN and promptly redistribute such values. At least three of the vendors have elected to offer only the continuous real-time market data and will not offer snapshot or delayed data. The fees described in this proposed rule change cover values of all the indexes disseminated over the MDDN.

[6] *See* Securities Exchange Act Release No. 53790 (May 11, 2006), 71 FR 28738 (May 17, 2006) ("Original Approval Order"). The subscriber fees are set out in agreements that PBOT executed with various market data vendors for the right to receive, store, and retransmit the current and closing index values transmitted over the MDDN. In its original proposal, the Exchange stated that, under these vendor agreements PBOT may change any of the fees enumerated in the agreement by giving the vendor or subvendor advance written notice of such changes. The Commission conditioned any such fee change on the submission by Phlx of a proposed rule change under Section 19(b) of the Act, and approval of such proposal. See 71 FR at 28740.

[7] The Commission notes that all market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[8] and, in particular, the requirements of Section 6 of the Act.[9] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be 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 Commission continues to believe that Phlx's proposal is consistent with Rule 603 under the Act.[11] In this regard, the Commission notes that the Exchange represented that PBOT's proposed fee increase reflects a more accurate valuation of the value of snapshot data to investors than the original snapshot data fee did, consistent with Rule 603 under the Act.[12] The Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,[13] in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Phlx–2006–59), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–958 Filed 1–23–07; 8:45 am]

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[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 242.603. *See* Original Approval Order, 71 FR at 28739, *supra* note 6, noting that the subscriber fees were consistent with Rule 603 under the Act.

[12] 17 CFR 242.603.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).