

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55301; File No. SR-Phlx-2007-08]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing and Trading of Quarterly Options Series

February 15, 2007.

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 February 9, 2007, the Philadelphia Stock Exchange, Inc. (“Exchange” or “Phlx”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. Phlx has designated this proposal as noncontroversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change 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 amend its rules, including Rule 1000 (“Applicability, Definitions and References”), Rule 1012 (“Series of Options Open for Trading”), Rule 1000A (“Applicability and Definitions”), Rule 1001A (“Position Limits”), and Rule 1101A (“Terms of Option Contracts”), to permit the listing and trading of options series that may be opened for trading on any business day and expire at the close of business on the last business day of a calendar quarter (“Quarterly Options” or “Quarterly Options Series”). The pilot will commence the day the Exchange first initiates trading in a Quarterly Options Series and will continue through July 24, 2007 (the “Phlx Pilot”).<sup>5</sup>

The text of the proposed rule change is available on the Exchange’s Web site ([http://www.phlx.com/exchange/phlx\\_rule\\_fil.html](http://www.phlx.com/exchange/phlx_rule_fil.html)), at the Exchange’s principal office, 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 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 proposed rule change is to amend the Exchange’s Rules, including Phlx Rules 1000, 1012, 1000A, 1001A, and 1101A, to establish the Phlx Pilot, which would accommodate the listing of Quarterly Options Series that would expire at the close of business on the last business day of a calendar quarter.<sup>6</sup>

Quarterly Options Series could be opened on any approved options class<sup>7</sup>

Exchange. See Securities Exchange Act Release No. 54113 (July 7, 2006), 71 FR 39694 (July 13, 2006) (SR-ISE-2006-24) (order approving proposal). In addition, the Chicago Board Options Exchange and NYSE Arca have also filed substantially similar proposals. See Securities Exchange Act Release Nos. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (SR-CBOE-2006-65) (notice of filing and immediate effectiveness) and 54166 (July 18, 2006), 71 FR 42151 (July 25, 2006) (SR-NYSEArca-2006-45) (notice of filing and immediate effectiveness). The Phlx proposal also incorporates certain changes made by CBOE to its version of the Quarterly Options Series pilot (e.g., limiting Quarterly Options Series to five strike prices above or below the value of an index). See Securities Exchange Act Release No. 54762 (November 16, 2006), 71 FR 67663 (November 22, 2006) (SR-CBOE-2006-93) (order approving proposal).

<sup>6</sup> In 1994, the Exchange was granted SEC approval to list and trade narrow-based index options that expire at the end of each quarter on several Exchange indexes: Gold and Silver (symbol “XAU”); Utility (“UTY”); Bank (“BKX”); National Over-the-Counter (“XOC”); and Value Line (“VLE”). See Securities Exchange Act Release No. 34234 (June 17, 1994), 59 FR 32729 (June 24, 1994) (SR-Phlx-93-45). These proved to be of limited use as quarterly options and in fact the three remaining options (XAU, UTY, and BKX) are currently listed and trading only on monthly expiration cycles.

<sup>7</sup> Quarterly Options Series may be opened in options on indexes or options on ETFs that satisfy the applicable listing criteria under Phlx rules.

on a business day (“Quarterly Options Opening Date”) and would expire at the close of business on the last business day of a calendar quarter (“Quarterly Options Expiration Date”). The Exchange would list series that expire at the end of the calendar quarters of this calendar year.

Quarterly Options Series listed on approved options classes would be P.M.-settled and, in all other respects, would settle in the same manner as do the monthly expiration series in the same options class.

The proposed rule change would allow the Exchange to open up to five currently listed options classes that are options on exchange traded funds (“ETFs”). The strike price for each series would be fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange may list strike prices for a Quarterly Options Series on ETFs that are within \$5 from the closing price of the underlying security on the preceding trading day.

With respect to Quarterly Options Series based on an underlying index, the proposed rule change would allow the Exchange to list not more than five strike prices above and not more than five strike prices below the value of the underlying index. The Exchange may list additional Quarterly Options Series strike prices on indexes above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. Similarly, the Exchange may list additional Quarterly Options Series strike prices on indexes below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five.

The proposal would permit the Exchange to open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the current market price of the underlying security or index moves substantially from the exercise prices of those Quarterly Options Series that already have been opened for trading on the Exchange. In addition, the exercise price of each Quarterly Options Series on an underlying index would be required to be reasonably related to the current index value of the index at or about the time such series of options were first opened for trading on the Exchange. For purposes of the Phlx

<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)(iii).

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

<sup>5</sup> The Phlx proposal is substantially similar to a proposal by the American Stock Exchange LLC to list Quarterly Options Series on a pilot basis through July 24, 2007. See Securities Exchange Act Release No. 54137 (July 12, 2006), 71 FR 41283 (July 20, 2006) (SR-Amex-2006-67) (notice of filing and immediate effectiveness). The Commission has approved a substantially similar Quarterly Options Series pilot on behalf of the International Securities

Pilot, the term “reasonably related to the current index value of the underlying index” means that the exercise price is within 30 per cent of the current index value. The Exchange would also be permitted to open for trading additional Quarterly Options Series on an underlying index that are more than 30 per cent away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers.<sup>8</sup> Market-makers trading for their own account shall not be considered when determining customer interest under this provision.

Because monthly options series expire on the third Friday of their expiration month, a Quarterly Options Series (which would expire on the last business day of the quarter) could never expire in the same week in which a monthly options series in the same class expires. That is not the case, however, for Short Term Option Series. Quarterly Options Series and Short Term Option Series on the same options class could potentially expire concurrently under the proposal.<sup>9</sup> Therefore, to avoid any confusion in the marketplace, the proposal stipulates that the Exchange may not list a Short Term Option Series that expires at the end of the day on the same day as a Quarterly Options Series in the same class expires. In other words, the proposed rules would not permit the Exchange to list a P.M.-settled Short Term Option Series on an ETF or an index that would expire on a Friday that is the last business day of a calendar quarter if a Quarterly Options Series on that ETF or index were scheduled to expire on that day.

The proposed rules would, however, permit the Exchange to list an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Options Series in the same options class that both expire on the same day (*i.e.*, on a Friday that is the last business day of the calendar quarter). The Exchange believes that the concurrent listing of an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Options Series on the same underlying ETF or index that expire on the same day would not tend to cause the same confusion as would P.M.-settled short term and quarterly series in the same options class and

would provide investors with an additional hedging mechanism.

Additionally, the interval between strike prices on Quarterly Options Series would be the same as the interval for strike prices for series in the same options class that expires in accordance with the normal monthly expiration cycles.

The Exchange believes that Quarterly Options Series would provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. At the same time, the Exchange is cognizant of the need to be cautious in introducing a product that can increase the number of outstanding strike prices. For that reason, the Exchange is proposing a limited pilot program for Quarterly Options Series. Under the terms of the Phlx Pilot, the Exchange could select up to five option classes on which Quarterly Options Series may be opened on any Quarterly Options Opening Date. The Exchange would also be allowed to list those Quarterly Options Series on any options class that is selected by another securities exchange with a similar Pilot Program under its rules. The Exchange believes that limiting the number of options classes in which Quarterly Options Series may be opened would help to ensure that the addition of the new series through the Phlx Pilot will have only a negligible impact on the Exchange’s and the Option Price Reporting Authority’s (“OPRA”) quoting capacity. Also, limiting the term of the Pilot Program to a finite period will allow the Exchange and the Commission to determine whether the program should be extended, expanded, and/or made permanent.

If the Exchange were to propose an extension or an expansion of the pilot, or were to propose to make the Phlx Pilot permanent, along with any filing proposing such amendments, the Exchange would submit a Phlx Pilot report (“Report”) that would provide an analysis of the pilot program covering the entire period during which the Phlx Pilot was in effect. The Report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Options Series were opened; (2) an assessment of the appropriateness of the options classes selected for the Phlx Pilot; (3) an assessment of the impact of the Phlx Pilot on the capacity of Phlx, OPRA, and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the

operation of the Phlx Pilot and how Phlx addressed such problems; (5) any complaints that the Phlx received during the operation of the Phlx Pilot and how the Phlx addressed them; and (6) any additional information that would assist in assessing the operation of the Phlx Pilot. The Report must be submitted to the Commission at least 60 days prior to the expiration date of the Phlx Pilot.

Alternatively, at the end of the Phlx Pilot, if the Exchange determines not to propose an extension or an expansion of the Phlx Pilot, or if the Commission determines not to extend or expand the Phlx Pilot, the Exchange would no longer list any additional Quarterly Options Series and would limit all existing open interest in Quarterly Options Series to closing transactions only.

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of Quarterly Options Series.

## 2. Statutory Basis

The Exchange believes that its proposal to list and trade Quarterly Options Series will satisfy institutional demand for such options and provide additional flexibility and risk management and hedging tools to investors. For these reasons, the Exchange believes that the proposed rule change 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 to protect investors and the public interest.

### *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 that is 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.

<sup>8</sup> The “within 30 per cent” requirement is proposed specifically for the Phlx Pilot and is not otherwise in the Exchange’s options rules. See Rule 1000 *et seq.*

<sup>9</sup> The Exchange does not currently have any Short Term Option Series listed for trading but believes it is prudent to leave the Short Term Option concept in its proposed rule text so that all of the quarterly option pilots are similar.

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

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

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

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(6)(iii) of Rule 19b-4 thereunder<sup>13</sup> because the foregoing proposed rule change (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not 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.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to waive the operative delay if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change immediately operative, so that the Exchange can have quarterly options pilot rules that are similar to that of other options exchanges. The Exchange believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal is substantially identical to the CBOE's pilot program for quarterly option series, previously published for comment<sup>15</sup> and approved by the Commission,<sup>16</sup> and is substantially similar to existing pilot programs currently in place at other SROs.<sup>17</sup> Thus, Phlx's proposal raises no new issues of regulatory concern. Moreover, waiving the operative delay will allow

Phlx to immediately compete with other exchanges that list and trade quarterly options under similar programs, and consequently will benefit the public. Therefore, the Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative upon filing.<sup>18</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.

### 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 No. SR-Phlx-2007-08 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to 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-2007-08. 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 Commissions 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 Exchange. 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-2007-08 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55305; File No. SR-Phlx-2006-65]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 2 and 3 Thereto Relating to Options on the Russell 2000® Index

February 15, 2007.

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 October 31, 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 substantially prepared by the Exchange. On November 22, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On January 24, 2007, the Exchange filed Amendment No. 2 to the proposed rule change.<sup>3</sup> On February 7, 2007, the Exchange filed Amendment No. 3 to the proposed rule change. This order provides notice of the proposed rule change as modified by Amendment Nos. 2 and 3 and approves the proposed rule change as amended on an accelerated basis.

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Amendment No. 2 superceded Amendment No. 1 in its entirety.

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

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

<sup>14</sup> The Exchange provided the Commission with pre-filing notice of the proposal, as required by Rule 19b-4(f)(6)(iii).

<sup>15</sup> See Securities Exchange Act Release Nos. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (SR-CBOE-2006-65) (notice of filing and immediate effectiveness for CBOE's quarterly option series pilot program).

<sup>16</sup> See Securities Exchange Act Releases No. 54762 (November 16, 2006), 71 FR 67663 (November 22, 2006) (SR-CBOE-2006-93) (order approving certain amendments to CBOE's quarterly option series pilot program).

<sup>17</sup> See *supra* note 5.

<sup>18</sup> For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).