

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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-CBOE-2007-70 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-CBOE-2007-70. 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

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 Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. See Pilot Program Release, *supra* note 5.

Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-CBOE-2007-70 and should be submitted on or before August 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56034; International Series Release No. 1304; File No. SR-Phlx-2007-34]

#### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to U.S. Dollar-Settled Foreign Currency Options

July 10, 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 April 13, 2007, 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. On June 13, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal, as modified by Amendment No. 1, on an accelerated basis.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> Amendment No. 1 replaced the original filing in its entirety.

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

Phlx proposes to: (1) List and trade U.S. dollar-settled foreign currency options ("FCOs") on the Australian dollar, the Canadian dollar, the Swiss franc and the Japanese yen (together, the "New Currencies"); (2) amend certain rules relating to the quoting convention for U.S. dollar-settled FCOs for purposes of clarity; (3) delete from Rule 1012 a requirement that the Exchange delist any series of U.S. dollar-settled FCOs outside of a ten percent band around the spot price that have no open interest; (4) amend the closing settlement value rule by moving from 2 p.m. (Eastern time ("ET")) to 5 p.m. ET the time after which the Exchange will use the previously announced Noon Buying Rate as the basis for the closing settlement value; (5) extend the applicability of Rule 1064, "Crossing, Facilitation and Solicited Orders," to U.S. dollar-settled FCOs; and (6) clarify the applicability of Rule 1092, "Obvious Errors," to U.S. dollar-settled FCOs.

The text of the proposed rule change is available on the Exchange's Web site at [http://www.Phlx.com/exchange/phlx\\_rule\\_fil.html](http://www.Phlx.com/exchange/phlx_rule_fil.html), at the Exchange, 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 III 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

On January 8, 2007, the Exchange began trading U.S. dollar-settled options on the British pound and the Euro on the Exchange's electronic trading platform for options, Phlx XL.<sup>4</sup> These

<sup>4</sup> See Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-Phlx-2006-34) ("Pound/Euro FCO Approval Order"). In approving the listing and trading of U.S. dollar-settled FCOs on the British

new U.S. dollar-settled FCOs were in addition to the Exchange's existing physical delivery FCOs. The Exchange now proposes to list U.S. dollar-settled FCOs on the New Currencies. U.S. dollar-settled FCOs on the New Currencies will be subject to the same rules that now apply to existing U.S. dollar-settled options on foreign currencies.<sup>5</sup> In addition, a number of rules are being amended to specifically apply to U.S. dollar-settled options on the New Currencies, as described below. Like the British pound and the Euro, physical delivery options on the four New Currencies are already traded on the Exchange. These existing, physical delivery options on the New Currencies will not be affected by this proposal and will continue to trade as they do today, by open outcry.

The Exchange proposes to disseminate, over the facilities of the Consolidated Tape Association, at least once every fifteen seconds while the Exchange is open for trading, a modified spot rate for the four New Currencies like the modified spot rate currently disseminated for the British pound and the Euro.<sup>6</sup> The modified spot rate will be calculated by the Exchange based on spot prices (bids and asks) it receives from Thomson Financial LLC ("Thomson"). For the Australian dollar, the Exchange will determine the midpoint between the bid and the ask and will modify that rate by multiplying it by 100.<sup>7</sup> However, because the Thomson spot rate selected by the Exchange<sup>8</sup> is expressed differently for the Canadian dollar, the Japanese yen and the Swiss franc than for the Australian dollar, the British pound and the Euro (in foreign currency units per U.S. dollar rather than in U.S. dollars per unit of foreign currency) the modified spot rate Phlx will disseminate for the Canadian dollar, the Japanese yen and the Swiss franc will be one divided by the midpoint between the

pound and the Euro, the Commission's approval order stated that the listing and trading of additional U.S. dollar-settled FCOs on other foreign currencies would require the Exchange to file additional proposed rule changes on Form 19b-4. *Id.*

<sup>5</sup> See Pound/Euro FCO Approval Order, *supra* note 4, for a description of the rules applicable to U.S. dollar-settled FCOs.

<sup>6</sup> See Securities Exchange Act Release No. 55513 (March 22, 2007), 72 FR 14636 (March 28, 2007) (SR-Phlx-2007-28). The modified spot rate disseminated by the Exchange will not otherwise amend or affect the Exchange's existing rules governing U.S. dollar-settled FCOs.

<sup>7</sup> For example, if .8688 U.S. dollars buys 1 Australian dollar, a modifier of 100 would be used so that the modified spot rate would become 86.88.

<sup>8</sup> Telephone conversation between Carla Behnfeldt, Director, Phlx, David Hsu, Special Counsel, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on June 20, 2007.

bid and ask of the Thomson spot rate, rounded up to the nearest millionth if the result ends in values greater than or equal to five ten-millionths, and rounded down if less than five ten-millionths, multiplied by the appropriate modifier.<sup>9</sup> For the Canadian dollar and the Swiss franc, the modifier will be 100. For the Japanese yen, the modifier will be 10,000.<sup>10</sup> The Exchange believes that sufficient other venues exist for obtaining reliable spot market information on the New Currencies so that investors in U.S. dollar-settled FCOs can monitor the underlying spot market in the New Currencies.

Rule 1012, "Series Of Options Open For Trading," Commentary .06, currently provides that the Exchange will initially list exercise strike prices for each expiration of U.S. dollar-settled options on the Euro and the British pound within a ten percent band around the current spot price at half-cent (\$.005) intervals. This rule is being expanded to cover all U.S. dollar-settled foreign currency options, including options on the New Currencies. The Exchange also is proposing to amend the rule by deleting a current requirement that the Exchange delist any previously-listed series outside of the current ten percent band that have no open interest. The Exchange has found that this requirement is an administrative burden and does not believe that the restriction is justified. For example, the Exchange has found that approximately once a week, it is required to delete a series only to have it be listed again in a day or two due to movement in the currency. Delisting and relisting various exercise prices with no advance notice on a daily basis has the potential to confuse investors and complicate their trading strategies and decisions.

Rule 1033, "Bids and Offers—Premium," will apply to U.S. dollar-settled options on the New Currencies as well as to the existing U.S. dollar-settled options on the British pound and the Euro. Pursuant to Rule 1033(b)(ii)(A), bids and offers are to be expressed in terms of U.S. dollars per

<sup>9</sup> Premiums and spot rates for the Canadian dollar, the Japanese yen, and the Swiss franc have been quoted in foreign currency units per U.S. dollar for years in connection with the Exchange's physical delivery FCOs. The Exchange also represents that other major market data vendors also quote spot rates in terms of foreign currency units per U.S. dollar for these currencies as well.

<sup>10</sup> For example, if 115.84 Japanese yen buys one U.S. dollar, the Exchange will divide that amount into one to determine that .008632596 dollars will buy one Japanese yen. The Exchange would then multiply the rounded figure, .008633, by 10,000, so that the modified spot rate to be disseminated would be 86.33.

unit of the underlying foreign currency, provided that the first two decimal places shall be omitted from all bid and offer quotations for the Swiss franc, the Canadian dollar, and the Australian dollar, and the first four decimal places shall be omitted from all bid and offer quotations for the Japanese yen. Thus, for example, a bid of "1.60" for an option contract on the Japanese yen shall represent a bid to pay \$.000160 per yen.<sup>11</sup>

Rule 1034, "Minimum Increments," currently prescribes the minimum trading increment for all U.S. dollar-settled FCOs. This rule will now apply to the New Currencies as well. However, the rule is being amended to add an example of the minimum trading increment in the case of U.S. dollar-settled options on the Japanese yen, which differs from the other U.S. dollar-settled currencies options in that four decimal places, rather than two, are to be disregarded.<sup>12</sup>

Rule 1057, "U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value," currently provides for the determination of the closing settlement value for U.S. dollar-settled options on the British pound and the Euro. The rule is being amended to provide for the closing settlement value for U.S. dollar settled options on the New Currencies. Because the Noon Buying Rate is expressed differently for

<sup>11</sup> Rule 1014, "Obligations and Restrictions Applicable to Specialists and Registered Options Traders," and Options Floor Procedure Advice F-6, "Option Quote Parameters," are being revised to provide an illustration of the different option quote spread parameters for U.S. dollar-settled options on the Japanese yen, which differ from the other U.S. dollar-settled FCOs in that four decimal places, rather than two, are to be disregarded when the quote parameters are expressed.

Rules 1014 and 1034 are also being amended by removing the dollar sign before the "expressed as" values for quotes and quote spread parameters. Similarly, dollar signs are being added to Options Floor Procedure Advice F-6 in front of the maximum quote spreads (but not in front of the "expressed as" values for the maximum quote spreads). The Exchange believes that these changes will make the quoting convention (*i.e.*, disregarding the first four decimal places for the Japanese yen and the first two decimal places for the other currencies underlying the U.S. dollar-settled FCOs) less confusing to the investing public. The changes will also make Rules 1014 and 1034 more consistent with Rule 1033.

<sup>12</sup> Thus, the amended rule provides that all U.S. dollar-settled FCOs on the Japanese yen quoting at \$.000300 (expressed as 3.00) or higher shall have a minimum trading increment of \$.000010 per unit of the foreign currency, expressed as .10 per unit of the foreign currency, which equals a \$10.00 minimum increment per contract consisting of 1,000,000 Japanese yen. The minimum increment for U.S. dollar-settled FCOs on the Japanese yen quoting under \$.000300 (expressed as 3.00) shall be \$.000005 per unit of the foreign currency, expressed as .05 per unit of the foreign currency, which equals a \$.50 minimum increment per contract consisting of 1,000,000 Japanese yen.

the Canadian dollar, the Japanese yen, and the Swiss franc than for the Australian dollar, the British pound, and the Euro—in foreign currency units per U. S. dollar rather than in U. S. dollars per unit of foreign currency—the closing settlement value for the Canadian dollar, the Japanese yen, and the Swiss franc will be an amount equal to one divided by the day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York on the trading day prior to expiration, rounded to the nearest .0001 (except in the case of the Japanese yen where the amount shall be rounded to the nearest .000001).

In addition, Rule 1057 provides that if the Noon Buying Rate is not announced by 2 p.m. ET, the closing settlement value will be based upon the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. The Exchange is proposing to amend Rule 1057 to provide that the closing settlement value will be based upon the most recently announced Noon Buying Rate if the Noon Buying Rate is not announced by 5 p.m. ET (rather than 2 p.m. ET). The Exchange believes that moving the deadline to 5 p.m. ET should decrease the likelihood that it may be required to base the closing settlement value on the previously announced Noon Buying Rate, which is likely not to be current. The rule will continue to permit the Exchange to apply an alternative closing settlement value as a result of extraordinary circumstances.

Rule 1001, "Position Limits," provides that the position limits shall be 200,000 put or call option contracts (aggregating both U.S. dollar-settled and physical delivery contracts) on the same side of the market relating to the same underlying foreign currency. Rule 1001 is being amended, however, to provide that one U.S. dollar-settled Australian dollar option contract shall count as one-fifth of a contract, one U.S. dollar-settled Canadian dollar option contract shall count as one-fifth of a contract, one U.S. dollar-settled Swiss Franc option contract shall count as one-sixth of a contract, and one U.S. dollar-settled Japanese yen option contract shall count as one-sixth of a contract.<sup>13</sup> The counting of U.S. dollar-settled option contracts as less than one full contract reflects the fact that the size of the U.S. dollar-settled option contract is smaller

<sup>13</sup> Currently, Rule 1001 provides that one U.S. dollar-settled British pound option contract shall count as one-third of a contract, and that one U.S. dollar-settled Euro option contract shall count as one-sixth of a contract.

than the Exchange's physical delivery contract on the same currencies.<sup>14</sup> The position limit rules were originally adopted for the larger physical delivery contracts.

Rule 1014, Commentary .13 is being revised to delete the requirement that the Options Committee and the Foreign Currency Options Committee each establish separate in-person amounts for equity and index options and foreign currency options, respectively. For purposes of Rule 1014, Commentary .13, the Exchange believes that there is no useful reason to establish separate requirements for equity and index options on the one hand, and U.S. dollar-settled FCOs on the other.<sup>15</sup> This amendment will permit the Options Committee to establish one in-person requirement applicable to all ROTs and permit any ROT to satisfy that in-person requirement by trading any kind of option, be it equity, index or FCOs.

The Exchange also is proposing to amend Rule 1064, "Crossing, Facilitation and Solicited Orders," to extend the applicability of the rule to U.S. dollar-settled FCOs. Rule 1064 sets forth, among other things, the procedures by which a floor broker holding an equity or index option order ("original order") may cross it with another order or orders he or she is holding, or, in the case of a public customer order, with a contra side order provided by the originating firm from its own proprietary account ("facilitation order"). Under certain conditions, Rule 1064 provides "participation guarantees" in such crossing or facilitation transactions, entitling the floor broker to cross a certain percentage of the original order with the other order

<sup>14</sup> The size of the U.S. dollar-settled Australian dollar option contract is 10,000 Australian dollars, which is one-fifth the size of the physical delivery contract size of 50,000 Australian dollars. The size of the U.S. dollar-settled Canadian dollar option contract is 10,000 Canadian dollars, which is one-fifth the size of the physical delivery contract size of 50,000 Canadian dollars. The size of the U.S. dollar-settled Swiss franc option contract is 10,000 Swiss francs, which is approximately one-sixth the size of the physical delivery contract size of 62,500 Swiss francs. The size of the U.S. dollar-settled Japanese yen option contract is 1,000,000 Japanese yen, which is approximately one-sixth the size of the physical delivery contract size of 6,250,000 Japanese yen.

<sup>15</sup> Currently, Options Floor Procedure Advice B-3 provides that a ROT (other than a Remote Streaming Quote Trader ("RSQT")) is required to trade in-person, and not through the use of orders, the greater of 1,000 contracts or 50% of his contract volume on the Exchange each quarter. ROTs may satisfy this requirement in any option traded on the Exchange. Floor Procedure Advice B-3 also contains a separate requirement that at least 50% of a ROT's trading activity in each quarter must be in assigned options. This requirement will continue to apply to ROTs assigned to equity and index options and FCOs.

or orders ahead of members of the trading crowd. These participation guarantees currently apply to transactions in equity and index options only. The Exchange proposes to amend Rule 1064, Commentary .02, to provide a participation guarantee for trading in U.S. dollar-settled options that is the same as the participation guarantee for index options.

The Exchange also is proposing to amend Rule 1092, "Obvious Errors," to clarify that the obvious error amounts stated in the existing rule are the amounts by which the amount is "expressed" and not the actual amounts. This is merely a technical correction.

Exchange rules designed to protect public customers trading in FCOs will apply to U.S. dollar-settled FCOs on the New Currencies. Specifically, Phlx Rule 1024(b) relating to approval of customer accounts to trade options, Phlx Rule 1026 relating to suitability, Phlx Rule 1027 relating to discretionary power over customer accounts trading in options, Phlx Rule 1025 relating to the supervision of accounts, Phlx Rule 1028 relating to confirmations, and Phlx Rule 1029 relating to delivery of options disclosure documents will apply to trading in U.S. dollar-settled FCOs, including FCOs on the New Currencies.

The Exchange represents that it has an adequate surveillance program in place for FCOs. The Exchange is also a member of the Intermarket Surveillance Group ("ISG") and may obtain trading information via the ISG from other exchanges who are members or affiliated members of the ISG.<sup>16</sup> Futures on the New Currencies trade on the Chicago Mercantile Exchange ("CME") and the New York Board of Trade ("NYBOT"). The New York Stock Exchange ("NYSE") and NYSE Arca list the following exchange traded funds: CurrencyShares Australian Dollar Trust, CurrencyShares Canadian Dollar Trust, and CurrencyShares Swiss Franc Trust. The Exchange represents that, to the best of the Exchange's knowledge, these U.S. markets are the primary trading markets in the world for exchange-traded futures, options on futures and trust shares on these currencies. Phlx can obtain surveillance information from the NYSE, NYSE Arca, CME and NYBOT, as they are members of the ISG. In addition, Phlx is able to obtain

<sup>16</sup> The members of the ISG include all of the U.S. registered stock and options markets. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.

information regarding trading in these products through Phlx members, in connection with such members' proprietary or customer trades which they effect on any relevant market.<sup>17</sup>

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of U.S. dollar-settled options on the New Currencies.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</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 offering investors the ability to invest in U.S. dollar-settled FCOs on the New Currencies and by simplifying existing rules relating to the expression of strike prices and quotes in the U.S. dollar-settled FCO products.

### 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.

<sup>17</sup> See Equity Floor Procedure Advice F-8 and Options Floor Procedure F-8, "Failure to Comply with an Exchange Inquiry." Pursuant to Phlx Rule 1022, specialists and Registered Options Traders ("ROT's") are required to identify all accounts maintained for foreign currency trading in which the specialist or ROT engages in trading activity or over which he exercises investment discretion, and no specialist or ROT may engage in foreign currency trading in any account not reported pursuant to the rule. Phlx Rule 1022 also requires every specialist and ROT to make available to Phlx upon request all books, records and other information relating to transactions for their own account or accounts of associated persons with respect to the foreign currency underlying U.S. dollar-settled FCOs, including transactions in the cash market as well as the futures, options and options on futures markets. Rule 1022(d) includes "other foreign currency derivatives" in the list of currency related transactions with respect to which specialists and ROTs must provide information to the Exchange.

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

## III. 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-2007-34 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-2007-34. 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 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-2007-34 and should be submitted on or before August 6, 2007.

## IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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.<sup>20</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>21</sup> which requires that an exchange have rules designed, among other things, 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. Significant aspects of the proposal are discussed below.

### A. U.S. Dollar-Settled FCOs on the New Currencies

The Commission notes that it recently approved rules governing the listing and trading on Phlx of U.S. dollar-settled options on the British pound and the Euro,<sup>22</sup> and that such rules will be applicable to U.S. dollar-settled options on the New Currencies.<sup>23</sup> The Commission believes that these rules provide for regulation of the listing and trading of FCOs on the New Currencies on Phlx consistent with the Act, as discussed further below.

#### 1. Settlement Value and Dissemination of Information

The Commission believes that sufficient venues exist for obtaining reliable information on the New Currencies so that investors in U.S. dollar-settled FCOs can monitor the underlying spot market in the New Currencies. The Commission notes that, in addition to other major market vendors providing such information, Phlx will disseminate a modified spot rate for the New Currencies at least once every fifteen seconds while the Exchange is open for trading, which will give investors an additional means to track the value of the New Currencies underlying the FCOs. The Commission also believes that Phlx's procedures and the competitive nature of the spot market for the New Currencies should help to ensure that the settlement values for U.S. dollar-settled FCO contracts will accurately reflect the spot price for the New Currencies. Finally, the closing settlement value, as calculated pursuant

<sup>20</sup> In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> See Pound/Euro FCO Approval Order, *supra* note 4.

<sup>23</sup> The Commission notes that the Exchange is making certain technical and clarifying amendments to a number of the existing rules to specifically apply those rules to, and reflect certain differences in, U.S. dollar-settled options on each currency.

to Phlx rules, will be posted on the Exchange's Web site, where it will be publicly available to all visitors on an equal basis, without the need to enter any kind of password.<sup>24</sup>

#### 2. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as U.S. dollar-settled FCOs on the New Currencies, can commence on a national securities exchange. The Commission believes this goal has been satisfied by the application of Phlx customer protection rules to U.S. dollar-settled FCOs on the New Currencies.

#### 3. Surveillance

The Commission notes that Phlx will integrate U.S. dollar-settled FCOs on the New Currencies into existing Phlx market surveillance programs for equity and index options, physical delivery foreign currency options, and other U.S. dollar-settled FCOs, and that Phlx intends to apply those same program procedures to U.S. dollar-settled FCOs on the New Currencies. The Commission also notes that Phlx Rule 1022, Equity Floor Procedure Advice F-8, and Options Floor Procedure F-8 provide Phlx with the authority to obtain information regarding trading in CurrencyShares Australian Dollar Trust shares, CurrencyShares Canadian Dollar Trust shares, CurrencyShares Swiss Franc Trust shares, options on the New Currencies, and futures and options on futures on the New Currencies through Phlx members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, Phlx may obtain trading information through the ISG from other exchanges who are members or affiliates of the ISG. Specifically, Phlx can obtain such information from the NYSE and NYSE Arca in connection with trading in the CurrencyShares Australian Dollar Trust, CurrencyShares Canadian Dollar Trust, and CurrencyShares Swiss Franc Trust on the NYSE and NYSE Arca, and from the CME and NYBOT in connection with trading of futures on the New Currencies on those exchanges. Therefore, the Commission believes that Phlx should have the tools necessary to adequately surveil trading in U.S. dollar-settled FCOs on the New Currencies.

<sup>24</sup> Telephone conversation between Carla Behnfeldt, Director, Phlx, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on July 3, 2007.

#### 4. Position and Exercise Limits

Like other U.S. dollar-settled FCOs, U.S. dollar-settled FCO contracts on the New Currencies will be aggregated with physical delivery contracts for position and exercise limit purposes. The Commission believes that aggregation of U.S. dollar-settled FCOs on the New Currencies with the physical delivery contracts for position and exercise limit purposes is prudent and minimizes concerns regarding manipulations or disruptions of the markets for U.S. dollar-settled FCO contracts and physical delivery contracts.

#### 5. Other Rules

The Commission believes that the other rule changes proposed by Phlx to accommodate the trading of U.S. dollar-settled FCOs on the New Currencies are consistent with the Act. In particular, the Commission believes it is reasonable for Phlx to initially list exercise strike prices for each expiration around the current spot price at half-cent (\$0.005) intervals up to five percent on each side, as it currently does for other U.S. dollar-settled FCOs.<sup>25</sup> The Commission notes that Phlx has represented that it has the system capacity to support the additional quotations and messages that will result from listing options on U.S. dollar-settled FCOs on the New Currencies.<sup>26</sup>

The Commission also believes that it is consistent with the Act for the Exchange to apply the current minimum trading increments for other U.S. dollar-settled FCOs provided in Rule 1034 to U.S. dollar-settled FCOs on the New Currencies. The Commission notes that the Exchange has made appropriate clarifying changes to the rule to account for U.S. dollar-settled options on the Japanese yen, which differ from the other U.S. dollar-settled FCOs in that four decimal places, rather than two, are disregarded.<sup>27</sup>

#### B. Other Rule Changes Relating to All U.S. Dollar-Settled FCOs

The Commission believes that the other rule changes proposed by Phlx applicable to all U.S. dollar-settled FCOs listed and traded on Phlx

<sup>25</sup> When listing additional strikes, the Commission expects the Exchange to consider whether the listing of such strikes will be consistent with the maintenance of a fair and orderly market.

<sup>26</sup> See letter dated June 21, 2007 from Thomas A. Whitman, Senior Vice President, Phlx, to Heather Seidel, Assistant Director, Division of Market Regulation ("Division"), Commission.

<sup>27</sup> See *infra* note 12 and accompanying text. The Commission notes that the Exchange is also making similar clarifying changes to other rules to account for differences in U.S. dollar-settled options on the Japanese yen. See *e.g.*, Rule 1014, Rule 1033, and Options Floor Procedure Advice F-6.

(including U.S. dollar-settled FCOs on the New Currencies) are consistent with the Act. First, the Commission believes that it is reasonable for Phlx to remove the requirement that the Exchange delist any series of U.S. dollar-settled FCOs outside of the current ten percent band that has no open interest. The Commission notes that the Exchange has found this requirement to be an administrative burden and does not believe the restriction is justified.<sup>28</sup>

The Commission also believes that it is reasonable for the Exchange to change from 2 p.m. ET to 5 p.m. ET the time up to which the Exchange will use the previously announced Noon Buying Rate as the basis for the closing settlement value, because this will give the Exchange a greater opportunity to use the Noon Buying Rate on the trading day prior to expiration instead of having to rely on a less-current previously announced Noon Buying Rate.

Further, the Commission believes that it is reasonable for the Exchange to extend the application of Rule 1064 governing crossing, facilitation and solicited orders to U.S. dollar-settled FCOs. The Commission notes the Exchange's existing rule provides participation guarantees in crossing or facilitation transactions for trading in equity and index options, and the Commission believes that it is consistent with the Act to provide the same participation guarantee for trading in U.S. dollar-settled FCOs as for index options.

#### C. Accelerated Approval

Pursuant to Section 19(b)(2) of the Act, the Commission finds good cause to approve the proposal, as amended, prior to the thirtieth day after the amended proposal is published for comment in the **Federal Register**. The Commission notes that U.S. dollar-settled FCOs on the New Currencies will be subject to the same Phlx rules and requirements as other U.S. dollar-settled FCOs, with technical changes where appropriate to account for U.S. dollar-settled FCOs on the New Currencies. The Commission also notes that it recently approved rules for the listing and trading of cash-settled FCOs on the New Currencies on the International Securities Exchange, LLC.<sup>29</sup> Further, the Commission notes that it has previously approved Phlx's rule governing crossing, facilitation, and

<sup>28</sup> Nonetheless, the Commission expects the Exchange to consider whether the continued listing of such series would be consistent with the maintenance of a fair and orderly market.

<sup>29</sup> See Securities Exchange Act Release No. 55515 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR-ISE-2006-59).

solicited orders and providing for participation guarantees for equity and index options, and it believes that extending the applicability of such provisions to U.S. dollar-settled FCOs raises no new or novel issues.<sup>30</sup> The Commission also believes that the other proposed clarifications to Phlx's rules serve to enhance the proposal and raise no new regulatory issues. Therefore, the Commission believes that the proposed rule changes relating to the listing and trading of U.S. dollar-settled FCOs on the New Currencies on Phlx do not raise additional significant regulatory issues that have not been previously considered by the Commission. As such, the Commission believes that it is appropriate to allow the Exchange to immediately list and trade U.S. dollar-settled FCOs on the New Currencies.

Accordingly, the Commission finds good cause to accelerate approval of the amended proposal prior to the thirtieth day after publication in the **Federal Register**.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>31</sup> that the proposed rule change (SR-Phlx-2007-34), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>32</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-13695 Filed 7-13-07; 8:45 am]

**BILLING CODE 8010-01-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Airworthiness Criteria: Airship Design Criteria for Zeppelin Luftschifftechnik GmbH Model LZ N07 Airship**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability of proposed design criteria and request for comments; reopening of comment period.

**SUMMARY:** This action reopens the comment period stated in the notice of availability of proposed design criteria and request for comments for the airworthiness criteria on the airship

design criteria for the Zeppelin Luftschifftechnik GmbH Model LZ N07 Airship. The notice was issued on April 10, 2007 and published on May 3, 2007 (72 FR 24656). In that document, the FAA announced the availability and request for comments on a design criteria for the airship.

**DATES:** Comments must be received on or before August 15, 2007.

**ADDRESSES:** Send all comments on the proposed design criteria to: Federal Aviation Administration, Attention: Mr. Karl Schletzbaum, Project Support Office, ACE-112, 901 Locust, Kansas City, Missouri 64106. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Karl Schletzbaum, 816-329-4146.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to comment on the proposed design criteria by submitting such written data, views, or arguments as they may desire. Commenters should identify the proposed design criteria on the Zeppelin Luftschifftechnik GmbH model LZ N07 airship and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Small Airplane Directorate before issuing the final design criteria.

A paper copy of the proposed design criteria may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT**.

##### **Discussion**

###### *Background*

On April 10, 2007, the Federal Aviation Administration (FAA) issued a notice of availability of proposed design criteria. The notice was published for public comment on May 3, 2007 (72 FR 24656). Comments to that document were due by June 4, 2007. By verbal request, an entity involved in the airship design industry asked the FAA to extend the comment period for the proposed design criteria.

We appreciate the petitioner's substantive interest in the proposed design standards and believe that granting additional time to review the document will allow them to thoroughly assess the impact of the design criteria and provide meaningful comments. Therefore, we will reopen the comment period until August 15, 2007.

#### *Reopening of Comment Period*

For the reasons provided in this notice, we believe that good cause exists for reopening the comment period for the proposed design criteria until August 15, 2007. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for the design criteria.

Issued in Kansas City, Missouri, on July 7, 2007.

**Sandra J. Campbell,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7-13707 Filed 7-13-07; 8:45 am]

**BILLING CODE 4910-13-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **RTCA Special Committee 205/ EUROCAE Working Group 71: Software Considerations in Aeronautical Systems Sixth Joint Plenary Meeting**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 205/EUROCAE Working Group 71 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 205/EUROCAE Working Group 71: Software Considerations in Aeronautical Systems.

**DATES:** The meeting will be held September 10-14, 2007 from 8 a.m.-5 p.m. (variable—see daily schedule).

**ADDRESS:** The meeting will be held at Vienna University, Vienna, Austria.

**FOR FURTHER INFORMATION CONTACT:** (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>; (2) Joint Secretaries, Europe: Mr. Ross Hannon, telephone +44 78807-46650, e-mail: [ross\\_hannon@binternet.com](mailto:ross_hannon@binternet.com); US: Mr. Michael DeWalt, telephone (206) 972-0170, e-mail: [mike.dewalt@certification.com](mailto:mike.dewalt@certification.com).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 205/EUROCAE Working Group 71 meeting.

**NOTE:** On arrival at Vienna University please have photo identification available (either a passport, a driver's license bearing a photograph or an identity card) to assist in your badge being issued.

The agenda will include:

<sup>30</sup> The Commission notes that the participation guarantee percentage for U.S. dollar-settled FCOs will be the same as the current participation guarantee percentage for index options.

<sup>31</sup> 15 U.S.C. 78s(b)(2).

<sup>32</sup> 17 CFR 200.30-3(a)(12).