Register on December 31, 2007.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

When the CHX adopted rules for its new trading model, it included a provision that requires a participant that executes a trade using another participant's give-up to have a written agreement authorizing the use of the give-up.[5] Soon after implementing its new trading model, the Exchange contemplated limiting the way in which the rule would apply to its institutional brokers by allowing institutional brokers to use other participants' give-ups in accordance with reasonable written order-handling procedures, without specifically requiring that a written agreement be in place.[6] The Exchange believed that the rule provided an appropriate general standard, but did not intend to require a potentially substantial change in the long-standing business practices of the Exchange's institutional brokers, who often execute a trade using another participant's give-up, pursuant to instructions from such participant or its customer.[7]

The Exchange now proposes to eliminate the ''give-up agreement'' rule altogether. The Exchange believes the rule sets a good business standard, but does not believe that it is appropriate to put a hard-and-fast rule to that effect in place because of its potential impact on the day-to-day business practices of some of its institutional brokers.[8]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Repealing this rule will permit the Exchange's members to execute trades using another CHX participant's give-up pursuant to instructions from either that participant or its customer without requiring that a written agreement first be in place between those participants, thereby providing greater flexibility for members to execute trades on the Exchange. The Commission notes, however, that participants may choose to continue entering into formal written give-up agreements as they consider appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CHX–2007–27) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

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[4] *See id.*

[5] *See* Securities Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (approval order for the new trading model).

[6] *See* File No. SR–CHX–2006–32. The Exchange withdrew that proposal on December 12, 2007.

[7] *See* Notice, *supra* note 3, at 74381.

[8] *See id.*

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

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

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57265; File No. SR–Phlx–2007–68]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change as Modified by Amendment Nos. 1 and 2 Thereto Relating to Customized U.S. Dollar-Settled Foreign Currency Options

February 4, 2008.

I. Introduction

On September 6, 2007, 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, as amended (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to trading of individually tailored U.S. dollar-settled foreign currency options (''FCOs''). On December 18, 2007, the Exchange filed Amendment No. 1. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 31, 2007.[3] The Commission received no comments on the proposal. On January 29, 2008, the Exchange filed Amendment No. 2.[4] This order approves the proposed rule change, as amended.

II. Description of the Proposal

Individually tailored index and equity options currently may be traded pursuant to Rule 1079, FLEX Index and Equity Options.[5] Phlx proposes to amend Rule 1079 [6] to permit trading of U.S. dollar-settled FCOs with individually tailored expiration dates and exercise prices (''FLEX currency options'').[7] Provisions of Rule 1079 that are not limited by their terms to FLEX index or equity options will be equally applicable to FLEX currency options.[8] The Options Clearing Corporation (''OCC'') will be the issuer and guarantor of these new options.

A. Characteristics of FLEX Currency Options

Pursuant to proposed Rule 1079(a)(3)(C), users will be able to individually tailor the strike prices of FLEX currency options. Strike prices need not be consistent with strike price intervals permissible for non-FLEX U.S. dollar-settled FCOs. The strike price may be specified in terms of a specific dollar amount rounded to the nearest ten thousandth of a dollar (expressed without reference to the first two decimal places) for FLEX currency options other than the Japanese yen currency option. FLEX options on the Japanese yen may be specified in terms of a specific dollar amount rounded to the nearest one millionth of a dollar (expressed without reference to the first four decimal places).[9]

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57018 (December 20, 2007), 72 FR 74392 (''Notice'').

[4] *See* Partial Amendment dated January 29, 2008 (''Amendment No. 2''). Amendment No. 2 made one technical correction to the rule text. This correction is not subject to notice and comment.

[5] *See* Securities Exchange Act Release No. 39549 (January 14, 1998), 63 FR 3601 (January 23, 1998) (adopting SR–Phlx–96–38). The term ''FLEX'' is a trademark of the Chicago Board Options Exchange, Inc.

[6] The Exchange also proposes to amend Floor Procedure Advice F–28, Trading FLEX Index and Equity Options, to make corresponding changes to those being proposed to Rule 1079(b).

[7] Currently, a variety of customized physical delivery FCOs are traded on the Exchange pursuant to Rule 1069, Customized Foreign Currency Options. Users currently have the ability with respect to physical delivery FCOs to customize the strike price and quotation method and to choose underlying and base currency combinations from among various Exchange listed currencies, including the U.S. dollar. *See* Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994). References in Exchange rules to ''FLEX currency options'' will apply only to U.S. dollar-settled FCOs and will not include customized physical delivery FCOs that trade pursuant to Phlx Rule 1069.

[8] Generally, like FLEX index and equity options, FLEX currency options will be traded in accordance with many existing options rules. Rule 1079 states that to the extent that the provisions of Rule 1079 are inconsistent with other applicable Exchange rules, Rule 1079 takes precedence with respect to FLEX options.

[9] FLEX currency options will be margined at the same levels as the Exchange's non-FLEX U.S. dollar-settled FCOs. *See* Phlx Rule 722.

Pursuant to proposed Rule 1079(a)(6), FLEX currency option contracts will be allowed to expire on any month, business day and year within two years,[10] provided that a FLEX currency option will not be permitted to expire on any day that falls on or within two business days prior or subsequent to an expiration day for a non-FLEX U.S. dollar-settled FCO on the same underlying currency or on any day on which the Federal Reserve Bank is not scheduled to publish its Noon Buying Rate.[11] All FLEX currency options with customized expiration dates will expire at 11:59 p.m. eastern time on their designated expiration date and cease trading at 10:15 a.m. eastern time that day.[12]

FLEX currency options will be quoted in terms of dollars per unit of underlying foreign currency, like the non-FLEX U.S. dollar settled FCOs.[13] FLEX currency options may be quoted and traded in the same minimum increments that are established for non-FLEX U.S. dollar settled FCOs.[14] FLEX currency options, like non-FLEX U.S. dollar-settled FCOs, will be limited to European exercise style only.[15]

Pursuant to proposed Rule 1079(a)(8), if there is no open interest in the particular FLEX currency option series when a request for a quote (''RFQ'') is submitted,[16] the minimum size of an RFQ for FLEX currency options will be 50 contracts. If there is open interest, the minimum size of the RFQ will be 25 contracts, or the remaining size on a closing transaction, whichever is less. The minimum value size for a responsive quote, other than a responsive quote of an assigned Registered Options Trader (''ROT'') or assigned Specialist, will be 50 contracts or the remaining size on a closing transaction, whichever is less. Assigned ROTs and assigned Specialists who respond to an RFQ[17] will be required to respond to each RFQ with at least 250 contracts or the size amount requested in the RFQ, whichever is less.[18]

Rule 1079(a)(9) is being amended to provide for settlement for FLEX currency options. The settlement value determination for FLEX currency options will be the same as for non-FLEX U.S. dollar-settled FCOs, except that the closing settlement value for FLEX currency options will be the Noon Buying Rate on the expiration date, whereas Rule 1057 bases the closing settlement value for non-FLEX U.S. dollar-settled FCO on the Noon Buying Rate on the business day prior to expiration.[19] FLEX currency options will be subject to the exercise-by-exception procedures of OCC.[20]

B. Quoting and Trading of FLEX Options

The Automated Options Market (''AUTOM'') system is not available for FLEX options.[21] All FLEX options must be quoted and traded in the trading crowd of the corresponding non-FLEX option. Quoting and trading in FLEX currency options will be subject to Rule 1079(b), which currently governs the quoting and trading of FLEX index and equity options. Rule 1079(c), which governs who may trade FLEX options, will apply to FLEX currency options in the same manner as FLEX index and equity options. In addition, crossing in FLEX currency options will be governed by Rule 1079(b)(6), which currently applies to crosses in FLEX index and equity options.

C. Position Limits

Proposed Rule 1079(d)(3) is unique to FLEX currency options and provides that positions in FLEX currency options will be aggregated with positions in non-FLEX U.S. dollar-settled FCO contracts, as well as physical delivery FCO contracts, for purposes of determining compliance with the position limits established by Phlx Rule 1001.[22]

D. Trading Hours

The Exchange has determined that, initially, FLEX currency options will have the same trading hours as non-FLEX U.S. dollar-settled FCOs. The Exchange will be able to establish other trading times for FLEX currency options within the regular trading hours for the non-FLEX U.S. dollar-settled FCOs, including reflecting any new trading hours for non-FLEX U.S. dollar-settled FCOs.[23]

E. Surveillance and Customer Protection

Exchange rules and regulations involving sales practice will be applicable to FLEX currency options. The Exchange also represents that it has adequate surveillance procedures for, and systems capacity to support, the trading of FLEX currency options.

III. Commission Finding and Conclusions

After careful consideration, the Commission finds that the proposed

[10] U.S. dollar-settled FCO contracts currently may only be traded with expirations at one, two, three, six, nine and twelve months. *See* Phlx Rule 1012.

[11] *See* proposed amendment to Rule 1079(a)(6)(A). FLEX index and equity options also cannot expire on or within two business days prior to or subsequent to an expiration day for a non-FLEX index or equity option on the same underlying index or security, as applicable.

[12] *Id. See also* proposed amendment to Rule 1079(a)(9)(C).

[13] *See* proposed Rule 1079(a)(4)(B).

[14] *See* Phlx Rule 1034(a)(ii)(A).

[15] Currently, Rule 1079(a)(5) permits market participants to determine whether a FLEX index or equity option will have either an American or European exercise style. An American style option may be exercised at any time up to its expiration, while a European style option can only be exercised on its expiration day. *See* Phlx Rule 1000(b)(34) and (35).

[16] *See* Phlx Rule 1079(b) for a description of the RFQ procedure for FLEX options. This procedure will apply to FLEX currency options in the same way as to FLEX index and equity options.

[17] *See* Rule 1079(c)(1) regarding Assigned ROTs and Assigned Specialists. Rule 1079(c)(1) currently applies to all FLEX options and will apply to FLEX currency options as well.

[18] These minimum sizes are different from the minimum sizes applicable to FLEX index and equity options under existing Rule 1079(a)(8).

[19] The closing settlement value for FLEX options on the Canadian dollar, the Swiss franc and the Japanese yen 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 expiration date, rounded to the nearest .0001 (except in the case of the Japanese yen where the amount would be rounded to the nearest .000001). If the Noon Buying Rate is not announced by 5 p.m. eastern time on expiration day, the closing settlement value will be based upon the most recently announced Noon Buying Rate, unless the Exchange determined to apply an alternative closing settlement value as a result of extraordinary circumstances.

[20] *See* OCC Rule 805, which sets forth the expiration date exercise procedures for options cleared and settled by the OCC. The exercise-by-exception or ''Ex-by-Ex'' procedure employed by OCC in OCC Rule 805 allows an OCC Clearing Member to effect a choice not to exercise an option that is in the money by the exercise threshold amount or more, or to exercise an option which has not reached the exercise threshold amount.

[21] The term ''AUTOM'' is used interchangeably with the term ''Phlx XL,'' the Exchange's fully electronic trading platform for options. The Exchange intends to file a separate proposed rule change to update its rules to reflect that orders are now delivered electronically over Phlx XL.

[22] Like non-FLEX U.S. dollar-settled FCOs, (i) one British pound FLEX option contract will count as one-third of a contract, (ii) one Euro FLEX option contract will count as one-sixth of a contract, (iii) one Australian dollar FLEX option contract will count as one-fifth of a contract, (iv) one Canadian dollar FLEX option contract will count as one-fifth of a contract, (v) one Swiss Franc FLEX option contract will count as one-sixth of a contract, and (vi) one U.S. dollar-settled Japanese yen FLEX option contract will count as one-sixth of a contract. The counting of both FLEX and non-FLEX U.S. dollar-settled FCO contracts as less than one full contract reflects the fact that the size of the U.S. dollar-settled FCO contract is smaller than the Exchange's physical delivery contract on the same currencies. The position limit rules were originally adopted for the larger physical delivery contracts. In addition, the Exchange has amended Rule 1079(e), Exercise Limits, to include FLEX U.S. dollar-settled FCOs.

[23] Under this proposal, expanding and narrowing FLEX currency trading hours within the regular trading hours of the particular product would not require a proposed rule change pursuant to Section 19(b) of the Act. The Exchange, however, would notify its members, in advance, prior to making any such change. Any proposal to expand trading hours outside of established regular trading hours will be submitted as a proposed rule change to the Commission pursuant to Section 19(b) of the Act.

rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) and 11A of the Act.[24] Specifically, the Commission finds that Phlx's proposal is designed to provide investors with a tailored product that may be more suitable to their investment needs. Moreover, consistent with Section 11A, the proposal encourages fair competition among brokers and dealers and exchange markets, by allowing the Exchange to compete with the over-the-counter market in foreign currency options. Additionally, the Commission believes that the proposal will help promote the maintenance of fair and orderly markets because it will extend the benefits of a listed, exchange market to FCOs that are more flexible than currently listed FCOs.[25]

The proposed rule change will permit the trading of U.S. dollar-settled FCOs with individually tailored expiration dates and strike prices.[26] The Commission notes that it previously approved rules relating to the listing and trading of FLEX index and equity options on Phlx, which give investors and other market participants the ability to individually tailor, within specified limits, certain terms of those index and equity options.[27] The current proposal incorporates FLEX currency options into these existing rules and regulatory framework. The Commission finds that the Exchange's proposal to introduce the trading of FLEX currency options into the market in this manner, which will result in a substantially similar regulatory structure for all FLEX products traded on Phlx, is consistent with the Act.

Pursuant to the proposed rule change, the Exchange will be able to offer investors and other market participants the ability to trade FLEX currency options with an expiration date in any month, business day and year, subject to certain explicit restrictions as described above. The ability to customize expiration dates is designed to enable investors and other market participants to hedge their exchange rate exposure more accurately by trading a contract that expires on the date of their choice. The proposal also will permit investors and other market participants to individually tailor the strike prices of FLEX currency options. As the proposal makes clear, such strike prices need not be consistent with strike price intervals permissible for non-FLEX U.S. dollar-settled FCOs. This additional flexibility permits users of FLEX currency options to tailor the product according to their investment needs and objectives, and the Commission finds it consistent with the Act.

The Commission also believes that the Exchange has extended the application of existing rules regarding FLEX index and equity options, and non-FLEX U.S. dollar-settled FCOs, to FLEX currency options consistent with the Act. For example, like FLEX index and equity options, the expiration date for a FLEX currency option cannot fall on or within two business days prior or subsequent to an expiration date for a non-FLEX option on the same underlying currency. Further, the procedure for quoting and trading of FLEX currency options in Rule 1079(b) will be the same as the existing procedure for the quoting and trading of FLEX index and equity options. The proposal also sets minimum size requirements for RFQs and responses to RFQs, as it does for FLEX index and equity options. Similarly, the Exchange's proposal applies certain rules governing non-FLEX U.S. dollar-settled FCOs to FLEX currency options. For example, like non-FLEX U.S. dollar-settled FCOs, FLEX currency options will be quoted in terms of dollars per unit of underlying foreign currency, and may be quoted and traded in the same minimum increments that are established for non-FLEX U.S. dollar-settled FCOs. The settlement value determination for FLEX currency options also will be calculated in a manner that is substantially identical to the calculation of settlement value for non-FLEX U.S. dollar-settled FCOs, and FLEX currency options will have the same trading hours as non-FLEX U.S. dollar-settled FCOs.

In addition, the proposal requires the aggregation of positions in FLEX currency options with positions in non-FLEX U.S. dollar-settled FCOs and physical delivery FCOs for purposes of determining compliance with the Exchange's existing position limit rules in Rule 1001.[28] The Commission believes that such aggregation, which is designed to minimize concerns regarding manipulations or disruptions of the market for those and related products, is consistent with the Act.

Finally, 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 FLEX currency options, can commence on a national securities exchange. Phlx has represented that Exchange rules and regulations involving sales practice will be applicable to FLEX currency options, and that the Exchange has adequate surveillance procedures for, and systems capacity to support, the trading of FLEX currency options. Thus, the Commission believes that the goal of ensuring adequate customer protection has been satisfied by the Exchange, consistent with the Act.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. In addition, the Commission finds pursuant to Rule 9b–1 under the Act that FLEX currency options are standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act.[29]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–Phlx–2007–68), as amended, is approved.

It is further ordered, pursuant to Rule 9b–1(a)(4) under the Act,[31] that FLEX currency options are designated as standardized options.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–2332 Filed 2–7–08; 8:45 am]

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[24] 15 U.S.C. 78f(b)(5) and 78k–1.

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

[26] As noted above, OCC will be the issuer and guarantor of all FLEX currency options. The Commission is designating FLEX currency options as standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act. *See* Securities Exchange Act Release Nos. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993); 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994); and 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).

[27] *See* Securities Exchange Act Release No. 39549 (January 14, 1998), 63 FR 3601 (January 23, 1998).

[28] *See supra* note 22 and accompanying text.

[29] *See supra* note 26.

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 240.9b–1(a)(4).

[32] 17 CFR 200.30–3(a)(12) and 17 CFR 200.30–3(a)(51).

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

Pursuant to the Federal Advisory Committee Act, Appendix 2 of Title 5, United States Code, Public Law 92–463,