

be submitted on or before March 6, 2006.

#### 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 is consistent with the requirements of section 6 of the Act<sup>16</sup> and the rules and regulations thereunder applicable to a national securities exchange,<sup>17</sup> and, in particular, the requirements of Section 6(b)(5) of the Act.<sup>18</sup> Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission previously approved, on a one-year pilot basis expiring May 27, 2006, rules that permit each specialist, DSQT, or DRSQT assigned in options trading on the Phlx XL system to receive a Directed Order, provided that such specialist, DSQT, or DRSQT is quoting at the National Best Bid or Offer at the time the Directed Order is received by the Exchange.<sup>19</sup> In addition, the Directed Order Rules Release noted that, like specialists, DSQTs or DRSQTs would be required to quote continuous, two-sided markets in not less than 100% of the series in each Streaming Quote Option in which they receive Directed Orders.<sup>20</sup> While the current proposal would reduce the quoting obligations of a DSQT or DRSQT to not less than 99% of the series listed on the Exchange of at least 60% of the Stream Quote Options in which such DSQT or DRSQT is assigned, the Commission notes the current proposal would not reduce the quoting obligations of a DSQT and DRSQT in Streaming Quote Options in which a DSQT or DRSQT participates in a Directed Order. Specifically, the proposed rule change would require a

DSQT or DRSQT to maintain continuous quotations in not less than 99% of the series of any Streaming Quote Options in which it participates in a Directed Order.<sup>21</sup>

In addition, the Commission notes that the proposed amendments to Exchange Rule 1017(b) would continue to permit the system to open upon the quote or quotes of DSQTs or DRSQTs, and thus may continue to facilitate an expedited opening of options on the Exchange and thereby improve market efficiency for all market participants. The Commission also notes that a Phlx XL participant that submits a quote pursuant to the Opening Amendment in any series when a specialist's quote has not been submitted would be required to submit continuous, two-sided quotes in such series until such time as the specialist submits his/her quote.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that the proposed rule change relating to DSQT and DRQST quoting obligations is substantially similar to ISE Rule 804,<sup>22</sup> which was previously approved by the Commission after notice and comment, and therefore the proposed rule change relating to DSQT and DRSQT quoting obligations does not raise any new regulatory issues. The Commission does not believe that the proposed amendments to Exchange Rule 1017(b) would significantly impact the current opening process because any Phlx XL participant that submits a quote pursuant to proposed rule would be required to submit continuous, two-sided quotes in such series until such time as the specialist submits his/her quote. Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>23</sup> for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**.

#### V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change (SR-Phlx-2006-11) and Amendment No. 1 are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>25</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-1963 Filed 2-10-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53243; File No. SR-Phlx-2005-43]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendments No. 1, 2, and 3 Thereto Relating to Index Option Strike Prices

February 7, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 22, 2005, 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 December 8, 2005, the Exchange filed Amendment No. 1 to the proposed rule change. On December 9, 2005, the Exchange filed Amendment No. 2 to the proposed rule change. On January 12, 2006, the Exchange filed Amendment No. 3 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. In addition, the Commission is granting accelerated approval of the proposed rule change, as amended.

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

The Exchange proposes to amend Phlx Rule 1101A (Terms of Option Contracts) to indicate that the Exchange may set strike price intervals of \$5 or greater for options on indexes, and may set strike prices at \$2.50 or greater for listed index options or in response to

<sup>25</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. 3 replaced and superseded the original filing and subsequent amendments in their entirety. Telephone conversation between Jruij Trypupenko, Director and Counsel, New Products Group and Legal Department, Phlx, and Theodore S. Venuti, Attorney, Division of Market Regulation, Commission, on January 26, 2006.

<sup>16</sup> 15 U.S.C. 78f.

<sup>17</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> See Securities Exchange Act Release No. 51759 (May 27, 2005), 70 FR 32860 (June 6, 2005) (the "Directed Order Rules Release"). This order does not affect the expiration date of the Directed Order rules.

<sup>20</sup> In connection with the adoption of the Exchange's Risk Monitor Mechanism, the 100% quoting obligation was reduced to 99%. See Securities Exchange Act Release No. 53166 (January 23, 2006), 71 FR 4625 (January 27, 2006).

<sup>21</sup> See proposed Exchange Rule 1014(ii)(D)(1).

<sup>22</sup> See *supra* note 9.

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> 15 U.S.C. 78s(b)(2).

customer interest or specialist request. The proposal would also delete language that is no longer necessary. The text of the proposed rule change, as amended, is below. Proposed new language is in *italics*; proposed deletions are in [brackets].

#### Rule 1101A.

##### Terms of Option Contracts

(a) The Exchange shall determine fixed point intervals of exercise prices for index options (*options on indexes*). Generally, the exercise (strike) price intervals [shall] will be [\$2.50 for the three consecutive near-term months,] *no less than \$5; provided, that [for the fourth month and \$10 for the fifth. However,] the Exchange may determine to list strike prices at no less than \$2.50 intervals [in response to demonstrated customer interest or specialist request] for options on the following indexes (which may also be known as sector indexes):*

- (i) *PHLX Computer Box Maker Index, if the strike price is less than \$200,*
- (ii) *PHLX Defense Index, if the strike price is less than \$200,*
- (iii) *PHLX Drug Index, if the strike price is less than \$200,*
- (iv) *PHLX Europe Index, if the strike price is less than \$200,*
- (v) *PHLX Gold/Silver Index, if the strike price is less than \$200,*
- (vi) *PHLX Housing Index, if the strike price is less than \$200,*
- (vii) *PHLX Oil Service Index, if the strike price is less than \$200,*
- (viii) *PHLX Semiconductor Index, if the strike price is less than \$200,*
- (ix) *PHLX Utility Index, if the strike price is less than \$200,*
- (x) *PHLX World Energy Index, if the strike price is less than \$200,*
- (xi) *SIG Investment Managers Index™, if the strike price is less than \$200,*
- (xii) *SIG Cable, Media & Entertainment Index™, if the strike price is less than \$200,*
- (xiii) *SIG Casino Gaming Index™, if the strike price is less than \$200,*
- (xiv) *SIG Semiconductor Equipment Index™, if the strike price is less than \$200,*
- (xv) *SIG Semiconductor Device Index™, if the strike price is less than \$200,*
- (xvi) *SIG Specialty Retail Index™, if the strike price is less than \$200,*
- (xvii) *SIG Steel Producers Index™, if the strike price is less than \$200,*
- (xviii) *SIG Footwear & Athletic Index™, if the strike price is less than \$200,*
- (xix) *SIG Education Index™, if the strike price is less than \$200,*

(xx) *SIG Restaurant Index™, if the strike price is less than \$200,*

(xxi) *SIG Coal Producers Index™, if the strike price is less than \$200,*

(xxii) *SIG Oil Exploration & Production Index™, if the strike price is less than \$200,*

(xxiii) *PHLX/KBW Bank Index, if the strike price is less than \$200,*

(xxiv) *KBW Capital Markets Index, if the strike price is less than \$200,*

(xxv) *KBW Insurance Index, if the strike price is less than \$200,*

(xxvi) *KBW Mortgage Finance Index, if the strike price is less than \$200,*

(xxvii) *KBW Regional Banking Index, if the strike price is less than \$200,*

(xxviii) *TheStreet.com Internet Sector, if the strike price is less than \$200,*

(xxix) *Wellspring Bioclinical Trials Index™, if the strike price is less than \$200.*

*The Exchange may also determine to list strike prices at no less than \$2.50 intervals for options on indexes delineated in this rule in response to demonstrated customer interest or specialist request. For purposes of this paragraph, demonstrated customer interest includes institutional (firm) corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by an ROT with respect to trading for the ROT's own account. [The Exchange may also determine to list strike prices at wider intervals.]*

(b) through (c), Commentary—No change.

\* \* \* \* \*

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of the proposed rule change is to provide the Exchange with the ability to set strike price intervals for options on indexes at \$2.50 or greater if

the strike price is less than \$200, in keeping with Exchange needs, specialist and customer requests, and market conditions and practices.

Phlx Rule 1101A currently indicates the Exchange generally shall determine set strike intervals for options on indexes, which are also known as index options or sector index options, as follows: \$2.50 for three consecutive near-term months, \$5.00 for the fourth month, and \$10.00 for the fifth month.

The Exchange has found that the index strike pricing formulation, which generally requires set pricing intervals according to whether options are in the first three consecutive months, the fourth month, or the fifth month, does not afford the flexibility to set strike prices at appropriate intervals commensurate with market conditions and index prices set by other exchanges, often for similar products.<sup>4</sup> Moreover, Phlx specialists and customers have expressed on numerous occasions that the current index strike pricing approach is too restrictive and does not allow for efficient pricing of index options, thereby putting them at a competitive disadvantage.

The Exchange therefore proposes to amend Phlx Rule 1101A to indicate that the Exchange would be permitted to determine fixed point strike price intervals for index options (also known as sector index options) as follows:

—No less than \$5.00,

—Provided that the Exchange may list strike prices at no less than \$2.50 intervals (a) in those index options delineated in Phlx Rule 1101A(a) where the strike prices are less than \$200, and (b) in the same index options delineated in this rule in response to demonstrated customer interest or specialist request.

For purposes of Phlx Rule 1101A, “demonstrated customer interest or specialist request” includes institutional (firm) corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but does not include interest expressed by a registered options trader (“ROT”) with respect to trading for the ROT's own account.

The Exchange believes that proposed Phlx Rule 1101A, as amended, would provide the flexibility needed for more efficient index options pricing, would tend to maximize trading opportunities, and would be analogous in function to

<sup>4</sup> The Exchange has recently amended current Phlx Rule 1101A in an attempt to gain needed flexibility. See Securities Act Release No. 49311 (February 24, 2004), 69 FR 9673 (March 1, 2004) (SR-Phlx-2003-72).

index strike pricing rules of other option exchanges.<sup>5</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule should allow the Exchange to set strike prices at levels that would maximize pricing efficiency and trading opportunities.

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

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

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2005-43 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-2005-43. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-Phlx-2005-43 and should be submitted on or before March 6, 2006.

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

After careful review, 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>8</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires among other things, that the rules of the Exchange are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change should provide the Exchange with the

flexibility to efficiently price index options by allowing the Exchange to list \$2.50 strike price intervals only on certain index options delineated in this rule.

The Phlx has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that other option exchanges have similar rules permitting the listing of \$2.50 strike price intervals on certain delineated index options.<sup>10</sup> The Commission believes that granting accelerated approval of the proposal should allow the Phlx to conform its rules to those of other option exchanges without delay. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-Phlx-2005-43) and Amendments No. 1, 2, and 3 thereto be, and hereby are, approved on an accelerated basis.

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

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6-1964 Filed 2-10-06; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways

<sup>5</sup> See e.g., Chicago Board Options Exchange Rule 24.9 and International Securities Exchange Rule 2009.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> See *supra* note 5.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

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