

system, which enabled escrow banks to access the escrow system through the Internet. Before the integration, escrow banks were required to lease or buy a personal computer that was configured by OCC to provide secure access to the escrow deposit system. Banks that elected the lease alternative are currently charged a \$200 monthly fee of which \$150 is an equipment leasing fee and \$50 is an access fee.<sup>5</sup> Banks that (i) Elected the purchase alternative or (ii) became escrow banks after the systems integration are currently charged only the \$50 access fee, which is intended to cover the costs associated with administering the escrow deposit program. Costs to administer the program include: (1) Legal costs related to addressing the contractual aspects of the program; (2) audit costs related to ensuring compliance with the external audit reporting requirements of the program; and (3) staff costs related to servicing program users (*i.e.*, escrow banks and clearing members).

In connection with reviewing different back-up solutions to internet access, OCC also examined its costs to administer the escrow program and concluded that the costs greatly exceed the \$50 per month access fee. Accordingly, OCC has determined to charge all escrow banks a \$200 per month escrow program fee, which will be reflected in OCC's Schedule of Fees. The escrow program fee will allow OCC to partially offset its escrow program administration costs but will not affect the overwhelming majority of escrow banks because the majority of escrow banks already pay \$200 per month in aggregate escrow deposit program fees.

## II. Discussion

Section 17A(b)(3)(D) of the Act<sup>6</sup> requires the rules of a registered clearing agency to provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. The Commission finds that OCC's proposed amendment to its Schedule of Fees is consistent with this requirement because the \$200 per month program fee reflects OCC's cost to administer the escrow program with respect to escrow banks accessing the program.

## III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is

<sup>5</sup> OCC has continued to charge current escrow banks with leased equipment the \$200 per month total fee as they have retained such equipment as a back-up to Internet access to the escrow system. However, a different back-up solution is being implemented for all escrow banks, which is rendering the leased equipment obsolete for purposes of accessing the escrow system.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(D).

consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>7</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2006-12) be, and hereby is, approved.<sup>8</sup>

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E6-21163 Filed 12-12-06; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54890; File No. SR-Phlx-2006-59]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendments No. 1 and 2 Thereo Relating to an Amendment to a Philadelphia Board of Trade Market Data Distribution Network Fee

December 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 September 26, 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, II, and III below, which Items have been prepared by the Phlx. The Phlx filed Amendment No. 1 to the proposed rule change on November 1, 2006.<sup>3</sup> The Phlx filed Amendment No. 2 to the proposed rule change on December 6, 2006.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

<sup>1</sup> 15 U.S.C. 78q-1.

<sup>2</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> Amendment No. 1 replaces and supersedes the original filing in its entirety.

<sup>7</sup> Amendment No. 2 clarified that the chart in this filing reflects Phlx's proposed change to the fee per snapshot request; the current fee per snapshot request is \$0.00025; and the 15% Administrative Fee is a credit to vendors which provide market data to 200,000 or more Devices in any month.

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

The Phlx proposes to change a fee assessed by the Exchange's wholly owned subsidiary, the Philadelphia Board of Trade ("PBOT"), on market data vendors for certain index values that subscribers receive over PBOT's Market Data Distribution Network ("MDDN"). The text of the proposed rule change is available on Phlx's Web site at <http://www.phlx.com>, at Phlx'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 Phlx 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 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 amend one of the fees charged by the PBOT for certain market data disseminated over the MDDN.<sup>5</sup> The Phlx has licensed the current and closing index values underlying most of the Phlx's proprietary indexes to PBOT for the purpose of selling, reproducing, and distributing the index values over PBOT's MDDN. On each trading day, the Exchange or its third party designee objectively calculates and makes available to PBOT a real-time index value every 15 seconds and a closing index value at the end of the day. By agreement with PBOT, data vendors make the market data widely available to subscribers.<sup>6</sup>

On May 11, 2006, the Commission approved the Exchange's proposal to

<sup>5</sup> The MDDN is an internet protocol multicast network developed by PBOT and SAVVIS Communications.

<sup>6</sup> Approximately 65 vendors, including for example Bloomberg L.P., Telekurs Financial Information Ltd. and Thomson Financial, have already entered into such market data agreements with PBOT. The PBOT has contracted with one or more major Market Data Vendors to receive real-time market data and will not offer snapshot or delayed data. The fees described in this proposed rule change cover values of all the indexes disseminated over the MDDN.

allow PBOT to charge subscriber fees to vendors of market data for all the values of Phlx's proprietary indexes disseminated by PBOT's MDDN.<sup>7</sup> The subscriber fees are set out in agreements that PBOT executes with various market data vendors for the right to receive,

store, and retransmit the current and closing index values transmitted over the MDDN. The fees approved by the Commission in its May 11, 2006 approval order included a \$.00025 per request fee for "snapshot data," which is essentially market data that is

refreshed no more frequently than once every 60 seconds. The Exchange is now proposing to increase that fee to \$.0025 per request for snapshot data.

The MDDN fees, including the fee that would be amended by this proposal, are summarized in table format below:

Fee (per month)	Real-time continuous market data	Delayed only
Per Device/User ID/ID Terminal .....	\$1.00 per Device* .....	None.
Fee (per month)	Snapshot Market Data .....	Delayed Only.
	\$0.0025 per snapshot request * <sup>8</sup> OR .....	None.
	\$1,500 per month for unlimited snapshot requests*.	

\* Vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month.<sup>9</sup>

2. Statutory Basis

The Exchange believes that its amended proposal 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, in general, to protect investors and the public interest, providing a fee structure for market data recipients which is reasonable.

The Exchange also believes that its proposal furthers the objectives of Section 6(b)(4) of the Act<sup>12</sup> in particular, in that it is an equitable allocation of reasonable fees among persons using its facilities. The Exchange believes that PBOT's proposed fee increase is reasonable and equitable, as it reflects a more accurate valuation of the value of snapshot data to investors than the original snapshot data fee did. Phlx also believes that the fee increase to be charged by PBOT is consistent with the requirements of Commission Rule 603 (Distribution, consolidation, and display of information with respect to quotations for and transactions in NMS stocks),<sup>13</sup> in that it is fair and reasonable and not unreasonably discriminatory.

*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.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amended 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-2006-59 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2006-59. 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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

<sup>7</sup> See Securities Exchange Act Release No. 53790 (May 11, 2006), 71 FR 28738 (May 17, 2006) (approving SR-Phlx-2006-04). There are no other fees being changed by this proposed rule change.

<sup>8</sup> The current fee is \$.00025.

<sup>9</sup> All market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement.

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

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

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 17 CFR 242.603.

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-59 and should be submitted on or before January 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E6-21157 Filed 12-12-06; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54889; File No. SR-Phlx-2006-80]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Assignment of Options Trading Privileges to Streaming Quote Traders and Remote Streaming Quote Traders

December 6, 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 December 5, 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 prepared by the Phlx. The Exchange filed the proposal as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which rendered the proposal 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 Phlx Rule 507,<sup>5</sup> which governs the assignment of options to Streaming Quote Traders (“SQTs”)<sup>6</sup> and Remote

Streaming Quote Traders (“RSQTs”),<sup>7</sup> by: (i) Clarifying that all options traded on the Exchange are Streaming Quote Options;<sup>8</sup> (ii) deleting outdated requirements contained in paragraph (f) under Phlx Rule 507 regarding the assignment of options during the first six months of the roll-out of streaming quote technology; (iii) moving the existing text of Phlx Rule 507(a) to the first paragraph of (b) and naming paragraph (b) “Assignment in Options;” (iv) moving the language in 507(b)(iii) to paragraph (a) and renaming it “Approval as an SQT and RSQT;” and (v) applying some of the current criteria for RSQT applicants (formerly in Phlx Rule 507(b)(iii)) to SQT applicants as well.

The text of the proposed rule change is available on the Phlx’s Web site, <http://www.phlx.com>, at the Phlx’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 Phlx 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 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 update Phlx Rule 507 to reflect the current status of options trading on the Exchange.

the Exchange to generate and submit options quotations electronically through AUTOM in eligible options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. See Phlx Rule 1014(b)(ii)(A).

<sup>7</sup> An RSQT is a ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. See Phlx Rule 1014(b)(ii)(B).

<sup>8</sup> A Streaming Quote Option is an option for which the Options Committee determines the SQTs may generate and submit options quotations from the Exchange floor and that RSQTs may generate and submit options quotations from off of the Exchange floor, electronically. See Phlx Rule 1080(k).

First, the proposed amendments modify outdated concepts and requirements contained in Phlx Rule 507 by: (i) Clarifying that all options traded on the Exchange are “Streaming Quote Options,” and (ii) deleting obsolete requirements for the assignment of options contained in paragraph (f) of Phlx Rule 507. The Exchange’s introduction of the Phlx XL technology allowed, among other things, SQTs and RSQTs to generate and submit electronic quotations. Initially, RSQTs and SQTs could only stream electronic quotations in designated options until such technology was fully rolled-out to all options, which occurred in February 2005. The Exchange is proposing to amend Phlx Rule 507 to clarify the fact that all options listed for trading on the Exchange are now “Streaming Quote Options.”

For the same reason, the Exchange is also proposing to delete the requirements contained in paragraph (f) under Phlx Rule 507 that were applicable to member firms seeking option assignments as an RSQT or SQT during the first six months of the streaming quote roll-out. This amendment will update the Exchange’s rules and remove rule text that may cause confusion.

Second, the Exchange is proposing to reorganize Phlx Rule 507(a) and (b) so that paragraph (a) covers the approval of SQTs and RSQTs as such, and paragraph (b) covers the assignment of options to SQTs and RSQTs. In order to clarify that paragraph (b) covers the assignment of specific options to SQTs and RSQTs, paragraph (b)(i) would be titled “Assignment in Options,” and the introductory phrase, “When an option is to be assigned or reassigned by the Committee, the Committee will solicit applications from all eligible SQTs and RSQTs, as defined in Phlx Rule 1014(b)(ii)” is proposed to be deleted from current paragraph (a) and inserted into paragraph (b). The Exchange believes that this should distinguish paragraph (a), which covers applications for approval of an applicant’s status as an SQT or RSQT on the Exchange, from paragraph (b), which covers an SQT or RSQT’s application for assignment in a particular option. Currently, the two concepts are intermingled in these paragraphs, which may be hard to follow.

Third, the Exchange proposes to extend some of the requirements applicable to RSQT applicants to SQT applicants. These requirements include significant market-making and/or specialist experience in a broad array of securities; superior resources, including capital, technology and personnel;

<sup>14</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> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> Phlx Rule 507 sets forth the process by which the Committee assigns or reassigns equity options to eligible Streaming Quote Traders and Remote Streaming Quote Traders. See Phlx Rule 507.

<sup>6</sup> An SQT is an Exchange Registered Options Trader (“ROT”) who has received permission from