

("SQTs")⁴ and Remote Streaming Quote Traders ("RSQTs")⁵ by "root symbol" (as defined more fully below), such that an SQT or RSQT may be assigned in only certain series of an option. On November 21, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on November 29, 2006.⁶ The Commission received one comment letter on the proposed rule change.⁷ This order approves the proposed rule change as modified by Amendment No. 1.

II. Description of the Proposal

The purpose of the proposed rule change is to mitigate quote traffic and address quote capacity issues by reducing the number of quotations required to be submitted on the Exchange. The proposal would permit the OAESC to assign trading privileges to SQTs and RSQTs, upon their request, only in specific series of a particular option based on the "root symbol" of the series, instead of assigning trading privileges in all series of such option. Thus, as described below, SQTs and RSQTs would be required to submit quotations in fewer series.

Phlx Rule 507 currently provides the solicitation, application and review process to be followed by the OAESC when an SQT or RSQT submits an application for assignment in an option. Under Phlx Rule 507, an application for assignment must be submitted in writing to the Exchange's designated staff and would be required to include, at a minimum, the name of the SQT or RSQT applicant and written verification from the Exchange's Membership Services Department that such SQT or RSQT applicant is qualified as a ROT.

⁴ See Phlx Rule 1014(b)(ii)(A).

⁵ See Phlx Rule 1014(b)(ii)(B).

⁶ See Securities Exchange Act Release No. 54807 (November 21, 2006), 71 FR 69173.

⁷ See letter to Nancy Morris, Secretary, Commission, from Christopher Nagy, Chair, SIFMA Options Committee ("SIFMA"), dated December 20, 2006. SIFMA does not directly oppose Phlx's quote mitigation proposal discussed herein, but instead favors the adoption of a comprehensive industry-wide quote mitigation strategy. Specifically, SIFMA believes that the adoption of an industry-wide, uniform "holdback timer" proposal would provide the most effective means of quote mitigation. Although, SIFMA expressed concern that a lack of uniformity among quote mitigation strategies implemented by the various options exchanges may impose a burden on member firms and result in confusion among market participants, SIFMA does not specifically oppose the adoption of the quote mitigation proposal approved by this order. Additional concerns raised in SIFMA's December 20, 2006 comment letter relating to other proposed rule changes filed by the options exchanges will be more fully addressed in any subsequent releases issued by the Commission.

The Exchange proposes to permit SQT and RSQT applicants to request assignment in an option by "root symbol." Today, all assignments are by overlying option, meaning the SQT and RSQT applicants that are assigned in a particular option are assigned in all series of such option. Therefore, the calculation of the percentage of series required to be quoted is based on every series listed in such option, thus requiring SQTs and RSQTs to quote most series.

Root symbols are the basic symbols used to identify an option, such as, for example, "ABQ" for options on fictitious "ABC Corporation." The various series of options on ABC Corporation are identified with two additional symbols reflecting the expiration month and the strike price, which also indicate whether it is a put or call option. ABC Corporation may have different root symbols other than ABQ because of the number of strike prices (there are not enough letters in the alphabet to capture all potential strike prices), the expiration months available, and whether any mergers or acquisitions have occurred. Thus, an option on the Exchange overlying a single underlying security could have several different root symbols.

The Exchange anticipates that, if options can be assigned by root symbol, SQTs and RSQTs may more carefully tailor their requests to the specific roots in which they are interested. According to the Exchange, SQTs and RSQTs often submit quotes with bid/ask differentials as wide as the Exchange's rules permit in series that they have no interest in quoting.⁸ The Exchange believes that, as a result, to meet their quoting continuity requirements,⁹ SQTs and RSQTs submit continuous quotations that are not at or even near the best bid or offer on the Exchange, nor the National Best Bid or Offer, resulting in unnecessary quote traffic on the Exchange.

III. Discussion

After careful review of the proposal and consideration of the comment letter, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

⁸ Streaming Quote Options trading on the Exchange's fully electronic trading platform for options, Phlx XL, may be quoted electronically with a difference not to exceed \$5 between the bid and offer regardless of the price of the bid. The \$5 bid/ask differentials only apply to Streaming Quote Options trading on Phlx XL and only following the opening rotation in each security. See Phlx Rule 1014(c)(i)(A)(2).

⁹ See Phlx Rule 1014(b)(ii)(D)(1).

a national securities exchange.¹⁰ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹¹ which requires, among other things, that the rules of an 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 believes that the Exchange's proposal to, upon request, assign trading privileges in options to SQTs and RSQTs by "root symbol" would permit the Phlx's traders to select the series of options that they are most interested in quoting. This should not only reduce the number of series assigned to SQTs and RSQTs by the OAESC, but should also reduce the number of quotes submitted by SQTs and RSQTs, and therefore should help to mitigate the Exchange's quote message traffic and capacity.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-Phlx-2006-53), as modified by Amendment No. 1, be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55028; File No. SR-Phlx-2006-90]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate Certain License Fees

December 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 26, 2006, the Philadelphia Stock

¹⁰ In approving this proposed 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).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Phlx under Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders 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 modify its fee schedule to eliminate the license fees assessed on the following products: Russell 1000 Growth iShares ("IWF"); Russell 2000 iShares ("IWM"); Russell 2000 Value iShares ("IWN"); Russell 2000 Growth iShares ("IWO"); Russell Midcap Growth iShares ("IWP"); and Russell Midcap Value iShares ("IWS"). This proposal is scheduled to become effective for trades settling on or after January 2, 2007.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.Phlx.com>, at the principal office of the Phlx, 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

Currently, the Exchange imposes a license fee of \$0.10 per contract side for equity option and index option "firm" transactions on certain licensed products after a cap of \$60,000 per

member organization is reached.⁵ The Exchange also assesses a license fee of \$0.10 per contract side after a 14,000 cap is reached on Registered Options Traders ("ROT") comparison charges and ROT and specialist transaction charges in connection with non-AUTOM delivered equity option contracts on those products that carry a license fee.⁶ Additionally, the Exchange imposes a license fee of \$0.05 per contract side for dividend and short stock interest strategies in connection with certain products that carry license fees, if applicable.⁷ The list of product symbols that are assessed a license fee are listed on the Exchange's \$60,000 "Firm-Related" Equity Option and Index Option Cap Fee Schedule.

The Exchange is proposing to eliminate the \$0.10 per contract side and \$0.05 per contract side license fees described above on the following products: IWF; IWM; IWN; IWO, IWP; and IWS.⁸

The proposed rule change would remove references to the product symbols listed above from the Exchange's \$60,000 "Firm Related" Equity Option and Index Option Cap because the Exchange no longer pays a license fee in connection with the trading of these products. Accordingly, there is no need to assess a license fee. Therefore, for trades settling on or after January 2, 2007, the Exchange will eliminate the \$0.10 and \$0.05 license fees for the above-referenced products.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, in that it is an equitable

⁵ The \$60,000 cap applies to all "firm-related" equity option and index option comparison and transaction charges combined. "Firm-related" charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transaction charges, index option firm/proprietary comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively "firm-related" charges). See e.g., Securities Exchange Act Release No. 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006) (SR-Phlx-2006-10).

⁶ See Securities Exchange Act Release No. 54659 (October 27, 2006), 71 FR 64603 (November 2, 2006) (SR-Phlx-2006-67).

⁷ See e.g., Securities Exchange Act Release No. 54424 (September 11, 2006), 71 FR 54699 (September 18, 2006) (SR-Phlx-2006-55).

⁸ The Exchange recently eliminated additional license fees from its fee schedule. See Securities Exchange Act Release No. 54874 (December 5, 2006), 71 FR 75604 (December 15, 2006) (SR-Phlx-2006-78).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

allocation of reasonable fees and other charges among Exchange members.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and paragraph (f)(2) of Rule 19b-4¹² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2006-90 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-2006-90. 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

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

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 the 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 available publicly. All submissions should refer to File Number SR-Phlx-2006-90 and should be submitted on or before February 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55044; File No. SR-Phlx-2006-92]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Use of Benchmark and Qualified Contingent Trades in Nasdaq Securities Before the Trading Phase Date of Regulation NMS

January 5, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 28, 2006 the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, below, which Items have been substantially prepared by the Phlx. The Exchange filed the proposal as a

"non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ 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 185A to add two paragraphs reflecting that Phlx will accept Immediate-or-Cancel ("IOC") Cross Orders marked as Benchmark and IOC Cross Orders marked as Qualified Contingent Trade, both for Nasdaq Global Market Securities and Nasdaq Capital Market Securities ("Nasdaq Securities") before Rule 611 of Regulation NMS is operative on the Exchange (the "Trading Phase Date").⁵ In addition, the modified rule clarifies the requirements for IOC Cross Orders marked as Benchmark and IOC Cross Orders marked as Qualified Contingent Trade for Nasdaq Securities before the Trading Phase Date. In addition, the title of Phlx Rule 185A is amended to reflect the subject matter of the rule. Finally, the paragraphs of the rule are being individually identified. The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and www.phlx.com.

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 clarify the requirements for IOC Cross Orders marked Benchmark or Qualified Contingent Trade in Nasdaq

Securities on XLE before the Trading Phase Date. Currently, Phlx Rule 185(c)(3) states "[a]n IOC Cross Order may be marked Benchmark if it meets the requirements of Reg NMS Rule 611(b)(7). An IOC Cross Order may be marked Qualified Contingent Trade if it meets the requirements of an exemption to Reg NMS Rule 611." Also, Phlx Rule 185(c)(2)(D) states that IOC Cross Orders marked Benchmark or Qualified Contingent Trade are permitted to trade through the price of the Protected NBBO.⁶ In addition, IOC Cross Orders marked Benchmark may be entered⁷ and executed⁸ in sub-penny increments.⁹ However, the reference to "Reg NMS Rule 611" in Phlx Rule 185(c)(3) may be unclear in light of the fact that Rule 611 of Regulation NMS is effective, but not operative until the Trading Phase Date. Phlx also notes that the use of these orders in Nasdaq Securities does not require any relief from any National Market System Plans because there is no intermarket trade through prohibition in Nasdaq Securities before the Trading Phase Date.

Pursuant to this filing, a XLE Participant could submit an IOC Cross Order marked Benchmark in Nasdaq Securities if it is an order: (1) At a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to execute the order was made. This definition is identical to the exemption to the trade through rule in Rule 611(b)(7) of Regulation NMS, which is not effective until the Trading Phase Date. Phlx believes that this will allow XLE Participants to gain valuable experience with this order type in Nasdaq Securities prior to the Trading Phase Date.

In addition, a XLE Participant could submit an IOC Cross Order marked Qualified Contingent Trade in Nasdaq Securities if it meets the seven requirements listed in new Phlx Rule 185A(d).¹⁰ These requirements are

⁶ See Phlx Rule 185(c)(2)(D). See also Phlx Rule 1(dd) (defining "Protected NBBO" as the best Protected Bid and the best Protected Offer in a stock).

⁷ See Phlx Rule 125(b)(2).

⁸ See Phlx Rule 125(d)(3).

⁹ See Securities Exchange Act Release No. 54678 (October 31, 2006), 71 FR 65018 (November 6, 2006).

¹⁰ These seven requirements are taken from the exemption to Rule 611 issued by the Commission for Qualified Contingent Trades. See Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006).

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Trading Phase Date is currently February 5, 2007. See Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.