

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, 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 will also be available for inspection and copying at the principal office of NYSE Arca. 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 No. SR-NYSEArca-2007-84 and should be submitted on or before September 12, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56261; File No. SR-Phlx-2007-51]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Increase in the Maximum Number of Quoters Permitted in an Option

August 15, 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 August 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, II, and III, below, which Items have been prepared by the Phlx. The Exchange filed the proposal as a "non-controversial" proposed 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 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 amend Commentary .02 of Rule 507, Application for Approval as an SQT<sup>5</sup> or RSQT<sup>6</sup> and Assignment in Options, to increase the maximum number of participants that may be assigned in a particular equity option at any one time.

The Exchange also proposes a technical amendment to Rule 507, Commentary .01, to re-insert language concerning assignment in options by "root symbol" that was inadvertently deleted in the original proposal relating to the Maximum Number of Quoters ("MNQ") in Equity Options, as described more fully below. The text of the proposed rule change is available at <http://www.phlx.com>, at 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

The purpose of the proposed rule change is to permit additional participants to quote electronically in

equity options listed for trading on the Exchange by increasing the MNQ in equity options trading on the Exchange.

In January 2007, as one part of a larger overall program established to mitigate electronic option quote traffic on the Exchange, the Exchange adopted Commentary .02 to Rule 507, Maximum Number of Quoters in Equity Options.<sup>7</sup> This rule limits the number of participants that may be assigned to a particular equity option at any one time based upon each option's monthly national volume.

Commentary .02 to Rule 507 currently sets forth tiered MNQ levels providing for 20 participants for the top 5% most actively traded options; 15 participants for next 10% most actively traded options, and 10 market participants for all other options. The ranking is based upon the preceding month's national volumes.

The proposal would increase the MNQ levels by two (2) participants in each tier. Specifically, the new MNQ levels would provide for increases from 20 to 22 participants per option for the top 5% most actively traded options; from 15 to 17 participants per option for the next 10% most actively traded options, and from 10 to 12 participants per option for all other options.

Currently, the Exchange's Options Allocation, Evaluation and Securities Committee ("OAESC")<sup>8</sup> may increase the MNQ when exceptional circumstances warrant. Proposed Commentary .04 to Rule 507 describes the events that may be considered "exceptional," including substantial trading volume (whether actual or expected), a major news event or corporate event. The Exchange may reduce the MNQ following the cessation of the exceptional circumstances, but the Exchange must follow the procedures for decreases to the MNQ outlined in Commentary .03 of the rule. When relying on this provision, as in the instant proposal, the Exchange must submit a rule filing to the Commission pursuant to section 19(b)(3)(A) of the Act.

Initially, the Exchange set the MNQ at a very conservative level to ensure there was ample capacity to support multiple participants quoting the same equity option. Since that time, the Exchange

<sup>5</sup> An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from 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 Exchange Rule 1014(b)(ii)(A).

<sup>6</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 Exchange Rule 1014(b)(ii)(B).

<sup>7</sup> See Securities Exchange Act Release No. 55114 (January 17, 2007), 72 FR 3185 (January 24, 2007) (SR-Phlx-2006-81).

<sup>8</sup> The OAESC has jurisdiction over, among other things: The appointment of specialists on the options and foreign currency options trading floors; allocation, retention and transfer of privileges to deal in options on the trading floors; and administration of the 500 series of Phlx rules. See Phlx By-Law Article X, Section 10-7.

<sup>15</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).

has experienced an increase in volume, particularly in options included in the top two MNQ levels. The Exchange believes that adding two additional positions to the top tier (*i.e.*, options that represent the top 5% in national volume) should attract quality liquidity providers and should enable the Exchange to be flexible in assigning top tier options to such liquidity providers. The Exchange also believes that adding two new positions to the second and third tier should add to the Exchange's liquidity by providing opportunities for additional ROTs to trade in such issues.<sup>9</sup>

After careful analysis, the Exchange believes it has the capacity to increase the MNQ as proposed. The Exchange believes that the effect of an increase in the MNQ fosters competition in that it increases the number of market participants that may quote electronically in a product. The Exchange will inform market participants of changes to the MNQ via Exchange circular.

#### Assignment by "Root Symbol"

In late December, 2006, the Commission approved the Exchange's proposal to adopt Commentary .01 to Rule 507 to permit the Exchange 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.<sup>10</sup> Thereafter, the Exchange filed its MNQ proposal, reserving the numerical position for Commentary .01 and adding the MNQ language in the subsequent Commentaries. Because the MNQ proposal was approved after the "root symbol" proposal, the effect of marking commentary .01 "RESERVED" was to delete the "root symbol" language. The Exchange proposes herein to correct this inadvertent deletion by re-inserting the "root symbol" language into Commentary .01.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>12</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 permitting more participants to quote electronically on the Exchange, fostering competition, and adding liquidity to the Exchange's markets, which should benefit customers.

#### 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 proposed rule change is designated by the Exchange as a "non-controversial" rule pursuant to section 19(b)(3)(A)<sup>13</sup> of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder,<sup>14</sup> because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing of the proposed rule change.<sup>15</sup> Consequently, the proposed rule change has become effective upon filing.

### 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 Number SR-Phlx-2007-51 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-2007-51. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-2007-51 and should be submitted on or before September 12, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

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

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<sup>9</sup> The Exchange notes that there is substantial interest among ROTs in trading such issues.

<sup>10</sup> See Securities Exchange Act Release No. 55027 (December 29, 2006), 72 FR 1358 (January 11, 2007) (SR-Phlx-2006-53).

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.

<sup>16</sup> 17 CFR 200.30-3(a)(12).