

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange neither solicited nor received comments on the proposal.

### III. 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-CBOE-2008-05 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-CBOE-2008-05. 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 such filing also will be available for inspection and copying at the principal office of CBOE. 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-CBOE-2008-05 and should

be submitted on or before February 29, 2008.

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

After careful review, the Commission finds that CBOE's proposal to amend Rule 24.9(a)(2), *Terms of Index Option Contracts* to allow the Exchange to list up to seven expiration months for reduced-value and jumbo options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>9</sup> and, in particular, the requirements of section 6 of the Act<sup>10</sup> and the rules and regulations thereunder. The Commission believes that increasing, from six to seven, the number of expiration months for these options (to accommodate a fourth consecutive near-term month while maintaining the listing of three months on a quarterly expiration cycle) will result in a more consistent and predictable calculation in which the option series that bracket three months to expiration will always expire one month apart, thereby promoting just and equitable principles of trade while protecting investors and the public interest.

The Commission also notes CBOE's representations that it possesses the necessary systems capacity to handle the additional traffic associated with the additional listing of a seventh contract month for reduced-value and jumbo options that overlie broad-based security indexes for which full-value options are used by the Exchange to calculate a constant three-month volatility index.

The Exchange has requested accelerated approval of the proposed rule change. The Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>11</sup> for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register** because accelerating approval will enable CBOE to harmonize the contract month listings between full-value SPX options and reduced-value SPX options (i.e., XSP options) by listing a seventh expiration month (May 2008) in order to maintain four consecutive near term

<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

contract months and three quarterly cycle contracts months. The Commission notes that this proposed rule change does not raise any new regulatory issues from those raised in the rule filing which allowed CBOE to list add a seventh expiration month for full-value broad-based security index options.<sup>12</sup>

### V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-CBOE-2008-05), as modified by Amendment No. 1, be, and it hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-2330 Filed 2-7-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57264; File No. SR-CHX-2007-27]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving a Proposed Rule Change To Eliminate a Requirement That a Participant Have a Formal Written Agreement To Use Another Participant's Give-Up

February 4, 2008.

On December 12, 2007, the Chicago Stock Exchange, Inc ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend CHX Article 9, Rule 25 to eliminate the requirement that a participant have a formal written agreement to use another participant's give-up.<sup>3</sup> The proposed rule change was published for comment in the **Federal**

<sup>12</sup> See supra Note 3.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<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> See Securities Exchange Act Release No. 57036 (December 21, 2007), 72 FR 74381 (December 31, 2007) ("Notice") at footnote 3 (defining a "give-up" as a multi-character symbol that identifies a CHX participant firm. In the context of this rule, if a participant executes a trade using another participant's give-up, the firm is identifying the other firm as a party to the trade and allocating the trade to the other firm's account for clearing).

Register on December 31, 2007.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup> In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,<sup>10</sup> 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,<sup>11</sup> 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.<sup>12</sup>

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

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## 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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.<sup>3</sup> The Commission received no comments on the proposal. On January 29, 2008, the Exchange filed Amendment No. 2.<sup>4</sup> This order approves the proposed rule change, as amended.

<sup>1</sup> 15 U.S.C. 78s(b)(2).

<sup>2</sup> 17 CFR 200.30-3(a)(12).

<sup>3</sup> 15 U.S.C. 78s(b)(1).

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

<sup>5</sup> See Securities Exchange Act Release No. 57018 (December 20, 2007), 72 FR 74392 ("Notice").

<sup>6</sup> See Partial Amendment dated January 29, 2008 ("Amendment No. 2"). Amendment No. 2 made one

## II. Description of the Proposal

Individually tailored index and equity options currently may be traded pursuant to Rule 1079, FLEX Index and Equity Options.<sup>5</sup> Phlx proposes to amend Rule 1079<sup>6</sup> to permit trading of U.S. dollar-settled FCOs with individually tailored expiration dates and exercise prices ("FLEX currency options").<sup>7</sup> 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.<sup>8</sup> 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).<sup>9</sup>

technical correction to the rule text. This correction is not subject to notice and comment.

<sup>5</sup> 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.

<sup>6</sup> 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).

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>4</sup> See *id.*

<sup>5</sup> See Securities Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (approval order for the new trading model).

<sup>6</sup> See File No. SR-CHX-2006-32. The Exchange withdrew that proposal on December 12, 2007.

<sup>7</sup> See Notice, *supra* note 3, at 74381.

<sup>8</sup> See *id.*

<sup>9</sup> 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).

<sup>10</sup> 15 U.S.C. 78f(b)(5).