

securities exchange.<sup>13</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, in part, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 Reserve Orders will provide market participants with greater flexibility in displaying and managing their orders. This may encourage market participants to bring liquidity to the Exchange that they might not otherwise have submitted. In addition, because the ISE's rules provide that the non-displayed portion of a Reserve Order will be available for execution only after all displayed interest at that price has been executed,<sup>15</sup> there is an incentive for market participants to display their trading interest. The Commission also notes that the rules of another options exchange provide for the use of reserve orders,<sup>16</sup> as do the rules of several exchanges trading equity securities.<sup>17</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-ISE-2007-95), as modified by Amendment Nos. 2 and 3, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57442; File No. SR-NYSE-2008-13]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete From Section 802.01E of the Exchange's Listed Company Manual Text That is No Longer Relevant

March 6, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> notice is hereby given that on February 14, 2008, the New York Stock Exchange LLC ("NYSE" 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 substantially prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> 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 Exchange proposes to amend Section 802.01E of the Exchange's Listed Company Manual ("Manual") to delete a provision that ceased by its terms to be applied on December 31, 2007. The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>) 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 Exchange 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 NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

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

##### 1. Purpose

Section 802.01E of the Manual contains a provision that gives the Exchange discretion to allow certain companies to remain listed if their annual reports are delayed beyond 12 months after the required filing date because such a company may have a position in the market (relating to both the nature of its business and its very large publicly-held market capitalization) such that its delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors. This provision expired on December 31, 2007. As the period to which the provision relates has ended, it no longer has any effect and the Exchange wishes to delete it from the Manual.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>8</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

#### 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

Written comments were neither solicited nor received.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>13</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>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See ISE Rule 715(g)(5).

<sup>16</sup> See NYSE Arca Rules 6.62(c)(3) and 6.76(a). In addition, the NASDAQ Stock Market LLC ("Nasdaq") has proposed to use Reserve Orders on the Nasdaq Options Market ("NOM"). See Securities Exchange Act Release No. 55667 (April 25, 2007), 72 FR 23869 (May 1, 2007) (File No. SR-NASDAQ-2007-004) (notice of filing of a proposal to establish rules governing trading on NOM).

<sup>17</sup> See e.g., Amex Rule 131(s)-AEMI, NYSE Rule 204(d), Nasdaq Rule 4757(f)(2), and NYSE Arca Equities Rule 7.31(h)(e).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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 date of filing of the proposed rule change or such shorter time as designated by the Commission,<sup>9</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

Under Rule 19b-4(f)(6) of the Act,<sup>12</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may take effect upon filing. The Exchange believes that the proposed rule change does not raise any new regulatory issues. The Commission agrees because the proposal is simply deleting outdated material from the Manual. Therefore, consistent with the protection of investors and the public interest, the Commission has determined to waive the 30-day operative date so that the proposal may become operative upon filing.<sup>13</sup>

#### 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-NYSE-2008-13 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-NYSE-2008-13. This file number should be included on the

<sup>9</sup> The Exchange has fulfilled this requirement.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> *Id.*

<sup>13</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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, 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 Exchange. 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-NYSE-2008-13 and should be submitted on or before April 2, 2008.

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

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57434; File No. SR-Phlx-2008-19]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Specialist Option Transaction Charge Credit Pilot Program

March 5, 2008.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2008, 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 substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) 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

Phlx proposes to expand the Exchange's current \$0.21 per contract specialist option transaction charge credit pilot program and to amend the Exchange's fee schedule to include all customer orders that are delivered electronically by Phlx XL<sup>5</sup> and subsequently executed via the Intermarket Option Linkage ("Linkage")<sup>6</sup> as a Principal Acting as Agent ("P/A") order.<sup>7</sup>

While changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated the changes to be in effect for transactions settling on or after March 1, 2008 through July 31, 2008.<sup>8</sup> The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and at <http://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 Exchange included statements concerning the purpose of, and basis for,

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

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> Phlx XL, formerly referred to as AUTOM, is the Exchange's electronic options trading platform. See Exchange Rule 1080.

<sup>6</sup> Linkage is governed by the Options Linkage Authority under the conditions set forth under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (the "Plan") approved by the Securities and Exchange Commission. The registered U.S. options markets are linked together on a real-time basis through a network capable of transporting orders and messages to and from each market.

<sup>7</sup> A P/A order is an order for the principal account of a specialist (or equivalent entity on another participant exchange that is authorized to represent public customer orders), reflecting the terms of a related unexecuted public customer order for which the specialist is acting as agent. See Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Section 2(16)(a) and Exchange Rule 1083.

<sup>8</sup> This proposal is scheduled to be in effect for the same time period as fees for Linkage Principal ("P") and P/A orders. See Securities Exchange Act Release No. 56166 (July 30, 2007), 72 FR 43312 (August 3, 2007) (SR-Phlx-2007-52).

<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.