transactions executed through the Linkage on December 1, 2006, with the regular equity transaction fee payable on that day because the difference in the amount payable by customers would be immaterial, but the Exchange would incur significant costs in identifying those transactions which should be charged the lower fee rate.[6]

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[7] and, in particular, the requirements of Section 6(b) of the Act[8] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal to retroactively apply the increase in the Linkage Order Fee is consistent with Section 6(b)(4) of the Act,[9] which requires the equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using Exchange facilities.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–NYSE–2006–110) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

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[6] The Exchange estimates that the difference in the amount of Linkage Order Fees payable under the old rate as compared to the proposed revised rate by customers for trades executed on December 1, 2006, would be less than $2,000.00. Telephone conversation between John Carey, Assistant General Counsel, NYSE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, December 7, 2006.

[7] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] Id.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55114; File No. SR–Phlx–2006–81]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Establishment of a Maximum Number of Quoting Participants Permitted in a Particular Option on the Exchange

January 17, 2007.

I. Introduction

On December 5, 2006, 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 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Phlx Rule 507, which governs the assignment of options to Streaming Quote Traders (''SQTs'')[3] and Remote Streaming Quote Traders (''RSQRs''),[4] by adding commentary to the rule establishing a maximum number of quoting participants that may be assigned to a particular equity option at any one time. The proposed rule change was published for comment in the **Federal Register** on December 18, 2006.[5] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The purpose of the proposed rule change is to enable the Exchange to manage its quotation traffic and bandwidth capacity by limiting the number of streaming quote market participants that may be assigned to a particular option at a given point in time. The proposed amendments to Phlx Rule 507 would establish: (i) A maximum number of quoters (''MNQ'') in equity options based on each option's monthly trading volume; (ii) a process for recalculating the MNQ based upon changes in an option's monthly trading volume; (iii) an increase to the MNQ due to exceptional circumstances; (iv) the process by which the Exchange will notify market participants of changes to the MNQ; and (v) additional criteria relating to the process by which the Exchange will assign SQT and/or RSQT applicants in options in the event that there are more applicants for assignment in a particular option than there are positions.

The Exchange proposes to limit 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. Proposed Commentary .02 to Phlx Rule 507 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.[6] The ranking is based upon the preceding month's national volumes. The MNQ would be recalculated within the first five days of each month based on the previous month's trading volume (''new MNQ''). The Exchange would inform market participants of changes to the MNQ via Exchange circular.

The Exchange's Options Allocation, Evaluation and Securities Committee (''OAESC'')[7] would be able to increase the MNQ in exceptional circumstances. Proposed Commentary .04 to Phlx 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 would also be permitted to reduce the MNQ following the cessation of the exceptional circumstances, but would be required to follow the same procedures applicable for decreases to the MNQ due to a change in volume.[8] When relying on this provision, the Exchange would submit a rule filing to the Commission pursuant to Section 19(b)(3)(A) of the Act.[9]

The Exchange is also proposing to amend Phlx Rule 507 by adding criteria for the OAESC to consider when determining whether to assign an option to a member in the situation where there are more applicants for assignment in a particular option than there are positions available. Specifically, proposed paragraph (b)(iii) of Phlx Rule 507 would require the OAESC to consider: (i) The financial and technical resources available to the applicant; (ii)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Phlx Rule 1014(b)(ii)(A).

[4] *See* Phlx Rule 1014(b)(ii)(B).

[5] *See* Securities Exchange Act Release No. 54914 (December 11, 2006), 71 FR 75798.

[6] The Exchange may increase the MNQ levels by submitting to the Commission a rule filing pursuant to Section 19(b)(3)(A) of the Act and may decrease the MNQ levels upon Commission approval of a rule filing submitted pursuant to 19(b)(2) of the Act. *See* proposed Commentary .05 to Phlx Rule 507.

[7] *See* Phlx By-Law Article X, Section 10–7. 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.

[8] *See* proposed Commentary .03 to Phlx Rule 507.

[9] 15 U.S.C. 78s(b)(3)(A).

the applicant's experience and expertise in market making or options trading; and (iii) the applicant's prior performance as a specialist, SQT or RSQT, based on evaluations conducted pursuant to Phlx Rule 510, which includes quantified measures of performance.

Finally, the Exchange represents that members assigned in a particular option as of the date of Commission approval of this proposed rule change will be guaranteed a position as a quoting participant in the particular option.

III. Discussion

After careful review of the proposal, 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.[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 establish a maximum number of quoting participants that may be assigned to a particular equity option at any one time based on the trading volume of that option should enhance the Exchange's ability to manage its quotation traffic and bandwidth capacity.

The Commission further believes that, in the event that there are more applicants for assignment in a particular option than there are available positions, the financial and technical capacity of SQTs and RSQTs, as well as prior performance, are appropriate factors to consider and should assist the OAESC in allocating the option on an equitable basis to the benefit of the Exchange and the public.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–2006–81), be, and hereby is, approved.

[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).

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. 34–55121; File No. SR–Phlx–2006–31]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto, Relating to Limit Orders Submitted by Streaming Quote Traders

January 18, 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 May 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, II, and III below, which Items have been substantially prepared by the Phlx. On December 8, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On January 11, 2007, the Exchange filed Amendment No. 2 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, 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 1080(b)(i)(B) and Commentary .04 thereto to permit Streaming Quote Traders (''SQTs'') [3] and Remote Streaming Quote Traders (''RSQTs'') [4] to enter Immediate or Cancel (''IOC'') [5] orders for their own account(s) through an electronic interface with AUTOM; [6] to permit non-SQT ROTs [7] and specialists to place proprietary limit orders with a size of 10 contracts or greater onto the limit order book; to expand the type of order that non-SQT ROTs and specialists may enter to include IOC; and to permit non-SQT ROTs and specialists to submit proprietary limit orders with a size of less than 10 contracts as IOC only. The Exchange further proposes to amend Commentary .02 and .03 of Phlx Rule 1082 to reduce the one-second ''counting period'' to ¼ of one second during which SQTs, RSQTs and/or specialists may eliminate the locked or crossed markets caused by their electronic quotations.[8] The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and *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 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.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An SQT is a Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options in 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).

[4] 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).

[5] An immediate-or-cancel order is an order that is to be executed in whole or in part as soon as such order is submitted. Any portion not so executed is to be treated as cancelled.

[6] AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution features, AUTO-X, Book Sweep and Book Match. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. AUTOM is now commonly referred to as Phlx XL. *See* Phlx Rule 1080.

[7] A ROT is an on-floor options participant of the Exchange who has received permission from the Exchange to trade in options for his own account in eligible options in which such ROT is assigned. *See* Phlx Rule 1014(b)(i).

[8] Any unresolved locked or crossed markets remaining after the counting period are automatically executed.