

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57712; File No. SR-Phlx-2007-69)

April 24, 2008

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Obvious Errors

I. Introduction

On September 4, 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 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Phlx Rule 1092, the Exchange’s obvious error rule (“Obvious Error Rule”). On February 29, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. On March 11, 2008, the Exchange filed Amendment No. 2 to the proposal. The proposed rule change, as modified, was published for comment in the Federal Register on March 18, 2008.<sup>3</sup> The Commission received no comment letters on the proposal, as modified. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

The Exchange proposes to amend Rule 1092 to: (i) change the definition of Theoretical Price to mean either the last National Best Bid price, with respect to an erroneous sell transaction or the last National Best Offer price, with respect to an erroneous buy transaction, just prior to the trade; (ii) allow an Options Exchange Official<sup>4</sup> to establish the Theoretical Price when there are no quotes for comparison purposes, or when the National Best Bid/Offer (“NBBO”) for the

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

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

<sup>3</sup> Securities Exchange Act Release No. 57482 (March 12, 2008), 73 FR 14544.

<sup>4</sup> See Phlx Rule 1(pp).

affected series, just prior to the erroneous transaction, was at least two times the permitted bid/ask differential permitted under Exchange Rule 1014(c)(1)(A)(i)(a); (iii) establish the Theoretical Price for transactions occurring as part of the Exchange's automated opening system as the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s); (iv) determine the average quote width for the underlying security by adding the quote widths of sample quotations at regular 15-second intervals during the two minutes preceding and following an erroneous transaction; (v) delete the provision pertaining to trades that are automatically executed when the specialist or Registered Options Trader ("ROT") sells \$.10 or more below parity; (vi) permit nullification of transactions that occur during trading halts in the affected option on the Exchange or in the underlying security in specified situations; and (vii) increase the time period, which varies depending on the status of the party, within which a party who believes it participated in an erroneous transaction must notify the Exchange's Market Surveillance Department, and allow a longer notification time period for certain erroneous transactions involving a non-broker-dealer customer that occur as part of the Phlx's automated opening process.

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>5</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>6</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>7</sup> in that the proposal is designed to promote just and equitable

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<sup>5</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>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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.

The Commission considers that, in most circumstances, trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures.

The Commission believes that the proposed revisions to the definition of Theoretical Price provide clear and objective standards for determining when an obvious price error exists. The Commission also believes that the proposed revisions to the time periods for requesting review of a transaction, including for certain erroneous transactions involving a non-broker-dealer customer that occur during the Exchange's automated opening process, as well as the proposal to sample quotations at 15-second intervals to determine the average quote width of the underlying security, represent reasonable modifications to the Obvious Error Rule. Furthermore, the Commission believes that eliminating the provision pertaining to trades that are automatically executed when the specialist or ROT sells \$.10 or more below parity and permitting the nullification of transactions that occur during trading halts in the affected option on the Exchange or in the underlying security in specified situations are clear and objective. Therefore, the Commission believes that the proposed changes to the Obvious Error Rule are appropriate.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-Phlx-2007-69), as modified by Amendment Nos. 1 and 2, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).