

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58340; File No. SR-Phlx-2007-33)

August 11, 2008

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

On April 5, 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” or “Exchange Act”),¹ and Rule 19b-4² thereunder, a proposed rule change to amend its margin rules. On July 31, 2007, Phlx filed Amendment No. 1 to the proposed rule change. On May 19, 2008, Phlx filed Amendment No. 2 to the proposed rule change.³ The proposal was published in the Federal Register on July 7, 2008.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

The Exchange proposed to streamline and make more efficient its margin rules and procedures by: (1) adding a new section to Rule 721 (Proper and Adequate Margin) requiring each member to indicate in writing to the Exchange that such member shall be bound by the initial and maintenance margin requirements of either the Chicago Board Options Exchange (“CBOE”) or New York Stock Exchange (“NYSE”); and (2) eliminating Rules 724 (Guaranteed Accounts) and 725 (Daily Record of Required

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 2 replaced and superseded the original filing and Amendment No. 1 in their entirety.

⁴ Exchange Act Release No. 58045 (June 26, 2008), 73 FR 38487.

Margin). The Exchange also proposes to significantly shorten Rules 723 (Day Trading and Prohibition on Free-Riding in Cash Accounts) and 722 (Margin Accounts) to eliminate redundant language while retaining those margin requirements that are unique to current Exchange margin rules. At the same time, the Exchange proposes to retain those margin provisions that are unique to current Exchange margin rules, particularly those pertaining to foreign currency options, which only trade on Phlx.

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.⁵ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁶ which requires, among other things that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and to 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 this proposed rule change will streamline the Exchange's margin rules commensurate with industry practice. The Commission notes that the proposed rule change will require Phlx member organizations to elect, via written notice to the Exchange, to use and follow the margin rules of either CBOE or NYSE as they are in effect from time to time. The Commission also notes that this proposal to incorporate CBOE or NYSE margin rules is similar to the approach used by the

⁵ 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).

⁶ 15 U.S.C. 78f(b)(5).

International Securities Exchange and the Boston Options Exchange requiring their members to elect and follow CBOE or NYSE margin rules and incorporating such rules by reference into their own rules.⁷

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-Phlx-2007-33), as modified by Amendment Nos. 1 and 2, be, and hereby is, approved.

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

Florence E. Harmon
Acting Secretary

⁷ See Exchange Act Release Nos. 48355 (August 22, 2003), 68 FR 50813 (August 22, 2003)(SR-BSE-2002-15); and 49260 (February 14, 2004), 69 FR 8500 (February 24, 2004)(approval, among other things, of ISE rule incorporating CBOE and NYSE margin rules). The Exchange has, under separate cover, submitted a letter seeking an exemption under Section 36 of the Act from the rule filing procedures of Section 19(b) of the Act with respect to changes to the incorporated CBOE and NYSE margin rules going forward.

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).