

consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to NASD, and in particular, with the requirements of Section 15A(b)(6)<sup>26</sup> of the Exchange Act.<sup>27</sup> Section 15A(b)(6) requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change is designed to accomplish these ends by permitting only arbitrators to issue subpoenas and by making the arbitration subpoena process more orderly and efficient.

*Accelerated Approval of Amendment No. 4*

The Commission finds good cause for approving Amendment No. 4 to the proposed rule change prior to the thirtieth day after the amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act. Amendment No. 4 amends the proposed rule change to authorize the arbitration panel to determine the amount of costs incurred as a result of subpoenaed documents and by whom such costs should be borne. Amendment No. 4 also provides that the party that requested the subpoena may respond to objections within 10 calendar days of receipt of the objections. In addition, Amendment No. 4 amends the proposed rule change to clarify that certain references to days are references to calendar days. The Commission anticipates that these changes will provide for greater clarity with respect to the subpoena process and will provide for a more equitable allocation of costs concerning subpoena documents. Accordingly, the Commission finds that accelerated approval of Amendment No. 4 is appropriate.

## VI. Conclusions

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>28</sup> that the proposed rule change, as amended (SR-NASD-2005-079), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>29</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-207 Filed 1-10-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55041; File No. SR-NSX-2006-17]

### Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify a Fee Schedule for Transactions Executed Through NSX BLADE<sup>SM</sup> and To Modify a Fee Schedule for ITS Transactions

January 4, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 13, 2006, National Stock Exchange, Inc. ("NSX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially 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

The Exchange proposes to implement a liquidity provider rebate and liquidity taker fee for transactions executed in Tape A and Tape B securities through NSX BLADE<sup>SM</sup> ("NSX BLADE"), the Exchange's new trading system, and to modify its Fee Schedule applicable to transactions executed in Tape C securities through NSX BLADE.<sup>5</sup> The

Exchange also proposes corresponding changes to the Exchange's ITS Transactions Fee Schedule. The text of the proposed rule change is available at [www.nsx.com/RulesFilings.asp](http://www.nsx.com/RulesFilings.asp), NSX, and 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, NSX 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The Exchange has created NSX BLADE, a new trading platform that utilizes a strict price/time priority system as the ultimate replacement for the Exchange's current system, NSTS.<sup>6</sup> In connection with the new trading platform, the Exchange filed a rule change proposing new trading rules for NSX BLADE.<sup>7</sup> The Exchange also amended its rules to add a Chapter XVI to set forth, in its own chapter, rules relating to fees, dues, assessments and a tape rebate program. The rule change adding Chapter XVI was filed pursuant to Section 19(b)(3)(A) of the Act, which rendered it effective upon filing.<sup>8</sup>

In the instant rule filing, the Exchange is filing a proposed Fee Schedule under Rule 16.1(a) and 16.1(c) of Chapter XVI for executions in Tape A, B and C

Tape B securities will be transitioned to NSX BLADE in mid-January 2007. Until transitioned, Tape A and Tape B securities will continue to be traded on NSTS exclusively. See e-mail from Lori A. Ragus, Senior Regulatory Counsel, NSX, to Joseph P. Morra, Special Counsel, SEC, dated December 22, 2006.

<sup>6</sup> See footnote 5, *supra*.

<sup>7</sup> See Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (SR-NSX-2006-08) (approval order).

<sup>8</sup> See Securities Exchange Act Release No. 54194 (July 24, 2006), 71 FR 43258 (July 31, 2006) (SR-NSX-2006-10). SR-NSX-2006-10 was effective upon filing on July 13, 2006. Rule 16.3 provides that the new Chapter XVI would become effective upon written notice by the Exchange to the ETP Holders. Notice was provided declaring Chapter XVI effective on October 2 and 19, 2006 respecting ITS transactions and transactions in NSX BLADE, respectively.

<sup>26</sup> 15 U.S.C. 78o-3(b)(6).

<sup>27</sup> 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).

<sup>28</sup> 15 U.S.C. 78s(b)(2).

<sup>29</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> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> Securities are being transitioned from the Exchange's legacy system, National Securities Trading System ("NSTS") to NSX BLADE. Securities will only be traded on one system; once transitioned, that security will only be traded on NSX BLADE. As of December 22, 2006, all Tape C securities have been transitioned to NSX BLADE, and the Exchange anticipates that all Tape A and

securities through NSX BLADE.<sup>9</sup> The proposed Fee Schedule provides for an execution fee for removing liquidity from NSX BLADE, and a rebate for adding liquidity into NSX BLADE, of \$0.0030 per share executed. Thus, ETP Holders taking liquidity against an order in the NSX BLADE System will be charged a fee of \$0.0030 per share executed, and ETP Holders providing liquidity into the NSX BLADE System will be paid a rebate of \$0.0030 per share executed. The current Fee Schedule provides a rebate and execution fee for transactions only in Tape C securities, whereas this proposed Fee Schedule seeks to expand the rebate and execution fee to include all securities classified as Tape A, B or C securities. In addition, the proposed Fee Schedule modifies the liquidity provider fee paid under the current Fee Schedule from a scaled rebate for Tape C securities of \$0.0027 to \$0.0028 per share executed to a flat fee of \$0.0030 per share executed.

The Exchange also is proposing corresponding changes to the Exchange's ITS Transactions Fee Schedule, which is applicable to transactions pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage or the Intermarket Trading System Plan (hereinafter the "ITS Plans"). With the implementation of an execution fee for transactions executed through NSX BLADE, the Exchange is proposing to apply the same fee to transactions executed pursuant to the ITS Plans. The Exchange believes that this would eliminate the potential for preferential treatment to those accessing the Exchange pursuant to the ITS Plans, instead of executing transactions directly through NSX BLADE.

Moreover, the Exchange is proposing a technical and corresponding change to the Exchange's ITS Transactions Fee Schedule to delete the liquidity provider rebate fee because the ITS transactions only take liquidity from the Exchange, but cannot provide liquidity. The Exchange states that all orders to NSX BLADE or NSTS pursuant to the ITS Plans are immediate or cancel orders and are not capable of being posted. As such, these orders do not provide liquidity, and cannot earn a liquidity provider fee.

The Exchange is in the process of phasing in NSX BLADE. NSX BLADE was launched on October 23, 2006, with

Tape C securities currently being phased into NSX BLADE from NSTS. Once all Tape C securities have been transitioned to NSX BLADE, the Exchange is planning to transition all Tape A and Tape B securities at one time.<sup>10</sup>

During this transitional period of phasing in various securities to NSX BLADE, the Exchange is operating both NSTS and NSX BLADE. Accordingly, the Exchange is operating under two sets of rules during this phase-in period. All transactions in the NSTS System are operating under the rules pertaining to NSTS (old Rule 11.9 (National Securities Trading System) and old Rule 11.10 (National Securities Trading System Fees) and any associated Fee Schedule) while all transactions in NSX BLADE are operating under the NSX BLADE trading rules approved in SR-NSX-2006-08 and the new fee rules in Chapter XVI.<sup>11</sup> When the phase-in system has expired and NSTS is no longer operational, old Rules 11.9 and 11.10 will be extinguished. The Exchange has issued a Notice to ETP Holders to advise them of the different trading systems and rules and fees applicable to each,<sup>12</sup> and will issue a Notice advising them of the new Fee Schedules filed with this rule change.

Pursuant to newly approved CHX Rule 16.1(c), the Exchange will "provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange." The Exchange will advise ETP Holders using the Exchange of these fees through the Exchange's Web site. In addition, the ETP Holders will, simultaneous with the filing, be notified through the issuance of a Regulatory Circular of the new Fee Schedules.

The Exchange believes that the fees have been designed in this manner in order to ensure that the Exchange can continue to fulfill its obligations under Section 6(b) of the Act.<sup>13</sup>

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act,<sup>14</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>15</sup> in particular, regarding the equitable allocation of reasonable dues,

fees, and other charges among exchange members and other persons using exchange facilities.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not 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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>16</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>17</sup> because it establishes or changes a due, fee, or other charge imposed by NSX. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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-NSX-2006-17 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSX-2006-17. This file number should be included on the subject line if e-mail is used. To help the

<sup>9</sup> As set forth in SR-NSX-2006-10, the Exchange proposed to maintain a separate fee schedule that contains its current fees, dues and other charges, instead of including all of its specific fees, dues and charges in the text of its rules, as it formerly did prior to the adoption of Chapter XVI.

<sup>10</sup> NSX plans to monitor this implementation and adjust the schedule as needed to maintain an orderly transition.

<sup>11</sup> The ITS Transactions Fee Schedule is applicable to any transaction pursuant to the ITS Plans, regardless whether the transaction was executed through NSTS or NSX BLADE.

<sup>12</sup> See NSX Regulatory Circular 06-011 issued on October 19, 2006.

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

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

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

<sup>16</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

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

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. Copies of such filing also will be available for inspection and copying at the principal offices of NSX. 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-NSX-2006-17 and should be submitted on or before February 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

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

[FR Doc. E7-236 Filed 1-10-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55035; File No. SR-ODD-2006-01]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Certain Changes to Disclosure Regarding U.S. Dollar-Denominated Foreign Currency Options

December 29, 2006.

On December 8, 2006, The Options Clearing Corporation ("OCC") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> five preliminary copies of a supplement to its options disclosure document ("ODD") reflecting certain changes to disclosure regarding U.S. dollar-

denominated foreign currency options ("FCOs").<sup>2</sup> On December 29, 2006, the OCC submitted to the Commission five definitive copies of the supplement.<sup>3</sup>

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. Recently, an options exchange amended its rules to permit the listing and trading of FCOs on the British pound and the Euro.<sup>4</sup> The proposed supplement to the ODD accommodates this change by providing additional disclosure regarding FCOs.

Specifically, the proposed supplement to the ODD updates disclosure regarding the calculation of exercise prices and premiums for FCOs. The proposed supplement also enhances disclosure regarding cash-settlement of FCOs, including the calculation of cash settlement amounts and exercise settlement values. Finally, the proposed supplement updates disclosure in the ODD regarding the expiration of FCOs.<sup>5</sup> The proposed supplement is intended to be read in conjunction with the more general ODD, which, as described above, discusses the characteristics and risks of options generally.

Rule 9b-1(b)(2)(i) under the Act<sup>6</sup> provides that an options market must file five copies of an amendment or supplement to the ODD with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of information disclosed and the public interest and protection of investors.<sup>7</sup> In addition, five copies of the definitive ODD, as amended or supplemented, must be filed with the Commission not later than

<sup>2</sup> See letter from William H. Navin, Executive Vice President, General Counsel, and Secretary, OCC, to Elizabeth King, Associate Director, and Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated December 7, 2006.

<sup>3</sup> See letter from Jean M. Cawley, First Vice President and Deputy General Counsel, OCC, to Elizabeth King, Associate Director, and Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated December 29, 2006.

<sup>4</sup> See Securities Exchange Act Release No. 34-54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (approving File No. SR-Phlx-2006-34).

<sup>5</sup> The Commission notes that the options markets must continue to ensure that the ODD is in compliance with the requirements of Rule 9b-1(b)(2)(i) under the Act, 17 CFR 240.9b-1(b)(2)(i), including when future changes regarding FCOs are made. Any future changes to the rules of the options markets concerning FCOs would need to be submitted to the Commission under Section 19(b) of the Act. 15 U.S.C. 78s(b).

<sup>6</sup> 17 CFR 240.9b-1(b)(2)(i).

<sup>7</sup> This provision permits the Commission to shorten or lengthen the period of time which must elapse before definitive copies may be furnished to customers.

the date the amendment or supplement, or the amended options disclosure document, is furnished to customers. The Commission has reviewed the proposed supplement and finds, having due regard to the adequacy of information disclosed and the public interest and protection of investors, that the proposed supplement may be furnished to customers as of the date of this order.

*It is therefore ordered*, pursuant to Rule 9b-1 under the Act,<sup>8</sup> that definitive copies of the proposed supplement to the ODD (SR-ODD-2006-01), reflecting changes to disclosure regarding U.S. dollar-denominated foreign currency options, may be furnished to customers as of the date of this order.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

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

[FR Doc. E7-231 Filed 1-10-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55027; File No. SR-Phlx-2006-53]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change as Modified by Amendment No. 1 Thereto, Relating to Assignments in Options Based on Root Symbol

December 29, 2006.

#### I. Introduction

On August 18, 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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Phlx Rule 507, "Application for Assignment in Streaming Quote Options." Specifically, Phlx proposes to adopt new Commentary .01 to Phlx Rule 507, which would authorize the Exchange's Options Allocation, Evaluation and Securities Committee ("OAESC"),<sup>3</sup> to assign trading privileges in options to Streaming Quote Traders

<sup>8</sup> 17 CFR 240.9b-1.

<sup>9</sup> 17 CFR 200.30-3(a)(39).

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

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

<sup>3</sup> See Phlx By-Law Article X, Section 10-7(a). See also Phlx Rule 500.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 17 CFR 240.9b-1.