

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

The proposed rule change is being designated by the Exchange as a "non-controversial" rule pursuant to Section 19(b)(3)(A) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder, because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty 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 public interest. Therefore, it has become effective pursuant to Section 19(b)(3)(A) <sup>16</sup> of the Act and Rule 19b-4(f)(6) <sup>17</sup> thereunder. The Exchange requests that the Commission waive the 30-day pre-operative delay requirement contained in Rule 19b-4(f)(6)(iii), <sup>18</sup> so that the proposed rule change may become operative on January 3, 2005, the compliance date for Regulation SHO. The Exchange is for similar reasons requesting that the five business day pre-filing period be waived in order to file by December 3, 2004.

The Commission believes that waiving the 5-day notice and 30-day pre-operative delay is consistent with the protection of investors and the public interest. The Commission believes that accelerating the operative date does not raise any new regulatory issues, significantly affect the protection of investors or the public interest, or impose any significant burden on competition. For these reasons, the Commission designates the proposed rule change effective and operative immediately.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the 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.

#### Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

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

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

<sup>18</sup> Under subparagraph (f)(6)(iii) of Rule 19b-4, the proposal may 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. 17 CFR 240.19b-4(f)(6)(iii).

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-Phlx-2004-87 on the subject line.]

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. All submissions should refer to File Number SR-Phlx-2004-87. This file number should be included on the 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. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. 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-Phlx-2004-87 and should be submitted on or before January 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50945; File No. SR-Phlx-2004-66]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Change Relating to Concentration Limit Listing Standards in Phlx Rule 1009A

December 29, 2004.

#### I. Introduction

On October 7, 2004, 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 1009A, Designation of the Index, which applies to the listing of index options. On October 25, 2004, Phlx filed Amendment No. 1. The proposed rule change, as amended, was published for notice and comment in the **Federal Register** on December 1, 2004.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change on an accelerated basis.

#### II. Description of the Proposal

The Exchange proposes to amend Phlx Rule 1009A, Designation of the Index, which applies to the listing of index options. Specifically, the Exchange proposes to increase certain concentration limit listing standards in Phlx Rule 1009A. Currently, under Phlx Rule 1009A(b), the Exchange may trade options on a narrow-based index without filing a proposed rule change under Section 19(b)(2) of the Act if certain conditions are satisfied.<sup>4</sup> One of these conditions, set forth in Phlx Rule 1009A(b)(6), is that no single component security may represent more than 25% of the weight of the index, and that the five highest weighted component securities in the index may not, in the aggregate, account for more than 50% (60% for an index consisting of fewer than 25 component securities) of the weight of the index. The

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

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

<sup>3</sup> See Securities Exchange Act Release No. 50727 (November 23, 2004), 69 FR 69974.

<sup>4</sup> The Commission approved an amendment to Phlx Rule 1009A to provide that certain narrow-based index options that meet generic listing standards may be listed and traded on the Exchange without a filing pursuant to Rule 19b-4(e) under the Act. See Securities Exchange Act Release No. 43683 (December 6, 2000), 65 FR 78235 (December 14, 2000) (SR-Phlx-2000-67).

Exchange proposes to amend Phlx Rule 1009A(b)(6) to increase the 25% concentration limit for the highest weighted component stock to 30%, and to increase the concentration limit for the five mostly highly weighted stocks in an index consisting of fewer than 25 component securities from 60% to 65%.

### III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change, as amended, and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change, is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and, in general, protect investors and the public interest.

The Commission believes that this proposed rule change should provide additional flexibility to the Exchange in listing and trading narrow-based index options and reduce the instances in which the addition of a new series is restricted pursuant to Phlx Rule 1009A. The proposed rule change should also reduce instances where an index option listed on the Exchange is temporarily out of compliance with the concentration limits set forth under Phlx Rule 1009A because of changes in the market value of the underlying index components. Lastly, the Commission believes that that the concentration limit listing standards should continue to serve the purpose for which they were originally intended of not permitting a single security or small number of securities to dominate an index.

The Exchange has requested accelerated approval of the proposed rule change. The Commission notes that the proposed rule change is similar to rules previously approved for other derivative products.<sup>7</sup> The Commission also notes that this proposed rule change was subject to the full comment period, with no comments received, and

acceleration by two days would facilitate the Exchange's trading of certain index options.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-Phlx-2004-66) be, and it hereby is, approved, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jill M. Peterson**,

*Assistant Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3624]

#### State of Alabama; Amendment #4

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective December 20, 2004, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to March 3, 2005.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 15, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 29, 2004.

**S. George Camp**,

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 05-361 Filed 1-6-05; 8:45 am]

**BILLING CODE 8025-01-P**

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3615]

#### State of Florida; Amendment #6

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective December 28, 2004, the above numbered

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

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to February 28, 2005.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is May 13, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 29, 2004.

**S. George Camp**,

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 05-359 Filed 1-6-05; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3620]

#### State of Florida; Amendment #9

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective December 28, 2004, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to February 28, 2005.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 6, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 29, 2004.

**S. George Camp**,

*Acting Associate Administrator for Disaster Assistance.*

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3627]

#### State of Florida; Amendment #6

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective December 28, 2004, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to February 28, 2005.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 16, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

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

<sup>7</sup> See Securities Exchange Act Release No. 44532 (July 10, 2001), 66 FR 37078 (July 16, 2001) (SR-Amex-2001-25); Securities Exchange Act Release No. 45920 (May 13, 2002), 67 FR 35605 (May 20, 2002) (SR-NASD-2002-45).