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.

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[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.
[FR Doc. E7–957 Filed 1–23–07; 8:45 am]
BILLING CODE 8011–01–P

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

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[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).

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.

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[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.

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

1. Purpose

The purpose of the proposed rule change is to offer an additional mechanism for participants on the Exchange's electronic trading platform for options, Phlx XL,[9] to trade against orders and electronic quotations. Currently, only non-SQT ROTs and specialists may enter limit orders, and such limit orders may only be submitted with a minimum size of 10 contracts as Good-Till-Cancelled, day limit and simple cancel orders. Under the proposal, the Exchange would expand limit order entry to SQTs and RSQTs, who would be permitted to enter IOC orders with no size limitation.

The proposal would include limitations on the eligible order type and permissible order size, depending on the status of the participant submitting the order. Specifically, non-SQT ROTs and specialists would be permitted to submit limit orders with a size of 10 contracts or greater as Good-Till-Cancelled, day limit, IOC or simple cancel order types. Orders for less than 10 contracts submitted by non-SQT ROTs and specialists would be required to be submitted as IOC only.[10]

SQTs and RSQTs would be permitted to submit limit orders of any size,[11] provided that all limit orders submitted must be IOC. Thus, limit orders submitted by SQTs and RSQTs would not be eligible to rest on the limit order book, and would be cancelled if not executed immediately. If only a part of such an order is executed immediately, the remaining unexecuted contracts in such an order would be cancelled.

Under the proposal, specialists and non-SQT ROTs that submit limit orders with a size of less than 10 contracts must submit such orders as IOC only. According to the Exchange, this is to ensure that limit orders with a size of less than 10 contracts are not placed on

the limit order book. The Exchange believes that this provision should encourage liquidity on the Exchange and limit orders on the limit order book that represent the Exchange's best bid or offer and would thus result in a disseminated size of at least 10 contracts on the Exchange.

The purpose of the proposed change to Commentary .02 and .03 of Phlx Rule 1082 is to improve the speed by which the Exchange's systems can automatically execute locked or crossed quotations against one another and eliminate the locked or crossed market situation,[12] which should, in turn, facilitate compliance with firm quote obligations.[13]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that the proposal is 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 by increasing the efficiency of options trading on the Exchange by allowing on-floor participants to electronically enter an additional type of order, which should increase the number of automatic executions. The Exchange believes that this new functionality should increase order interaction between market participants on the Exchange and the electronic limit order book. The Exchange also believes that reducing the counting period during which market participants may resolve locked and crossed markets should improve market efficiency by eliminating locked and crossed markets in a more timely fashion.

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

The Exchange does not believe that the proposed rule change will 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

No written comments were solicited or received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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*. Please include File Number SR–Phlx–2006–31 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–Phlx–2006–31. 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

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[9] *See* Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR–Phlx–2003–59).

[10] Currently, the IOC order type is not eligible for submission by non-SQT ROTs and specialists, and all orders must be for a minimum size of 10 contracts. The proposal would permit orders with a size of less than 10 contracts, provided that such orders must be submitted as IOC only. Orders submitted by non-SQT ROTs and specialists with a size of 10 contracts or greater would be eligible to be placed on the limit order book.

[11] Currently, the Exchange permits SQTs to submit electronic quotations only. The proposal would permit SQTs to submit IOC limit orders in addition to electronic quotations. The quoting obligations applicable to SQTs contained in Exchange Rule 1014(b)(ii)(D) would be unchanged.

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

[13] *See* Phlx Rule 1082.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

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–2006–31 and should be submitted on or before February 14, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,
Deputy Secretary.
[FR Doc. E7–977 Filed 1–23–07; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55111; File No. SR–Phlx–2006–59]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change as Modified by Amendments No. 1 and 2 Thereto Relating to an Amendment to a Philadelphia Board of Trade Market Data Distribution Network Fee

January 16, 2007.

I. Introduction

On September 26, 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 proposal to increase a fee assessed by the Exchange's wholly owned subsidiary, the Philadelphia Board of Trade ("PBOT"), on market data vendors for certain index values that subscribers receive over PBOT's Market Data Distribution Network ("MDDN"). The Phlx filed Amendment No. 1 to the proposed rule change on November 1, 2006 and filed Amendment No. 2 on December 6, 2006. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 13,

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[16] 17 CFR 200.30–3(a)(12).
[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

2006.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Phlx proposes to amend one of the fees charged by the PBOT for certain market data disseminated over the MDDN.[4] The Phlx has licensed the current and closing index values underlying most of the Phlx's proprietary indexes to PBOT for the purpose of selling, reproducing, and distributing the index values over PBOT's MDDN. On each trading day, the Exchange or its third party designee calculates and makes available to PBOT a real-time index value every 15 seconds and a closing index value at the end of the day. In exchange for subscriber fees paid to PBOT, market data vendors are allowed to widely disseminate this market data for all the values of Phlx's proprietary indexes to their subscribers.[5]

As approved by the Commission, the market data fees charged by PBOT included a $.00025 per request fee for "snapshot data," which is essentially market data that is refreshed no more frequently than once every 60 seconds.[6] The Exchange is now proposing to increase that fee from $.00025 to $.0025 per request for snapshot data.[7]

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[3] *See* Securities Exchange Act Release No. 54890 (December 7, 2006), 71 FR 74975.

[4] The MDDN is an internet protocol multicast network developed by PBOT and SAVVIS Communications.

[5] Approximately 65 vendors, including for example Bloomberg L.P., Telekurs Financial Information Ltd. and Thomson Financial, have already entered into such market data agreements with PBOT. The PBOT has contracted with one or more major Market Data Vendors to receive real-time and closing index values over the MDDN and promptly redistribute such values. At least three of the vendors have elected to offer only the continuous real-time market data and will not offer snapshot or delayed data. The fees described in this proposed rule change cover values of all the indexes disseminated over the MDDN.

[6] *See* Securities Exchange Act Release No. 53790 (May 11, 2006), 71 FR 28738 (May 17, 2006) ("Original Approval Order"). The subscriber fees are set out in agreements that PBOT executed with various market data vendors for the right to receive, store, and retransmit the current and closing index values transmitted over the MDDN. In its original proposal, the Exchange stated that, under these vendor agreements PBOT may change any of the fees enumerated in the agreement by giving the vendor or subvendor advance written notice of such changes. The Commission conditioned any such fee change on the submission by Phlx of a proposed rule change under Section 19(b) of the Act, and approval of such proposal. See 71 FR at 28740.

[7] The Commission notes that all market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[8] and, in particular, the requirements of Section 6 of the Act.[9] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities 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 continues to believe that Phlx's proposal is consistent with Rule 603 under the Act.[11] In this regard, the Commission notes that the Exchange represented that PBOT's proposed fee increase reflects a more accurate valuation of the value of snapshot data to investors than the original snapshot data fee did, consistent with Rule 603 under the Act.[12] The Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,[13] in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Phlx–2006–59), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,
Deputy Secretary.
[FR Doc. E7–958 Filed 1–23–07; 8:45 am]
BILLING CODE 8011–01–P

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

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 242.603. *See* Original Approval Order, 71 FR at 28739, *supra* note 6, noting that the subscriber fees were consistent with Rule 603 under the Act.

[12] 17 CFR 242.603.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).