

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56535; File No. SR-Phlx-2007-59]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a System Change to the Phlx's Electronic Options Trading Platform, Phlx XL

September 26, 2007.

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> notice is hereby given that on August 10, 2007, 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 prepared substantially by the Phlx. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) 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 Phlx proposes to add a new feature to the Exchange's electronic options trading platform, Phlx XL,<sup>5</sup> that will automatically purge quotations submitted by specialists, Streaming Quote Traders ("SQTs"),<sup>6</sup> and Remote Streaming Quote Traders ("RSQTs")<sup>7</sup> with a bid price of \$0.00 and an offering price of \$99,999.00.

The proposed rule change is available at the Phlx, in the Commission's Public Reference Room, and on the Phlx's Web site at <http://www.phlx.com>.

<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)(5).

<sup>5</sup> See Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (order approving File No. SR-Phlx-2003-59).

<sup>6</sup> An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange-approved proprietary electronic quoting device in eligible options to which such SQT is assigned. See Phlx Rule 1014(b)(ii)(A).

<sup>7</sup> An RSQT is a participant in Phlx XL who has received permission from the Exchange to trade in options for his own account, and to generate and submit option quotations electronically from off the floor of the Exchange through AUTOM in eligible options to which the RSQT has been assigned.

#### 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.

##### 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 help Exchange members manage risk by adding a new mechanism to the Phlx XL system to purge certain electronic quotations.

Members quoting and trading on Phlx XL currently have the ability to purge electronic quotations in specific options series under certain circumstances by sending the appropriate electronic message to Phlx XL.

It has recently come to the Exchange's attention, however, that certain members do not have the ability to send a formatted "purge" message. Instead, such members that wish to remove their electronic quotations in a series submit an artificially wide quotation of \$0.00 bid, \$99,999.00 offered with the expectation that the Exchange will purge their quotation for the series. Currently, the Exchange does not purge such quotations. The Phlx believes that this could result in trading errors of great magnitude, necessitating nullification of such trades based on the Phlx's obvious error rule.<sup>8</sup> The Phlx believes that member organizations could be inconvenienced during the time period needed to investigate and correct the error, and could miss trading opportunities while their accounts are corrected.

To address this issue, the Exchange has built a feature of the Phlx XL system that will purge any electronic quotation received with a bid price of \$0.00 and an offering price of \$99,999.00. The Exchange believes that this will eliminate the substantial risk borne by the Exchange and its members in handling such quotations.

<sup>8</sup> See Phlx Rule 1092.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it 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 enabling members to better manage risk through the automated quote purge feature.

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

The Phlx does not believe that the proposed rule change will impose any burden on competition 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 either solicited or received.

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

The Phlx has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(5) of Rule 19b-4 thereunder.<sup>12</sup> Because the Phlx has designated the foregoing proposed rule change as one that effects a change in an existing order entry or trading system that does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) have the effect of limiting access to or availability of the system, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(5) thereunder.

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.<sup>13</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(5).

<sup>13</sup> See 15 U.S.C. 78s(b)(3)(C).

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-Phlx-2007-59 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-2007-59. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-2007-59 and should be submitted on or before October 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56526; File No. SR-Phlx-2007-67]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to XLE Fees

September 25, 2007.

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> notice is hereby given that on August 31, 2007, the Philadelphia Stock Exchange, Inc. ("Phlx" or the "Exchange"), filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On September 20, 2007, Phlx filed Amendment No. 1 to the proposed rule change. 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 it effective upon filing with the Commission. 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

Phlx proposes to amend the Exchange's current XLE<sup>5</sup> Fee Schedule to: (1) Adopt definitions for Net Makers of liquidity ("Net Makers") and Net Takers of liquidity ("Net Taker") on XLE; (2) update the current volume tier structure by reducing the volume breakpoints to create two new volume

pricing tiers; (3) amend the amount of the credits or rebates to Net Makers and the fees for Net Takers; and (4) make two other minor changes to update the XLE Fee Schedule.

The proposed fees will be assessed on Exchange members or member organizations, which may include Sponsoring Member Organizations<sup>6</sup> (collectively "member organizations").

The changes set forth in this proposal are scheduled to become operative beginning with transactions settling on or after September 4, 2007.

The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and [www.phlx.com](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, 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. Phlx 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

In an effort to enhance liquidity on XLE, the Exchange proposes to amend the XLE fee schedule to provide economic incentives to help attract additional order flow to the Exchange. The proposed amendments to the XLE Fee Schedule are discussed in detail below:

###### i. Adopt Definitions for Net Makers and Net Takers

An XLE Participant Organization<sup>7</sup> would qualify as a Net Maker if the total volume from providing liquidity for that XLE Participant Organization is at least one share greater than the total volume from removing liquidity during a single

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>15</sup> 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> XLE refers to the Exchange's equity trading system. XLE is designed to provide the opportunity for entirely automated executions to occur within a central matching system accessible by Exchange members and member organizations and their Sponsored Participants. See Securities Exchange Act Release No. 54538 (September 28, 2006), 71 FR 59184 (October 6, 2006) (SR-Phlx-2006-43).

<sup>6</sup> See Exchange Rules 1(jj) and 1(kk) (defining "Sponsored Participant" and "Sponsoring Member Organization").

<sup>7</sup> For purposes of this fee proposal, an XLE Participant Organization refers to Sponsored Participants, Sponsoring Member Organizations, and member organizations without Sponsored participants. See Exchange Rules 1(jj) and 1(kk). Sponsoring Member Organizations are responsible for the fees generated by their Sponsored Participant(s).