

exchanges would normally begin introducing LEAPS expiring in 2010 making a 2009 implementation impracticable). The delay in implementation will ensure that all options series opened before the ODD disclosure is made available (other than certain "flex" options that will be grandfathered under the old rule) will have expired before the change is effected.<sup>12</sup> While delaying the implementation until 2009 postpones the benefit of making this needed change, it accommodates the many firms that find the operational hurdles and fairness issues associated with an earlier implementation onerous.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>13</sup> and the rules and regulations thereunder applicable to OCC because (1) it is intended to eliminate inequities that result from certain rounding practices currently required by OCC's By-Laws and thus protect investors and (2) it is intended to make more predictable when cash distributions by an issuer will result in an adjustment to an option contract and thus make the process for adjustments more equitable for all investors.

#### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change would impose any burden on competition.

#### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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

Within thirty-five days of the date of publication of this notice in the **Federal**

<sup>12</sup> OCC intends to take a "snapshot" of flex series expiring after January 31, 2009, that are outstanding at the time when ODD disclosure of the rule change is made. Those series will be assigned distinctive trading symbols and "grandfathered" under the old rule. Trading will continue normally in grandfathered series until their expiration, but the exchanges would be free to open otherwise identical non-grandfathered series, which would be identified by conventional flex trading symbols. If ODD disclosure is not made until after the December 2006 expiration, it may also be necessary to grandfather two classes of LEAPs with December expirations (SPY and S&P 100 i-Shares) because the exchanges would ordinarily introduce new series expiring in December 2009 after the December 2006 expiration.

<sup>13</sup> 15 U.S.C. 78q-1.

**Register** or within such longer period (i) as the Commission may designate up to ninety 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 the self-regulatory organization 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, as amended, 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-OCC-2006-01 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-OCC-2006-01. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at [www.theocc.com](http://www.theocc.com). 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-OCC-2006-01 and should be submitted on or before December 12, 2006.

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

Nancy M. Morris,  
Secretary.

[FR Doc. E6-19619 Filed 11-20-06; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54749; File No. SR-Phlx-2006-73]

### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Definition of Core Session for XLE**

November 14, 2006.

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 November 9, 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 and II below, which Items have been prepared by the Phlx. The Exchange filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which rendered 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 modify the definition of "Core Session" in Phlx Rule 101, Supplementary Material .02(2), to state that the Core Session shall take place for each equity security from 9:30 a.m. until 4 p.m., except for specified exchange-traded funds ("ETFs") in which case the Core Session shall continue until 4:15 p.m. The text of the proposed rule change is available

<sup>14</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)(6).

on Phlx's Web site, <http://www.phlx.com>, at Phlx's principal office, and at 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, 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 ensure that ETFs<sup>5</sup> that trade on the Exchange have the same primary or core trading hours as these securities have on their listing exchanges. When the Phlx begins trading using its new equity trading system, XLE,<sup>6</sup> the hours of operation will change from the current hours of operation used on the physical equity trading floor. Currently, for any given security, the Primary Trading Session hours on Phlx are identical to the hours of trading for that security on its primary market.<sup>7</sup> Many ETFs trade on their primary market until 4:15 p.m.

In adopting XLE, Phlx intended to modify its trading hours for equities, but did not intend to change the "primary" or "core" hours that securities are usually traded. Specifically, Phlx adopted its XLE Trading Hours with a Pre Market Session, a Core Session, and a Post Market Session. The Exchange intended the Core Session to be coextensive with existing primary sessions that are employed by other exchanges. Phlx defined the Core Session as taking place "for each security during that security's 'regular trading hours' as that term is defined in Rule 600(b)(64) of Regulation NMS." However, by using the term "regular

trading hours" as defined in Rule 600(b)(64) of Regulation NMS,<sup>8</sup> Phlx inadvertently failed to make its Core Session coextensive with existing primary sessions employed by other exchanges with respect to ETF trading. The Exchange notes that while other exchanges have adopted rules extending their primary trading session until 4:15 p.m. for certain securities (*i.e.*, ETFs), "the Commission has not approved an [exchange] rule modifying the definition of regular trading hours [to some time other than 4 p.m.] for purposes of Rule 600(b)(64)."<sup>9</sup>

The Exchange now proposes to modify the definition of its Core Session for XLE to allow the Exchange to set the ending time of the Core Session to 4:15 p.m. for certain ETFs.<sup>10</sup> This will allow those ETFs that trade until 4:15 p.m. to trade until that time during XLE's Core Session. The Exchange believes that this proposed rule change should reduce confusion among market participants who enter orders on multiple exchanges in these products by allowing for the harmonization of trading times across Phlx and other exchanges.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</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.

### 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

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

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 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, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> As required under Rule 19b-4(f)(6)(iii) under the Act,<sup>15</sup> Phlx provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, prior to the date of the filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) under the Act<sup>16</sup> normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) under the Act<sup>17</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay, which would make the rule change effective and operative upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, because it allows the Exchange to implement this proposal without delay in order to accommodate the Exchange's plans to commence operations of XLE. The Commission notes that the Exchange has represented that its proposed rule change is based upon a similar rule of the Chicago Stock Exchange, Inc. ("CHX").<sup>18</sup> For these reasons, the Commission designates the

<sup>5</sup> The Exchange represents that it will publish, via an Exchange circular, a list of the exchange-traded funds that will have a Core Session that ends at 4:15 p.m.

<sup>6</sup> XLE is the new equity trading system on Phlx for trading NMS Stocks. See Securities Exchange Act Release No. 54538 (September 28, 2006), 71 FR 59184 (October 6, 2006) (SR-Phlx-2006-43).

<sup>7</sup> See the pre-XLE version of Phlx Rule 101, Supplementary .02(i).

<sup>8</sup> 17 CFR 600(b)(64).

<sup>9</sup> See Division of Market Regulation: Response to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS Question 7.02.

<sup>10</sup> See *supra* note 5 (noting that the Exchange will publish a circular listing the applicable ETFs).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

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

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</sup> See Securities Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (SR-CHX-2006-05) (approval order for CHX's new electronic trading system).

proposal to be effective and operative upon filing with the Commission.<sup>19</sup>

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>20</sup>

#### 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-Phlx-2006-73 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-2006-73. 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

<sup>19</sup>For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>20</sup>See 15 U.S.C. 78s(b)(3)(C).

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-2006-73 and should be submitted on or before December 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-19623 Filed 11-20-06; 8:45 am]

BILLING CODE 8011-01-P

#### DEPARTMENT OF TRANSPORTATION 4910-22-P

##### Federal Highway Administration

[Docket No. FHWA-2006-26363]

##### Agency Information Collection Activities: Request for Comments for a New Information Collection

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice and request for comments.

**SUMMARY:** The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under Supplementary Information. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by January 22, 2007.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FHWA-2006-26363 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Docket:** For access to the docket to read background documents or

comments received, go to <http://dms.dot.gov> at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

##### FOR FURTHER INFORMATION CONTACT:

Michael Koontz, 202-366-2076, or Robert Kafalenos, 202-366-2079, Office of Natural and Human Environment, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

##### SUPPLEMENTARY INFORMATION:

**Title:** Annual Reporting for the Congestion Mitigation and Air Quality Improvement (CMAQ) Program.

**Background:** Section 1808 of the Safe, Accountable, Flexible, Efficient Transportation Equity.

**Act:** A Legacy for Users of 2005 (SAFETEA-LU) calls for an Evaluation and Assessment of CMAQ Projects. The statute calls for the identification and analysis of a representative sample of CMAQ projects and the development and population of a database that describes the impacts of the program both on traffic congestion levels and air quality. To establish and maintain this database, the FHWA is requesting States to submit annual reports on their CMAQ investments that cover projected air quality benefits, financial information, a brief description of projects, and several other factors outlined in the Interim Program Guidance for the CMAQ program. States are requested to provide the end of year summary reports via the automated system provided through FHWA by the first day of February of each year, covering the prior Federal fiscal year.

**Respondents:** 51; each State DOT, and Washington DC.

**Frequency:** Annually.

**Estimated Average Burden per Response:** 6 hours per annual report.

**Estimated Total Annual Burden**

**Hours:** 306 hours.

**Public Comments Invited:** You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or

<sup>21</sup> 17 CFR 200.30-3(a)(12).