

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58185; File No. SR-Phlx-2008-54)

July 17, 2008

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Participation Guarantees for Crossing and Facilitation Orders

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 July 14, 2008, the Philadelphia Stock Exchange, Inc. (“Phlx” 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 by the Phlx. The Phlx has submitted the proposed rule change as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 amend Exchange Rule 1064, “Crossing, Facilitation and Solicited Orders,” to provide that the percentage of the order which a Floor Broker is entitled to cross in equity, index and U.S dollar-settled foreign currency options, after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, is 40% of the remaining contracts in the order if the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

order is traded at or between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market.

The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and http://www.phlx.com/regulatory/reg_rulefilings.aspx.

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 enhance the Exchange's ability to compete for order flow in all options traded on the Exchange by establishing uniform participation guarantee rules.

Exchange Rule 1064, Commentary .02 currently guarantees a participation percentage to Floor Brokers representing crossing and facilitation orders in open outcry. The percentage of the order which a Floor Broker is entitled to cross, after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, is currently 40% of the remaining contracts in the order respecting equity options, and 20% of the remaining contracts in the order respecting index options and U.S. dollar-settled foreign currency options.

Under the proposal, the participation guarantee would be the same for all options traded on the Exchange. Specifically, Rule 1064, Commentary .02 (iii) would continue to allow a participation guarantee to Floor Brokers of 40% for equity options (including options overlying Exchange Traded Fund shares), and would increase the participation guarantee to Floor Brokers representing crossing and facilitation orders in index options and U.S. dollar-settled foreign currency options from the current 20% to 40%. Thus, the participation guarantee for all options traded on the Exchange would be 40%.

The proposed rule change would have an effect on the Enhanced Specialist Participation⁵ respecting index options and U.S. dollar-settled foreign currency options. Rule 1064, Commentary .02(vi)(A) currently states that, respecting orders for index options and U.S. dollar-settled foreign currency options, the Enhanced Specialist Participation may only be 20% of the original order after customer orders have been executed for orders crossed pursuant to paragraph (vi) unless the Floor Broker has chosen to cross less than its 20% entitlement, in which case the Enhanced Specialist Participation will be a percentage that combined with the percentage the firm crossed is no more than 40% of the original order. The proposed rule change would increase the “20% entitlement” specified in the rule to 40%. Thus, the Enhanced Specialist Participation will apply only to the extent that the Floor Broker elects not to cross his or her entire 40% entitlement.

For purposes of simplicity, the Exchange proposes to amend Commentary .02(vi)(B) to state that the specialist shall not be entitled to receive the Enhanced Specialist Participation in

⁵ The “Enhanced Specialist Participation” entitles the specialist to a greater than equal share of the portion of an executed order that is divided among the specialist and any non-customer accounts that were bidding or offering at the same execution price. See Exchange Rule 1014(g).

equity, index and U.S dollar-settled foreign currency options unless the Floor Broker has chosen to cross less than its 40% entitlement, and to incorporate this text into one single paragraph (A), since it would no longer be necessary to differentiate index options and U.S. dollar-settled foreign currency options from all other options traded on the Exchange for purposes of the crossing and facilitation participation guarantee.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ 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 the Exchange to better compete for order flow through an increase to the participation guarantee for crossing and facilitation orders in index options and U.S. dollar-settled foreign currency options.

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 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.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹ Because the Phlx has designated the proposed rule change as one that: (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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) hereunder. As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission.

At any time within 60 days of the filing of the proposed rule change, 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.

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

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2008-54 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2008-54. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-2008-54 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon
Acting Secretary

¹⁰ 17 CFR 200.30-3(a)(12).