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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52924; File No. SR–Phlx–2005–74]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Elimination of Commentary .01, Guideline 5 to Phlx Rule 1010

December 7, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on December 5, 2005, 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 Phlx filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] 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 Exchange proposes to eliminate Commentary .01, guideline 5 to Phlx Rule 1010 (''Withdrawal of Approval of Underlying Securities''), so that an underlying security may be deemed to meet the Exchange's requirements for continued approval for options transactions where an issuer has failed to make timely reports pursuant to the Act.

The Exchange also proposes as a matter of housekeeping to amend Commentary .01, guideline 6 to Phlx Rule 1010 and Phlx Rule 1009(a)(1)(ii) to substitute the term ''NMS stock'' for the previous description of a national market system security, for consistency with Regulation NMS.[5] The text of the proposed rule change is below. Proposed new language is *italicized*, and deleted language is in brackets.

* * * * *

Rule 1010 Withdrawal of Approval of Underlying Securities

Commentary:

.01 The Board of Governors has established guidelines to be considered by the Exchange in determining whether an underlying security previously approved for Exchange option transactions no longer meets its requirements for the continuance of such approval. Absent exceptional circumstances, with respect to items 1, 2, 3, or 4 listed below, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

1. through 4.—No Change.

5. [The issuer has failed to make timely reports as required by applicable requirements of the Securities Exchange Act of 1934, and such failure has not been corrected within 30 days after the date the report was due to be filed.

6.] *The underlying security ceases to be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934.* [The issue, in the case of an underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and neither meets NMS criteria nor is traded through the facilities of a national securities association, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designated as an NMS security].

[7]*6.* If an underlying security is approved for options listing and trading under the provisions of Commentary .05 of Rule 1009, the trading volume and price history of the original security (as therein defined) prior to but not after the commencement of trading in the restructure security (as therein defined), including ''when issued'' trading, may be taken into account in determining whether the trading volume and market price requirements of paragraph (3) and (4) of this Commentary .01 are satisfied provided, however, that in the case of a Restructure Security approved for options listing and trading under paragraph (d) of Commentary .05 under Rule 1009, such trading volume requirements must be satisfied based on the trading volume history of the Restructure Security.

Commentaries .02 to .10—No Change.

* * * * *

Rule 1009 Criteria for Underlying Securities

(a) Underlying securities in respect of which put or call option contracts are approved for listing and trading on the Exchange must meet the following criteria:

(1) The security must be duly registered and *be an ''NMS stock'' as defined in Rule 600 of Regulation NMS* [(i) listed on the national securities exchange; or (ii) traded through the facilities of a national securities association and is a reported national market system (''NMS'') security as defined in Rule 11Aa3–1] under the Securities Exchange Act of 1934;

(2) No Change.

Remainder of Rule 1009—No Change.

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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 Exchange proposes to eliminate Phlx Commentary .01, guideline 5 to Phlx Rule 1010. Phlx Commentary .01 sets forth the guidelines to be considered by the Exchange in determining whether an underlying security previously approved for options trading continues to be appropriate. Specifically, Phlx Rule 1010 and related Phlx Commentary .01 provide that if an underlying security previously approved by the Exchange does not meet the then current requirements for continuance, the Exchange will not open for trading additional series of such options class and may also limit any new opening transactions in those options series that have previously been opened for trading.

Phlx Commentary .01, guideline 5 in particular provides that an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever:

5. The issuer has failed to make timely reports as required by applicable requirements of the Securities Exchange Act of 1934, and such failure has not

[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).

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

been corrected within 30 days after the date the report was due to be filed.

The Exchange proposes to eliminate this provision based on its experience in recent years applying this requirement. The Exchange believes that this provision limits the ability of investors to use options to hedge existing equity positions and is not necessary given the entire application of Phlx Commentary .01. In addition, the Exchange notes that the underlying security will continue to trade on national securities exchanges, regardless of the late filings or reports required by the Act.

The Exchange submits that Phlx Commentary .01, guideline 5 potentially harms investors and the marketplace by preventing the use of new options series to hedge positions in the underlying securities of companies that fail to make timely reports required by the Act. The Exchange states that this restriction is inconsistent with the underlying equity markets, whereby failure to properly file reports under the Act does not result in a similar trading restriction. Accordingly, the Exchange maintains that Phlx Commentary .01, guideline 5 limits the ability of investors who may wish to hedge their underlying stock positions with new options series, at a time when the ability to hedge may be particularly important.

The Exchange believes that Phlx Commentary .01, guideline 5 has substantially outlived any usefulness and now serves to unnecessarily burden and confuse the investing public. Phlx Commentary .01, guideline 5 to Phlx Rule 1010 has been a part of the Exchange's continued listing criteria since about late 1976, shortly after the listing and trading of standardized options commenced on the Exchange. In contrast to 1976, the Exchange states that the standardized options market today is a mature market largely consisting of sophisticated investors with significant access to information, such as information on the failure of a company to make timely reports under the Act. Therefore, the Exchange contends that there is no reason to limit the opportunity for investors to execute transactions in options classes (including new series within those classes) simply because a company is not timely in filing its reports under the Act, when investors are not similarly restricted from purchasing or selling shares in the underlying security.

Moreover, the limitation on new options series imposed pursuant to Phlx Commentary .01, guideline 5 causes considerable confusion and frustration in the options marketplace because it only restricts the trading of new series in a given option class. The Exchange has found that Phlx Commentary .01, guideline 5 tends to confuse both public customers and market professionals, who find themselves restricted from trading any new options series in a given class at the same time that trading occurs in pre-existing options series or the underlying stock itself. Still further confusion can arise in this process because the Exchange maintains that the Phlx, as well as the other options exchanges, have no independent means to verify whether any of the listed securities underlying options traded at the Exchange have failed to meet their reporting requirements under the Act. Accordingly, the options exchanges, including the Phlx, must rely on other self-regulatory organizations or third parties for such notification, which is always difficult to monitor, particularly since such third-party reports are sometimes delayed or inaccurate.[6]

The Exchange further submits that Phlx Commentary .01, guideline 5 is unnecessary for the protection of investors and the marketplace. For example, underlying securities that are delisted or fail to be NMS securities are no longer approved for options trading under existing rules. Specifically, existing Phlx Commentary .01, guideline 6 to Phlx Rule 1010 provides that an underlying security will no longer be approved for options transactions when:

6. The issue, in the case of an underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and neither meets NMS criteria nor is traded through the facilities of a national securities association, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designated as an NMS security.

The Phlx believes a better approach is to limit or suspend options trading when the underlying security itself has been delisted and not subject the process to the inherent uncertainty of a failure of the underlying company to timely file its reports under the Act. The Exchange accordingly submits that current Phlx Commentary .01, guideline 5 should be eliminated.[7]

Finally, as a matter of ''housekeeping,'' the Exchange is amending Phlx Commentary .01, guideline 6 to Phlx Rule 1010 and Phlx Rule 1009(a)(1)(ii) to substitute ''NMS stock'' for the term ''national market system security,'' for consistency with Regulation NMS. Both of these provisions include a requirement that the underlying security must be a national market system security (''NMS security''). As part of the recently adopted Regulation NMS, among other things, the Commission revised the definition of an ''NMS security.'' [8] Specifically, Rule 600(b)(46) under Regulation NMS defines an NMS security as ''any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.'' Rule 600(b)(47) under Regulation NMS also defines an ''NMS stock'' as any NMS security other than an option. As such, Phlx Commentary .01, guideline 6 to Phlx Rule 1010 and Phlx Rule 1009(a)(1)(ii) will be amended to reflect these new terms.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose

[6] The Exchange notes that it has procedures in place to monitor when an underlying security previously approved for option transactions ceases to trade on or is delisted from its primary listed market. Exchange staff monitors: (1) The daily list services issued by the primary listing markets (such as the New York Stock Exchange, Inc., American Stock Exchange LLC, and The Nasdaq Stock Market, Inc.); (2) press releases issued by the primary listing markets and the news wires; and (3) information circulars issued by the primary listing markets. In the event of a delisting of the underlying security from its primary listed market, Phlx will cease opening new series of options in such security and allow the existing series of options to expire. Additionally, if the underlying security has been halted or suspended in the primary market, the Exchange may halt trading in the option class pursuant to Phlx Rule 1047 or halt trading pursuant to Phlx Rule 133.

[7] The reference to guideline 6 in the prior paragraph, and the word current in the final sentence of this paragraph, were added pursuant to a telephone conference between Jurij Trypupenko, Director, Exchange, and David L. Orlic, Attorney, Division of Market Regulation, Commission, on December 7, 2005.

[8] *See* supra note 5.

[9] 15 U.S.C. 78f(b).

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

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

Written comments on the proposed rule change were neither solicited nor received.

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

The Phlx has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

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.

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[13] 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, and the self-regulatory organization must file notice of its intent to file the proposed rule change at least five business days beforehand. The Exchange requests that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay so the proposed rule change can be implemented immediately. The Commission believes that waiving the five-day pre-filing provision and the 30-day operative delay is consistent with the protection of investors and the public interest.[14]

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.* Please include File Number SR–Phlx–2005–74 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR-Phlx-2005–74. 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 such filing also will be available for inspection and copying at the principal offices 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–2005–74 and should be submitted on or before January 5, 2006.

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

Jonathan G. Katz,

Secretary.

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For 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).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Mandatory Declassification Review Requests

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This notice identifies the office in the U.S. Small Business Administration to which mandatory declassification review requests shall be addressed in accordance with applicable laws. This notice benefits the public in advising them where to send such requests for declassification review.

ADDRESSES: Requests must be addressed to: Director, Office of Security Operations, Office of Inspector General, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Linda M. Roberts, Director, Office of Security Operations, Office of Inspector General, at (202) 205–6223.

SUPPLEMENTARY INFORMATION: Pursuant to Classified National Security Information Directive No. 1 (32 CFR, Parts 2001 and 2004), issued by the Information Security Oversight Office, the U.S. Small Business Administration is required to advise the public of the address that Mandatory Declassification Review requests pertaining to the U.S. Small Business Administration may be sent. This notice fulfills that requirement.

Authority: 32 CFR 2001.33.

Dated: December 8, 2005.

Peter McClintock,

Deputy Inspector General.

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DEPARTMENT OF STATE

[Public Notice 5244]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Middle East Partnership Initiative Study of the United States Institute for Undergraduate Student Leaders

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/USS–06–MEPI–4.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: January 31, 2006.