

widely disseminated every 15 seconds. Furthermore, the Indicative Fund Value for the Fund will be updated on a per-Share basis and published via the facilities of the CTA/CQ High Speed Lines on a 15-second delayed basis throughout the Exchange's Core Trading Session. The Exchange also represents that Amex will disseminate information with regard to the recent NAV per Share and Shares outstanding on a daily basis by means of the CTA/CQ High Speed Lines.

The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in the Shares when transparency is impaired. If the listing market halts trading when the Indicative Fund Value is not being calculated or disseminated, the Exchange would halt trading in the Shares. The Exchange has represented that it would follow the procedures with respect to trading halts set forth in NYSE Arca Equities Rule 7.34.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules.

2. Prior to the commencement of trading, the Exchange would inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

3. The Information Bulletin also would discuss the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction.

4. Trading in the Shares will be subject to Commentary .02(e)(1)-(4) to NYSE Arca Equities Rule 8.200, which sets forth certain restrictions on ETP Holders acting as registered Market Makers in TIRs that invest in Investment Shares to facilitate surveillance.

This approval order is based on these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of the Shares on Amex is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude

the trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change (SR-NYSEArca-2007-68), as amended, be and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Nancy M. Morris,**  
*Secretary.*

[FR Doc. E7-25368 Filed 12-28-07; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57018; File No. SR-Phlx-2007-68]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Customized U.S. Dollar- Settled Foreign Currency Options

December 20, 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 September 6, 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 substantially prepared by Phlx. On December 18, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> 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 Rule 1079, FLEX Index and Equity Options, to permit trading of U.S. dollar-settled

foreign currency options ("FCOs") with certain individually tailored features.<sup>4</sup>

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, 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

The purpose of the proposed rule change is to permit the trading of U.S. dollar-settled FCOs with individually tailored expiration dates and exercise prices.<sup>5</sup> Currently, a variety of customized physical delivery FCOs are traded on the Exchange pursuant to Rule 1069, Customized Foreign Currency Options.<sup>6</sup> Users currently have the ability with respect to physical delivery FCOs to customize the strike price and quotation method and to choose underlying and base currency combinations from among various Exchange listed currencies, including the U.S. dollar. Customized physical delivery FCOs were originally introduced to provide investors with the flexibility and variety offered in the over-the-counter market as well as the benefits attributed to an exchange auction market as they hedge their exchange rate risks.

Individually tailored equity and index options may also be traded pursuant to Rule 1079, FLEX Index and Equity Options.<sup>7</sup> The Exchange now proposes to amend Rule 1079 to permit some individual tailoring of U.S. dollar-

<sup>4</sup> The term "FLEX" is a trademark of the Chicago Board Options Exchange, Inc.

<sup>5</sup> The Options Clearing Corporation ("OCC") will be the issuer and guarantor of these new options.

<sup>6</sup> See Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (approving SR-Phlx-94-18). Customized physical delivery FCOs trade without a specialist or limit order book pursuant to Rule 1069.

<sup>7</sup> See Securities Exchange Act Release No. 39549 (January 14, 1998), 63 FR 3601 (January 23, 1998) (adopting SR-Phlx-96-38).

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</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> Amendment No. 1 replaces the original filing in its entirety.

settled FCOs as well.<sup>8</sup> Individually tailored U.S. dollar-settled FCOs would be known as "FLEX currency options" and Rule 1079 would be amended to include FLEX currency options in its title. Any references in Exchange rules or proposed rule changes to "FLEX currency options" would apply *only* to U.S. dollar-settled FCOs that are proposed to trade pursuant to Rule 1079. "FLEX currency options" would *not* include customized physical delivery FCOs that trade pursuant to Rule 1069.

Pursuant to this proposed rule change, the Exchange would be able to offer market participants the ability to trade FLEX currency options with non-standardized expiration dates. At present, pursuant to Exchange Rule 1012, Series of Options Open for Trading, FCO users can only trade U.S. dollar-settled FCO contracts with standardized terms, including standardized expiration dates. Thus, U.S. dollar-settled FCO contracts currently may only be traded with expirations at 1, 2, 3, 6, 9 and 12 months. The Exchange is proposing to revise this previously-standard term by allowing FLEX currency option contracts to expire on any month, business day and year within two years, provided that a FLEX currency option would not be permitted to expire on any day that falls on or within two business days prior or subsequent to an expiration day for a non-FLEX U.S. dollar-settled FCO on the same underlying currency or on any day on which the Federal Reserve Bank is not scheduled to publish its Noon Buying Rate.<sup>9</sup> This flexibility would enable market participants to hedge their exchange rate exposure more accurately by trading a contract that expires on a trading day of their choosing. All FLEX currency options with customized expiration dates would expire at 11:59 p.m. eastern time on their designated expiration date and cease trading at 10:15 a.m. eastern time that day.<sup>10</sup>

Pursuant to Rule 1079(a)(3), users will also be able to individually tailor the strike prices of U.S. dollar-settled FCOs. Strike prices need not be consistent with strike price intervals permissible for non-FLEX U.S. dollar-settled FCOs. The strike price may be specified in terms of a specific dollar amount

rounded to the nearest ten thousandth of a dollar (expressed without reference to the first two decimal places) for FLEX currency options other than the Japanese yen currency option. FLEX options on the Japanese yen may be specified in terms of a specific dollar amount rounded to the nearest one millionth of a dollar (expressed without reference to the first four decimal places). FLEX U.S. dollar-settled foreign currency options will be margined at the same levels as the Exchange's non-FLEX U.S. dollar-settled foreign currency options.<sup>11</sup>

Pursuant to the proposed amendment to Rule 1079(a)(4)(B), FLEX currency options would be quoted in terms of dollars per unit of underlying foreign currency, just like the non-FLEX U.S. dollar settled FCOs. FLEX currency options may be quoted and traded in the same minimum increments that are established for non-FLEX U.S. dollar settled FCOs pursuant to Exchange Rule 1034.<sup>12</sup>

Rule 1079(a)(9) is being amended to provide for settlement for FLEX currency options. The closing settlement value for FLEX options on the Australian dollar, the Euro and the British pound would be the day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York on the expiration date. If the Noon Buying Rate is not announced by 5:00 p.m. eastern time, the closing settlement value would be the most recently announced Noon Buying Rate, unless the Exchange determined to apply an alternative closing settlement value as a result of extraordinary circumstances. The closing settlement value for FLEX options on the Canadian dollar, the Swiss franc and the Japanese yen would be an amount equal to one divided by the day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York on the expiration date, rounded to the nearest .0001 (except in the case of the Japanese yen where the amount would be rounded to the nearest .000001). If the Noon Buying Rate were not

announced by 5 p.m. eastern time, the closing settlement value would be based upon the most recently announced Noon Buying Rate, unless the Exchange determined to apply an alternative closing settlement value as a result of extraordinary circumstances. This settlement provision closely tracks Rule 1057, U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value, applicable to non-FLEX U.S. dollar-settled FCOs.<sup>13</sup> FLEX currency options will be subject to the exercise-by-exception procedures of OCC.<sup>14</sup>

The Exchange proposes to amend Rule 1079(a)(5), which currently permits market participants to determine whether a FLEX index or equity option will have either an American or European exercise style.<sup>15</sup> As amended, Rule 1079(a)(5) would continue to permit this flexibility for FLEX index and equity options, while limiting FLEX currency options to European exercise style only. The option type may be a put, call or hedge order.<sup>16</sup>

Currently Rule 1079(c), which will also apply to FLEX currency options, provides that at least two Exchange members (ROT's and/or a Specialist) must be assigned to each FLEX option. ROT's and Specialists must apply on the appropriate Exchange form to be assigned in FLEX options.<sup>17</sup> An assigned ROT or assigned Specialist may choose to be assigned in a particular FLEX option. Assigned ROT's and the assigned Specialist are subject to certain obligations respecting the trading of FLEX options. For example, the affirmative and negative market making obligations of Rule 1014(c) apply. Assigned ROT's and the assigned Specialist must respond with a market respecting any FLEX option upon request by a Floor Official. However, assigned ROT's and assigned Specialists

<sup>13</sup> However, Rule 1057 bases the closing settlement value for non-FLEX U.S. dollar-settled FCO on the Noon Buying Rate of the business day *prior* to expiration rather than that of the expiration date itself.

<sup>14</sup> See OCC Rule 805, which sets forth the expiration date exercise procedures for options cleared and settled by the OCC. The exercise-by-exception or "Ex-by-Ex" procedure employed by OCC in OCC Rule 805 allows an OCC Clearing Member to effect a choice not to exercise an option that is in the money by the exercise threshold amount or more, or to exercise an option which has not reached the exercise threshold amount.

<sup>15</sup> An American style option may be exercised at any time up to its expiration, while a European style option can only be exercised on its expiration day. See Phlx Rule 1000(b)(34) and (35).

<sup>16</sup> See Exchange Rules 1079(a)(2), 1000(b)(7) and 1066(f).

<sup>17</sup> See Rule 1079(c)(1) regarding Assigned ROT's and Assigned Specialists. Rule 1079(c)(1) currently applies to all FLEX options and would apply to FLEX currency options as well.

<sup>8</sup> Corresponding changes are proposed to be made to Options Floor Procedure Advice F-28, Trading FLEX Index and Equity Options. The Exchange is not proposing to amend Rule 1069, Customized Foreign Currency Options. Rule 1069 will continue to apply to physical delivery FCO only.

<sup>9</sup> See proposed amendment to Rule 1079(a)(6)(A).

<sup>10</sup> *Id.* See also proposed amendment to Rule 1079(a)(9)(C).

<sup>11</sup> See Phlx Rule 722.

<sup>12</sup> See Rule 1034, Minimum Increments, section (a), for the minimum increments applicable to non-FLEX U.S. dollar-settled FCO. Commencing January 2, 2008, U.S. dollar-settled FCO will be quoted and traded in minimum increments of \$.0001 (expressed as .01) for option contracts on the British pound, \$.0001 (expressed as .01) for option contracts on the Swiss franc, \$.0001 (expressed as .01) for option contracts on the Canadian dollar, \$.0001 (expressed as .01) for option contracts on the Australian dollar, \$.0001 (expressed as .01) for option contracts on the Euro, \$.000001 (expressed as .01) for option contracts on the Japanese yen. See Securities Exchange Act Release No. 56933 (December 7, 2007), 72 FR 71185 (December 14, 2007) (approving SR-Phlx-2007-70).

are not required to provide continuous quotes or markets at a certain minimum bid-ask differential (quote spread parameter).

If there is an assigned Specialist and an assigned ROT in a FLEX option, the FLEX option trades pursuant to the specialist system, just as non-FLEX options do on the Exchange. Only the Specialist in the non-FLEX option may be the assigned specialist in that FLEX option. However, there may not be a Specialist in FLEX options.

Where there is no assigned FLEX Specialist, two assigned ROTs are required.<sup>18</sup> The current responsibilities of a Specialist to determine a market based on the bids and offers voiced as well as to disseminate bids/offers and trades may be handled by the Requesting Member, where there is no assigned Specialist in that FLEX option. If a trade occurs where the Requesting Member is not a participant and there is no assigned Specialist, the responsibility to submit the trade falls upon the seller or largest participant, in accordance with existing trading procedure.<sup>19</sup>

Trading of FLEX currency options will be subject to Rule 1079(b), which currently governs the trading of FLEX equity and index options. Generally, like FLEX equity and index options, FLEX currency options would be traded in accordance with many existing option rules. Rule 1079 states that although FLEX options are generally subject to the rules in the options section of the Exchange rules, to the extent that the provisions of Rule 1079 are inconsistent with other applicable Exchange rules, Rule 1079 takes precedence with respect to FLEX options. Provisions of Rule 1079 that are not limited by their terms to FLEX equity or index options would be equally applicable to FLEX currency options.<sup>20</sup> Thus, most of Rule 1079(b),

Procedure for Quoting and Trading FLEX Options, will apply to FLEX currency options in the same way it applies to FLEX equity and index options.

The Automated Options Market ("AUTOM") system is not available for FLEX options.<sup>21</sup> All FLEX options must be quoted and traded in the trading crowd of the corresponding non-FLEX option. Because FLEX options are not continuously quoted, nor are series pre-established, the variable terms of FLEX options are established by the following process. In order to initiate a transaction, a Requesting Member must submit an RFQ to the appropriate trading crowd, announcing the terms of the quote sought. The characteristics, including which terms and to what degree certain option features may be individually tailored, are outlined in Rule 1079(a). On receipt of an RFQ in proper form, the assigned Specialist or the Requesting Member causes the terms of the RFQ to be disseminated as an administrative text message through the Options Price Reporting Authority ("OPRA").<sup>22</sup> RFQs, responsive quotes, booked orders and completed trades are promptly reported to OPRA and disseminated as an administrative text message. Although certain information is not required to be part of the RFQ (such as account type, crossing intention, response time and size), this information is reflected on the final order ticket. Further, the size and crossing intention must be voiced as part of voicing the RFQ.

Following the RFQ announcement, a preset response time begins, during which members may provide responsive quotes. As stated in existing Rule 1079(b)(2), the response time, between 2 and 15 minutes, is determined by the Options Committee.<sup>23</sup>

Pursuant to proposed Rule 1079(a)(8), as proposed to be amended, if there is no open interest in the particular FLEX

currency option series when an RFQ is submitted, the minimum size of an RFQ for FLEX currency options would be 50 contracts. If there is open interest, the minimum size of the RFQ would be 25 contracts, or the remaining size on a closing transaction, whichever is less. The minimum value size for a responsive quote, other than a responsive quote of an assigned ROT or assigned specialist, would be 50 contracts or the remaining size on a closing transaction, whichever is less. Assigned ROTs and assigned Specialists who respond to an RFQ would be required to respond to each RFQ with at least 250 contracts or the size amount requested in the RFQ, whichever is less.<sup>24</sup>

During the response time, qualified members could provide responsive quotes to the RFQ, which may be entered, modified or withdrawn during such response time. At the end of the response time, the assigned Specialist, or if none, the Requesting Member would determine the best bid and offer ("BBO"), based on price, disseminating such market with reference to the corresponding RFQ. However, where two or more bids/offers are at parity, under Rule 1079(b)(3) bids/offers submitted by an assigned Specialist, assigned ROT or customer would have priority over the bids/offers submitted by non-assigned ROTs and by controlled accounts as defined in Phlx Rule 1014(g)(i).

Following the determination of the BBO, a BBO Improvement Interval may be invoked if the Requesting Member rejects the BBO or the BBO is for less than the entire size requested. The BBO Improvement Interval is a two minute time period during which the BBO may be matched or improved. As a result of the Improvement Interval, a new BBO is established, which is disseminated with reference to the corresponding RFQ. An assigned ROT and the assigned Specialist who responded with a market during the response time may immediately join the new BBO.

A trade in FLEX options cannot be executed until the end of the response time or BBO Improvement Interval. Once the response time or BBO Improvement Interval ends, the Requesting Member is given the first opportunity to trade on the market by voicing a bid/offer in the trading crowd. The Requesting Member has no obligation to accept any bid or offer for a FLEX option. If the Requesting Member rejects the BBO or the BBO size

<sup>18</sup> The non-FLEX Specialist may be an assigned ROT in the FLEX option, or not assigned at all.

<sup>19</sup> See Floor Procedure Advice F-2, Time Stamping, Matching and Access to Matched Trades.

<sup>20</sup> For example, the following provisions of Rule 1079 are not restricted to FLEX equity or index options or to FLEX U.S. dollar-settled FCOs, and are therefore applicable to each of them: The introductory language of Rule 1079; Rule 1079(a)(2) which specifies permissible order types; Rule 1079(a)(6)(C) which provides that a FLEX option cannot expire on the same day that series is established at OCC; Rule 1079(a)(7) which provides that requests for quotes ("RFQs") are to be submitted pursuant to Rule 1079(b); Rule 1079(a)(10), which generally defines the term "Requesting Member" as a member of the Exchange qualified to trade FLEX options who initiates an RFQ; Rule 1079(b), which establishes the procedure for quoting and trading FLEX options (other than Rule 1079(b)(1)(3) which is being revised to apply only to equity and index FLEX options); and Rule 1079(c), which establishes who

may trade FLEX options. Rule 1079(b)(5)(B) is being amended to make that provision applicable to FLEX U.S. dollar-settled FCO just as it applies to FLEX index and FLEX equity options.

<sup>21</sup> The term "AUTOM" is used interchangeably with the term "Phlx XL," the Exchange's fully electronic trading platform for options. The Exchange intends to file a separate proposed rule change to update its rules to reflect that orders are now delivered electronically over Phlx XL.

<sup>22</sup> Operationally, the Requesting Member provides this information to data entry personnel, who enter it into Exchange systems.

<sup>23</sup> The Options Committee has established a response time of ten minutes for FLEX equity and index options. The response time for FLEX currency options would be the same as for FLEX equity and index options. Although the Options Committee is authorized to change the response time within the permissible range, any such change would be preceded by notice to the Exchange membership.

<sup>24</sup> These minimum sizes are different from the minimum sizes applicable to equity options and index options under existing Rule 1079(a)(8).

exceeds the entire size requested, another member may accept such BBO or the unfilled balance of the BBO. Acceptance of a bid/offer creates a binding contract under Exchange rules.

Once the BBO is established, the RFQ remains open that trading day, unless a trade occurs, and a member may re-quote the market with respect to the open RFQ without submitting an additional RFQ.<sup>25</sup> If a trade occurs, a new RFQ is required. Only an assigned ROT or assigned Specialist who responded to the open RFQ during the response time or BBO Improvement Interval may immediately join the re-quoted market, thus matching for parity purposes. Neither the Requesting Member, nor the re-quoting member, is given the first opportunity to trade on the re-quoted market.

Further, as with FLEX index options and FLEX equity options, there will be a limit order book for FLEX currency options. As with FLEX index and equity options, the Specialist in the listed non-FLEX U.S. dollar-settled FCO, whether or not assigned in FLEX options, must accept FLEX orders on the FLEX book after completion of the RFQ process. As such, the Specialist would be required to monitor FLEX markets for any booked orders. The Exchange would require all Specialists in U.S. dollar-settled FCOs, whether acting as an assigned FLEX currency option Specialist or not, to maintain the FLEX book for consistency with the procedures for non-FLEX options and to prevent investor confusion. Only customer day limit orders may be placed on the FLEX currency option book. Booked orders expire at the end of each trading day. The limit price and size must be written on the RFQ ticket and disseminated as an administrative text message through OPRA.

In order to trade with the book, an executing member must quote the market and announce the trade. The Exchange believes that the FLEX order book should serve as a useful tool for customers, as does the current limit order book respecting non-FLEX U.S. dollar-settled currency options. With respect to booked orders for the same FLEX currency option (that is, orders for

a FLEX currency option with identical terms), Rule 1014 will apply to determine priority and parity among such orders.<sup>26</sup> When trading with a booked order, a member must re-quote the market and announce the trade.

Generally, on the Phlx options floor, a cross may take place in accordance with Rule 1064. Crossing in FLEX currency options will be governed Rule 1079(b)(6), which currently applies to crosses in the existing FLEX equity and index options. The Requesting Member must voice the crossing intention as part of voicing the RFQ. After the BBO has been determined, the Requesting Member intending to cross must bid (or offer) at or better than the BBO. If the Requesting Member's bid/offer is at the BBO, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. For instance, if there are two members on parity at the BBO, the Requesting Member and an assigned ROT, the Requesting Member is entitled to receive 50% of the contra-side contracts, which is a fair split, not just the 25% guaranteed minimum right of participation. The remainder of the contra-side is split in accordance with the parity/priority provision applicable to determining the BBO, such that assigned ROTs/Specialists may be afforded priority.

If the Requesting Member's bid/offer improves the existing BBO, an assigned ROT or assigned Specialist who responded with a market during the response time or BBO Improvement Interval, may immediately join the Requesting Member's improved bid or offer, thus matching for parity purposes. However, the Requesting Member may execute 25% or a fair split, whichever is greater, of the contra-side of the order that is the subject of the RFQ. The remainder of the contra-side is split in accordance with the parity/priority provision applicable to determining the BBO, such that assigned ROTs/Specialists may be afforded priority. However, broker-dealer crosses and solicited orders, as defined in Rule 1064, are not eligible for the split afforded by these crossing provisions. Broker-dealer crosses and solicited orders must be announced and bid/offer, under the FLEX crossing provision. No 25% minimum guaranteed right of participation applies to solicited orders or broker-dealer/broker-dealer crosses. In addition,

crossing transactions may not be subject to a minimum right of participation, because a customer-to-customer cross would not be required to yield the remainder (75%) to assigned ROTs/Specialists.

Assigned ROTs and the assigned Specialist who respond with a market during the response time may join a new bid/offer voiced during the Improvement Interval and prior to a cross, provided they do so immediately and subject to preserving the priority of customer orders. Enabling assigned ROTs and the assigned Specialist to join any such new bid/offer affords them parity at that new BBO.

Proposed Rule 1079(d)(3) is unique to FLEX currency options and provides that positions in FLEX U.S. dollar-settled FCOs would be aggregated with positions in non-FLEX U.S. dollar-settled FCO contracts as well as physical delivery FCO contracts for purposes of determining compliance with the position limits established by Rule 1001. Like non-FLEX U.S. dollar-settled FCOs, (i) one British pound FLEX option contract would count as one third of a contract, (ii) one Euro FLEX option contract would count as one sixth of a contract, (iii) one Australian dollar FLEX option contract would count as one fifth of a contract, (iv) one Canadian dollar FLEX option contract would count as one fifth of a contract, (v) one Swiss Franc FLEX option contract would count as one sixth of a contract, and (vi) one U.S. dollar-settled Japanese yen FLEX option contract would count as one sixth of a contract.<sup>27</sup>

Pursuant to existing Rule 1079(c)(3), no ROT or Specialist may effect any FLEX option transaction unless a Letter of Guarantee has been issued by a clearing member organization and filed with the Exchange pursuant to Rule 703 specifically accepting financial responsibility for all FLEX option transactions made by such person and such letter has not been revoked. As a rule applicable to all FLEX options, Rule 1079(c)(3) would apply to the new FLEX currency options as well. The Exchange may waive the financial requirements of this Rule in unusual circumstances. Assigned Specialists/ROTs in FLEX currency options, as well as non-assigned ROTs/Specialists in FLEX currency options, also would be required to comply with Exchange

<sup>25</sup> A re-quote does not require the submission of a new RFQ, thereby avoiding the delay of a new response time where such time may not be needed due to a recent quote. An option quoted earlier in the trading day should be easier to price, such that a new response time is not needed. Any time a market is re-quoted that day, the new BBO and any resulting trade are disseminated with reference to the original RFQ. However, once a trade occurs, a new RFQ is required. The Options Committee may determine to establish an abbreviated response time for a new RFQ, because the full ten minutes may not be required for pricing determinations.

<sup>26</sup> Although the principles of price/time priority and simultaneous bids/offers at parity of Rule 1014 would apply, the enhanced specialist participation of sub-paragraphs (g)(ii) and (iii) are not applicable to FLEX options.

<sup>27</sup> The counting of both FLEX and non-FLEX U.S. dollar-settled FCO contracts as less than one full contract reflects the fact that the size of the U.S. dollar-settled FCO contract is smaller than the Exchange's physical delivery contract on the same currencies. The position limit rules were originally adopted for the larger physical delivery contracts.

financial requirements set forth in Rule 703, Financial Responsibility and Reporting.

Like other FLEX options, there would be no trading rotations in FLEX currency options, either at the opening or at the close of trading. The Exchange has determined that, initially, FLEX currency options would have the same trading hours as non-FLEX U.S. dollar-settled FCO. The Exchange would be able to establish other trading times for FLEX currency options within the regular trading hours for the non-FLEX U.S. dollar-settled FCOs, including reflecting any new trading hours for non-FLEX U.S. dollar-settled FCOs.<sup>28</sup>

The Exchange also proposes to amend Floor Procedure Advice F-28, Trading FLEX Index and Equity Options, to include FLEX Currency Options in its title and to make parallel changes to those being proposed to Rule 1079(b).

Exchange rules and regulations involving sales practice will be applicable to FLEX currency options. Finally, the Exchange represents that it has adequate surveillance procedures for, and systems capacity to support, the trading of FLEX currency options.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>29</sup> in general, and with Section 6(b)(5) of the Act,<sup>30</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing investors the ability to tailor foreign currency option contracts to suit their particular investment requirements and increased flexibility in satisfying particular investment objectives.

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>28</sup> Under this proposal, expanding and narrowing FLEX currency trading hours within the regular trading hours of the particular product would not require a proposed rule change pursuant to Section 19(b) of the Act. The Exchange, however, would notify its members, in advance, prior to making any such change. Any proposal to expand trading hours outside of established regular trading hours would be submitted as a proposed rule change to the Commission pursuant to Section 19(b) of the Act.

<sup>29</sup> 15 U.S.C. 78f.

<sup>30</sup> 15 U.S.C. 78f(b)(5).

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

Written comments were neither solicited nor 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 Amex 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2007-68 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-2007-68. 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 such filing also will be available for inspection and copying at the principal office of 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-2007-68 and should be submitted on or before January 22, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E7-25355 Filed 12-28-07; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57038; File No. SR-Phlx-2007-93]

### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to \$5 Strike Price Intervals of Options on Exchange-Traded Fund Shares above \$200**

December 21, 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 December 19, 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 and II below, which Items have been substantially prepared by the Phlx. The Exchange filed the proposal as a "non-controversial" proposed 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

<sup>31</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).