

in either cancelling the order back to the participant or routing the order to a destination of the participant's choice.

#### *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.

#### *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**

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 the Exchange 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-CHX-2006-30 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-CHX-2006-30. 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 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-CHX-2006-30 and should be submitted on or before November 20, 2006.

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

**Nancy M. Morris,**

*Secretary.*

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**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54644; File No. SR-ISE-2004-17]

### **Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto Relating to Market Maker Orders**

October 23, 2006.

#### **I. Introduction**

On May 26, 2004, the International Securities Exchange, Inc. ("ISE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), 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> a proposal to eliminate the restriction on Electronic Access Members ("EAMs") representing ISE market maker orders, provided that such orders are identified as orders for the account of an ISE market maker. The Exchange filed Amendment No. 1 with

the Commission on August 14, 2006.<sup>3</sup> The amended proposal was published for comment in the **Federal Register** on September 14, 2006.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposal, as amended.

#### **II. Description of the Proposal**

The Exchange proposes to amend ISE Rule 717(g) to eliminate the restriction on EAMs representing ISE market maker orders, provided that such orders are identified as orders for the account of an ISE market maker. Currently, under ISE Rules, EAMs generally are not permitted to represent orders for the account of an ISE market maker. In its filing with the Commission, the Exchange stated that it initially included this restriction in its rules due to a system limitation. Specifically, allowing ISE market makers to enter orders through another member instead of directly might have created an opportunity for ISE market makers to avoid certain limitations on market maker trading contained in the Exchange's Rules.<sup>5</sup>

The Exchange represents that it has developed the capability for EAMs to mark orders to show that they are for the account of an ISE market maker. A marked order can be tracked through the Exchange's surveillance system as if it were directly entered by the market maker. Therefore, the Exchange proposes to eliminate the prohibition against EAMs entering orders for the account of ISE market makers in most circumstances. However, the proposal would continue to prohibit an EAM from entering an order solicited from an ISE market maker into the Solicited Order Mechanism and the Price Improvement Mechanism—functionalities that are designed to expose solicited transactions to the market—if the market maker is assigned to the options class that is the subject of the order.<sup>6</sup>

#### **III. Discussion**

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the

<sup>3</sup> Amendment No. 1 replaced and superceded the original filing in its entirety.

<sup>4</sup> See Securities Exchange Act Release No. 54415 (September 7, 2006), 71 FR 54321.

<sup>5</sup> See, e.g., ISE Rule 805 (Market Maker Orders).

<sup>6</sup> This limitation on entering orders solicited from market makers assigned to the options class was included in a rule change by the CBOE (the "Automated Improvement Mechanism" or "AIM") recently approved by the Commission. See Securities Exchange Act Release No. 53222 (Feb. 3, 2006), 71 FR 7089 (Feb. 10, 2006). The execution of solicited transactions through AIM is similar to the execution of orders through the ISE's Price Improvement Mechanism.

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

<sup>15</sup> U.S.C. 78s(b)(1).

<sup>27</sup> 17 CFR 240.19b-4.



requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>7</sup> In particular, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the rules of a national securities exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities; 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.

The Commission notes that ISE's proposal should permit EAMs to represent orders of ISE market makers without compromising the Exchange's ability to surveil their trading activity. Thus the proposal should not impact the Exchange's execution of its regulatory obligations. In addition, the proposed provision prohibiting an EAM from entering an order solicited from an ISE market maker into the Solicited Order Mechanism and the Price Improvement Mechanism in that ISE market maker's assigned class would permit those two functionalities to remain mechanisms for exposing solicited transactions to the competition of the marketplace.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-ISE-2004-17), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Nancy M. Morris,**  
Secretary.

[FR Doc. E6-18079 Filed 10-27-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54648; File No. SR-Phlx-2006-52]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 Thereof, Relating to Quoting Obligations

October 24, 2006.

#### I. Introduction

On August 15, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend Phlx Rule 1014, "Obligations and Restrictions Applicable to Specialists and Registered Options Traders," by adopting Phlx Rule 1014(b)(ii)(D)(4), which would state that Streaming Quote Traders ("SQTs"),<sup>3</sup> Remote Streaming Quote Traders ("RSQTs"),<sup>4</sup> and SQTs and RSQTs that receive Directed Orders<sup>5</sup> ("DSQTs" and "DRSQTs," respectively) would be deemed not to be assigned in any option series until the time to expiration for such series is less than nine months. Accordingly, the market making obligations described in Phlx Rule 1014(b)(ii)(D) would not apply to SQTs, RSQTs, DSQTs, and DRSQTs respecting series with an expiration of nine months or greater. On September 8, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>6</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on September 19, 2006.<sup>7</sup> The Commission received no comments regarding the proposal, as amended. This order approves the proposed rule change, as amended.

#### II. Description of the Proposal

Currently, SQTs and RSQTs that do not receive Directed Orders in a Streaming Quote Option<sup>8</sup> are

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Phlx Rule 1014(b)(ii)(A).

<sup>4</sup> See Phlx Rule 1014(b)(ii)(B).

<sup>5</sup> See Phlx Rule 1080(l)(i)(A).

<sup>6</sup> Amendment No. 1 made a clarifying change to the proposed rule text, as well as two minor technical changes to the purpose section.

<sup>7</sup> See Securities Exchange Act Release No. 54429 (September 12, 2006), 71 FR 54864.

<sup>8</sup> A Streaming Quote Option is an option in which SQTs may generate and submit option quotations if such SQT is physically present on the Exchange floor, and RSQTs may generate and submit option

quotations from off the floor of the Exchange, electronically. See Phlx Rule 1080(k). Currently, all options trading on the Exchange are Streaming Quote options.

responsible to quote continuous, two-sided markets in not less than 60% of the series in each Streaming Quote Option in which such SQT or RSQT is assigned.<sup>9</sup> A DSQT or DRSQT is responsible to quote continuous, two-sided markets in not less than 99% of the series listed on the Exchange in at least 60% of the options in which such DSQT or DRSQT is assigned.<sup>10</sup> Whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain continuous quotations for not less than 99% of the series of the option listed on the Exchange until the close of that trading day.<sup>11</sup>

To reduce the number of quotations submitted by SQTs, RSQTs, DSQTs and DRSQTs, the Phlx proposes to relax the quoting obligations that require quotes to be generated. Specifically, the Exchange proposes, on a six-month pilot basis, to permit SQTs, RSQTs, DSQTs and DRSQTs not to submit streaming quotations in options with a series of more than nine months until expiration, which are known as LEAPS (Long-term Equity Anticipation Securities), by deeming them not to be assigned in any option series until the time to expiration for such series is less than nine months. The effect of this is to relax their quoting obligations, and ultimately the number of quotes they are required to submit, because the quoting obligations in Phlx Rule 1014(b)(ii)(D)(1) apply only to those options in which they are assigned.

Specialists, currently responsible to quote continuous, two-sided markets in not less than 99% of the series in each Streaming Quote Option in which such specialist is assigned,<sup>12</sup> would still be required to quote LEAPS, so the Exchange would continue to disseminate a two-sided market in LEAPS.

The Exchange proposes to effect the proposed rule change, as amended, on a six-month pilot basis, beginning on the date the Commission approves this proposed rule filing.

#### III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

quotations from off the floor of the Exchange, electronically. See Phlx Rule 1080(k). Currently, all options trading on the Exchange are Streaming Quote options.

<sup>9</sup> See Phlx Rule 1014(b)(ii)(D)(1).

<sup>10</sup> See Phlx Rule 1014(b)(ii)(D)(1).

<sup>11</sup> See Phlx Rule 1014(b)(ii)(D)(1).

<sup>12</sup> See Phlx Rule 1014(b)(ii)(D)(2).

<sup>7</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).