

### *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**

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 self-regulatory organization consents, the Commission will:

- (A) by order approve the 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-NYSE-2007-48 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-NYSE-2007-48. 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 office of the NYSE. 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-NYSE-2007-48 and should be submitted on or before June 25, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

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

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### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-55823; File No. SR-NYSE-2007-10]**

#### **Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Amendments to Interpretation to Rule 311(b)(5) ("Co-Designation of Principal Executive Officers") as Modified by Amendment No. 1**

May 29, 2007.

#### **I. Introduction**

On February 2, 2007, the New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to amend Interpretation .05 to NYSE Rule 311(b)(5) regarding co-designation of principal executive officers. On April 16, 2007, the Exchange submitted

Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on April 26, 2007.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

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

NYSE Rule 311 ("Formation and Approval of Member Organizations") and specifically Section (b)(5) thereof currently provide that principal executive officers<sup>5</sup> shall exercise principal executive responsibility over the various areas of the business of the member corporation. Interpretation .05 to Rule 311(b)(5) (the "Interpretation") sets forth the regulatory framework under which member organizations may request approval for assigning two persons as the principal executive officers for the same function pursuant to Rule 311(b)(5). The Rule currently provides that no understanding or agreement purporting to limit or apportion the joint and several responsibility of each such co-officer will be recognized by the Exchange. The Exchange now believes, however, that there are situations in which CCOs and COOs can exercise supervisory authority over discrete and naturally separate business functions, consistent with the internal corporate structure of the particular member organization. Accordingly, the Exchange has proposed to permit co-CCOs and co-COOs to allocate supervisory responsibility in a fashion acceptable to the Exchange.<sup>6</sup>

Specifically, where a member organization seeks to divide regulatory responsibility between more than one such principal executive officer bearing the same or similar titles without the assumption of joint and several responsibility, it must provide the Exchange with a plan acceptable to the Exchange allocating specific responsibility and making unambiguous provisions, especially for the supervision of areas where the separate functions interact. Joint and several responsibility would remain in effect for any area not specifically included in the plan approved by the Exchange.

<sup>4</sup> See Securities Exchange Act Release No. 55650 (April 19, 2007), 72 FR 20905.

<sup>5</sup> The Exchange recognizes four such principal executive officers: chief executive officer ("CEO"), chief operations officer ("COO"), chief finance officer ("CFO") and chief compliance officer ("CCO").

<sup>6</sup> The Exchange continues to believe that the authority vested in CEOs and CFOs is indivisible, thus the proposed amendments to the Interpretation would not apply to these principal executive officers.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78(a) *et seq.*

<sup>3</sup> 17 CFR 240.19b-4.

In addition, because the CCO of a member organization has unique responsibilities under NYSE Rule 342.30 ("Annual Reports"), the revised Interpretation would also require a representation that the certification required by Rule 342.30(e) will confirm the qualification of each such co-CCO and that the responsibility of the co-CCOs encompasses every aspect of the business of the member organization. Each of the co-CCOs would be required to meet with and advise the CEO as part of the Rule 342.30 certification process.

### III. Discussion

After careful review, 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 securities exchange<sup>7</sup> and, in particular, the requirements of Section 6 of the Act.<sup>8</sup> Specifically, the Commission finds that the proposal is consistent with Section (b)(5) of the Act,<sup>9</sup> in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes that the proposal should provide the Exchange with flexibility in selecting, and offering positions to, qualified candidates to fill CCO and COO positions, thus helping to ensure skilled management of the Exchange.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NYSE-2007-10), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55817; File No. SR-Phlx-2007-07]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Index Linked Securities

May 25, 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 January 25, 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 Exchange. On May 9, 2007, Phlx filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and approves the proposal on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 803—Criteria for Listing—Tier 1, for the purpose of adopting generic listing standards pursuant to Rule 19b-4(e) under the Act<sup>3</sup> in connection with index-linked securities ("Index Securities"). The text of the proposed rule change is available on Phlx's Web site at <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 III 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

Under Rule 803(f), the Exchange may approve for listing and trading securities that cannot be readily categorized under the listing criteria for common and preferred securities, bonds, debentures, or warrants.<sup>4</sup> The Exchange proposes to add a new section (n) to Phlx Rule 803 to provide generic listing standards to permit the listing and trading of Index Securities pursuant to Rule 19b-4(e) under the Act.<sup>5</sup> Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4<sup>6</sup> if the Commission has approved, pursuant to Section 19(b) of the Act,<sup>7</sup> the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives product, and the SRO has a surveillance program for the product class.<sup>8</sup>

Index Securities are designed for investors who desire to participate in a specific market segment or combination of market segments through index products. Each Index Security is intended to provide investors with exposure to an identifiable underlying market index. Despite the fact that Index Securities are linked to an underlying index, each will trade as a single, exchange-listed security.

The Exchange proposes that generic listing standards appropriate for Index Securities provide that each index or combination of indexes (the "Underlying Index" or "Underlying Indexes") meet the criteria set forth in proposed Phlx Rule 803(n) or an index previously approved for the trading of options or other derivative securities by

<sup>4</sup> See Securities Exchange Act Release No. 30466 (March 11, 1992), 57 FR 9301 (March 17, 1992) (SR-Phlx-92-01).

<sup>5</sup> 17 CFR 240.19b-4(e). The Exchange has previously received Commission approval to list and trade certain index options, exchange-traded funds and trust issued receipts pursuant to Rule 19b-4(e). See Securities Exchange Act Release Nos. 43683 (December 6, 2000), 65 FR 78235 (December 14, 2000) (SR-Phlx-00-67) (Index Options); 45178 (December 20, 2001), 66 FR 67610 (December 31, 2001) (SR-Phlx-00-68) (Trust Shares); and 44826 (September 20, 2001), 66 FR 49990 (October 1, 2001) (SR-Phlx-2001-75) (TIRs).

<sup>6</sup> 17 CFR 240.19b-4(c)(1).

<sup>7</sup> 15 U.S.C. 78s(b).

<sup>8</sup> When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within 5 business days after the SRO begins trading the new product(s). See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

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

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</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> 17 CFR 240.19b-4(e).