

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54541; File No. SR-NYSEArca-2006-66]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exercise Deadline for Quarterly Options Series

September 29, 2006.

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 25, 2006, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission has designated this proposed rule change as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change 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 amend NYSE Arca Rule 6.24(c) by adding a provision regarding the exercise cut-off time for Quarterly Option Series. The text of the proposed rule change, as amended, is set forth below. Proposed new language is in *italics*.

\* \* \* \* \*

#### Rules of NYSE Arca, Inc.

##### Rule 6 Option Contracts Traded on the Exchange

\* \* \* \* \*

##### Rule 6.24. Exercise of Option Contracts

(a)-(b)—No change.

(c) Exercise cut-off time. Option holders have until 2:30 p.m. (PST) on the business day immediately prior to the expiration date *or, in the case of Quarterly Options Series, on the expiration date*, to make a final decision to exercise or not exercise an expiring option. For customer accounts, OTP Holders and OTP Firms may not accept exercise instructions after 2:30 p.m. (PST) but have until 3:30 p.m. (PST) to

submit a Contrary Exercise Advice. For non-customer accounts, OTP Holders and OTP Firms may not accept exercise instructions after 2:30 p.m. (PST) but have until 3:30 p.m. (PST) to submit a Contrary Exercise Advice if such OTP Holders and OTP Firms employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Consistent with Commentary .04, OTP Holders and OTP Firms are required to submit a Contrary Exercise Advice by 2:30 p.m. (PST) for non-customer accounts if such OTP Holders and OTP Firms do not employ an electronic submission procedure with time stamp for the submission of exercise instructions by option holders.

(d)-(g)—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 Exchange 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 Exchange 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 amend its rule to add a provision to Rule 6.24(c) addressing the exercise cut-off time for Quarterly Option Series. Presently, option holders have until 2:30 p.m. (Pacific Time) on the business day immediately prior to the expiration date to make a decision to exercise or not to exercise an expiring option (standard equity and index options). Standard listed options expire on the third Saturday of a month. Option holders make their decision whether or not to exercise based on the closing price of the underlying security on the last trading day of any given option series' cycle, typically the Friday immediately before the expiration Saturday. Unlike standard listed options, Quarterly Option Series expire on the last business day of a calendar quarter. If an option holder were to be required to make a decision to exercise or not exercise a Quarterly Option Series on

the day before the expiration of the option, they would have to make that decision without the knowledge of what the closing price of the underlying security would be on expiration. The Exchange is now proposing to add a provision to NYSE Arca Rule 6.24(c) that will designate a new exercise cut-off time for Quarterly Options Series. The new proposed time will be 2:30 p.m. (Pacific Time) on the day that the quarterly option expires. This change will allow option holders the full time needed to make an accurate decision whether or not to exercise an expiring option.

###### 2. Statutory Basis

The Exchange believes that the proposed rule is consistent with Section 6(b) of the Act<sup>5</sup> in general, and Section 6(b)(5) of the Act,<sup>6</sup> that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

The Exchange believes that the proposed rule change will not 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

No written comments were solicited or received with respect to the proposed rule change.

#### 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 Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup> Because the foregoing proposed rule change (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) the proposed rule change does not become operative for 30 days after 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

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>9</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to waive the operative delay if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiving the operative delay will allow the Exchange to permit exercise of a Quarterly Options Series at any time until the close of business on its expiration date starting with the third quarter 2006 expirations on Friday, September 29, 2006, and consequently will benefit investors. Therefore the Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative immediately.<sup>10</sup>

At any time within sixty (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.

#### 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-NYSEArca-2006-66 on the subject line.

<sup>9</sup> Rule 19b-4(f)(6)(iii) requires the Exchange to give written notice to the Commission of its intent to file the proposed rule change five business days prior to filing. The Commission has determined to waive the five-day pre-filing requirement for this proposal.

<sup>10</sup> For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

##### *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-NYSEArca-2006-66. 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 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-NYSEArca-2006-66 and should be submitted on or before October 31, 2006.

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

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6-16625 Filed 10-6-06; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-54555; File No. SR-Phlx-2006-60]**

#### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change Relating to NMS Linkage and Phlx's Covered Sale Fee**

October 2, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

<sup>11</sup> 17 CFR 200.30-3(a)(12).

("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 25, 2006, 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 Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

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

Phlx proposes to amend its Rule 607, its Summary of Equity Charges, and the Nasdaq-100 Index Tracking Stock<sup>SM</sup> Fee Schedule<sup>3</sup> to allow the Exchange to charge the Covered Sale Fee to members and member organizations engaged in executing sales on another exchange or on a participant in the NASD's Alternative Display Facility ("ADF") that were routed over the NMS Linkage Plan or the Intermarket Trading System ("ITS").<sup>4</sup> Phlx also proposes to amend its Rule 607 to allow the Exchange to enter into arrangements with ADF participants to pass the Covered Sale Fee among the ADF participants where the Exchange has collected the Covered Sale Fee from its members and member organizations for sales executed on ADF participants through ITS, and when ADF participants have collected a fee from their members for sales executed on the Exchange through ITS. In addition, Phlx also proposes to amend Rule 607 to allow the Exchange to enter into arrangements with other exchanges to pass the Covered Sale Fee among the applicable exchanges where the

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

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

<sup>3</sup> The Nasdaq-100<sup>SM</sup>, Nasdaq-100 Index<sup>SM</sup>, Nasdaq<sup>SM</sup>, The Nasdaq Stock Market<sup>SM</sup>, Nasdaq-100 Shares<sup>SM</sup>, Nasdaq-100 Trust<sup>SM</sup>, Nasdaq-100 Index Tracking Stock<sup>SM</sup>, and QQQ<sup>SM</sup> are trademarks or service marks of The Nasdaq Stock Market, LLC ("Nasdaq") and have been licensed for use for certain purposes by the Phlx pursuant to a License Agreement with Nasdaq. The Nasdaq-100 Index<sup>SM</sup> ("Index") is determined, composed, and calculated by Nasdaq without regard to the Licensee, the Nasdaq-100 Trust<sup>SM</sup>, or the beneficial owners of Nasdaq-100 Shares<sup>SM</sup>. Nasdaq has complete control and sole discretion in determining, comprising, or calculating the Index or in modifying in any way its method for determining, comprising, or calculating the Index in the future.

<sup>4</sup> The Commission published a notice relating to the NMS Linkage Plan. See Securities Exchange Act Release No. 54239 (July 28, 2006), 71 FR 44328 (August 4, 2006) (File No. 4-524). An NMS Linkage Plan, dated August 1, 2006, reflecting Phlx's inclusion as a participant, was sent to the Commission on August 8, 2006. The participants requested that the NMS Linkage Plan commence on October 1, 2006.