

Book at the best price in each series.<sup>9</sup> The Floor Broker will consult the Trading Official at the post to make the determination.<sup>10</sup> The Trading Official will check the system to see if there are customer orders on any or all sides of the transaction and inform the broker but will disclose neither the size of the customer order(s) nor the ranking of the customer order(s). In the event that there is any customer order priced at the best price in the corresponding series in the Consolidated Book, all orders at that price, customer and non-customer, will be deemed to have priority and will have to be satisfied prior to executing the complex orders. For each execution of a complex order that takes priority over non-customer bids and offers displayed in the Consolidated Book, the Trading Official at the post shall record the transaction by completing an Unusual Activity Report. A log of such reports will be maintained by the Floor Surveillance Unit.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act<sup>11</sup> in general and furthers the objectives of section 6(b)(5)<sup>12</sup> in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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.

### *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.

<sup>9</sup> See NYSE Arca Rule 6.43(a). A "Floor Broker" is an individual (either an OTP Holder or OTP Firm or a nominee of an OTP Holder or OTP Firm) who is registered with the Exchange for the purpose, while on the Exchange Floor, of accepting and executing option orders received from OTP Holders and OTP Firms.

<sup>10</sup> See NYSE Arca Rule 6.1(b)(34). A "Trading Official" is an Exchange employee or officer, who is designated by the Chief Executive Officer (or its designee) or by the Chief Regulatory Officer (or its designee) of the Exchange. Trading Officials have the ability to recommend and enforce rules and regulations relating to trading access, order, decorum, health, safety, and welfare on the Exchange.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

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

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

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

The foregoing proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(5)<sup>14</sup> thereunder because it effects a change in an existing order-entry or trading system of a self-regulatory organization 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 have the effect of limiting the access to or availability of the system. 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.

## 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-2006-80 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEArca-2006-80. 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-NYSEArca-2006-80 and should be submitted on or before December 13, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-19735 Filed 11-21-06; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54758; File No. SR-NYSEArca-2006-81]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rules Related to Complex Order Trading

November 15, 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 November 3, 2006, the NYSE Arca, Inc. ("NYSE Arca" 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 Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule

<sup>15</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)(iii).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 19b-4(f)(5).

19b-4(f)(6) thereunder,<sup>4</sup> 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**

NYSE Arca proposes to amend its rules governing Complex Order Trading in order to allow the pricing and trading of complex orders in one cent increments. The Exchange also proposes to eliminate certain obsolete rules related to the PCX Plus System ("PCX Plus") Complex Trading Engine ("CTE"). The text of the proposed rule change is available on the Exchange's Web site at <http://www.nysearca.com>, at the Exchange's Office of the Secretary, 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 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 purpose of this filing is to amend NYSE Arca Rule 6.91 which governs CTE. NYSE Arca proposes to adopt certain rules regarding the pricing of complex orders that are in effect at the International Securities Exchange ("ISE").<sup>5</sup> The Exchange also proposes to eliminate certain obsolete rules related to PCX Plus CTE.

**Administrative Changes.** NYSE Arca recently completed the introduction of the OX Trading System ("OX") for options. Prior to OX the Exchange used PCX Plus. The Exchange developed rules for trading complex orders, some of which were specific to PCX Plus, in particular those that dealt with PCX Plus CTE. PCX Plus CTE is no longer used to execute orders. Therefore, the

Exchange proposes to eliminate obsolete rules that applied only to CTE. NYSE Arca will file new rules with the Commission prior to trading complex orders on OX. The Exchange anticipates the introduction of complex order trading on OX sometime in the first quarter of 2007.

The Exchange also proposes amending NYSE Arca Rule 6.91(a) which deals with the definition of certain order types. NYSE Arca Rule 6.62(j) defines "Combination orders." Proposed NYSE Arca Rule 6.91(a)(10) now will reference NYSE Arca Rule 6.62(j) so that this may be included with the definition of other complex order types for ease of reference.

**Pricing of Complex Orders.** Presently, individual orders comprising complex orders on NYSE Arca must be executed in minimum price variations ("MPV") equivalent to those in NYSE Arca Rule 6.72(a). Those increments are \$.05 for options that are priced less than \$3.00 and \$.10 for options priced above \$3.00.<sup>6</sup> Complex orders are, by definition, complex trades involving intricate trading strategies. These orders, which are made up of two or more option orders (the "legs" of the order) or an option order tied to a corresponding equity order, are typically priced on a net debit/credit basis. The net debit/credit price is derived from either the difference in, or combined total of, the individual legs of the order. Pricing on a net debit/credit basis allows for the pricing of the entire order, as opposed to having to price the individual legs. Pricing the order as a single trade allows the order to trade at a price that can be more reflective of the actual value of the order, which can often be difficult when using separate prices.<sup>7</sup> Since all legs of a complex order are typically done by the same trader or customer, the trade is often better priced than would be if done as separate trades.<sup>8</sup> Often, however, when attempting to execute a trade on a net debit/credit basis, market participants are prevented from actually trading at the true value, because they must price the individual legs in standard MPVs as set forth in NYSE Arca Rule 6.72(a). The requirement that the legs of a complex order must trade in standard MPVs, even when the order itself is priced at a net debit/credit,

defeats the purpose behind net debit/credit pricing of complex orders; that being, orders traded on a debit/credit basis can provide the opportunity for more efficient pricing of option trades. Therefore, NYSE Arca proposes to add a new Commentary .01 to NYSE Arca Rule 6.91 to allow the option leg(s) of complex orders, as defined in NYSE Arca Rule 6.91(a), to be executed in one cent increments, regardless of the minimum increment otherwise applicable to the individual option leg(s) of the order. Providing additional price points at which the individual legs of an order can be priced may facilitate complex order execution on NYSE Arca and provide better prices for all participants.

In conjunction with the change above, the Exchange proposes to add a new Commentary .02 to NYSE Arca Rule 6.91 that requires any leg of a complex order that takes priority over established customer orders in the Consolidated Book to be better priced by at least one MPV as provided in NYSE Arca Rule 6.72. The Exchange believes that these proposed rule changes related to the pricing of complex orders are consistent with rules for complex order trading on the ISE.<sup>9</sup>

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>10</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest. In particular, trading complex orders in one cent increments will provide market participants and public customers with more pricing options, which could lead to tighter spreads and increased liquidity at NYSE Arca.

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

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**

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

<sup>6</sup> The Exchange has proposed changes to NYSE Arca Rule 6.72 as part of SR-NYSEArca-2006-73, which was filed on October 9, 2006, and is pending approval. The proposed rule change will create a Penny Pilot Program which will allow penny pricing in certain classes of options on NYSE Arca.

<sup>7</sup> Telephone conversation between Glen Gsell, NYSE Arca, and Molly Kim, Division of Market Regulation, Commission, on November 13, 2006.

<sup>8</sup> *Id.*

<sup>9</sup> See note 5 *supra*.

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

<sup>5</sup> See ISE Rule 722(b)(1)-(2).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder,<sup>13</sup> because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>14</sup>

NYSE Arca requests that the Commission waive the 30-day operative period under Rule 19b-4(f)(6)(iii).<sup>15</sup> The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay, because waiving the operative delay will allow NYSE Arca investors to immediately trade and price complex orders in one cent increments on NYSE Arca.<sup>16</sup>

At any time within 60 days of the filing of such 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.<sup>17</sup>

### 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

No. SR-NYSEArca-2006-81 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-NYSEArca-2006-81. 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 NYSE Arca. 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-2006-81 and should be submitted on or before December 13, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Nancy M. Morris,**

*Secretary.*

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**BILLING CODE 8011-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54760; File No. SR-Phlx-2006-76]

#### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rule 185A, Intermarket Sweep Orders—Temporary

November 15, 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 November 13, 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 the Phlx. The Exchange filed the proposal as a "non-controversial" 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 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 Phlx proposes to adopt Phlx Rule 185A, Intermarket Sweep Orders—Temporary, which describes: (1) The obligations of the Exchange sending orders to other market centers, and (2) the obligations of XLE Participants sending Intermarket Sweep Orders ("ISOs")<sup>5</sup> or IOC Cross Orders that are marked as meeting the requirement to route to other market centers<sup>6</sup> (both types of orders hereinafter are referred to as "Incoming Sweep Orders"). Specifically, before Rule 611 of Regulation NMS<sup>7</sup> is operative on the Exchange (the "Trading Phase Date"),<sup>8</sup> Phlx would use away market obligations instead of immediate-or-cancel intermarket sweep orders. An away market obligation is an immediate or cancel limit order for an NMS stock generated by Phlx in connection with

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> As required by Rule 19b-4(f)(6)(iii) of the Act, NYSE Arca provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description of the text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>17</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

<sup>18</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).

<sup>5</sup> See Phlx Rule 185(b)(2)(C).

<sup>6</sup> See Phlx Rule 185(c)(2)(D).

<sup>7</sup> 17 CFR 242.611.

<sup>8</sup> The Trading Phase Date is February 5, 2007.

See Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006) (File No. S7-10-04).