

subparagraph (f)(2) of Rule 19b-4 thereunder<sup>8</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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-NASDAQ-2007-075 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-NASDAQ-2007-075. 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 the filing also will be available for inspection and copying at the principal office of Nasdaq. 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-NASDAQ-2007-075 and should be submitted on or before October 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56392; File No. SR-NYSE-2007-42]

#### **Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Rule 103B ("Specialist Stock Allocation")**

September 12, 2007.

On April 20, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Rule 103B ("Specialist Stock Allocation"). On July 20, 2007, NYSE filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on August 8, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

The Exchange proposes to permit member organizations to establish policies and procedures to isolate the activities of the member organization that trade ETFs in a specialist capacity while at the same time registered as a specialist in any of an ETF's component securities. At a minimum, these policies

and procedures would have to include information barriers preventing the flow of non-public information between a member organization's ETF specialist and the member organization's specialist in an associated component security. Further, the trading of an ETF and its underlying component securities by the same specialist firm would be pre-conditioned on the review of the Exchange's Division of Member Firm Regulation for the adequacy of the firm's information barriers.<sup>4</sup> Thereafter, the Exchange would periodically evaluate the integrity of information barriers for breaches and weaknesses to ensure that they are adequately designed. In addition, the Exchange will periodically assess its surveillance and examination procedures to determine whether they are adequate in preventing manipulative or improper trading. The Exchange explained that the current rule requiring organizational separation was originally implemented, at least in part, to address the issue of "wash sales" in the context of ETF and component securities.<sup>5</sup>

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>7</sup> which require that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. This proposal should eliminate certain redundancies and expenses that result from the current rule requiring organizational separation while ensuring that the relevant activities and information of member organizations that trade ETFs and any of an ETF's component securities in a specialist capacity remain isolated and confidential.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-NYSE-2007-42), as modified by

<sup>4</sup> See, for example, comparable provisions of NYSE Information Memo 91-22 (June 21, 1991), the NASD/NYSE Joint Memo on Chinese Wall Policies and Procedures for procedural structures to assure the effective containment of trading information.

<sup>5</sup> See Securities Exchange Act Release No. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001) (SR-NYSE-2001-07).

<sup>6</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>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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> See Securities Exchange Act Release No. 56183 (August 2, 2007), 72 FR 44601 ("Notice").

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56437; File No. SR-Phlx-2007-65]

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

September 13, 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 August 30, 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 the Exchange. On September 11, 2007, the Phlx submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Phlx has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</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, as amended, from interested persons.

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

The Phlx proposes to: (1) Eliminate the \$0.04 per contract customer option comparison charge for U.S. dollar-settled foreign currency option transactions; (2) adopt a separate fee schedule for U.S. dollar-settled foreign currency option charges; and (3) make technical changes to the current

Summary of Index Option and U.S. Dollar-Settled Foreign Currency Option Charges fee schedule to update the fee schedule accordingly. This proposal is scheduled to become operative for transactions settling on or after September 4, 2007.

The text of the proposed rule change is available on the Exchange's Web site at [www.Phlx.com](http://www.Phlx.com), at the Phlx, 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 Exchange intends to update its fees applicable to U.S. dollar-settled foreign currency options in order to attract business and streamline the Exchange's fee schedule.

The Exchange proposes to eliminate the \$0.04 per contract comparison charge for transactions in U.S. dollar-settled foreign currency options applicable to customers. Currently, the comparison charge consists of either a \$0.03 per contract charge for Registered Option Traders or a \$0.04 per contract charge for Firm (Proprietary and Customer Executions). At this time, the Exchange proposes to eliminate the \$0.04 per contract customer comparison charge. The \$0.03 per contract charge for Registered Option Traders and the \$0.04 per contract for Firm (Proprietary) will continue to apply. The Exchange believes that the elimination of the customer comparison charge may attract additional order flow to the Exchange.

Currently, the Exchange charges fees for transactions in U.S. dollar-settled foreign currency options in the same manner that it charges for index options so therefore, the index option and U.S. dollar-settled foreign currency options are set forth on the same fee schedule. At this time, the Exchange proposes to separate out the fee schedule for the U.S. dollar-settled foreign currency

options and to make technical changes to the current Summary of Index Option and U.S. Dollar-Settled Foreign Currency Option Charges fee schedule to update the fee schedule accordingly. The purpose of this proposal is to set forth the U.S. dollar-settled foreign currency option charges in a fee schedule separate from the index option fee schedule to more readily identify the fees for these products and to simplify the Exchange's fee schedule.

No new index options fees are being adopted pursuant to this proposal. In addition, because this proposal merely deletes the \$0.04 per contract comparison charge in connection with U.S. dollar-settled foreign currency option transactions, no new U.S. dollar-settled foreign currency option fees are being adopted pursuant to this proposal.

###### 2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities.<sup>8</sup> The Exchange believes that eliminating the comparison charge for customers is equitable because customer transactions should benefit from reduced fees, which may in turn attract additional customer business to the Exchange for this relatively new product.

##### 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

No written comments were either solicited or received.

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

The foregoing proposed rule change has been designated as a fee change

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on September 11, 2007, the date on which the Phlx filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>9</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> In Amendment No. 1, the Exchange made non-substantive typographical corrections to the filing.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).