Proposed Rule Change by Philadelphia Stock Exchange

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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Pilot
Extension of Time Period for Commission Action
Date Expires

Rule
19b-4(f)(1) 19b-4(f)(4)
19b-4(f)(2) 19b-4(f)(5)
19b-4(f)(3) 19b-4(f)(6)

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name: Scott
Last Name: Donnini
Title: First Vice President and Associate General Counsel
E-mail: scott.donnini@phlx.com
Telephone: (215) 496-5358 Fax: (215) 496-6729

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date: 03/20/2006
By: Scott Donnini
First Vice President & Associate General Counsel

(Note)

(Note)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Scott DONnini, scott.donnini@phlx.com
The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3).

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.
PARTIAL AMENDMENT

The Philadelphia Stock Exchange, Inc. (“Exchange” or “Phlx”) hereby submits this Partial Amendment constituting Amendment No. 4 to its rule filing Phlx-2005-93 filed on December 30, 2005. The purpose of this Partial Amendment is to undo some of the changes included in the original filing. To accomplish this, Phlx is revising the text of the amendments to the Certificate of Incorporation to delete the capitalizations of the first letter of the word “member” when used in the charter and returning it to a lower case letter as it had been prior to being changed. A further purpose of this Partial Amendment is to revise language in the Purpose section to indicate that there are only minor, technical changes being made to the By-Laws and not the Charter.

The changes to the text of the Certificate of Incorporation are being marked against what was provided in Amendment No. 1. Brackets being removed are being struck and bolded. New deletions are being bracketed and bolded.

* * *

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

Other Minor Modifications

Modifications will be made to each of the By-Law and Charter sections which effect those Standing Committees\(^1\) in order to conform those By-Laws and Charter sections to the proposed changes described as follows:

- The following committees are not affected by the changes described herein with the exception of minor technical modifications:

\(^1\) No changes are being made to By-Law Article X, Section 10-9, Audit Committee, however the Exchange has recently filed a proposed rule change to amend this By-Law, which is pending approval. See Securities Exchange Act Release No. 52777 (November 16, 2005) (SR-Phlx-2004-37), pending approval.
• The Automation Committee currently allows for the Chairman of the Committee to be designated as a Non-Industry or Off-Floor Governor. The amendments will change this designation to a Stockholder or Independent Governor.

• The Business Conduct Committee is currently composed of three (3) Non-Industry Governors (one of whom must be Public); one (1) Equity Floor Member; one (1) Equity Options Floor Member; one (1) At-Large Floor Member and three (3) Off-Floor Members. The amendments will modify the composition to the following: three (3) Independent Governors; four (4) Members or persons associated with a Member Organization; one (1) Member who primarily conducts business on the Equity Floor; and one (1) Member who primarily conducts business on the Equity Options Floor.

• The Compensation Committee is currently composed of one (1) Chairman (who must be a Non-Industry Governor); two (2) Non-Industry Governors (one of whom must be a Public Governor); and the two (2) Vice-
Chairman of the Board of Governors. The amendments will modify the composition to the following: four (4) Independent Governors (one of whom must serve as chairman of the committee) and the Vice-Chairman of the Board of Governors.

- The Executive Committee is currently composed of the Chairman of the Board of Governors; the two (2) Vice-Chairmen of the Board of Governors; the Chairman of the Finance Committee; one (1) Chairman of a floor committee not represented by the On-Floor Vice-Chairman; one (1) Chairman of a floor committee not represented by the Off-Floor Vice-Chairman; one (1) Off-Floor Governor; and two (2) Non-Industry Governors (one of whom must be a Public Governor). The amendments will modify the composition to the following: the Chairman of the Board of Governors; the Vice-Chairman of the Board of Governors; two (2) Stockholder Governors; two (2) Independent Governors; the Chairman of the Finance Committee; and two (2) Chairmen of Floor Committees.

- The Finance Committee is currently composed as follows: the Chairman of the Board of Governors; the two (2) Vice-Chairmen of the Board of Governors; one (1) On-Floor Member (who may be a Governor); one (1) Off-Floor Member (who may be a Governor); and four (4) Non-Industry Governors (one whom must be a Public Governor.) The amendments will modify the composition to the following: the Chairman and Vice-Chairman of the Board of Governors; two (2) Members or persons associated with a Member Organization, who may be governors (one of
whom conducts business primarily on the Equity or Equity Options Floor); one (1) Stockholder Governor; and four (4) Independent Governors. The chairman of this committee must be the Vice-Chairman of the Board of Governors, a Stockholder Governor or a Member Governor.

- The Nominating and Elections Committee will be renamed the Nominating, Elections and Governance Committee. The purpose of this change is to have the Committee’s name more properly reflect the existing role and function of this Committee. There are no substantive changes in the Committee’s function. The Nominating and Elections Committee is currently composed of the following: the Chairman (who must be a Non-Industry Public Governor); three (3) Non-Industry Governors; one (1) Off-Floor Member (who may be a Governor); one (1) On-Floor Equity Governor; and one (1) On-Floor Equity Options Governor. The amendments will modify the composition to the following: [four (4)] three (3) Independent Governors ([one of whom must serve as the chairman of the committee and] one who must be a Designated Independent Governor); [two (2)] one (1) Stockholder Governor[s]; and one (1) Member Governor. The Nominating, Elections and Governance Committee shall select its Chairman from among the members of such Committee who are Independent Governors. Constituted in this manner, the interests of the Members of the Exchange, by virtue of the Member Governor and the Designated Independent
Governor who are both elected by the Members, would be represented by at least 20% of the Committee in compliance with the requirements of fair representation of Section 6(b)(3) of the Securities Exchange Act of 1934.

- The Quality of Markets Committee will not change in any way except the following designations: Non-Industry Governors will be called Independent Governors and Industry Governors will be called Stockholder Governors.

Also, the name of the Nominating and Elections Committee is being changed to the Nominating, Elections and Governance Committee to conform more closely to the governance structure in the Proposed SRO Governance Rule.\(^2\) Other minor technical modifications have been made to the By-Laws [and Charter] for purposes of consistency.

* * * * *

RESTATED CERTIFICATE OF INCORPORATION OF PHILADELPHIA STOCK EXCHANGE, INC.

FIRST – FOURTH(a)(iii) No Change.

(iii) Voting Rights. The holder of the Series A Preferred Stock shall have one vote in respect of the share thereof held by such holder of record as of a date specified by the Board of Governors on the books of the Corporation on each matter for which the vote of the holder thereof is required. The holder of the share of Series A Preferred Stock shall have the sole right to elect the [On- Floor Industry Governors] two Member Governors, the PBOT Governor and two Designated Independent Governors (collectively, the “Designated Governors”) (each as hereinafter defined) in this Article

\(^2\) See n.3 supra.
FOURTH and in the PHLX By-Laws (as in hereafter defined) and shall have no other voting rights other than in connection with the removal of Designated Governors in accordance with paragraph (b) of Article SIXTH of this Certificate.

“Designated Independent Governors” shall mean those Independent Governors, as defined herein, who are elected by the holder of Series A Preferred Stock in accordance with Article SIXTH of the Certificate of Incorporation. The term “PBOT Governor” shall mean a Governor who is a member of the Philadelphia Board of Trade (“PBOT”). The term “Member Governors” shall mean a Governor who is a member or a general partner or an executive officer (vice-president and above) of a Member Organization.

* * *

(iii) Voting Rights. The holders of Class A Common Stock and Class B Common Stock shall vote together as a single class on all matters; provided, however, that: (A) the holders of Class A Common Stock, voting separately as a class, shall be entitled to approve by the vote of a majority of the shares of Class A Common Stock then outstanding any amendment, alteration or repeal of any of the provisions of this Certificate which adversely affects the rights, powers or privileges of the Class A Common Stock (but not of the Class B Common Stock); and (B) the holders of Class B Common Stock, voting separately as a class, shall be entitled to approve by the vote of a majority of the shares of Class B Common Stock then outstanding any amendment, alteration or repeal of any of the provisions of this Certificate which adversely affects the rights, powers or privileges of the Class B Common Stock (but not of the Class A Common Stock).

(A) Subject to paragraph (b)(v)(B) of this Article FOURTH, and except as otherwise provided in paragraph (b)(iii)(B) of this Article FOURTH: (1) each holder of Common Stock shall have one vote in respect of each share of Common Stock held by such holder on the books of the Corporation on each matter on which the holders of Common Stock shall be entitled to vote; (2) the holders of shares of Common Stock shall have the sole right to elect [the Non-Industry] ten Independent Governors, [and the Off-Floor] six Stockholder [Industry] Governors and the Vice-Chairman (each, as hereinafter
defined in this Article FOURTH and in the By-Laws); (3) the holders of shares of Common Stock shall have the sole right to elect the individual then holding the office of Chief Executive Officer of the Corporation (the "Chief Executive Officer") to the Board of Governors as described in paragraph (a)(iii) of Article SIXTH of this Certificate; and (4) the holders of Common Stock shall have no voting rights with respect to the election of the [On-Floor Industry Governors] two Member Governors, the PBOT Governor and the two Designated Independent Governors.

“Independent Governors” shall mean a Governor who is a person affirmatively determined by the Board of Governors as having no Material Relationship with the Exchange or any affiliate of the Exchange, any member of the Exchange or any affiliate of such member, or any issuer of securities that are listed or traded on the Exchange or a facility of the Exchange. The term “Stockholder Governor” shall mean a Governor who is a Stockholder or an officer, director (or a person in a similar position in business entities that are not corporations), designee or an employee of a Stockholder or any affiliate or subsidiary of such Stockholder.

(B) In the event that any Person, either alone or together with its Related Persons (as hereinafter defined), at any time owns of record or beneficially, whether directly or indirectly, more than 20% of the then outstanding shares of Common Stock (such shares of Common Stock in excess of such 20% limit being hereinafter referred to as "Excess Shares"), such Person and its Related Persons shall have no right to vote, or to give any consent or proxy with respect to, such Excess Shares, and such Excess Shares shall be deemed not to be present for the purposes of determining whether a quorum is present at any meeting or vote of the stockholders of the Corporation or entitled to vote in determining the number of shares required to be voted for approval of or to give consent with respect to any matter presented to the stockholders of the Corporation. For the purposes of this Certificate, "Related Persons" shall mean (1) with respect to any Person, all "affiliates" and "associates" of such Person (as such terms are defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")), (2) with respect to any natural person constituting a "[m][M]ember" {as such term is defined in the Exchange [C] Act} of the Corporation, any broker or dealer with which such [m][M]ember is associated and (3) any two or more Persons that have any agreement,
arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, holding, voting or disposing of shares of Common Stock.

* * *

(B) Notwithstanding anything to the contrary contained in this Certificate, no member of the Corporation, either alone or together with its Related Persons, shall be permitted at any time to own of record or beneficially, whether directly or indirectly, more than 20% of the then outstanding shares of Common Stock, and to the extent that any such member (or its Related Persons) purports to so own more than 20% of the then outstanding shares of Common Stock, such member (and its Related Persons) shall not be entitled to exercise any of the rights and privileges incident to the ownership of shares of Common Stock with respect such shares of Common Stock held by such member (or its Related Persons) in excess of such 20% limit.

(1) If any member of the Corporation, either alone or together with its Related Persons, at any time of record or beneficially, whether directly or indirectly, owns more than 20% of the then outstanding shares of Common Stock, the Corporation shall have the right, but not the obligation, to purchase from such member and its Related Persons that number of shares of Common Stock that exceeds 20% of the then outstanding shares of Common Stock for a price equal to the par value of such shares of Common Stock.

* * *

SIXTH: The business and affairs of the Corporation shall be managed by and under the direction of the Board of Governors, which shall consist of the directors of the Corporation (each, a "Governor"), who shall meet the qualifications set forth in paragraph (a) of this Article SIXTH and in the By-Laws. The Governors shall, in managing the business and affairs of the Corporation, consider applicable requirements for registration as a national securities exchange under Section 6(b) of the Exchange Act, including, without limitation, the requirements that (a) the rules of the Corporation shall be designed to protect investors and the public interest, and (b) the Corporation shall be so organized and have the capacity to carry out the purposes of the Exchange Act and (subject to such exceptions as are set forth in the Exchange Act or the rules and regulations thereunder) to
enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Corporation. The foregoing provision shall not be construed to create the basis for any cause of action against any Governor, and no Governor shall be liable, by virtue of such provision, for such Governor's consideration or failure to consider the matters referred to therein.

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