Proposed Rule Change by Philadelphia Stock Exchange

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

Initial Amendment Withdrawal

Section 19(b)(2) 

Section 19(b)(3)(A) 

Section 19(b)(3)(B) 

Rule

19b-4(f)(1) 

19b-4(f)(2) 

19b-4(f)(3) 

19b-4(f)(4) 

19b-4(f)(5) 

19b-4(f)(6)

Description

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

Delay implementation of HGX split.

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 Jurij Last Name Trypupenko

Title Director

E-mail jurij.trypupenko@phlx.com

Telephone (215) 496-5019 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 01/04/2006

By Jurij Trypupenko

(Name)

Director

(Title)

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.
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.

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.
1. **Text of the Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to delay until February 2006 the implementation of a split\(^3\) of the PHLX Housing Sector\(^{SM}\) Index ("Index") option ("HGX")\(^4\) to one-half its present value, so that any open interest in HGX contracts at $2.50 strike price intervals expire before the split.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1.

2. **Procedures of the Self-Regulatory Organization**

The Executive Committee, pursuant to delegated authority, approved the proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on November 23, 2005.

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Questions and comments on the proposed rule change may be directed to Jurij Trypupenko, Director and Counsel, New Products Group and Legal Department, Phlx, at (215) 496-5019 or Edith Hallahan, Senior Vice President and Deputy General Counsel, Phlx, at (215) 496-5179.

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

a. Purpose

The purpose of the proposed rule change is to delay the implementation of a split of the value of HGX so that upon splitting the index the Exchange can list new, post-split options series at strike prices of $2.50 or higher.

The Exchange may now set index option strike price intervals at $2.50 or higher pursuant to Phlx Rule 1101A. Rule 1101A indicates that the Exchange may determine fixed strike price intervals for index options that may generally be $2.50 for the three consecutive near-term months, $5 for the fourth month and $10 for the fifth month. The rule further allows that the Exchange may determine to list strike prices at $2.50 intervals in response to demonstrated customer interest or specialist request, and to list strike prices at wider intervals.5 No Phlx rule accommodates index option strike price intervals lower than $2.50.

There are several HGX option series priced at $2.50 strike price intervals that have options contracts with open interest. The open interest in these series would expire by the end of January 2006. Splitting the HGX index at a time when there is open

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5 The Exchange has filed a rule change (SR-Phlx-2005-43) and amendments thereto proposing to simplify the Rule 1101A procedure for setting option index strike prices so that, among other things, there is no correlation between index strike price intervals and months.
interest in these series would result in strike price intervals smaller than $2.50.\textsuperscript{6} Because index option strike prices that are smaller than $2.50 (for example $1.00), are not supported in Phlx rules, the delay in the implementation of the split is necessary.

The Exchange believes that delayed implementation should attract more volume by making option premiums more appealing for retail investors and allowing investors to better utilize the HGX as a trading and hedging vehicle with a smaller capital outlay.\textsuperscript{7}

The Exchange will announce the effective date of the implementation of the split by way of an Exchange memorandum to the membership, which will also serve as notice of the strike price and position limit changes.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it is designed to promote just and equitable principles of trade, 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, by delaying the implementation of a split establishing a lower Index value, which should, in turn, facilitate trading in HGX, creating a more liquid trading environment. The Exchange believes that reducing the value of the Index should not raise manipulation concerns and should not cause adverse

\textsuperscript{6} For example, an HGX option series with a $457.50 pre-split strike price, after a two for one split, would change to a $228.75 strike price, which would require a smaller than $2.50 strike price interval.

\textsuperscript{7} The Exchange notes that to accommodate the two-fold increase in the number of contracts outstanding after the split, the position limits applicable to HGX (currently 31,500 contracts pursuant to Rule 1001A) will be temporarily increased to 63,000 until such time that all pre-split options expire, at which point the position limits will return to the 31,500 position limit specified in Rule 1001A. \textit{See} Exchange Act Release No. 52512 (September 27, 2005), 70 FR 57919 (October 4, 2005)(SR-Phlx-2005-50).
market impact because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the Index split, including adequate prior notice to market participants.

4. **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 not necessary or appropriate in furtherance of the purposes of the Act.

5. **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.

6. **Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission action.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

The proposed rule change is being designated by the Exchange as a "non-controversial" rule pursuant to Section 19(b)(3)(A)\(^8\) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder,\(^9\) because the proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from 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, provided that the

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Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing of the proposed rule change.\textsuperscript{10} Consequently, the rule is being filed for immediate effectiveness and the Exchange requests that the Commission waive the 30-day period for the proposal to become operative. The Exchange is similarly requesting that the five-business day pre-filing period be waived.

8. \textbf{Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission}

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. \textbf{Exhibits}

1. Notice of proposed rule for publication in the \textit{Federal Register}.

\textsuperscript{10} As required under Rule 19b-4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.
Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Implementing the HGX Split

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\), and Rule 19b-4\(^2\) thereunder, notice is hereby given that on ______________________ 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. 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, pursuant to Section 19(b)(1) of the Act\(^3\) and Rule 19b-4 thereunder,\(^4\) proposes to delay until February 2006 the implementation of a split\(^5\) of the PHLX Housing

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\(^4\) 17 CFR 240.19b-4

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 IV 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

The purpose of the proposed rule change is to delay the implementation of a split of the value of HGX so that upon splitting the index the Exchange can list new, post-split options series at strike prices of $2.50 or higher.

The Exchange may now set index option strike price intervals at $2.50 or higher pursuant to Phlx Rule 1101A. Rule 1101A indicates that the Exchange may determine fixed strike price intervals for index options that may generally be $2.50 for the three

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consecutive near-term months, $5 for the fourth month and $10 for the fifth month. The rule further allows that the Exchange may determine to list strike prices at $2.50 intervals in response to demonstrated customer interest or specialist request, and to list strike prices at wider intervals.\textsuperscript{7} No Phlx rule accommodates index option strike price intervals lower than $2.50.

There are several HGX option series priced at $2.50 strike price intervals that have options contracts with open interest. The open interest in these series would expire by the end of January 2006. Splitting the HGX index at a time when there is open interest in these series would result in strike price intervals smaller than $2.50.\textsuperscript{8} Because index option strike prices that are smaller that $2.50 (for example $1.00), are not supported in Phlx rules, the delay in the implementation of the split is necessary.

The Exchange believes that delayed implementation should attract more volume by making option premiums more appealing for retail investors and allowing investors to better utilize the HGX as a trading and hedging vehicle with a smaller capital outlay.\textsuperscript{9}

\textsuperscript{7} The Exchange has filed a rule change (SR-Phlx-2005-43) and amendments thereto proposing to simplify the Rule 1101A procedure for setting option index strike prices so that, among other things, there is no correlation between index strike price intervals and months.

\textsuperscript{8} For example, an HGX option series with a $457.50 pre-split strike price, after a two for one split, would change to a $228.75 strike price, which would require a smaller than $2.50 strike price interval.

\textsuperscript{9} The Exchange notes that to accommodate the two-fold increase in the number of contracts outstanding after the split, the position limits applicable to HGX (currently 31,500 contracts pursuant to Rule 1001A) will be temporarily increased to 63,000 until such time that all pre-split options expire, at which point the position limits will return to the 31,500 position limit specified in Rule 1001A. See Exchange Act Release No. 52512 (September 27, 2005), 70 FR 57919 (October 4, 2005)(SR-Phlx-2005-50).
The Exchange will announce the effective date of the implementation of the split by way of an Exchange memorandum to the membership, which will also serve as notice of the strike price and position limit changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it is designed to promote just and equitable principles of trade, 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, by delaying the implementation of a split establishing a lower Index value, which should, in turn, facilitate trading in HGX, creating a more liquid trading environment. The Exchange believes that reducing the value of the Index should not raise manipulation concerns and should not cause adverse market impact because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the Index split, including adequate prior notice to market participants.

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 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 proposed rule change is being designated by the Exchange as a "non-controversial" rule pursuant to Section 19(b)(3)(A)\(^{10}\) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder,\(^{11}\) because the proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from 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, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing of the proposed rule change.\(^{12}\) Consequently, the rule is being filed for immediate effectiveness and the Exchange requests that the Commission waive the 30-day period for the proposal to become operative. The Exchange is similarly requesting that the five-business day pre-filing period be waived.

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:


\(^{12}\) As required under Rule 19b-4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.
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. Please include File Number SR-Phlx-2006-02 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2006-02. 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 the filing also will be available for inspection and copying at the principal office of the Phlx. 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-Phlx-2006-02 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.\textsuperscript{13}

Margaret H. McFarland  
Deputy Secretary

\textsuperscript{13} 17 CFR 200.30-3(a)(12).