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)(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).

Adopt Phlx R 868 re DRS.

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 10/31/2006
By Jurij Trypupenko

Director

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.

Jurij Trypupenko,
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.
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 adopt new Phlx Rule 868 to require certain listed securities to be eligible for a Direct Registration System ("DRS") operated by a Securities Depository, starting on January 1, 2007.\(^3\)

The text of the proposed Exchange rule is set forth immediately below. A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1.

*New Text Underlined.*

**Rule 868**

**DIRECT REGISTRATION SYSTEM (DRS) PARTICIPATION**

(a) On or after January 1, 2007, all securities initially listing on the Exchange must be eligible for Direct Registration System operated by a securities depository that is a clearing agency registered under Section 17A(b)(2) of the Securities Exchange Act of 1934 ("Securities Depository"). This provision does not extend to: (i) securities of companies which already have securities listed on the Exchange, (ii) securities of companies which immediately prior to such listing had securities listed on another national securities exchange, (iii) derivative products, or (iv) securities (other than stocks) which are book-entry only.

(b) On or after January 1, 2008, all securities listed on the Exchange must be eligible for Direct Registration System operated by a Securities Depository. This provision does not extend to derivative products or securities (other than stocks) that are book-entry only.

(c) For the purposes of this Rule 868, the term "derivative products" shall mean, in addition to standardized options issued by The Options Clearing Corporation ("OCC").

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\(^3\) The term "Securities Depository" means a securities depository registered as a clearing agency under Section 17A(b)(2) of the Act.
other securities that are issued by OCC or another limited purpose entity or trust and which are based solely on the performance of an index or portfolio of other publicly traded securities. The term "derivative products" does not include warrants of any type or closed-end management investment companies.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has not yet been approved by the Board of Governors or its Executive Committee. Upon such approval, Phlx will amend the proposed rule change to reflect the approval.

Questions and comments on the proposed rule change may be directed to Jurij Trypupenko, Director and Counsel, at (215) 496-5019, or Edith Hallahan, Senior Vice President and Deputy General Counsel, 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 proposed new Phlx Rule 868 is to reduce the costs, risks, and delays associated with the physical delivery of securities certificates, by requiring that all securities initially listing on Phlx on or after January 1, 2007 and on or after January 1, 2008 be eligible for DRS (other than certain types of securities for each time period as noted below).\(^4\) Rule 868 indicates that the January 1, 2007 DRS requirement will not apply to securities of issuers which already have securities listed on Phlx, securities of issuers which immediately prior to such initial Phlx listing had securities listed on

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another national securities exchange, derivative products,\(^5\) or securities (other than stocks) which are book-entry-only. The rule also indicates that the January 1, 2008 DRS requirement will not apply to derivative products or securities (other than stocks) which are book-entry-only.

Securities certificates are used by issuers as a means to evidence and transfer ownership. Because securities certificates require manual processing and because trading volumes have increased, the manual clearance and settlement systems have become overburdened resulting in significant delays and expenses in processing securities transaction and in increased risks associated with lost, stolen, and forged certificates. In Section 17A of the Act,\(^6\) Congress recognized these concerns by calling for the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities.

DRS allows an investor to establish either through the issuer's transfer agent or through the investor's broker-dealer a book-entry securities position on the books of the issuer and to electronically transfer that securities position between the transfer agent and the broker-dealer through facilities administered by DTC.\(^7\) Instead of receiving a

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\(^5\) “Derivative products” for the purposes of proposed new Phlx Rule 868 is defined in (c) to mean, in addition to standardized options issued by OCC, other securities which are issued by OCC or another limited purpose entity or trust and which are based solely on the performance of an index or portfolio of other publicly traded securities. The term "derivative products" does not include warrants of any type or closed-end management investment companies.


\(^7\) Currently, the only registered clearing agency operating DRS is the Depository Trust Company ("DTC"). For a description of DRS and the DRS facilities administered by
securities certificate, DRS allows investors to receive a DRS statement as evidence of share ownership. Investors retain the rights associated with securities certificates, including such rights as control of ownership and voting rights, without having the responsibility of holding and safeguarding securities certificates. In addition, in corporate actions such as reverse stock splits and mergers, cancellation of old shares and issuance of new shares are handled electronically with no securities certificates to be returned to or received from the transfer agent.

Issuers and their transfer agents may incur initial costs when making an issue DRS-eligible and in turn satisfy the new standards as set forth in this proposed rule change. In order to make a security DRS-eligible, the issuer must have a transfer agent which is a DRS Limited Participant.8 Issuers will also need to meet certain DTC criteria, such as insurance and connectivity requirements, in order to make an issue DRS-eligible. Further, an issuer's corporate by-laws must permit the issuance of book-entry shares. Phlx believes that the proposed deadlines for DRS eligibility coupled with instructive communication by Phlx to issuers, will allow issuers sufficient time to make the necessary changes to comply with the proposed rule change.

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While the proposed rule change should significantly reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates, the proposed rule change will not eliminate the ability of investors to obtain securities certificates after the settlement of securities transactions, provided the issuer chooses to issue or continue to issue certificates.

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 requiring certain listed securities to be eligible for a Direct Registration System operated by a Securities Depository.

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

The Phlx 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.

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

The Exchange consents to an extension of time specified in Section 19(b)(2) of the Act until at least thirty-five days after the Exchange has filed an appropriate amendment setting forth that the Exchange has taken all action required for approval of the proposed rule change.

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

Not applicable.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is based on the Amex DRS filing at SR-Amex-2006-40 and Section 135 of the Amex Company Guide. Nothing in this proposed rule filing raises any new, unique, or substantively different issues from those raised by the Amex in its DRS filing.\(^\text{11}\)

9. **Exhibits**

1. Notice of proposed rule for publication in the Federal Register.

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Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2006-69)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to a Direct Registration System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 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 and Rule 19b-4 thereunder, proposes to adopt new Phlx Rule 868 to require certain listed securities to be eligible for a Direct Registration System ("DRS") operated by a Securities Depository, starting on January 1, 2007.

The text of the proposed Exchange rule is set forth immediately below.

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5 The term "Securities Depository" means a securities depository registered as a clearing agency under Section 17A(b)(2) of the Act.
Rule 868

DIRECT REGISTRATION SYSTEM (DRS) PARTICIPATION

(a) On or after January 1, 2007, all securities initially listing on the Exchange must be eligible for Direct Registration System operated by a securities depository that is a clearing agency registered under Section 17A(b)(2) of the Securities Exchange Act of 1934 (“Securities Depository”). This provision does not extend to: (i) securities of companies which already have securities listed on the Exchange, (ii) securities of companies which immediately prior to such listing had securities listed on another national securities exchange, (iii) derivative products, or (iv) securities (other than stocks) which are book-entry only.

(b) On or after January 1, 2008, all securities listed on the Exchange must be eligible for Direct Registration System operated by a Securities Depository. This provision does not extend to derivative products or securities (other than stocks) that are book-entry only.

(c) For the purposes of this Rule 868, the term "derivative products" shall mean, in addition to standardized options issued by The Options Clearing Corporation (“OCC”), other securities that are issued by OCC or another limited purpose entity or trust and which are based solely on the performance of an index or portfolio of other publicly traded securities. The term "derivative products" does not include warrants of any type or closed-end management investment companies.


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 proposed new Phlx Rule 868 is to reduce the costs, risks, and delays associated with the physical delivery of securities certificates, by requiring that all securities initially listing on Phlx on or after January 1, 2007 and on or after January 1, 2008 be eligible for DRS (other than certain types of securities for each time period as noted below).\(^6\) Rule 868 indicates that the January 1, 2007 DRS requirement will not apply to securities of issuers which already have securities listed on Phlx, securities of issuers which immediately prior to such initial Phlx listing had securities listed on another national securities exchange, derivative products,\(^7\) or securities (other than stocks) which are book-entry-only. The rule also indicates that the January 1, 2008 DRS requirement will not apply to derivative products or securities (other than stocks) which are book-entry-only.

Securities certificates are used by issuers as a means to evidence and transfer ownership. Because securities certificates require manual processing and because trading volumes have increased, the manual clearance and settlement systems have become

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\(^7\) “Derivative products” for the purposes of proposed new Phlx Rule 868 is defined in (c) to mean, in addition to standardized options issued by OCC, other securities which are issued by OCC or another limited purpose entity or trust and which are based solely on the performance of an index or portfolio of other publicly traded securities. The term "derivative products" does not include warrants of any type or closed-end management investment companies.
overburdened resulting in significant delays and expenses in processing securities transaction and in increased risks associated with lost, stolen, and forged certificates. In Section 17A of the Act, Congress recognized these concerns by calling for the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities.

DRS allows an investor to establish either through the issuer's transfer agent or through the investor's broker-dealer a book-entry securities position on the books of the issuer and to electronically transfer that securities position between the transfer agent and the broker-dealer through facilities administered by DTC. Instead of receiving a securities certificate, DRS allows investors to receive a DRS statement as evidence of share ownership. Investors retain the rights associated with securities certificates, including such rights as control of ownership and voting rights, without having the responsibility of holding and safeguarding securities certificates. In addition, in corporate actions such as reverse stock splits and mergers, cancellation of old shares and issuance of new shares are handled electronically with no securities certificates to be returned to or received from the transfer agent.

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9 Currently, the only registered clearing agency operating DRS is the Depository Trust Company ("DTC"). For a description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996)(SR-DTC-96-15)(Order granting approval to establish DRS); and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999)(SR-DTC-99-16)(Order approving implementation of the Profile Modification System).
Issuers and their transfer agents may incur initial costs when making an issue DRS-eligible and in turn satisfy the new standards as set forth in this proposed rule change. In order to make a security DRS-eligible, the issuer must have a transfer agent which is a DRS Limited Participant.\textsuperscript{10} Issuers will also need to meet certain DTC criteria, such as insurance and connectivity requirements, in order to make an issue DRS-eligible. Further, an issuer's corporate by-laws must permit the issuance of book-entry shares. Phlx believes that the proposed deadlines for DRS eligibility coupled with instructive communication by Phlx to issuers, will allow issuers sufficient time to make the necessary changes to comply with the proposed rule change.

While the proposed rule change should significantly reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates, the proposed rule change will not eliminate the ability of investors to obtain securities certificates after the settlement of securities transactions, provided the issuer chooses to issue or continue to issue certificates.

2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\textsuperscript{11} in general, and furthers the objectives of Section 6(b)(5) of the Act\textsuperscript{12} in particular,


\textsuperscript{11} 15 U.S.C. 78f(b).

\textsuperscript{12} 15 U.S.C. 78f(b)(5).
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 requiring certain listed securities to be eligible for a Direct Registration System operated by a Securities Depository.

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**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Phlx consents, the Commission shall: (a) by order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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. Please include File Number SR-Phlx-2006-69 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-Phlx-2006-69. 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-2006-69 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.¹³

Nancy M. Morris
Secretary