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

☑ 19b-4(f)(6) ☑ 19b-4(f)(3)

Description

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

The Phlx proposes Benchmark and Qualified Contingent Trades for Nasdaq Securities

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.

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
<th>Title</th>
<th>E-mail</th>
<th>Telephone</th>
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<tbody>
<tr>
<td>John</td>
<td>Dayton</td>
<td>Director and Counsel</td>
<td><a href="mailto:john.dayton@phlx.com">john.dayton@phlx.com</a></td>
<td>(215) 496-5162</td>
<td></td>
</tr>
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</table>

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 12/28/2006

By John Dayton Director and Counsel

(Name) (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.
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 amend Phlx Rule 185A to add two paragraphs reflecting that Phlx will accept IOC Cross Orders marked as Benchmark and IOC Cross Orders marked as Qualified Contingent Trade, both for Nasdaq Global Market Securities and Nasdaq Capital Market Securities ("Nasdaq Securities") before Rule 611 of Regulation NMS is operative on the Exchange (the "Trading Phase Date").\(^3\) In addition, the amended rule clarifies the requirements for IOC Cross Orders marked as Benchmark and IOC Cross Orders marked as Qualified Contingent Trade for Nasdaq Securities before the Trading Phase Date. In addition, the title of the Rule is amended to reflect the subject matter of the rule. Finally, the paragraphs of the rule are being individually identified.

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

Underling indicates additions; brackets indicate deletions

**Rule 185A.**

**[Intermarket Sweep Orders]Orders and Order Execution - Temporary**

(a) An away market obligation is an immediate or cancel limit order for an NMS stock generated by Phlx in connection with the execution of an order by Phlx and routed to one or more away market centers to execute against all better-priced protected quotations

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displayed by the other market centers up to their displayed size. In the event that an away market that trades a particular security is capable of receiving intermarket sweep orders, then the Exchange may choose to generate and utilize intermarket sweep orders as the away market obligations for that market. Before Rule 611 of Regulation NMS is operative on the Exchange (the “Trading Phase Date”), the words “immediate-or-cancel intermarket sweep orders” in Rule 185(b)(1)(C)(i)-(ii) and (b)(2)(B) shall mean “away market obligations.”

(b) In addition, before the Trading Phase Date, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every other ITS Participant displaying a better-priced quotation. For Nasdaq Global Market Securities and Nasdaq Capital Market Securities, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every national securities exchange or national securities association displaying a better-priced quotation.

(c) Before the Trading Phase Date, a XLE Participant may mark an IOC Cross Order in Nasdaq Global Market Securities or Nasdaq Capital Market Securities as Benchmark if it is an order: (1) at a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to execute the order was made.

(d) Before the Trading Phase Date, a XLE Participant may mark an IOC Cross Order in Nasdaq Global Market Securities or Nasdaq Capital Market Securities as Qualified Contingent Trade. A Qualified Contingent Trade is a transaction consisting of two or more component orders, executed as agent or principal, where:

1. at least one component order is in an NMS Stock;
2. all components are effected with a product or price contingency that either has been agreed to by the respective counterparties or arranged for by a broker-dealer as principal or agent;
3. the execution of one component is contingent upon the execution of all other components at or near the same time;
4. the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined at the time the contingent order is placed;
5. the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or since cancelled. Transactions involving securities of participants in mergers or with intentions to merge that have been announced would meet this aspect of the requested exemption. Transactions involving cancelled mergers, however, would constitute Qualified Contingent Trades only to the extent they involve the unwinding of a pre-existing
position in the merger participants’ shares. Statistical arbitrage transactions, absent some other derivative or merger arbitrage relationship between component orders, would not satisfy this element of the definition of a Qualified Contingent Trade.

(6) the IOC Cross Order marked as Qualified Contingent Trade is fully hedged (without regard to any prior existing position) as a result of the other components of the contingent trade (A XLE Participant may demonstrate that an IOC Cross Order marked as Qualified Contingent Trade is fully hedged under the circumstances based on the use of reasonable risk-valuation methodologies); and

(7) the IOC Cross Order marked as Qualified Contingent Trade involves at least 10,000 shares or has a market value of at least $200,000.

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 June 26, 2006 and July 31, 2006.

Questions and comments on the proposed rule change may be directed to John Dayton, Director and Counsel, at (215) 496-5162 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 the proposed rule change is to clarify the requirements for IOC Cross Orders marked Benchmark and Qualified Contingent Trade in Nasdaq Securities on XLE before the Trading Phase Date. Currently, Phlx Rule 185(c)(3) states “[a]n IOC Cross Order may be marked Benchmark if it meets the requirements of Reg NMS Rule 611(b)(7). An IOC Cross Order may be marked Qualified Contingent Trade if it meets the requirements of an exemption to Reg NMS Rule 611.” Also, Phlx Rule 185(c)(2)(D) states IOC Cross Orders marked Benchmark or Qualified Contingent Trade are permitted
to trade through the price of the Protected NBBO. In addition, IOC Cross Orders marked Benchmark may be entered and executed in sub-penny increments. However, the reference to “Reg NMS Rule 611” in Phlx Rule 185(c)(3) may be unclear in light of the fact that Rule 611 of Regulation NMS is effective but not operative until the Trading Phase Date. Phlx also notes that the use of these orders in Nasdaq Securities does not require any relief from any National Market System Plans because there is no intermarket trade through prohibition in Nasdaq Securities before the Trading Phase Date.

Pursuant to this filing, a XLE Participant could submit an IOC Cross Order marked Benchmark in Nasdaq Securities if it is an order: (1) at a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to execute the order was made. This definition is identical to the exemption to the trade through rule in Rule 611(b)(7) of Regulation NMS, which is not effective until the Trading Phase Date. This will allow XLE Participants to gain valuable experience with this order type in Nasdaq Securities prior to the Trading Phase Date.

In addition, a XLE Participant could submit an IOC Cross Order marked Qualified Contingent Trade in Nasdaq Securities if it meets the seven requirements listed

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4 See Phlx Rule 185(c)(2)(D).
5 See Phlx Rule 125(b)(2).
6 See Phlx Rule 125(d)(3).
in new Phlx Rule 185A(d). These requirements are meant to encompass a trade in Nasdaq Securities that “is a multi-component trade involving orders for a security and a related derivative, or, in the alternative, orders for related securities, that are executed at or near the same time.” The Exchange notes that the economics of a Qualified Contingent Trade are based on the relationship between the prices of the security and the related derivative or security, and that the execution of one order is contingent upon the execution of the other order. The Exchange also notes that the sought-after spread or ratio between the relevant instruments is known and specified at the time of the order, and this spread or ratio stands regardless of the prevailing price at the time of execution. Therefore, the parties to these transactions are focused on the spread or ratio between the transaction prices for each of the component instruments, rather than on the absolute price of any single component instrument. Because the focus of such trades is on the relative prices of the component instruments, the price of a component of a particular trade may or may not correspond to the prevailing market price of the security. For Qualified Contingent Trades in Nasdaq Securities, the parties to the trade will not execute one side of the trade without the other component or components being executed in full (or in ratio) and at the specified spread or ratio.

8 These seven requirements are taken from the exemption to Rule 611 issued by the Commission for Qualified Contingent Trades. See Securities Exchange Act Release No. 54389 (October 31, 2006).

9 Id.

10 Id.
Finally, Phlx Rule 185A is being divided into individually identified subparagraphs to make the Rule clearer. In addition, the name of the rule is being modified to reflect that the rule would refer to more than only intermarket sweep orders.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^{11}\) in general, and furthers the objectives of Section 6(b)(5) of the Act\(^{12}\) 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 allowing XLE Participants to gain experience with Benchmark and Qualified Contingent Trade order types for Nasdaq Securities prior to the Trading Phase Date.

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.

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)**

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act\(^\text{13}\) and Rule 19b-4(f)(6) thereunder.\(^\text{14}\) The Phlx requests that the Commission waive the 30-day operative delay and make the proposed rule change effective upon filing. The Phlx believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change clarifies the requirements of an IOC Cross Order marked Benchmark in Nasdaq Securities and an IOC Cross Order marked Qualified Contingent Trade in Nasdaq Securities for the period before the Trading Phase Date. Phlx also believes that the earlier operative date is consistent with the protection of investors and the public interest because that the use of these orders in Nasdaq Securities does not require any relief from any National Market System Plans because there is no intermarket trade through prohibition in Nasdaq Securities before the Trading Phase Date.

8. **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. **Exhibits**

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

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-Phlx-2006-92)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Benchmark and Qualified Contingent Trades in Nasdaq Securities Before the Trading Phase Date of Regulation NMS

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 amend Phlx Rule 185A to add two paragraphs reflecting that Phlx will accept IOC Cross Orders marked as Benchmark and IOC Cross Orders marked as Qualified Contingent Trade, both for Nasdaq Global Market Securities and Nasdaq Capital Market Securities ("Nasdaq Securities") before Rule 611 of Regulation NMS is operative on the


In addition, the amended rule clarifies the requirements for IOC Cross Orders marked as Benchmark and IOC Cross Orders marked as Qualified Contingent Trade for Nasdaq Securities before the Trading Phase Date. In addition, the title of the Rule is amended to reflect the subject matter of the rule. Finally, the paragraphs of the rule are being individually identified.

The amended Exchange Rule is set forth below.

Underling indicates additions; brackets indicate deletions

Rule 185A.

[Intermarket Sweep Orders]Orders and Order Execution - Temporary

(a) An away market obligation is an immediate or cancel limit order for an NMS stock generated by Phlx in connection with the execution of an order by Phlx and routed to one or more away market centers to execute against all better-priced protected quotations displayed by the other market centers up to their displayed size. In the event that an away market that trades a particular security is capable of receiving intermarket sweep orders, then the Exchange may choose to generate and utilize intermarket sweep orders as the away market obligations for that market. Before Rule 611 of Regulation NMS is operative on the Exchange (the “Trading Phase Date”), the words “immediate-or-cancel intermarket sweep orders” in Rule 185(b)(1)(C)(i)-(ii) and (b)(2)(B) shall mean “away market obligations.”

(b) In addition, before the Trading Phase Date, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every other ITS Participant displaying a better-priced quotation. For Nasdaq Global Market Securities and Nasdaq Capital Market Securities, a XLE Participant may submit an ISO or an IOC Cross Order marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order to XLE only if it has simultaneously sent an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every national securities exchange or national securities association displaying a better-priced quotation.

(c) Before the Trading Phase Date, a XLE Participant may mark an IOC Cross Order in Nasdaq Global Market Securities or Nasdaq Capital Market Securities as Benchmark if it is an order: (1) at a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to execute the order was made.

(d) Before the Trading Phase Date, a XLE Participant may mark an IOC Cross Order in Nasdaq Global Market Securities or Nasdaq Capital Market Securities as Qualified Contingent Trade. A Qualified Contingent Trade is a transaction consisting of two or more component orders, executed as agent or principal, where:

1. at least one component order is in an NMS Stock;
2. all components are effected with a product or price contingency that either has been agreed to by the respective counterparties or arranged for by a broker-dealer as principal or agent;
3. the execution of one component is contingent upon the execution of all other components at or near the same time;
4. the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined at the time the contingent order is placed;
5. the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or since cancelled (Transactions involving securities of participants in mergers or with intentions to merge that have been announced would meet this aspect of the requested exemption. Transactions involving cancelled mergers, however, would constitute Qualified Contingent Trades only to the extent they involve the unwinding of a pre-existing position in the merger participants’ shares. Statistical arbitrage transactions, absent some other derivative or merger arbitrage relationship between component orders, would not satisfy this element of the definition of a Qualified Contingent Trade.);
6. the IOC Cross Order marked as Qualified Contingent Trade is fully hedged (without regard to any prior existing position) as a result of the other components of the contingent trade (A XLE Participant may demonstrate that an IOC Cross Order marked as Qualified Contingent Trade is fully hedged under the circumstances based on the use of reasonable risk-valuation methodologies.); and
7. the IOC Cross Order marked as Qualified Contingent Trade involves at least 10,000 shares or has a market value of at least $200,000.

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 clarify the requirements for IOC
      Cross Orders marked Benchmark and Qualified Contingent Trade in Nasdaq Securities
      on XLE before the Trading Phase Date. Currently, Phlx Rule 185(c)(3) states “[a]n IOC
      Cross Order may be marked Benchmark if it meets the requirements of Reg NMS Rule
      611(b)(7). An IOC Cross Order may be marked Qualified Contingent Trade if it meets
      the requirements of an exemption to Reg NMS Rule 611.” Also, Phlx Rule 185(c)(2)(D)
      states IOC Cross Orders marked Benchmark or Qualified Contingent Trade are permitted
      to trade through the price of the Protected NBBO.\(^6\) In addition, IOC Cross Orders
      marked Benchmark may be entered\(^7\) and executed\(^8\) in sub-penny increments.\(^9\) However,
      the reference to “Reg NMS Rule 611” in Phlx Rule 185(c)(3) may be unclear in light of
      the fact that Rule 611 of Regulation NMS is effective but not operative until the Trading
      Phase Date. Phlx also notes that the use of these orders in Nasdaq Securities does not
      require any relief from any National Market System Plans because there is no intermarket
      trade through prohibition in Nasdaq Securities before the Trading Phase Date.

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\(!^6\) See Phlx Rule 185(c)(2)(D).

\(!^7\) See Phlx Rule 125(b)(2).

\(!^8\) See Phlx Rule 125(d)(3).

Pursuant to this filing, a XLE Participant could submit an IOC Cross Order marked Benchmark in Nasdaq Securities if it is an order: (1) at a price that was not based, directly or indirectly, on the quoted price of the NMS Stock at the time of the execution; and (2) for which the material terms were not reasonably determinable at the time the commitment to execute the order was made. This definition is identical to the exemption to the trade through rule in Rule 611(b)(7) of Regulation NMS, which is not effective until the Trading Phase Date. This will allow XLE Participants to gain valuable experience with this order type in Nasdaq Securities prior to the Trading Phase Date.

In addition, a XLE Participant could submit an IOC Cross Order marked Qualified Contingent Trade in Nasdaq Securities if it meets the seven requirements listed in new Phlx Rule 185A(d).10 These requirements are meant to encompass a trade in Nasdaq Securities that “is a multi-component trade involving orders for a security and a related derivative, or, in the alternative, orders for related securities, that are executed at or near the same time.”11 The Exchange notes that the economics of a Qualified Contingent Trade are based on the relationship between the prices of the security and the related derivative or security, and that the execution of one order is contingent upon the execution of the other order. The Exchange also notes that the sought-after spread or ratio between the relevant instruments is known and specified at the time of the order, and this spread or ratio stands regardless of the prevailing price at the time of execution. Therefore, the parties to these transactions are focused on the spread or ratio between the

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10 These seven requirements are taken from the exemption to Rule 611 issued by the Commission for Qualified Contingent Trades. See Securities Exchange Act Release No. 54389 (October 31, 2006).

11 Id.
transaction prices for each of the component instruments, rather than on the absolute price of any single component instrument. Because the focus of such trades is on the relative prices of the component instruments, the price of a component of a particular trade may or may not correspond to the prevailing market price of the security. For Qualified Contingent Trades in Nasdaq Securities, the parties to the trade will not execute one side of the trade without the other component or components being executed in full (or in ratio) and at the specified spread or ratio.12

Finally, Phlx Rule 185A is being divided into individually identified subparagraphs to make the Rule clearer. In addition, the name of the rule is being modified to reflect that the rule would refer to more than only intermarket sweep orders.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act13 in general, and furthers the objectives of Section 6(b)(5) of the Act14 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 allowing XLE Participants to gain experience with Benchmark and Qualified Contingent Trade order types for Nasdaq Securities prior to the Trading Phase Date.

12 Id.
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**

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act\(^{15}\) and Rule 19b-4(f)(6) thereunder.\(^{16}\) The Phlx requests that the Commission waive the 30-day operative delay and make the proposed rule change effective upon filing. The Phlx believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change clarifies the requirements of an IOC Cross Order marked Benchmark in Nasdaq Securities and an IOC Cross Order marked Qualified Contingent Trade in Nasdaq Securities for the period before the Trading Phase Date. Phlx also believes that the earlier operative date is consistent with the protection of investors and the public interest


because that the use of these orders in Nasdaq Securities does not require any relief from any National Market System Plans because there is no intermarket trade through prohibition in Nasdaq Securities before the Trading Phase Date.

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-2006-92 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-2006-92. 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-2006-92 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.17

Nancy M. Morris
Secretary