Proposed Rule Change by Philadelphia Stock Exchange

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

<table>
<thead>
<tr>
<th>Initial</th>
<th>Amendment</th>
<th>Withdrawal</th>
<th>Section 19(b)(2)</th>
<th>Section 19(b)(3)(A)</th>
<th>Section 19(b)(3)(B)</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

Rule

- 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).

Relating to the Trading Phase Date of Regulation NMS.

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>
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<tbody>
<tr>
<td>John</td>
<td>Dayton</td>
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<table>
<thead>
<tr>
<th>Title</th>
<th>E-mail</th>
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<tr>
<td>Director and Counsel</td>
<td><a href="mailto:john.dayton@phlx.com">john.dayton@phlx.com</a></td>
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</table>

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<thead>
<tr>
<th>Telephone</th>
<th>Fax</th>
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<tr>
<td>(215) 496-5162</td>
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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: 02/06/2007

By: John Dayton

Director and Counsel

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.

John Dayton, john.dayton@phlx.com
Partial Amendment

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\(^2\) thereunder, proposes to clarify the operation of XLE and of various Phlx rules in light of the Securities and Exchange Commission’s ("SEC" or "Commission") extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.\(^3\)

   A notice of the proposed rule change for publication in the Federal Register is attached hereto as **Exhibit 1**. There is no change to Phlx Rule text.

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

   The Executive Committee, pursuant to delegated authority, approved the proposal for filing with the 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 effect on XLE and various Phlx rules of the Commission’s extension of the Trading Phase Date of

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Regulation NMS from February 5, 2007 until March 5, 2007.\textsuperscript{4} The Trading Phase Date is significant to the Exchange because that is the “[f]inal date for full operation of Regulation NMS-compliant trading systems [by exchanges] that intend to qualify their quotations for trade-through protection under Rule 611 [during the roll-out of Regulation NMS].”\textsuperscript{5} Phlx intends to qualify its quotations for trade-through protection under Rule 611 during the roll-out of Regulation NMS and therefore intends to operate a Regulation NMS-compliant trading system no later than the Trading Phase Date.\textsuperscript{6}

A number of rules or portions of rules adopted by Phlx in connection with XLE, the Exchange’s new equity trading system, were approved with delayed effectiveness by the Commission until the Trading Phase Date that was in effect at that time, which was February 5, 2007.\textsuperscript{7} With this proposed rule change, the Exchange clarifies that the effectiveness of these rules or portions of rules is tied to the Trading Phase Date, currently March 5, 2007, not to February 5, 2007. The following Phlx rules that are affected by this clarification include, but are not necessarily limited to: Rule 1(cc), Definition of Protected Bid, Offer or Quotation; Rule 185(b)(2)(C), regarding Intermarket Sweep Orders (“ISO”); Rule 185(c)(2)(D), regarding IOC Cross Orders marked by the

\begin{itemize}
\item \textsuperscript{4} Id.
\item \textsuperscript{5} Id.
\item \textsuperscript{6} See Phlx Rule 160.
\item \textsuperscript{8} Phlx notes, however, ISOs and IOC Cross Orders marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order in Reg NMS Rule 600(b)(30) currently have a limited effectiveness pursuant to Phlx Rule 185A(b). See Securities Exchange Act Release Nos. 54788 (November 20, 2006), 71 FR }
XLE Participant entering the order as meeting the requirements of an intermarket sweep order in Reg NMS Rule 600(b)(30)\(^9\); Rule 185(c)(3), regarding IOC Cross Orders marked Benchmark or Qualified Contingent Trade\(^{10}\); Rule 185(h), regarding the “self-help” exemption to Rule 611; and Rule 186, Locking or Crossing Quotations in NMS Stocks. The Exchange also clarifies that the use of the term “Trading Phase Date” in Rule 185A means the Trading Phase Date, currently March 5, 2007, not February 5, 2007.

Finally, the XLE Approval Order noted that the certain features of XLE would be rolled out in three phases. Phases 1 and 2, concerning two-sided orders and “Do Not Route” orders, are completed. Phase 3, routing functionally, is currently being rolled out and is scheduled to be completed before March 5, 2007.

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

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\(^9\) Id.

\(^{10}\) Phlx notes, however, IOC Cross Orders marked Benchmark or Qualified Contingent Trade for Nasdaq securities currently are effective pursuant to Phlx Rule 185A(c) and (d). See Securities Exchange Act Release No. 55044 (January 5, 2007), 72 FR 1361 (January 11, 2007) (SR-Phlx-2006-92). In addition, Phlx may file additional proposed rule change(s) regarding IOC Cross Orders marked Benchmark or Qualified Contingent Trade for non-Nasdaq securities before March 5, 2007.


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 clarifying the effect on Phlx rules of the recent extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.

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

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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 effect on Phlx rules of the recent extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.

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-2007-11)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to 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 ______________________ 2007, 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 clarify the operation of XLE and of various Phlx rules in light of the Commission’s extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.\(^5\) There is no change to Phlx Rule text.


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 effect on XLE and various Phlx rules of the Commission’s extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.\footnote{Id.} The Trading Phase Date is significant to the Exchange because that is the “[f]inal date for full operation of Regulation NMS-compliant trading systems [by exchanges] that intend to qualify their quotations for trade-through protection under Rule 611 [during the roll-out of Regulation NMS].”\footnote{Id.} Phlx intends to qualify its quotations for trade-through protection under Rule 611 during the roll-out of Regulation NMS and therefore intends to operate a Regulation NMS-compliant trading system no later than the Trading Phase Date.\footnote{See Phlx Rule 160.}

A number of rules or portions of rules adopted by Phlx in connection with XLE, the Exchange’s new equity trading system, were approved with delayed effectiveness by

\footnote{Id.}
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\footnote{See Phlx Rule 160.}
the Commission until the Trading Phase Date that was in effect at that time, which was February 5, 2007. With this proposed rule change, the Exchange clarifies that the effectiveness of these rules or portions of rules is tied to the Trading Phase Date, currently March 5, 2007, not to February 5, 2007. The following Phlx rules that are affected by this clarification include, but are not necessarily limited to: Rule 1(cc), Definition of Protected Bid, Offer or Quotation; Rule 185(b)(2)(C), regarding Intermarket Sweep Orders (“ISO”); Rule 185(c)(2)(D), regarding IOC Cross Orders marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order in Reg NMS Rule 600(b)(30); Rule 185(c)(3), regarding IOC Cross Orders marked Benchmark or Qualified Contingent Trade; Rule 185(h), regarding the “self-help” exemption to Rule 611; and Rule 186, Locking or Crossing Quotations in NMS Stocks. The Exchange also clarifies that the use of the term “Trading Phase Date” in

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10 Phlx notes, however, ISOs and IOC Cross Orders marked by the XLE Participant entering the order as meeting the requirements of an intermarket sweep order in Reg NMS Rule 600(b)(30) currently have a limited effectiveness pursuant to Phlx Rule 185A(b). See Securities Exchange Act Release Nos. 54788 (November 20, 2006), 71 FR 68877 (November 28, 2006) (SR-Phlx-2006-77); and 54760 (November 15, 2006), 71 FR 67687 (November 22, 2006) (SR-Phlx-2006-76).

11 Id.

12 Phlx notes, however, IOC Cross Orders marked Benchmark or Qualified Contingent Trade for Nasdaq securities currently are effective pursuant to Phlx Rule 185A(c) and (d). See Securities Exchange Act Release No. 55044 (January 5, 2007), 72 FR 1361 (January 11, 2007) (SR-Phlx-2006-92). In addition, Phlx may file additional proposed rule change(s) regarding IOC Cross Orders marked Benchmark or Qualified Contingent Trade for non-Nasdaq securities before March 5, 2007.
Rule 185A means the Trading Phase Date, currently March 5, 2007, not February 5, 2007.

Finally, the XLE Approval Order noted that the certain features of XLE would be rolled out in three phases. Phases 1 and 2, concerning two-sided orders and “Do Not Route” orders, are completed. Phase 3, routing functionally, is currently being rolled out and is scheduled to be completed before March 5, 2007.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\textsuperscript{13} in general, and furthers the objectives of Section 6(b)(5) of the Act\textsuperscript{14} 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 clarifying the effect on Phlx rules of the recent extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.

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. [ ]

\textsuperscript{13} 15 U.S.C. 78f(b).

\textsuperscript{14} 15 U.S.C. 78f(b)(5).
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 Act¹⁵ 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 effect on Phlx rules of the recent extension of the Trading Phase Date of Regulation NMS from February 5, 2007 until March 5, 2007.

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

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• Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-11 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-2007-11. 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-2007-11 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{17}

Nancy M. Morris  
Secretary

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