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)(1)
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- 19b-4(f)(3)
- 19b-4(f)(6)

Description

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

Contact Information

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

First Name: John
Last Name: Dayton
Title: Director and Counsel
E-mail: john.dayton@phlx.com
Telephone: (435) 783-6415
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 officer.

Date: 08/30/2007
By: Jurij Trypupenko

Signature: Jurij Trypupenko, 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.
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") and Rule 19b-4 thereunder, proposes to adopt Phlx Rule 800 providing for a definition of the term common stock as used in Phlx Rules 800-899. In those rules, the term shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote). This definition is substantially similar to NYSEArca Equities Rule 5.1(b)(12).

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

Underlining indicates additions; brackets indicate deletions

**Definitions**

**Rule 800.** [Reserved.] The terms defined herein shall have the meanings specified herein for all purposes in Rules 800-899, unless the context of a rule or regulation requires otherwise.

(a) The term “Common Stock” or “common stock” shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

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2. Procedures of the Self-Regulatory Organization

Senior Management of the Exchange, pursuant to delegated authority, approved the proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on July 26, 2007.

Questions and comments on the proposed rule change may be directed to John Dayton, Director and Counsel, at (435) 783-6415 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 adopt Phlx Rule 800 providing for a definition of the term common stock as used in Phlx Rules 800-899. The term common stock is typically used to refer a security issued by corporations in the United States, whose holders have a residual right to the corporation. However, at times, another name is given to this security or this type of security is not issued by a corporation. Phlx believes that the proposed language reflects the fact that the term common stock is not always given to a security that has the characteristics of a common stock or that the issuer of this type of security is not a corporation. This Amendment No. 1 replaces the original filing in its entirety.

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3 The proposed definition in Phlx Rule 800(a) is identical to the definition of common stock in Phlx Rule 812(d)(2), which, by its terms, is limited to Phlx Rule 812. The definition in proposed Phlx Rule 800(a) is applicable to Phlx Rules 800-899.

4 For example, the Blackstone Group, L.P., a limited partnership, recently listed their common units representing limited partner interests on the New York Stock Exchange ("NYSE"). However, the NYSE web site page on Blackstone Group, L.P., [http://www.nyse.com/about/listed/bx.html](http://www.nyse.com/about/listed/bx.html), describes the security as common stock.
By adopting this new expanded definition of common stock, Phlx would be permitted to list and trade, pursuant to unlisted trading privileges (“UTP”), securities of issuers that have the characteristics of common stock, even though the security is not designated as common stock. Phlx is permitted to trade certain securities that are not listed on Phlx pursuant to provisions of the Act, the Rules thereunder and Phlx Rules. Section 12(f)(1)(A)(i) of the Act states that “any national securities exchange, in accordance with the requirements of this subsection and the rules hereunder, may extend unlisted trading privileges to any security that is listed and registered on a national securities exchange . . . .”5 Rule 12f-5 under the Act states that “[a] national securities exchange shall not extend unlisted trading privileges to any security unless the national securities exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.”6 Generally, Phlx Rule 801 permits the Exchange to trade securities pursuant to UTP.7 In addition, Phlx Rules 160-189 describes the operation of Phlx’s electronic equity trading system, XLE, for transaction in, among other things, common stock and the responsibilities of XLE Participants8 using XLE.

Phlx has listing standards for common stock.9 The listing standards set forth minimum quantitative requirements for both the issuer10 and the security11, and standard

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6 17 CFR 240.12f-5.

7 Phlx Rule 801 states “[o]nly such securities as shall have been approved by the Exchange for listing or admission pursuant to unlisted trading privileges shall be dealt in on the Exchange.”

8 XLE Participants are Phlx members, Phlx member organizations, their Sponsored Participants (non-members who are sponsored by Phlx member organizations) and individuals authorized by Phlx member organizations or Sponsored Participants to enter orders on XLE. See Phlx Rule 1(nn).

9 See Phlx Rule 803(a).
for the security’s voting rights. However Phlx’s current listing standards for common
stock would not apply to certain securities covered by the expanded definition of
common stock proposed herein. With the adoption of the proposed expanded definition
of common stock, the current listing standards for common stock in Rule 803(a) would
apply to such securities and accordingly, as described above, such securities would be
eligible for trading pursuant to UTP. Further, Phlx would apply the same quantitative
criteria in Phlx Rule 803(a) to an issuer, and its security designated as common stock,
applying to list under this expanded definition of common stock as it would to a
corporation listing its common stock.

b. Statutory Basis

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10 “The listing criteria for Tier I Issues are as follows:

(a) In the case of Common Stock:

   (1) Net Tangible Assets—Total assets (including the value of patents, copyrights and
       trademarks but excluding the value of goodwill) less total liabilities of at least
       $4,000,000.

   (2) Earnings—Pretax income of $750,000 and net income of at least $400,000 in its last
       fiscal year.”

See Phlx Rule 803(a)(1)-(2).

11 The listing criteria for Tier I Issues are as follows:

(a) In the case of Common Stock:

   * * * * *

   (3) Public Distribution—at least 500,000 publicly held shares and at least 800 public
       shareholders if the issuer has between 500,000 and 1 million shares publicly held, or
       at least 400 public shareholders if the issuer has either (i) over 1 million shares publicly
       held or (ii) over 500,000 shares publicly held and average daily trading volume in excess
       of 2,000 shares per day for a six month period preceding the date of application.

   (4) Stock Price/Market Value of Shares Publicly Held—$5 per share on each of the five
       business days prior to the application date and $3,000,000 aggregate market value.

See Phlx Rule 803(a)(3)-(4).

12 See Phlx Rules 805(a)(5) and 812.
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 providing an additional venue for the listing and trading, pursuant to UTP, of common stock to which this definition would apply.

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.

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

\textsuperscript{14} 15 U.S.C. 78f(b)(5).
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\(^{16}\) and Rule 19b-4(f)(6) thereunder.\(^{17}\) 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 is substantially similar to NYSEArca Equity Rule 5.1(b)(12).

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

The proposed rule change is based on NYSEArca Equity Rule 5.1(b)(12).

9. **Exhibits**

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

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\(^{15}\) Phlx submitted a pre-filing, consisting of a written notice of Phlx’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, pursuant to Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii), on July 26, 2007. Phlx submitted this pre-filing via email outside of the EFFS.


Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Definition of Common Stock

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 adopt Phlx Rule 800 providing for a definition of the term common stock as used in Phlx Rules 800-899. In those rules, the term shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote). This definition is substantially similar to NYSEArca Equities Rule 5.1(b)(12).

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The text of the proposed Phlx Rule is set forth below:

Underlining indicates additions; brackets indicate deletions

Definitions

Rule 800. [Reserved.] The terms defined herein shall have the meanings specified herein for all purposes in Rules 800-899, unless the context of a rule or regulation requires otherwise.

(a) The term “Common Stock” or “common stock” shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

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 adopt Phlx Rule 800 providing for a definition of the term common stock as used in Phlx Rules 800-899. The term common stock is typically used to refer a security issued by corporations in the United States, whose holders have a residual right to the corporation. However, at times, another name

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5 The proposed definition in Phlx Rule 800(a) is identical to the definition of common stock in Phlx Rule 812(d)(2), which, by its terms, is limited to Phlx Rule 812. The definition in proposed Phlx Rule 800(a) is applicable to Phlx Rules 800-899.
is given to this security or this type of security is not issued by a corporation. Phlx believes that the proposed language reflects the fact that the term common stock is not always given to a security that has the characteristics of a common stock or that the issuer of this type of security is not a corporation. This Amendment No. 1 replaces the original filing in its entirety.

By adopting this new expanded definition of common stock, Phlx would be permitted to list and trade, pursuant to unlisted trading privileges (“UTP”), securities of issuers that have the characteristics of common stock, even though the security is not designated as common stock. Phlx is permitted to trade certain securities that are not listed on Phlx pursuant to provisions of the Act, the Rules thereunder and Phlx Rules. Section 12(f)(1)(A)(i) of the Act states that “any national securities exchange, in accordance with the requirements of this subsection and the rules hereunder, may extend unlisted trading privileges to any security that is listed and registered on a national securities exchange . . . .” Rule 12f-5 under the Act states that “[a] national securities exchange shall not extend unlisted trading privileges to any security unless the national securities exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.” Generally, Phlx Rule 801 permits the Exchange to trade securities pursuant to UTP. In addition,

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8 17 CFR 240.12f-5.

9 Phlx Rule 801 states “[o]nly such securities as shall have been approved by the Exchange for listing or admission pursuant to unlisted trading privileges shall be dealt in on the Exchange.”
Phlx Rules 160-189 describes the operation of Phlx’s electronic equity trading system, XLE, for transaction in, among other things, common stock and the responsibilities of XLE Participants\(^\text{10}\) using XLE.

Phlx has listing standards for common stock.\(^\text{11}\) The listing standards set forth minimum quantitative requirements for both the issuer\(^\text{12}\) and the security\(^\text{13}\), and standard for the security’s voting rights.\(^\text{14}\) However Phlx’s current listing standards for common stock would not apply to certain securities covered by the expanded definition of common stock proposed herein. With the adoption of the proposed expanded definition

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\(^{10}\) XLE Participants are Phlx members, Phlx member organizations, their Sponsored Participants (non-members who are sponsored by Phlx member organizations) and individuals authorized by Phlx member organizations or Sponsored Participants to enter orders on XLE. \text{See Phlx Rule 1(nn).}

\(^{11}\) \text{See Phlx Rule 803(a).}

\(^{12}\) “The listing criteria for Tier I Issues are as follows:

(a) In the case of Common Stock:

(1) Net Tangible Assets—Total assets (including the value of patents, copyrights and trademarks but excluding the value of goodwill) less total liabilities of at least $4,000,000.

(2) Earnings—Pretax income of $750,000 and net income of at least $400,000 in its last fiscal year.”

\text{See Phlx Rule 803(a)(1)-(2).}

\(^{13}\) The listing criteria for Tier I Issues are as follows:

(a) In the case of Common Stock:

\* \* \* \* \*

(3) Public Distribution—at least 500,000 publicly held shares and at least 800 public shareholders if the issuer has between 500,000 and 1 million shares publicly held, or at least 400 public shareholders if the issuer has either (i) over 1 million shares publicly held or (ii) over 500,000 shares publicly held and average daily trading volume in excess of 2,000 shares per day for a six month period preceding the date of application.

(4) Stock Price/Market Value of Shares Publicly Held—$5 per share on each of the five business days prior to the application date and $3,000,000 aggregate market value.

\text{See Phlx Rule 803(a)(3)-(4).}

\(^{14}\) \text{See Phlx Rules 805(a)(5) and 812.}
of common stock, the current listing standards for common stock in Rule 803(a) would apply to such securities and accordingly, as described above, such securities would be eligible for trading pursuant to UTP. Further, Phlx would apply the same quantitative criteria in Phlx Rule 803(a) to an issuer, and its security designated as common stock, applying to list under this expanded definition of common stock as it would to a corporation listing its common stock.

2.    Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\textsuperscript{15} in general, and furthers the objectives of Section 6(b)(5) of the Act\textsuperscript{16} 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 providing an additional venue for the listing and trading, pursuant to UTP, of common stock to which this definition would apply.

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

III. **Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**\(^\text{17}\)

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\(^\text{18}\) and Rule 19b-4(f)(6) thereunder.\(^\text{19}\) 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 is substantially similar to NYSEArca Equity Rule 5.1(b)(12).

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](http://www.sec.gov/rules/sro.shtml); or

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\(^{17}\) Phlx submitted a pre-filing, consisting of a written notice of Phlx’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, pursuant to Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii), on July 26, 2007. Phlx submitted this pre-filing via email outside of the EFFS.


• Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-56 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-2007-56. 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-2007-56 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.²⁰

Nancy M. Morris
Secretary