## Proposed Rule Change by Philadelphia Stock Exchange

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

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### Description

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

$5 strike price intervals for ETFs above $200.

### 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 and Counsel
- **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 officer.

- **Date:** 12/19/2007
- **By:** 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.
| Exhibit 1 - Notice of Proposed Rule Change | 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). |
| Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications | 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. |
| Exhibit 3 - Form, Report, or Questionnaire | 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. |
| Exhibit 4 - Marked Copies | 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. |
| Exhibit 5 - Proposed Rule Text | 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. |
| 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 thereunder,\(^2\) proposes to amend Commentary .05 to Exchange Rule 1012 (Series of Options Open for Trading) to clarify that strike price intervals of options on Exchange Traded Fund Shares ("ETFs") will be $5 or greater where the strike price is over $200.\(^3\)

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

The amended text of Phlx Rule 1012 is set forth below.

*Deletions are bracketed; Additions are underlined.*

* * * * *

**Rule 1012.**

**Series of Options Open for Trading**

(a) through (d) – No Change.

**Commentary:** ...

.01 through .04 – No Change.

.05 (a) The interval of strike prices of series of options on individual stocks may be:

(i) $1 or greater ("$1 strike prices") provided the strike price is $20 or less, but not less than $3. The listing of $1 strike prices shall be limited to options classes overlying no

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\(^3\) Strike price intervals for series of options on ETFs were initially established at $1 or greater where the strike price is $200 or less. See Securities Exchange Act Release No. 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001)(SR-Phlx-2001-32)(filing silent regarding strike price intervals where the strike price is over $200).
more than 5 individual stocks (the "$1 Pilot") as specifically designated by the Exchange. The Exchange may list $1 strike prices on any other option classes if those classes are specifically designated by other securities exchanges that employ a similar $1 Pilot under their respective rules.

To be eligible for inclusion into the $1 Pilot, an underlying stock must close below $20 in its primary market on the previous trading day.

After a stock is added to the $1 Pilot, the Exchange may list $1 strike prices from $3 to $20 that are no more than $5 from the closing price of the underlying on the preceding day. For example, if the underlying stock closes at $13, the Exchange may list strike prices from $8 to $18.

The Exchange may not list series with $1 intervals within $0.50 of an existing $2.50 strike price (e.g., $12.50, $17.50) in the same series. Additionally, the Exchange may not list long-term option series ("LEAPS(R)") at $1 strike price intervals for any option class selected for the $1 Pilot.

A stock shall remain in the $1 Pilot until otherwise designated by the Exchange. The $1 Pilot shall expire on June 5, 2008.

(ii) $2.50 or greater where the strike price is $25 or less: provided, however, that the Exchange may not list $2.50 intervals below $20 (e.g., $12.50, $17.50) for any class included within the $1 Pilot if the addition of $2.50 intervals would cause the class to have strike price intervals that are $0.50 apart;

(iii) $5 or greater where the strike price is greater than $25 but less than $200; and

(iv) $10 or greater where the strike price is $200 or more, except as provided in paragraph (b) below.

The interval of strike prices of series of options on Exchange-Traded Fund Shares will be $1 or greater where the strike price is $200 or less and $5 or greater where the strike price is more than $200.

(b) – No Change.

.06 through .08 – No Change.

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2. Procedures of the Self-Regulatory Organization

The Executive Committee pursuant to delegated authority, approved the proposed rule change for filing with the Securities and Exchange Commission ("Commission") on
November 20, 2007. Questions and comments regarding the proposed rule change may be directed to Jurij Trypupenko, Director and Counsel, at (215) 496-5019, or Edith H. 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 that strike price intervals of options on Exchange Traded Fund Shares (“ETFs”) will be $5 or greater where the strike price is over $200.

      Commentary .05 to Phlx Rule 1012 currently states that strike price intervals of options on Exchange-Traded Fund Shares, or ETFs, will be $1 or greater when the strike price of the underlying asset is $200 or less. As such, most ETF options, which have become popular investment tools, are priced at $1 strike price intervals. However, some ETF options are listed at $10 strike price intervals at strike prices greater than $200. Within the last few months, the Exchange has received requests from Phlx traders to price ETF options at $5 strike price intervals above $200. Because the Exchange does not currently have a provision that allows ETF options to list and trade at $5 or greater strike price intervals where the strike price is more than $200, however, the Exchange has

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4 The proposal establishing strike price intervals for series of options on ETFs at $1 or greater where the strike price is $200 or less did not discuss strike price intervals where the strike price is over $200. See Securities Exchange Act Release No. 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001)(SR-Phlx-2001-32).

5 As an example, ETF options trading under the symbols ILF, FXI, MDY, and EEM are all listed at strike prices greater than $200.
only been able to list these ETF options at $10 or greater strike price intervals. This has put Phlx at a competitive disadvantage, particularly in respect of options exchanges that allow $5 strike price intervals for ETF options.

The Exchange believes that the rule proposal clarifying the availability of $5 strike price intervals for ETF options above $200 should enable Phlx to competitively list and trade ETF options at appropriate strike price intervals to the benefit of public customers, traders on the Exchange, and the Exchange itself.

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), specifically, in that it is designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest and promotes just and equitable principles of trade. The proposal would achieve this by allowing listing and trading of options at $5 strike price intervals within certain parameters, commensurate with the rules of other options exchanges.

Commentary .05(a) to Phlx Rule 1012 states, among other things, that strike prices of options may be $2.50 or greater where the strike price is $25 or less, $5 or greater where the strike price is more than $25 but less than $200, and $10 or greater when the strike price is $200 or more.

See, e.g., AMEX Rule 903 stating that options on ETFs may trade at $5 strike price intervals where the strike price is over $200. See Securities Exchange Act Release Nos. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998)(SR-AMEX-1996-44) and 48024 (June 12, 2003), 68 FR 36617 (June 18, 2003)(SR-AMEX-2003-36). Supplementary Material .01 to Chapter IV Sec. 6 of BOX rules similarly allows listing and trading ETF options at $5 strike price intervals where the strike price is over $200.


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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

5. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were either solicited or received.

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

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

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

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)\(^\text{10}\) of the Act and Rule 19b-4(f)(6)(iii) thereunder\(^\text{11}\) 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.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.


A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided the Commission with written notice of its intent to file this rule change proposal.12

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

The proposed rule change is based on AMEX Rule 903.13 The Exchange does not believe that any novel issues are raised in this filing.

9. Exhibits

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

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12 The original filing SR-Phlx-2007-92 regarding $5 strike price intervals for ETFs above $200, which is superceded and replaced in its entirety by the present filing SR-Phlx-2007-93, represents the Exchange’s notice of intent to file.

Securities and Exchange Commission

(Release No. ; File No. SR-Phlx-2007-93)

Self-Regulatory Organizations; Notice of Filing and Accelerated Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to $5 Strike Price Intervals for ETFs above $200

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\), and Rule 19b-4\(^2\) hereunder, 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 hereunder,\(^4\) proposes to amend Commentary .05 to Exchange Rule 1012 (Series of Options Open for Trading) to clarify that strike prices intervals of options on Exchange Traded Fund Shares ("ETFs") will be $5 or greater where the strike price is over $200.\(^5\)

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\(^5\) Strike price intervals for series of options on ETFs were initially established at $1 or greater where the strike price is $200 or less. See Securities Exchange Act Release No.

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 that strike price intervals of options on Exchange Traded Fund Shares (“ETFs”) will be $5 or greater where the strike price is over $200.

Commentary .05 to Phlx Rule 1012 currently states that strike price intervals of options on Exchange-Traded Fund Shares, or ETFs, will be $1 or greater when the strike price of the underlying asset is $200 or less. As such, most ETF options, which have become popular investment tools, are priced at $1 strike price intervals. However, some

44055 (March 8, 2001), 66 FR 15310 (March 16, 2001)(SR-Phlx-2001-32)(filing silent regarding strike price intervals where the strike price is over $200).

6 The proposal establishing strike price intervals for series of options on ETFs at $1 or greater where the strike price is $200 or less did not discuss strike price intervals where
ETF options are listed at $10 strike price intervals at strike prices greater than $200.7 Within the last few months, the Exchange has received requests from Phlx traders to price ETF options at $5 strike price intervals above $200. Because the Exchange does not currently have a provision that allows ETF options to list and trade at $5 or greater strike price intervals where the strike price is more than $200, however, the Exchange has only been able to list these ETF options at $10 or greater strike price intervals.8 This has put Phlx at a competitive disadvantage, particularly in respect of options exchanges that allow $5 strike price intervals for ETF options.9

The Exchange believes that the rule proposal clarifying the availability of $5 strike price intervals for ETF options above $200 should enable Phlx to competitively list and trade ETF options at appropriate strike price intervals to the benefit of public customers, traders on the Exchange, and the Exchange itself.

7 As an example, ETF options trading under the symbols ILF, FXI, MDY, and EEM are all listed at strike prices greater than $200.

8 Commentary .05(a) to Phlx Rule 1012 states, among other things, that strike prices of options may be $2.50 or greater where the strike price is $25 or less, $5 or greater where the strike price is more than $25 but less than $200, and $10 or greater when the strike price is $200 or more.

9 See, e.g., AMEX Rule 903 stating that options on ETFs may trade at $5 strike price intervals where the strike price is over $200. See Securities Exchange Act Release Nos. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998)(SR-AMEX-1996-44) and 48024 (June 12, 2003), 68 FR 36617 (June 18, 2003)(SR-AMEX-2003-36). Supplementary Material .01 to Chapter IV Sec. 6 of BOX rules similarly allows listing and trading ETF options at $5 strike price intervals where the strike price is over $200.
2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), specifically, in that it is designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest and promotes just and equitable principles of trade. The proposal would achieve this by allowing listing and trading of options at $5 strike price intervals within certain parameters, commensurate with the rules of other options exchanges.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were either solicited or received.

III. **Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act and Rule

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19b-4(f)(6)(iii) thereunder 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.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided the Commission with written notice of its intent to file this rule change proposal.

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14 The original filing SR-Phlx-2007-92 regarding $5 strike price intervals for ETFs above $200, which is superceded and replaced in its entirety by the present filing SR-Phlx-2007-93, represents the Exchange’s notice of intent to file.
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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2007-93 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-2007-93. 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](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-2007-93 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{15}

\textsuperscript{15} 17 CFR 200.30-3(a)(12).

Nancy M. Morris
Secretary