

**MEMORANDUM**

To: Members and Member Organizations

From: Jurij Trypupenko  
Office of General Counsel

Date: September 8, 2008

Re: Margin Rule Filing Approved  
Election of NYSE or CBOE Margin Rules

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The U.S. Securities and Exchange Commission ("SEC" or "Commission") has approved NASDAQ OMX PHLX's ("Exchange" or "Phlx") filing Phlx-2007-33.

The rule change proposal has greatly simplified the structure of Phlx margin rules found at Rule 721 et seq. by:

(1) adding a new section to Rule 721 (Proper and Adequate Margin) requiring each member to indicate in writing to the Exchange that such member elects to follow and shall be bound by the initial and maintenance margin rules of either the Chicago Board Options Exchange ("CBOE") or New York Stock Exchange ("NYSE")(these are known as the "Elected Margin Rules")<sup>1</sup>;

(2) eliminating Rules 724 (Guaranteed Accounts) and 725 (Daily Record of Required Margin) because they are covered in the Elected Margin Rules; and

(3) significantly shortening Rules 722 (Margin Accounts) and 723 (Day Trading and Prohibition on Free-Riding in Cash Accounts) to eliminate unnecessary or duplicative language while retaining those margin requirements that are unique to the Exchange (for example, the prohibition on free-riding in Rule 723).

The rule change makes "portfolio margining" available to Exchange members. Whereas former Rule 722 required that margin must be calculated using fixed percentages, on a position-by-position basis, the Portfolio Margining Rules of CBOE and NYSE that are within the Elected Margin Rules of the respective exchanges permit a broker-dealer to calculate customer margin requirements by grouping all eligible products in an account(s) based on the same index or issuer

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<sup>1</sup> The Elected Margin Rules of CBOE can be found at CBOE Rule 12.1 et seq. The Elected Margin Rules of NYSE can be found at NYSE Rule 431 et seq.

into a single portfolio. Products eligible for margining according to the Portfolio Margining Rules include, among other things, listed, broad-based, and market index options; index warrants; futures; futures options; and related exchange-traded funds. Portfolio Margining Rules, which are set forth in generally allows calculating a customer's margin requirement by "shocking" a portfolio of financial instruments at different equidistant points along a range representing a potential percentage increase and decrease in the value of the instrument or underlying instrument.

Phlx Rules 721 to 723 can be accessed at <http://www.wallstreet.cch.com/PHLX/PHLX/>.

**NOTE      NOTE      NOTE**

***1) Each NASDAQ OMX PHLX member must notify the Phlx Examinations Department, in writing, that such member elects to follow and be bound by the margin rules of either CBOE or NYSE.***

***2) The written notification must be sent to:***

***Mr. William Bunting  
NASDAQ OMX PHLX  
Examinations Department  
1900 Market Street  
Philadelphia, PA 19103***

***3) The written notification must be received by the Examinations Department within 30 days from the date of this notice.***

If you have any questions do not hesitate to call Joe Cusick at 215 496-1576 or Bill Bunting at 215 496-5401.