

Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2007-63 and should be submitted on or before July 13, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55916; File No. SR-NASD-2007-037]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NASD Rules To Extend the Closing Time of the NASD/NYSE Trade Reporting Facility to 8 p.m.

June 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 12, 2007, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by NASD. NASD filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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

NASD is proposing to amend Rules 4632E and 6130E relating to the NASD/NYSE Trade Reporting Facility (the "NASD/NYSE TRF") to change the

system closing time from 6:30 p.m. to 8 p.m. (Eastern Time), which conforms with the system closing time of the NASD/Nasdaq Trade Reporting Facility (the "NASD/Nasdaq TRF"). In addition, NASD is proposing certain technical, conforming changes to Rule 4632E and Rules 4632 and 6130 relating to the NASD/Nasdaq TRF. The text of the proposed rule change is available at <http://www.nasd.com>, NASD, and the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

Extension of Operating Hours of NASD/NYSE TRF

The NASD/Nasdaq TRF and NASD/NYSE TRF provide NASD members with mechanisms for reporting locked-in transactions in exchange-listed securities effected otherwise than on an exchange. Currently, the NASD/NYSE TRF trade reporting rules reflect a system closing time of 6:30 p.m. (Eastern Time), which until recently was the system closing time of the NASD/Nasdaq TRF and UTP Securities Information Processor ("SIP"). Effective September 18, 2006, the UTP SIP system closing time was extended from 6:30 p.m. to 8 p.m. (Eastern Time) and, to accommodate the extended UTP SIP system closing time, the closing time of the NASD/Nasdaq TRF subsequently was extended from 6:30 p.m. to 8 p.m. (Eastern Time).<sup>5</sup>

NASD is proposing to extend the system hours of the NASD/NYSE TRF from 6:30 p.m. to 8 p.m. (Eastern Time). Specifically, NASD is proposing to amend Rules 4632E(a) and (g) and 6130E(f) to reflect a system closing time of 8 p.m. (Eastern Time). In addition, on the Regulation NMS Pilot Stocks Phase

Date, amendments will become effective pursuant to SR-NASD-2007-014 which will, among other things, adopt new paragraph (a)(5)(H) of Rule 4632E.<sup>6</sup> NASD also is proposing to amend that provision to reflect a system closing time of 8 p.m. The proposed rule change will allow market participants to timely report more trades taking place after normal market hours to the NASD/NYSE TRF, as they can do today to the NASD/Nasdaq TRF.

##### Technical, Non-Substantive Rule Changes

NASD is proposing a technical, non-substantive change to Rule 6130(g) to clarify that the system closing time for the NASD/Nasdaq TRF and OTC Reporting Facility is 8 p.m., not 6:30 p.m. (Eastern Time). Rule 6130(g) became effective after SR-NASD-2006-120 was filed and thus was not included in the proposed rule change to extend the system closing time from 6:30 to 8 p.m. (Eastern Time).

Additionally, NASD is proposing technical, non-substantive changes to Rule 4632(a)(2)(B) and (D) relating to the NASD/Nasdaq TRF and Rule 4632E(a)(2)(B) and (D) relating to the NASD/NYSE TRF for the sake of internal consistency and to conform to the rules relating to the other NASD Trade Reporting Facilities (see Rule 4632C(a)(2)(B) and (D) and Rule 4632D(a)(2)(B) and (D)). Specifically, the technical changes will clarify that reports submitted on an "as/of" basis pursuant to these provisions should be reported the following business day (T+1).

NASD is filing the proposed rule change for immediate effectiveness. The proposed rule change will not become operative prior to the 30th day after the date of filing. NASD will announce the operative date on its Web site.

###### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> which requires, among other things, that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that, by affording market participants additional time to report trades taking place after normal market hours, the proposed rule change will

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Securities Exchange Act Release No. 54773 (November 17, 2006), 71 FR 68665 (November 27, 2006) (SR-NASD-2006-120).

<sup>6</sup> See Securities Exchange Act Release No. 55346 (February 26, 2007), 72 FR 9807 (March 5, 2007) (SR-NASD-2007-014).

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

result in more timely and accurate trade reporting and thus greater transparency.

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

NASD does not believe that the proposed rule change will result in any burden on competition that is 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*

Written comments were neither solicited nor 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<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> 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.

### **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](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2007-037 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-NASD-2007-037. 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 such filing also will be available for inspection and copying at the principal office of NASD. 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-NASD-2007-037 and should be submitted on or before July 13, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-55910; File No. SR-Phlx-2007-26]**

#### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1, Relating to Price-Improved Linkage P/A Orders**

June 15, 2007

On March 21, 2007, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4

thereunder,<sup>2</sup> a proposed rule change to permit Exchange specialists to execute Linkage Principal Acting as Agent ("P/A") Orders<sup>3</sup> that are sent to, and price-improved on, another exchange, and subsequently presented for execution on the Phlx against customer limit orders on the limit order book that give rise to the initial P/A Order, at a price other than the minimum trading increment applicable to the particular series traded. On May 2, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on May 15, 2007.<sup>4</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change as modified by Amendment No. 1.

After careful review of the proposal, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts, 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.

In support of this proposal, the Exchange has represented that recently some P/A Orders have been executed on other exchanges at improved prices in penny increments after participating in a price-improvement auction process on the other exchange, resulting in the executed P/A Order being delivered back to the Exchange at a price that is expressed in other than the Exchange's minimum trading increment.

Phlx Rule 1034, Minimum Increments, currently provides that options quoting at \$3.00 or higher have

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> A P/A Order is an order under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan"), for the principal account of a specialist (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent. See Phlx Rule 1083(k)(i).

<sup>4</sup> See Securities Exchange Act Release No. 55729 (May 9, 2007), 72 FR 27347.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).