For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–4431 Filed 2–27–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49312; File No. SR–Phlx–2004–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Phlx/KBW Bank Index 10-for-1 Split

February 24, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 17, 2004, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') 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 by the Exchange. The Phlx has submitted the proposed rule change under section 19(b)(3)(A) of the Exchange Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal 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

The Phlx proposes to reduce the value of its Phlx/KBW Bank Index (''Index'') option (''BKX'') to one-tenth its present value by multiplying by ten the base market divisor used to calculate the Index. In addition, the position and exercise limits applicable to the BKX (currently 24,000 contracts) will be increased to 44,000 contracts. The Index is a cash-settled, capitalization-weighted, narrow-based, A.M. settled index composed of 24 geographically diverse stocks representing national money center banks and leading regional institutions.[5]

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

In its filing with the Commission, Amex 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 Exchange 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to attract additional liquidity to the BKX. A ten-for-one split, which reduces the value of the Index, should have a positive effect on overall transaction volumes by making the option premiums more attractive for retail investors. By reducing the value of the Index, investors will be able to utilize the BKX as a trading vehicle while extending a smaller outlay of capital. This should attract additional investors and, in turn, create a more active and liquid trading environment.

The Exchange began trading the BKX in 1992.[6] As of January 30, 2004, the Index value was 992.69 and the near-month at-the-money call premium was $16.25 per contract. The Exchange proposes to conduct a ''ten-for-one split'' of the Index, such that the Index value would be reduced to one-tenth of its current value, or 99.27. In order to maintain economic equivalence, the number of BKX contracts will be increased ten-fold, such that for each BKX contract currently held, the holder would receive ten contracts at the reduced value, each with a strike price equal to one-tenth of the original strike price. For example, the holder of one BKX 990 call with a premium of $16.25 will receive ten BKX 99 calls with a premium of $1.63.

In addition, the position and exercise limits applicable to BKX will be increased from 24,000 contracts to 44,000 contracts in order to accommodate the increased number of contracts outstanding. With the exception of the position limit change, this procedure is similar to the one employed respecting equity options where the underlying security is subject to a ten-for-one stock split.[7] The trading symbol will remain BKX.

In conjunction with the proposed split, the Exchange will list strike prices surrounding the new lower Index value, pursuant to Phlx Rule 1101A. The Exchange will announce the effective date by way of an Exchange memorandum to the membership, which will also serve as notice of the strike price and position limit changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5)[9] 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 to protect investors and the public interest by establishing a lower Index value, which should, in turn, facilitate trading in BKX, creating a more liquid trading environment. The Exchange believes that reducing the value of the Index should not raise manipulation concerns and should not cause adverse market impact because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the Index split, including adequate prior notice to market participants.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Index is currently composed of the following stocks: Citigroup, Inc., Bank of America Corp., Wells Fargo and Co., JP Morgan Chase & Co., Wachovia Corp., Bank One Corporation, U.S. Bancorp, Washington Mutual, Fifth Third Bancorp, FleetBoston Financial Corp., MBNA Corp., National City Corp., Bank of New York Company, SunTrust Banks, Inc., BB&T Corp., PNC Financial Services, Golden West Financial Corp., State Street Corp., Keycorp, Mellon Financial Corporation, SouthTrust Corp., Northern Trust Corp., Comerica, Inc., and Zion Bancorporation.

[6] *See* Securities Exchange Act Release No. 31145 (September 3, 1992), 57 FR 41531 (September 10, 1992) (File No. SR–Phlx–91–27).

[7] Customarily, the position and exercise limits would also be increased ten-fold in a ten-for-one split until the expiration of the then-furthest-out expiration month, after which time the position and exercise limits would revert back to their pre-split levels. *See, e.g.*, Securities Exchange Act Release No. 42814 (May 23, 2000), 65 FR 35152 (June 1, 2000) (File No. SR–Phlx–00–11) (two-for-one split of index value resulted in a doubling of the applicable position and exercise limits). In the present case, the position and exercise limits will not revert back to pre-split levels.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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 Phlx has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) is not proposed to become operative for 30 days, or such shorter time as the Commission may designate, and the Phlx provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

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. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx has requested that the Commission waive the 30-day operative delay to allow the proposed Index split and corresponding increases in the position and exercise limits applicable to BKX options to occur without delay.

The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[12] Specifically, the Commission believes that allowing the Phlx to implement the proposed ten-for-one split of the Phlx/KBW Bank Index will facilitate a more liquid trading environment and make the BKX product more accessible to investors. Waiving the 30-day operative delay will permit the Exchange community (specialists, broker-dealers, and retail customers) a full expiration month's notice before the changes specified in the proposal take effect following the March 2004 expiration date, and will assist Phlx in implementing the proposed Index split in an orderly manner. Accordingly, the Commission designates the proposal to be operative immediately.

At any time within 60 days of the filing of such 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.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–Phlx–2004–13. The 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, comments should be sent in hardcopy or by e-mail but not by both methods.

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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–Phlx–2004–13 and should be submitted by March 22, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–4507 Filed 2–27–04; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(3)(C).

[14] 17 CFR.200.30–3(a)(12).

Securities and Exchange Commission

[Release No. 34–49311; File No. SR–Phlx–2003–72]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change To Reduce Strike Prices for Index Options

February 24, 2004.

On December 4, 2003, 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'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Phlx Rule 1101A (''Terms of Option Contracts'') to provide that strike price intervals for index options [3] shall be $2.50 for the three consecutive near-term months, $5 for the fourth month, and $10 for the fifth month. The proposed rule change was published for comment in the **Federal Register** on January 21, 2004.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act [6] which requires, among other things, that the Exchange's rules be 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.

The Commission believes that by reducing strike price intervals to $2.50 strikes for three consecutive near-term months, $5 for the fourth month, and $10 for the fifth month, the proposed rule change should increase the ability to trade an options series that is likely to expire in-the-money. In addition, the Commission notes that the Exchange has represented that there is sufficient

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Index options traded on the Exchange are also known as sector index options.

[4] *See* Securities Exchange Act Release No. 49074 (January 14, 2004), 69 FR 2959.

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).