

SR-PCX-2001-53 and should be submitted by February 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45250; File No. SR-Phlx-2001-119]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Trading Hours of Options on Exchange-Traded Fund Shares

January 7, 2002.

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 December 26, 2001, 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 Exchange filed this proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Exchange proposes to amend Supplementary Material .01 to Phlx Rule 101, Hours of Business, to eliminate the requirement that options on Nasdaq-100 Index Tracking Stock<sup>6</sup>

will end at 4:04 PM. on the last trading day of each calendar month, and to add language regarding the trading hours of options on Exchange-Traded Fund Shares ("ETF Options").<sup>7</sup> As amended, Phlx Rule 101, Supplementary material .01 would provide that the hours of trading of ETF Options designated by the Exchange may continue until 4:15 P.M. However, the revised rule would also provide that the Exchange may close trading in such options at an early time to coincide with the close of trading in a related futures contract when trading in a related futures contract closes earlier than 4:15 P.M. The text of the proposed rule change is below. Additions are in italics; deletions are in brackets.

#### Hours of Business

##### Rule 101.

\* \* \* \* \*

##### Supplementary Material:

.01 Options Trading after 4:02 P.M. A trading rotation in any class of option contracts may be effected even though employment of the rotation will result in the transaction on the Exchange after 4:02 P.M. provided such rotation is conducted pursuant to Rule 1047 or Rule 1047A. [The hours of trading for Options on Nasdaq-100 Index Tracking Stock shall commence at 9:30 AM and end at 4:15 PM, each business day, except the last trading day of each calendar month, when trading in Options on Nasdaq-100 Index Tracking Stock will end at 4:04 PM.] *Options on any series of Exchange-Traded Fund Shares so designated by the Exchange may be traded on the Exchange until 4:15 P.M. each business day. The*

and bear no liability with respect to the Products. The Corporations do not guarantee the accuracy and/or uninterrupted calculation of the Nasdaq-100 Index or any data included therein. The Corporations make no warranty, express or implied, as to results to be obtained by Licensee, owners of the Products, or any other person or entity from the use of the Nasdaq-100 Index or any data included therein. The Corporations make no express or implied warranties, and expressly disclaim all warranties of merchantability or fitness for a particular purpose or use with respect to the Nasdaq-100 Index or any data included therein. Without limiting any of the foregoing, in no event shall the Corporations have any liability for any lost profits or special, incidental, punitive, indirect, or consequential damages, even if notified of the possibility of such damages.

<sup>7</sup> Phlx Rule 1000(b)(42) defines "Exchange-Traded Fund Shares" as including Exchange-listed securities representing interests in open end unit investment trusts or pen-end management investment companies that hold securities based on an index or a portfolio of securities. The Exchange received approval by the Commission to trade options on Exchange-Traded Fund Shares on February 2, 2001. See Securities Exchange Act Release No. 43921 (February 2, 2001), 66 FR 9739 (February 9, 2001) (order approving SR-Phlx-00-107).

*Exchange may close trading at an early time to coincide with the close of trading in a related futures contract on the last business day of the month, or any other day when a related futures contract closes earlier than 4:15 P.M.*

\* \* \* \* \*

#### 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 Exchange 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Phlx proposes to eliminate the requirement that trading in options on Nasdaq-100 Index Tracking Stock shall close at 4:05 P.M. on the last trading day of the calendar month, and to add new language to the rule regarding trading hours for ETF Options generally. Currently, Phlx Rule 101, Hours of Business, Supplementary Material .01 provides that options on Nasdaq-100 Index Tracking Stock shall commence at 9:30 A.M. and end at 4:15 P.M., each business day, except the last trading day of each calendar month, when trading in options on Nasdaq-100 Index Tracking Stock will end at 4:05 P.M.<sup>8</sup>

The Exchange proposes to extend trading in all ETF Options so designated by the Exchange at 4:15 P.M.<sup>9</sup> The proposed new language would also permit the Exchange to close trading before 4:15 P.M. to coincide with the close of trading in a related futures contract on the last business day of the month, or any other day when trading in a related futures contract closes earlier than 4:15 P.M. ETF Options not designated by the Exchange as eligible for trading until 4:15 P.M. would continue to trade until 4:02 P.M. The Exchange expects that it would

<sup>8</sup> See Securities Exchange Act Release No. 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001) (SR-Phlx-2001-32).

<sup>9</sup> An ETF Option would be so designated by the Vice President of the Regulatory Services Department or his or her designee. The Exchange would notify members by issuance of a memorandum.

<sup>9</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> The Phlx asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6). 17 CFR 240.19b-4(f)(6).

<sup>6</sup> Nasdaq-100 Nasdaq-100 Index, and Nasdaq are trade or service marks of The Nasdaq Stock Market, Inc. (with its affiliates, the "Corporations") and are licensed for use by the Exchange. Options on Nasdaq-100 Index Tracking Stock (the "Products") have not been passed on by the Corporations as to their legality or suitability. The Products are not issued, endorsed, sold, or promoted by the Corporations. The Corporations make no warranties

designate ETF Options for trading until 4:15 P.M. only where the underlying ETF is based on an index on which futures contracts trade.

The Phlx believes that the proposed rule change will bring its practices in line with current practice on the Chicago Board Options Exchange.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>10</sup> in general, and in particular, with Section 6(b)(5),<sup>11</sup> in that it is designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; 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; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. By adopting the proposed rule change, the Exchange should facilitate competition in the trading of ETF Options across markets.

### *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.

### *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

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>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</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.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to be effective on filing with the Commission because such designation is consistent with the protection of investors and the public interest. The Commission believes that the proposal should be effective and operative immediately upon filing to help facilitate competition in the trading of ETF Options across markets. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.<sup>14</sup>

## 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. 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 file number SR-Phlx-2001-119, and should be submitted by February 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>14</sup> For purposes only of accelerating 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).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Federal Highway Administration

### Environmental Impact Statement: City of Fairfax and Fairfax and Prince William Counties, Virginia

**AGENCY:** Federal Transit Administration and Federal Highway Administration, DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) are jointly issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) in cooperation with the Virginia Department of Rail and Public Transportation (VDRPT) and Virginia Department of Transportation (VDOT) for potential transportation improvements in the Interstate 66 corridor in Fairfax and Prince William Counties to address projected increases in travel demand over the next twenty years. Three public scoping meetings have been scheduled and will be held from January 22-24, 2002, at 7 p.m. at the following locations as part of the preparation of the EIS:

January 22, 2002—Centreville High School, 6001 Union Mill Road, Clifton, Virginia 20124 (snow date: January 29);

January 23, 2002—Old Town Hall, 3999 University Drive, Fairfax, Virginia 22030 (snow date: January 30);

January 24, 2002—Stonewall Jackson Middle School, 10100 Lomond Drive, Manassas, Virginia 20109 (snow date: January 31);

One agency scoping meeting will be held on January 24, 2001, at 10:30 a.m. at the VDOT Northern Virginia District Office in Chantilly.

**FOR FURTHER INFORMATION CONTACT:** Edward Sundra, Senior Environmental Specialist, Federal Highway Administration, Post Office Box 10249, Richmond, Virginia 23240-0249, Telephone 804-775-3338; Patricia Mampf, Transportation Program Specialist, Federal Transit Administration, 1760 Market Street, Suite 500, Philadelphia, Pennsylvania 19103-4124, Telephone 215-656-7071; or Steve Suder, Senior Transportation Engineer, Virginia Department of Transportation—Northern Virginia District, 14685 Avion Parkway, Suite 345, Chantilly, Virginia 20151, Telephone 703-383-2217.

**SUPPLEMENTARY INFORMATION:** In late-1995 in accordance with 23 CFR

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).