

section of exchange-traded industrial commodities. Second, each of the futures contracts overlying the commodities is relatively actively traded, and has considerable open interest. Third, the majority of futures contracts overlying the component commodities trade on exchanges that impose position limits on speculative trading activity, which are designed, and serve, to minimize potential manipulation and other market impact concerns. Fourth, as discussed below, the Amex has entered into certain surveillance sharing agreements with each of the futures exchanges upon which the underlying designated futures contracts trade. These agreements should help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making COINs less readily susceptible to manipulation.<sup>21</sup> Fifth, the price of COINs will be comprised of readily ascertainable and verifiable futures contract settlement and closing prices and disseminated once each trading day after 4 p.m. (New York time) to vendors of electronic financial information and on the Amex tape.<sup>22</sup> Sixth, adequate procedures are in place to prevent the misuse of information by members of the JPMCI Policy Committee.<sup>23</sup> Accordingly, for the reasons discussed above, the Commission believes the Indexes are not readily susceptible to manipulation and that in any event, the surveillance procedures in place are sufficient to detect as well as deter potential manipulation.

The Commission notes that COINs, unlike standardized options, do not contain a clearinghouse guarantee but are instead dependent upon the individual credit of the issuer, J.P. Morgan. This heightens the possibility

<sup>21</sup> The Amex has comprehensive surveillance sharing agreements with all of the exchanges upon which the futures contracts overlying COINs trade and is able to obtain market surveillance information, including customer identity information, for transactions occurring on NYMEX and Comex. Furthermore, under the ISG information sharing agreement, SFA will be able to provide, on request, surveillance information with respect to trades effected on the LME, including client identity information. Finally, if the composition of the applicable COINs Index changes or if a different market is utilized for purposes of calculating the value of the designated futures contracts, the Amex will ensure that it has entered into a surveillance sharing agreement with respect to the new relevant market.

<sup>22</sup> See December 16 Letter.

<sup>23</sup> As discussed above, members of the JPMCI Policy Committee are expressly prohibited from trading COINs and from communicating any knowledge concerning changes in the value of the Indexes to any other person. Amex will also have surveillance procedures in place to periodically review activity in the notes and/or underlying Index components.

that a purchaser of COINs may not be able to receive full principal cash payment upon maturity. To some extent this credit risk is minimized by the Exchange's listing guidelines requiring COINs issuers to possess at least \$100,000,000 in assets and stockholders' equity of at least \$10 million. In any event, financial information regarding J.P. Morgan will be disclosed or incorporated in the prospectus accompanying the offering of COINs.

Finally, the Commission notes that the approval granted herein is limited to the issuance of COINs whose value is derived from the JPMCI or JPMCI-X, as described in this Order. Accordingly, the use of either of the Indexes as an underlying value for any other derivative product, irrespective of the issuer, raises additional legal and/or regulatory issues which would necessitate a rule filing pursuant to Rule 19b-4.

Based on the above, the Commission finds that the proposal to trade COINs is consistent with the Act, and, in particular, the requirements of Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>25</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35520; International Series Release No. 793, File No. SR-Phlx-95-02]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Additional Expirations for the Cash/Spot German Mark Foreign Currency Options ("3D Options")**

March 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 25, 1995, 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 Phlx. On February 24, 1995, the Exchange filed Amendment

<sup>24</sup> 15 U.S.C. 78s(b)(2) (1982).

<sup>25</sup> 17 CFR § 200.30-3(a)(12) (1994).

No. 1 to the proposed rule change.<sup>1</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to amend Exchange Rule 1012(a)(ii) to permit listing German mark cash/spot foreign currency options ("FCOs"), commonly referred to as "3D Options,"<sup>2</sup> with series having up to 12 months to expiration. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

**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 the Statutory Basis for, the Proposed Rule Change*

On March 8, 1994, the Commission approved the listing and trading of 3D Options.<sup>3</sup> These FCOs are issued by The Options Clearing Corporation and are European-style.<sup>4</sup> The options have one-week and two-week expirations to provide a hedging vehicle for: sophisticated retail customers, portfolio managers, and multi-national corporations which need to hedge their

<sup>1</sup> In Amendment No. 1, the Exchange proposed to: (1) Amend the procedure for the symbols that will be used for the proposed longer term 3D Options; (2) change the name of these options in Phlx's rules from "cash/spot" to "3D" FCOs; (3) specify the strike price intervals applicable to the longer-term 3D Options; and (4) clarify that the proposal to permit spread margin treatment between the 3D Options and the regular Deutsche mark FCO will be applicable to the weekly, consecutive month, and cycle month series 3D Options. See Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated February 24, 1995 ("Amendment No. 1").

<sup>2</sup> "3D" refers to dollar denominated delivery.

<sup>3</sup> See Securities Exchange Act Release No. 33732 (March 8, 1994), 59 FR 12023 (March 15, 1994).

<sup>4</sup> A European-style option may only be exercised during a specified time period immediately prior to expiration of the option.

short term foreign currency exposure; and to banks which need to hedge the risks associated with trading in the forward and cash markets. The Exchange represents that the users of 3D Options have particularly liked the U.S. dollar settlement feature because they do not have to establish foreign bank credit lines, nor do they have to worry about the potential of exchanging currency due to exercises and assignments. The Exchange further represents that although the users find 3D Options beneficial for managing their short term foreign currency risks, they have also suggested that they would like to use a U.S. dollar settled option to hedge longer term risks. The Phlx, therefore, proposes to add longer term expirations to the 3D Option contract in order to address these requests.

The Exchange proposes to list 3D Options with expirations corresponding to the consecutive month and cycle month series for regular FCOs. Specifically, 3D Options will be listed on the March, June, September, and December cycle with two near-term months. The expiration date will be the Monday preceding the third Wednesday of each month, thus creating a mid-month U.S. dollar settled FCO. The Phlx proposes to amend Phlx Rule 1012(a)(ii)(B) and (C) to reflect these additional series of options. The Exchange will not list 3D Options with month-end expirations or with more than 12 months to expiration.<sup>5</sup>

The Exchange believes that 3D Options with a longer term to expiration will meet the needs of investment managers who are seeking to protect portfolios against foreign exchange fluctuations but who do not wish to receive or deliver the underlying currency to achieve that goal. Similarly, the Exchange believes that corporate treasurers seeking balance sheet protection would also prefer paying or receiving U.S. dollars rather than exchanging German marks. Both of these potential users may have either short or long-term concerns. Finally, retail traders who may have either a short or long-term market perspective, will, in the Exchange's opinion, find these options attractive because they will not have to establish foreign bank credit lines or have to deal with the delivery or receipt of the underlying foreign currency at settlement.

<sup>5</sup> The Exchange is also proposing to amend Rules 1000, 1012, 1014, 1057, and 1069 to change references in its rules from cash/spot FCOs to 3D FCOs, as, these FCOs are more commonly referred to. The Exchange is also proposing non-substantive changes to Rule 1012 for ease of reading. See Amendment No. 1, *supra* note 1.

Currently, the weekly 3D Options are listed with the symbol XDA, SDB, XDC, XDD, or XDE depending on whether they will expire on the first, second, third, fourth, or fifth Monday of the month, respectively. Because the proposed longer term 3D Options will expire on the Monday before the third Wednesday of each month, they will always expire on either the second or third Monday of the month. Accordingly, the longer-term 3D Options will be listed with the symbol XDB or XDC and will carry that symbol until expiration.<sup>6</sup>

3D Options are currently listed in one-half point strike price intervals. The Exchange proposes that the proposed longer-term 3D Options listed for the three near term months will also be listed in one-half point strike price intervals, while the 3D Options listed with six, nine, or twelve months to expiration will have one point strike price intervals.<sup>7</sup>

The Exchange intends to allow spread margin treatment between the German mark FCO ("XDM") and the 3D Options pursuant to Exchange Rule 722(c)(2)(E).<sup>8</sup> This provision allows for short calls or puts to be offset against long calls or puts for margin purposes if the underlying foreign currency and number of units are the same, provided that the "long" position expires on or after the date of the "short" position.

<sup>6</sup> For example, a March 1995 3D Option that would expire on Monday March 13, would be listed, for example, as an XDB March 62 call, whereas the April 1995 3D Option that would expire on Tuesday, April 18 (Monday being an Exchange holiday) would be listed as an XDC April 62 call. See Amendment No. 1, *supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> Exchange Rule 722(c)(2)(E) provides: "Where a call that is listed or traded on a registered national securities exchange or association is carried 'short' for a customer's account and the account is 'long' a call listed or traded on an exchange or association, expiring on or after the date of the 'short' call and written on the same number of \* \* \* units of the same underlying foreign currency, the minimum margin must be maintained in respect of the 'short' position shall be the lesser of (i) the required amount pursuant to subparagraph (B)(i) or (B)(ii) of the paragraph (c)(2), as the case may be, or (ii) the amount, if any, by which the exercise price of the 'long' call exceeds the exercise price of the 'short' call."

"Where a put that is listed or traded on a registered national securities exchange or association is carried 'short' for a customer's account and the account is also 'long' a put listed or traded on an exchange or association expiring on or after the expiration date of the 'short' put and written on the same number of \* \* \* units of the same underlying foreign currency (in the case of options on a foreign currency), the minimum margin which must be maintained in respect of the 'short' put shall be the lesser of (i) the margin required pursuant to subparagraphs (B)(i) or (B)(ii) of this paragraph (c)(2) as the case may be, or (ii) the amount, if any, by which the exercise price of the 'short' put exceeds the exercise price of the 'long' put."

Even though 3D Options are settled in U.S. dollars and XDM contracts are settled in German marks, the Exchange believes that it should be permissible for a broker-dealer to extend to its customers spread margin treatment for a position consisting of a 3D Option offset against an XDM under the existing Exchange rules.<sup>9</sup> The Exchange believes that this type of spread margin treatment is warranted for the same economic reasons that the Exchange has allowed customers to spread two XDM positions against each other. In both cases, a customer is hedging an option position on the same underlying currency—the German mark. If the market value of the underlying decreases, the customer will lose money on the long side and profit on the short side and, conversely, if the market value of the underlying increases, the customer will profit on the long side and lose on the short side. The Exchange feels that risk reducing strategies need to be recognized and spread margin treatment permitted.

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, 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 providing FCO users who do not necessarily need to exchange currency at settlement with an alternative U.S. dollar settled FCO with corresponding expirations.

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

The Phlx 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 solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal**

<sup>9</sup> This proposal will apply both to the existing 3D Options and to the proposed longer-term 3D Options. See Amendment No. 1, *supra* note 1.

**Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-95-02 and should be submitted by April 17, 1995.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35512; File No. SR-Phlx-95-15]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Codification of Order Ticket Marking Requirements

March 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1995,

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 self-regulatory organization. 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 consolidate and codify its order ticket marking requirements under Floor Procedure Advice ("Advice") F-4. The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

#### 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 the 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

The purpose of the proposed rule change is to list the order ticket marking requirements in a single advice to facilitate floor compliance. By providing a sort of checklist of required marks and by placing the checklist in the Floor Procedure Advice Handbook for ease of reference, the Exchange believes that it will be easier for trading floor personnel to identify and verify in a timely fashion whether an order ticket has been properly marked.

Currently, Advice F-4 requires order tickets for spreads, straddles, combinations and synthetics that receive spread priority to be marked accordingly (e.g., "sp," "st," etc.). This existing requirements, which is now proposed to be labelled as paragraph (a), contains a fine schedule for violations, administered pursuant to the Exchange's minor rule violation enforcement and reporting plan.<sup>1</sup>

<sup>1</sup> The Phlx's minor rule violation enforcement and reporting plan ("minor rule plan"), codified in Phlx Rule 970, contains floor procedure advices

Proposed paragraph (b) would not contain a fine schedule, and therefore, does not require an amendment to the Exchange's minor rule plan. Instead, failure to mark the order ticket is a violation of the rule or advice, subject to the applicable fine, if any, requiring that mark, not Advice F-4(b). For example, failure to mark "SS" respecting a trade designated as "sold sale" violates Advice F-3. Proposed Advice F-4(b) does not in and of itself impose new marking requirements.

In recent years, several new order types and marking requirements have been introduced on the options floors. For example, "BD" for purposes of the Ten-up Rule, and "F" respecting facilitation orders may be required on order tickets. In each case, the Phlx believes that marking the floor ticket correctly is instrumental to ensuring to proper handling of the order in the trading crowd.

The Phlx believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest.

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

The Exchange does not believe 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

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; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for 30 days from March 13,

with accompanying fine schedules. Rule 19d-1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d-1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding \$2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting. Violations of Advice F-4 are currently subject to a minor rule plan citation and fine.

<sup>10</sup> 17 CFR 200.30-3(a)(12) (1994).