

Officials are subject to annual reappointment, but are not subject to the two committee term restriction that floor brokers and allied members are subject to, and are not limited to a maximum of six consecutive one-year terms.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed rule changes are consistent with these objectives in that they enable the Exchange to further enhance the process by which stocks are allocated.

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

The Exchange does not believe that the proposed rule change will impose 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

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

Within 35 days of the publication of this notice in the **Federal Register** or within such other 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 the 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, NW., Washington, DC, 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-95-13 and should be submitted by June 28, 1995.

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

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35782; File No. SR-PHLX-95-30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Increase in the Maximum Size of Optioned Orders Eligible for Delivery Through the Automated Options Market System

May 30, 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 May 23, 1995, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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

Currently, orders of up to 100 option contracts are eligible for delivery through the Automated Options Market ("AUTOM") system, the PHLX's electronic order routing and delivery system for equity and index options. The PHLX proposes to amend its rules to allow a maximum of 500 contracts to be delivered through AUTOM. Currently, only public customer orders

of 25 option contracts or less are eligible for automatic execution through AUTO-X, the automatic execution feature of AUTOM. The proposal does not affect AUTO-X order size eligibility.

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 self-regulatory organization 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 self-regulatory organization 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 proposal is to increase the maximum eligible order size for the delivery of equity and index option orders through AUTOM from 100 to 500 contracts.

AUTOM, which has operated on a pilot basis since 1988 and was not recently extended through December 31, 1995,¹ is an on-line system that allows

¹ See Securities Exchange Act Release No. 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR-PHLX-94-41). See also Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (order approving AUTOM on a pilot basis); 25868 (June 30, 1988), 53 FR 25563 (order approving File No. SR-PHLX-88-22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR-PHLX-88-33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (order approving File No. SR-PHLX-89-1, extending pilot through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (order approving File No. SR-PHLX-89-03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR-PHLX-90-16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR-PHLX-90-34, extending pilot through December 31, 1991); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR-PHLX-91-31, permitting AUTO-X orders up to 20 contracts in Duracell options only); 29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR-PHLX-91-33, permitting AUTO-X for all strike prices and expiration months); 29837 (October 18, 1991), 56 FR 36496 (order approving File No. SR-PHLX-90-03, extending pilot through December 31, 1993); 32906 (September 15, 1993), 58 FR 15168 (order approving File No. SR-PHLX-92-38, permitting AUTO-X orders up to 25 contracts in all options); and 33405

electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor. Currently, orders for up to 100 options contracts are eligible for AUTOM and public customer orders for up to 25 contracts are eligible for AUTO-X, the automatic execution feature of AUTOM.² AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Orders that are not eligible for AUTO-X are handled manually by the specialist. The current proposal does not impact AUTO-X order size eligibility.

The Exchange proposes to increase the maximum eligible size of AUTOM orders from 100 to 500 contracts. This change is intended to extend the benefits of AUTOM to additional users. The Exchange notes that the maximum AUTOM order size has remained the same since 1990. In light of the PHLX's experience with AUTOM over the past seven years, including five years during which the maximum AUTOM order size has been 100 contracts, the Exchange believes that it is appropriate, at this time, to increase the maximum size of the option orders eligible for routing and delivery through AUTOM to 500 contracts. The PHLX notes that the most recent change, in 1990, increased the eligible order size for AUTOM from 10 to 100 contracts.³

The PHLX states that the AUTOM system has sufficient capacity to operate with a maximum order size of 500 contracts, such that AUTOM and AUTO-X functioning would not be adversely affected by the proposal.

Accordingly, the PHLX believes that the proposal is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade and to prevent fraudulent and manipulative acts and practices, as well as to protect

investors and the public interest by extending the benefits of AUTOM, including prompt and efficient order handling, to orders for up to 500 contracts.

(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 either solicited or received.

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

Because the foregoing 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) does not become operative for 30 days after May 23, 1995, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Commission believes that the proposal does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

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.

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 at 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 above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

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[Rel. No. IC-21104; No. 812-9200]

The Guardian Insurance & Annuity Company, Inc., et al.

May 31, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: The Guardian Insurance & Annuity Company, Inc. ("Guardian"), The Guardian Separate Account K ("Separate Account") and Guardian Investor Services Corporation ("Guardian Services").

RELEVANT 1940 ACT SECTIONS Order requested under Section 6(c) granting exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(1), 26(a)(2), 27(a)(1), 27(c)(1), 27(c)(2), 27(d), and 27(e) of the 1940 Act, and paragraphs (b)(1), (b)(12), (b)(13)(i), (b)(13)(ii), (b)(13)(iv), (b)(13)(v), (b)(13)(vii), (c)(1), (c)(4) of Rule 6e-2, and Rules 6e-3(T)(c)(4)(v), 22c-1 and 27e-1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to offer and sell certain variable whole life insurance contracts with modified scheduled premiums ("Contracts") that provide for: (1) A death benefit that may or may not vary based on investment experience; (2) a sales charge deducted from premium payments and as a contingent deferred sales charge; (3) a contingent deferred administrative charge; (4) deduction from Account Value for cost of insurance charges, guaranteed insurance amount charges, substandard mortality risks and incidental insurance benefits, including

(December 30, 1993), 59 FR 790 (order approving File No. SR-PHLX-93-57, extending pilot through 31, 1994).

² The Commission recently approved a PHLX proposal to codify the use of AUTOM and AUTO-X for index options. See Securities Exchange Act Release No. 34920 (October 31, 1994), 59 FR 5510 (November 7, 1994) (order approving File No. SR-PHLX-94-40). In addition, the Commission has approved a PHLX proposal to codify the Exchange's practice of accepting certain orders for AUTOM and AUTO-X. See Securities Exchange Act Release No. 35601 (April 13, 1995), 60 FR 19616 (April 19, 1995) (order approving File No. SR-PHLX-95-18). AUTO-X was approved as part of the AUTOM pilot program in 1991. See Securities Exchange Act Release No. 28978, *supra* note 1.

³ See Securities Exchange Act Release No. 28516 (October 3, 1990), 55 FR 41408 (October 11, 1990) (order approving File No. SR-PHLX-90-18).

⁴ 17 CFR 200.30-3(a)(12) (1994).